

HOUSE BILL 1290

L6, L5

2lr0396

By: **The Speaker (By Request – Department of Legislative Services – Code Revision)**

Introduced and read first time: February 15, 2012

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Land Use**

3 FOR the purpose of adding a new article to the Annotated Code of Maryland, to be
4 designated and known as the “Land Use Article”, to revise, restate, and recodify
5 the laws of the State relating to zoning, planning, subdivision, and other land
6 use mechanisms, including definitions, visions, consistency, requirements for
7 home–rule counties, planning commissions, the comprehensive plan and its
8 required elements, plan development and implementation, zoning powers and
9 procedures, boards of appeals, subdivision powers and procedures, procedures
10 for judicial review of certain actions, street planning and reservation,
11 development mechanisms, transfer of development rights, development rights
12 and responsibilities agreements, inclusionary zoning, historic preservation,
13 single–county provisions, zoning powers and implementation in Baltimore City,
14 and enforcement mechanisms and civil penalties; revising, restating, and
15 recodifying the laws of the State relating to the Maryland–National Capital
16 Park and Planning Commission, including definitions, the organization and
17 powers of the Commission, minority business enterprise utilization,
18 intergovernmental cooperation, employment, merit system, collective
19 bargaining for certain employees, service contracts, property acquisition and
20 management, relocation expenses, park police, budget procedures and
21 requirements, bonding authority for certain purposes, taxes, the Advance Land
22 Acquisition Fund, payment of obligations, the Maryland–Washington
23 Metropolitan District, the Maryland–Washington Regional District, county
24 planning boards, review of public projects, road grades, building codes and
25 permits, annexation, municipal planning and zoning, the regional district plan
26 and related plans, procedures for plan development and implementation, zoning
27 authority and procedures, district councils, nonconforming uses, zoning
28 amendments, boards of appeal, subdivision powers and procedures, procedures
29 for judicial review of certain actions, enforcement actions, and historic grant
30 programs; restating certain single–county provisions on municipal zoning and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 development rights and responsibilities agreements in Montgomery and Prince
 2 George’s counties; restating provisions in Prince George’s County relating to
 3 revitalization, agricultural preservation easements, flood control, and
 4 recreation; restating certain enforcement provisions; repealing certain obsolete
 5 provisions; transferring certain obsolete provisions to the Session laws; defining
 6 certain terms; providing for the construction and application of this Act;
 7 providing for the continuity of certain units and terms of certain officials;
 8 providing for the continuity of the status of certain transactions, employees,
 9 rights, duties, titles, interests, licenses, registrations, certifications, and
 10 permits; providing for the termination of certain provisions of this Act; and
 11 generally relating to the laws of the State concerning land use.

12 BY repealing

13 Article 28 – Maryland–National Capital Park and Planning Commission
 14 Section 2–101 through 2–112, 2–112.1, 2–112.2, 2–113 through 2–117,
 15 2–118(a)(2) through (7) and (b), 2–119, 2–120, 2–120.1, and 2–122 and
 16 the title “Title 2. Commission Organization and General Functions”, and
 17 the subtitle “Subtitle 1. General Provisions”; 2–201 through 2–204 and
 18 the subtitle “Subtitle 2. Payment of Commission Obligations”; 2–301
 19 through 2–304 and the subtitle “Subtitle 3. Minority Business Enterprise
 20 Utilization Program”; 3–101 and the title “Title 3. Maryland–Washington
 21 Metropolitan District”; 4–101 through 4–104 and 4–105(a) and (c)
 22 through (h) and the title “Title 4. Intergovernmental Relations”; 5–101
 23 through 5–105, 5–105.1, 5–106(a) through (c), 5–107 through 5–109,
 24 5–110(b), 5–111 through 5–113, 5–113.1, 5–114, 5–114.1, and 5–115
 25 through 5–118, the title “Title 5. Property; Powers; Recreation Program”
 26 and the subtitle “Subtitle 1. Metropolitan District Property and Powers
 27 Generally”; 5–201 through 5–507 and the subtitles “Subtitle 2. Prince
 28 George’s County Recreation Program”, “Subtitle 3. Prince George’s
 29 County and Montgomery County Historic Property Grant Program”,
 30 “Subtitle 4. Revitalization and Redevelopment Activities”, and “Subtitle
 31 5. Prince George’s County Agricultural Preservation Easement Program”;
 32 6–101 through 6–111 and the title “Title 6. Fiscal Authority”; 7–101
 33 through 7–107, 7–108(a) through (c), (d)(1), (2)(ii), and (4), and (e),
 34 7–108.1, 7–109 through 7–115, 7–116(a), (b), (c)(2), and (d) through (h),
 35 7–117, 7–117.1, 7–117.2, 7–118 through 7–121, and 7–121.1 and the title
 36 “Title 7. Maryland–Washington Regional District”; 8–101 through 8–108,
 37 8–108.1, 8–109, 8–110, 8–110.1, 8–110.2, 8–111, 8–111.1, 8–112, 8–112.1
 38 through 8–112.4, 8–114, 8–115(a), (b), and (d) through (h), 8–115.1,
 39 8–115.2, 8–116 through 8–119, 8–119.1, 8–120 through 8–122, 8–122.1,
 40 and 8–123 through 8–129 and the title “Title 8. District Councils for
 41 Regional District”; 9–101 (a) through (d) and 9–102 and the title “Title 9.
 42 Flood Control”; the article designation “Article 28 – Maryland–National
 43 Capital Park and Planning Commission”; and the title designation “Title
 44 1. Park and Planning Commission Continued”

45 Annotated Code of Maryland

1 (2010 Replacement Volume and 2011 Supplement)

2 BY repealing

3 Article 66B – Land Use

4 Section 1.00 through 1.04 and the subtitle “General Provisions”; 2.01 through
5 2.13 and the subtitle “Zoning in Baltimore City”; 3.01 through 3.10 and
6 the subtitle “Planning Commission Generally”; 4.01 through 4.09 and the
7 subtitle “General Development Regulations and Zoning”; 5.01 through
8 5.07 and the subtitle “Subdivision Control”; 6.01 through 6.03 and the
9 subtitle “Development in Mapped Streets”; 7.01 through 7.05 and the
10 subtitle “Miscellaneous Provisions”; 8.01 through 8.17 and the subtitle
11 “Historic Area Zoning”; 10.01 and the subtitle “Adequate Public Facilities
12 Ordinances”; 11.01 and the subtitle “Transfer of Development Rights”;
13 12.01 and the subtitle “Inclusionary Zoning”; 13.01 and the subtitle
14 “Development Rights and Responsibilities Agreements”; 14.01 through
15 14.04, 14.05(a) through (e), 14.06, 14.06.1, and 14.07 through 14.09 and
16 the subtitle “Miscellaneous Local Provisions”; and the article designation
17 “Article 66B – Land Use”

18 Annotated Code of Maryland

19 (2010 Replacement Volume and 2011 Supplement)

20 BY adding

21 New Article – Land Use

22 Section 1–101 through 27–102, inclusive, and the various titles

23 Annotated Code of Maryland

24 BY repealing and reenacting, with amendments,

25 Article 1 – Rules of Interpretation

26 Section 25

27 Annotated Code of Maryland

28 (2011 Replacement Volume)

29 BY repealing and reenacting, with amendments, and transferring

30 Article 66B – Land Use

31 Section 14.05(f)

32 Annotated Code of Maryland

33 (2010 Replacement Volume and 2011 Supplement)

34 to be

35 Article 24 – Political Subdivisions – Miscellaneous Provisions

36 Section 9–10B–01 to be under the new subtitle “Subtitle 10B. Charles County
37 New School Capacity Financing”

38 Annotated Code of Maryland

39 (2011 Replacement Volume)

1 BY adding to
 2 Article 2B – Alcoholic Beverages
 3 Section 9–216(g)
 4 Annotated Code of Maryland
 5 (2011 Replacement Volume)

6 BY repealing and reenacting, with amendments, and transferring to the Session Laws
 7 Article 28 – Maryland–National Capital Park and Planning Commission
 8 Section 1–101 through 1–105, 2–118(a)(1), 2–121, 3–102 through 3–107,
 9 4–105(b), 5–106(d), 5–110(a), 7–108(d)(2)(i) and (3), 7–116(c)(1), 8–113,
 10 8–115(c), and 9–101(e)
 11 Annotated Code of Maryland
 12 (2010 Replacement Volume and 2011 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 14 MARYLAND, That Section(s) of the Annotated Code of Maryland be repealed:

15 Article 28 – Maryland–National Capital Park and Planning Commission
 16 Section 2–101 through 2–112, 2–112.1, 2–112.2, 2–113 through 2–117,
 17 2–118(a)(2) through (7) and (b), 2–119, 2–120, 2–120.1, and 2–122 and
 18 the title “Title 2. Commission Organization and General Functions”, and
 19 the subtitle “Subtitle 1. General Provisions”; 2–201 through 2–204 and
 20 the subtitle “Subtitle 2. Payment of Commission Obligations”; 2–301
 21 through 2–304 and the subtitle “Subtitle 3. Minority Business Enterprise
 22 Utilization Program”; 3–101 and the title “Title 3. Maryland–Washington
 23 Metropolitan District”; 4–101 through 4–104 and 4–105(a) and (c)
 24 through (h) and the title “Title 4. Intergovernmental Relations”; 5–101
 25 through 5–105, 5–105.1, 5–106(a) through (c), 5–107 through 5–109,
 26 5–110(b), 5–111 through 5–113, 5–113.1, 5–114, 5–114.1, and 5–115
 27 through 5–118, the title “Title 5. Property; Powers; Recreation Program”
 28 and the subtitle “Subtitle 1. Metropolitan District Property and Powers
 29 Generally”; 5–201 through 5–507 and the subtitles “Subtitle 2. Prince
 30 George’s County Recreation Program”, “Subtitle 3. Prince George’s
 31 County and Montgomery County Historic Property Grant Program”,
 32 “Subtitle 4. Revitalization and Redevelopment Activities”, and “Subtitle
 33 5. Prince George’s County Agricultural Preservation Easement Program”;
 34 6–101 through 6–111 and the title “Title 6. Fiscal Authority”; 7–101
 35 through 7–107, 7–108(a) through (c), (d)(1), (2)(ii), and (4), and (e),
 36 7–108.1, 7–109 through 7–115, 7–116(a), (b), (c)(2), and (d) through (h),
 37 7–117, 7–117.1, 7–117.2, 7–118 through 7–121, and 7–121.1 and the title
 38 “Title 7. Maryland–Washington Regional District”; 8–101 through 8–108,
 39 8–108.1, 8–109, 8–110, 8–110.1, 8–110.2, 8–111, 8–111.1, 8–112, 8–112.1
 40 through 8–112.4, 8–114, 8–115(a), (b), and (d) through (h), 8–115.1,

1 8-115.2, 8-116 through 8-119, 8-119.1, 8-120 through 8-122, 8-122.1,
2 8-123 through 8-129 and the title "Title 8. District Councils for Regional
3 District"; and 9-101 (a) through (d) and 9-102 and the title "Title 9. Flood
4 Control"

5 Article 66B – Land Use

6 Section 1.00 through 1.04 and the subtitle "General Provisions"; 2.01 through
7 2.13 and the subtitle "Zoning in Baltimore City"; 3.01 through 3.10 and
8 the subtitle "Planning Commission Generally"; 4.01 through 4.09 and the
9 subtitle "General Development Regulations and Zoning"; 5.01 through
10 5.07 and the subtitle "Subdivision Control"; 6.01 through 6.03 and the
11 subtitle "Development in Mapped Streets"; 7.01 through 7.05 and the
12 subtitle "Miscellaneous Provisions"; 8.01 through 8.17 and the subtitle
13 "Historic Area Zoning"; 10.01 and the subtitle "Adequate Public Facilities
14 Ordinances"; 11.01 and the subtitle "Transfer of Development Rights";
15 12.01 and the subtitle "Inclusionary Zoning"; 13.01 and the subtitle
16 "Development Rights and Responsibilities Agreements"; and 14.01
17 through 14.04, 14.05(a) through (e), 14.06, 14.06.1, and 14.07 through
18 14.09 and the subtitle "Miscellaneous Local Provisions"

19 The article designation "Article 28 – Maryland–National Capital Park and
20 Planning Commission" and the title designation "Title 1. Park and
21 Planning Commission Continued"

22 The article designation "Article 66B – Land Use"

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

25 **ARTICLE – LAND USE**

26 **DIVISION I. SINGLE–JURISDICTION PLANNING AND ZONING.**

27 **TITLE 1. DEFINITIONS; GENERAL PROVISIONS.**

28 **SUBTITLE 1. DEFINITIONS.**

29 **1–101. DEFINITIONS.**

30 **(A) IN GENERAL.**

1 **IN THIS DIVISION THE FOLLOWING WORDS HAVE THE MEANINGS**
2 **INDICATED.**

3 REVISOR'S NOTE: This subsection is new language derived without
4 substantive change from former Art. 66B, § 1.00(a).

5 In this subsection and throughout this division, the references to "this
6 division" are substituted for the former references to "this article" to
7 reflect the reorganization of material derived from former Article 66B in
8 Division I of this article. *See* General Revisor's Note to article.

9 The former phrase "except where the context clearly indicates otherwise"
10 is deleted as implicit.

11 **(B) ADAPTIVE REUSE.**

12 **"ADAPTIVE REUSE" MEANS A CHANGE GRANTED BY A LEGISLATIVE BODY**
13 **UNDER § 4-207 OF THIS ARTICLE TO THE USE RESTRICTIONS IN A ZONING**
14 **CLASSIFICATION, AS THOSE RESTRICTIONS ARE APPLIED TO A PARTICULAR**
15 **IMPROVED PROPERTY.**

16 REVISOR'S NOTE: This subsection formerly was Art. 66B, § 1.00(b).

17 The only changes are in style.

18 Defined term: "Legislative body" § 1-101

19 **(C) CHARTER COUNTY.**

20 **"CHARTER COUNTY" MEANS A COUNTY THAT HAS ADOPTED CHARTER**
21 **HOME RULE UNDER ARTICLE XI-A OF THE MARYLAND CONSTITUTION AND**
22 **ARTICLE 25A OF THE CODE.**

23 REVISOR'S NOTE: This subsection is new language added to indicate a county
24 that has adopted charter home rule.

25 Defined term: "County" § 1-101

26 **(D) CODE COUNTY.**

27 **"CODE COUNTY" MEANS A COUNTY THAT HAS ADOPTED CODE HOME RULE**
28 **UNDER ARTICLE XI-F OF THE MARYLAND CONSTITUTION AND ARTICLE 25B**
29 **OF THE CODE.**

1 REVISOR'S NOTE: This subsection is new language added to indicate a county
2 that has adopted code home rule.

3 Defined term: "County" § 1-101

4 **(E) COUNTY.**

5 **"COUNTY" MEANS A COUNTY OF THE STATE OR BALTIMORE CITY.**

6 REVISOR'S NOTE: This subsection is new language added to indicate that a
7 reference in this division to a "county" includes Baltimore City unless the
8 reference specifically provides otherwise.

9 Article 1, § 14(a) provides that "county" includes Baltimore City "unless
10 such construction would be unreasonable". Because the word
11 "unreasonable" has been interpreted in various ways, the Land Use
12 Article Review Committee decided that an explicit definition of "county"
13 should be included in this division.

14 The term conforms to the same term defined in many recently revised
15 articles. *See, e.g.*, IN § 1-101(l), PU § 1-101(g), CP § 1-101(d), CR §
16 1-101(d), PS § 1-101(b), and EC §§ 1-101(b) and 9-101(b).

17 *See also*, § 14-101 of this article.

18 Defined term: "State" § 1-101

19 **(F) DEVELOPMENT.**

20 **(1) "DEVELOPMENT" MEANS AN ACTIVITY THAT MATERIALLY**
21 **AFFECTS THE EXISTING CONDITION OR USE OF ANY LAND OR STRUCTURE.**

22 **(2) "DEVELOPMENT" DOES NOT INCLUDE A NORMAL**
23 **AGRICULTURAL ACTIVITY.**

24 REVISOR'S NOTE: This subsection is new language derived without
25 substantive change from former Art. 66B, § 1.00(c).

26 **(G) LEGISLATIVE BODY.**

27 **(1) "LEGISLATIVE BODY" MEANS THE ELECTED BODY OF A LOCAL**
28 **JURISDICTION.**

29 **(2) "LEGISLATIVE BODY" INCLUDES:**

- 1 **(I) THE BOARD OF COUNTY COMMISSIONERS;**
 2 **(II) THE COUNTY COUNCIL; AND**
 3 **(III) THE GOVERNING BODY OF A MUNICIPAL CORPORATION.**

4 REVISOR'S NOTE: This subsection formerly was Art. 66B, § 1.00(f).

5 The defined term "legislative body" is substituted for the former defined
 6 term "local legislative body" for consistency with terminology used in the
 7 anticipated Local Government Article.

8 In paragraph (1) of this subsection, the defined term "local jurisdiction" is
 9 substituted for the former reference to a "political subdivision" for
 10 consistency within this division.

11 The only other changes are in style.

12 Defined terms: "County" § 1-101
 13 "Local jurisdiction" § 1-101

14 **(H) LOCAL EXECUTIVE.**

15 **(1) "LOCAL EXECUTIVE" MEANS THE CHIEF EXECUTIVE OF A**
 16 **LOCAL JURISDICTION.**

17 **(2) "LOCAL EXECUTIVE" INCLUDES:**

- 18 **(I) THE BOARD OF COUNTY COMMISSIONERS;**
 19 **(II) THE COUNTY EXECUTIVE;**
 20 **(III) THE EXECUTIVE HEAD; AND**
 21 **(IV) THE MAYOR.**

22 REVISOR'S NOTE: This subsection is new language derived without
 23 substantive change from former Art. 66B, § 1.00(e).

24 In paragraph (1) of this subsection, the defined term "local jurisdiction" is
 25 substituted for the former reference to a "political subdivision" for
 26 consistency within this division.

27 The Land Use Article Review Committee notes, for consideration by the
 28 General Assembly, that in paragraph (2)(iii) of this subsection, it is

1 unclear whether the term “executive head” would include an official with
 2 the power to bind a local jurisdiction, such as the county administrator of
 3 Garrett County, or only an elected official. The General Assembly may
 4 wish to clarify its intention with regard to the term “executive head”, or
 5 perhaps redefine the term “local executive” by reference to specific
 6 functions rather than titles.

7 Defined terms: “County” § 1–101
 8 “Local jurisdiction” § 1–101

9 **(I) LOCAL JURISDICTION.**

10 **“LOCAL JURISDICTION” MEANS A COUNTY OR MUNICIPAL CORPORATION**
 11 **AND THE TERRITORY WITHIN WHICH ITS POWERS MAY BE EXERCISED.**

12 REVISOR’S NOTE: This subsection formerly was Art. 66B, § 1.00(g).

13 No changes are made.

14 Defined term: “County” § 1–101

15 **(J) LOCAL LAW.**

16 **(1) “LOCAL LAW” MEANS AN ENACTMENT OF THE LEGISLATIVE**
 17 **BODY OF A LOCAL JURISDICTION, WHETHER BY ORDINANCE, RESOLUTION, OR**
 18 **OTHERWISE.**

19 **(2) “LOCAL LAW” DOES NOT INCLUDE A PUBLIC LOCAL LAW.**

20 REVISOR’S NOTE: This subsection is new language added to provide a single
 21 term encompassing the various forms of local legislative enactments by
 22 which a local jurisdiction may implement provisions of this division.

23 The Land Use Article Review Committee notes, for consideration by the
 24 General Assembly, that this provision is not intended to alter the
 25 legislative mechanisms required to implement any portion of this division
 26 in any local jurisdiction. *See* § 1–205 of this title. Neither is the term
 27 “local law” defined in this subsection to be confused with the term “public
 28 local law”, an enactment of the General Assembly that applies to a single
 29 county. *Cf. Kent Island Defense League v. Queen Anne’s Co. Bd. of*
 30 *Elections*, 145 Md. App. 684 (2002).

31 Defined terms: “Legislative body” § 1–101
 32 “Local jurisdiction” § 1–101

33 **(K) PERSON.**

1 **“PERSON” MEANS AN INDIVIDUAL, RECEIVER, TRUSTEE, GUARDIAN,**
2 **PERSONAL REPRESENTATIVE, FIDUCIARY, REPRESENTATIVE OF ANY KIND,**
3 **PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, LIMITED LIABILITY**
4 **COMPANY, OR OTHER ENTITY.**

5 REVISOR’S NOTE: This subsection is new language added to provide an
6 express definition of the term “person”.

7 The term is similar to the same term defined in many recently revised
8 articles. *See, e.g.,* IN § 1–101(dd), PU § 1–101(u), CS § 1–101(l), CP §
9 1–101(l), PS § 1–101(c), and EC §§ 1–101(d) and 9–101(d). The reference
10 to a “limited liability company” is added for clarity. No substantive
11 change is intended.

12 The definition of “person” in this subsection does not include a
13 governmental entity or unit. The Court of Appeals of Maryland has held
14 consistently that the word “person” in a statute generally does not
15 include the State, its agencies, or subdivisions unless an intention to
16 include these entities is made manifest by the legislature. *See, e.g., Sillers*
17 *v. Washington Suburban Sanitary Comm’n*, 413 Md. 606, 622–630 (2010).
18 This rule does not apply when there is no impairment of sovereign powers
19 and the provision that uses the term enhances a proprietary interest of
20 the governmental unit. *See* 89 Op. Att’y Gen. 53, 58 (2004).

21 *See also,* § 14–101 of this article.

22 As to the term “personal representative”, *see* Art. 1, § 5.

23 **(L) PLAN.**

24 **(1) “PLAN” MEANS THE POLICIES, STATEMENTS, GOALS, AND**
25 **INTERRELATED PLANS FOR PRIVATE AND PUBLIC LAND USE, TRANSPORTATION,**
26 **AND COMMUNITY FACILITIES DOCUMENTED IN TEXTS AND MAPS THAT**
27 **CONSTITUTE THE GUIDE FOR AN AREA’S FUTURE DEVELOPMENT.**

28 **(2) “PLAN” INCLUDES A GENERAL PLAN, MASTER PLAN,**
29 **COMPREHENSIVE PLAN, FUNCTIONAL PLAN, OR COMMUNITY PLAN ADOPTED IN**
30 **ACCORDANCE WITH SUBTITLE 4 OF THIS TITLE AND TITLE 3 OF THIS ARTICLE.**

31 REVISOR’S NOTE: This subsection formerly was Art. 66B, § 1.00(h).

32 In paragraph (2) of this subsection, the reference to a “functional plan” is
33 added for clarity.

34 The only other changes are in style.

1 Defined term: “Development” § 1–101

2 **(M) PRIORITY FUNDING AREA.**

3 **“PRIORITY FUNDING AREA” HAS THE MEANING STATED IN § 5–7B–02 OF**
 4 **THE STATE FINANCE AND PROCUREMENT ARTICLE.**

5 REVISOR’S NOTE: This subsection formerly was Art. 66B, §§ 1.02(d)(1),
 6 3.10(a)(3), 10.01(d)(1)(ii), and 11.01(b)(1)(ii).

7 The only changes are in style.

8 **(N) REGULATION.**

9 **(1) “REGULATION” MEANS A RULE OF GENERAL APPLICABILITY**
 10 **AND FUTURE EFFECT.**

11 **(2) “REGULATION” INCLUDES A MAP OR PLAN.**

12 REVISOR’S NOTE: This subsection is new language derived without
 13 substantive change from former Art. 66B, § 1.00(i).

14 The Land Use Article Review Committee notes, for consideration by the
 15 General Assembly, that in paragraph (2) of this subsection, the inclusion
 16 of the defined term “plan” in the definition of “regulation” may be
 17 construed to make a “comprehensive plan”, as that term is included in the
 18 definition of “plan” in subsection (1)(2) of this section, a regulatory device
 19 rather than a guide.

20 Defined term: “Plan” § 1–101

21 **(O) SENSITIVE AREA.**

22 **“SENSITIVE AREA” INCLUDES:**

23 **(1) A STREAM OR WETLAND, AND ITS BUFFERS;**

24 **(2) A 100–YEAR FLOOD PLAIN;**

25 **(3) A HABITAT OF A THREATENED OR ENDANGERED SPECIES;**

26 **(4) A STEEP SLOPE;**

1 **(5) AGRICULTURAL OR FOREST LAND INTENDED FOR RESOURCE**
 2 **PROTECTION OR CONSERVATION; AND**

3 **(6) ANY OTHER AREA IN NEED OF SPECIAL PROTECTION, AS**
 4 **DETERMINED IN A PLAN.**

5 REVISOR'S NOTE: This subsection formerly was Art. 66B, § 1.00(j).

6 The only changes are in style.

7 Defined term: "Plan" § 1-101

8 **(P) SPECIAL EXCEPTION.**

9 **"SPECIAL EXCEPTION" MEANS A GRANT OF A SPECIFIC USE THAT:**

10 **(1) WOULD NOT BE APPROPRIATE GENERALLY OR WITHOUT**
 11 **RESTRICTION; AND**

12 **(2) SHALL BE BASED ON A FINDING THAT:**

13 **(I) THE REQUIREMENTS OF THE ZONING LAW GOVERNING**
 14 **THE SPECIAL EXCEPTION ON THE SUBJECT PROPERTY ARE SATISFIED; AND**

15 **(II) THE USE ON THE SUBJECT PROPERTY IS CONSISTENT**
 16 **WITH THE PLAN AND IS COMPATIBLE WITH THE EXISTING NEIGHBORHOOD.**

17 REVISOR'S NOTE: This subsection is new language derived without
 18 substantive change from former Art. 66B, § 1.00(k).

19 In item (2) of this subsection, the references to "the subject property" are
 20 added for clarity.

21 In item (2)(i) of this subsection, the reference to "the requirements of the
 22 zoning law governing the special exception ... are satisfied" is substituted
 23 for the former phrase "certain conditions governing special exceptions as
 24 defined in the zoning ordinance exist" for clarity.

25 Defined terms: "Plan" § 1-101

26 "Zoning law" § 1-101

27 **(Q) STATE.**

28 **(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
 29 **SUBSECTION, "STATE" MEANS:**

1 **(I) A STATE, POSSESSION, TERRITORY, OR**
 2 **COMMONWEALTH OF THE UNITED STATES; OR**

3 **(II) THE DISTRICT OF COLUMBIA.**

4 **(2) WHEN CAPITALIZED, “STATE” MEANS MARYLAND.**

5 REVISOR’S NOTE: This subsection is standard language added to provide an
 6 express definition of the word “state”. The term conforms to the same
 7 term defined in other recently revised articles of the Code. *See, e.g.*, EC §§
 8 1–101(g) and 9–101(f).

9 *See also*, § 14–101 of this article.

10 **(R) SUBDIVISION.**

11 **(1) “SUBDIVISION” MEANS:**

12 **(I) THE PROCESS AND CONFIGURATION OF LAND BY WHICH**
 13 **ONE OR MORE LOTS, TRACTS, OR PARCELS OF LAND ARE DIVIDED,**
 14 **CONSOLIDATED, OR ESTABLISHED AS ONE OR MORE LOTS OR PARCELS, OR**
 15 **OTHER DIVISIONS OF LAND, CONSISTENT WITH CRITERIA ESTABLISHED BY THE**
 16 **LEGISLATIVE BODY OF THE LOCAL JURISDICTION; OR**

17 **(II) THE LAND SO SUBDIVIDED.**

18 **(2) “SUBDIVISION” INCLUDES RESUBDIVISION.**

19 REVISOR’S NOTE: This subsection is new language derived without
 20 substantive change from former Art. 66B, § 1.00(l).

21 In paragraph (1)(i) of this subsection, the reference to the “process and
 22 configuration of land by which ... lots ... are divided” is substituted for
 23 the former reference to the “division of a lot ... for the immediate or
 24 future purposes of selling the land or of building development” for clarity.
 25 No substantive change is intended.

26 In paragraph (1)(ii) of this subsection, the reference to the “land so
 27 subdivided” is substituted for the former reference to the “land or
 28 territory resubdivided” for clarity.

29 Also in paragraph (1)(ii) of this subsection, the former phrase “[a]s
 30 appropriate to the context,” is deleted as implicit.

1 The Land Use Article Review Committee notes, for consideration by the
2 General Assembly, that this subsection is patterned after the revision of
3 the same term defined in § 14–101(p) of this article for clarity and
4 consistency within this article. This revision recognizes that land may be
5 subdivided for several purposes, including both conveyance and
6 development, not necessarily involving an immediate sale. No
7 substantive change is intended.

8 The Land Use Article Review Committee also notes, for consideration by
9 the General Assembly, that in paragraph (1)(i) of this subsection, the
10 phrase “consistent with criteria established by the legislative body of the
11 local jurisdiction”, which was implicit in the former law, is added for
12 clarity. No substantive change is intended.

13 Defined terms: “Legislative body” § 1–101
14 “Local jurisdiction” § 1–101

15 **(S) VARIANCE.**

16 **“VARIANCE” MEANS A MODIFICATION ONLY OF DENSITY, BULK,**
17 **DIMENSIONAL, OR AREA REQUIREMENTS IN THE ZONING LAW THAT IS NOT**
18 **CONTRARY TO THE PUBLIC INTEREST, AND WHERE, OWING TO CONDITIONS**
19 **PECULIAR TO THE PROPERTY AND NOT BECAUSE OF ANY ACTION TAKEN BY THE**
20 **APPLICANT, A LITERAL ENFORCEMENT OF THE ZONING LAW WOULD RESULT IN**
21 **UNNECESSARY HARDSHIP OR PRACTICAL DIFFICULTY, AS SPECIFIED IN THE**
22 **ZONING LAW.**

23 REVISOR’S NOTE: This subsection is new language derived without
24 substantive change from former Art. 66B, § 1.00(m).

25 The reference to “dimensional” requirements is added for clarity.

26 The former reference to the “local governing body” is deleted as
27 surplusage.

28 For the substantive provision relating to variances, *see* § 4–206 of this
29 article.

30 Defined term: “Zoning law” § 1–101

31 **(T) ZONING LAW.**

32 **(1) “ZONING LAW” MEANS THE LEGISLATIVE IMPLEMENTATION**
33 **OF REGULATIONS FOR ZONING BY A LOCAL JURISDICTION.**

1 **(2) “ZONING LAW” INCLUDES A ZONING ORDINANCE, ZONING**
2 **REGULATION, ZONING CODE, AND ANY SIMILAR LEGISLATIVE ACTION TO**
3 **IMPLEMENT ZONING CONTROLS IN A LOCAL JURISDICTION.**

4 REVISOR’S NOTE: This subsection is new language added to provide a single
5 term encompassing the various terms used by local jurisdictions for
6 legislatively adopted zoning controls.

7 Defined terms: “Local jurisdiction” § 1–101
8 “Regulation” § 1–101

9 **SUBTITLE 2. GENERAL PROVISIONS.**

10 **1–201. VISIONS.**

11 **IN ADDITION TO THE REQUIREMENTS OF § 3–201(A) AND (B) OF THIS**
12 **ARTICLE, A PLANNING COMMISSION SHALL IMPLEMENT THE FOLLOWING**
13 **VISIONS THROUGH THE COMPREHENSIVE PLAN DESCRIBED IN TITLE 3 OF THIS**
14 **ARTICLE:**

15 **(1) QUALITY OF LIFE AND SUSTAINABILITY: A HIGH QUALITY OF**
16 **LIFE IS ACHIEVED THROUGH UNIVERSAL STEWARDSHIP OF THE LAND, WATER,**
17 **AND AIR RESULTING IN SUSTAINABLE COMMUNITIES AND PROTECTION OF THE**
18 **ENVIRONMENT;**

19 **(2) PUBLIC PARTICIPATION: CITIZENS ARE ACTIVE PARTNERS IN**
20 **THE PLANNING AND IMPLEMENTATION OF COMMUNITY INITIATIVES AND ARE**
21 **SENSITIVE TO THEIR RESPONSIBILITIES IN ACHIEVING COMMUNITY GOALS;**

22 **(3) GROWTH AREAS: GROWTH IS CONCENTRATED IN EXISTING**
23 **POPULATION AND BUSINESS CENTERS, GROWTH AREAS ADJACENT TO THESE**
24 **CENTERS, OR STRATEGICALLY SELECTED NEW CENTERS;**

25 **(4) COMMUNITY DESIGN: COMPACT, MIXED–USE, WALKABLE**
26 **DESIGN CONSISTENT WITH EXISTING COMMUNITY CHARACTER AND LOCATED**
27 **NEAR AVAILABLE OR PLANNED TRANSIT OPTIONS IS ENCOURAGED TO ENSURE**
28 **EFFICIENT USE OF LAND AND TRANSPORTATION RESOURCES AND**
29 **PRESERVATION AND ENHANCEMENT OF NATURAL SYSTEMS, OPEN SPACES,**
30 **RECREATIONAL AREAS, AND HISTORICAL, CULTURAL, AND ARCHAEOLOGICAL**
31 **RESOURCES;**

32 **(5) INFRASTRUCTURE: GROWTH AREAS HAVE THE WATER**
33 **RESOURCES AND INFRASTRUCTURE TO ACCOMMODATE POPULATION AND**

1 BUSINESS EXPANSION IN AN ORDERLY, EFFICIENT, AND ENVIRONMENTALLY
2 SUSTAINABLE MANNER;

3 (6) TRANSPORTATION: A WELL-MAINTAINED, MULTIMODAL
4 TRANSPORTATION SYSTEM FACILITATES THE SAFE, CONVENIENT, AFFORDABLE,
5 AND EFFICIENT MOVEMENT OF PEOPLE, GOODS, AND SERVICES WITHIN AND
6 BETWEEN POPULATION AND BUSINESS CENTERS;

7 (7) HOUSING: A RANGE OF HOUSING DENSITIES, TYPES, AND SIZES
8 PROVIDES RESIDENTIAL OPTIONS FOR CITIZENS OF ALL AGES AND INCOMES;

9 (8) ECONOMIC DEVELOPMENT: ECONOMIC DEVELOPMENT AND
10 NATURAL RESOURCE-BASED BUSINESSES THAT PROMOTE EMPLOYMENT
11 OPPORTUNITIES FOR ALL INCOME LEVELS WITHIN THE CAPACITY OF THE
12 STATE'S NATURAL RESOURCES, PUBLIC SERVICES, AND PUBLIC FACILITIES ARE
13 ENCOURAGED;

14 (9) ENVIRONMENTAL PROTECTION: LAND AND WATER
15 RESOURCES, INCLUDING THE CHESAPEAKE AND COASTAL BAYS, ARE
16 CAREFULLY MANAGED TO RESTORE AND MAINTAIN HEALTHY AIR AND WATER,
17 NATURAL SYSTEMS, AND LIVING RESOURCES;

18 (10) RESOURCE CONSERVATION: WATERWAYS, FORESTS,
19 AGRICULTURAL AREAS, OPEN SPACE, NATURAL SYSTEMS, AND SCENIC AREAS
20 ARE CONSERVED;

21 (11) STEWARDSHIP: GOVERNMENT, BUSINESS ENTITIES, AND
22 RESIDENTS ARE RESPONSIBLE FOR THE CREATION OF SUSTAINABLE
23 COMMUNITIES BY COLLABORATING TO BALANCE EFFICIENT GROWTH WITH
24 RESOURCE PROTECTION; AND

25 (12) IMPLEMENTATION: STRATEGIES, POLICIES, PROGRAMS, AND
26 FUNDING FOR GROWTH AND DEVELOPMENT, RESOURCE CONSERVATION,
27 INFRASTRUCTURE, AND TRANSPORTATION ARE INTEGRATED ACROSS THE
28 LOCAL, REGIONAL, STATE, AND INTERSTATE LEVELS TO ACHIEVE THESE
29 VISIONS.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 66B, § 1.01.

32 Defined terms: "Development" § 1-101
33 "Plan" § 1-101
34 "State" § 1-101

1 **1-202. CONFLICT WITH OTHER LAWS.**

2 **(A) REGULATIONS ADOPTED UNDER THIS DIVISION GOVERN.**

3 **A REGULATION ADOPTED UNDER THIS DIVISION THAT CONFLICTS WITH**
4 **ANY STATUTE, LOCAL LAW, OR OTHER REGULATION SHALL GOVERN IF THE**
5 **REGULATION ADOPTED UNDER THIS DIVISION:**

6 **(1) REQUIRES A GREATER WIDTH OR SIZE OF YARDS, COURTS, OR**
7 **OTHER OPEN SPACES;**

8 **(2) REQUIRES A LOWER HEIGHT OF BUILDINGS;**

9 **(3) REQUIRES A REDUCED NUMBER OF STORIES;**

10 **(4) REQUIRES A GREATER PERCENTAGE OF LOT LEFT**
11 **UNOCCUPIED; OR**

12 **(5) IMPOSES A MORE RESTRICTIVE STANDARD.**

13 **(B) STATUTES OR LOCAL LAWS GOVERN.**

14 **A STATUTE, LOCAL LAW, OR OTHER REGULATION THAT CONFLICTS WITH A**
15 **REGULATION ADOPTED UNDER THIS DIVISION SHALL GOVERN IF THE STATUTE,**
16 **LOCAL LAW, OR OTHER REGULATION:**

17 **(1) REQUIRES A GREATER WIDTH OR SIZE OF YARDS, COURTS, OR**
18 **OTHER OPEN SPACES;**

19 **(2) REQUIRES A LOWER HEIGHT OF BUILDINGS;**

20 **(3) REQUIRES A REDUCED NUMBER OF STORIES;**

21 **(4) REQUIRES A GREATER PERCENTAGE OF LOT LEFT**
22 **UNOCCUPIED; OR**

23 **(5) IMPOSES A MORE RESTRICTIVE STANDARD.**

24 **(C) APPLICATION TO MARYLAND-WASHINGTON REGIONAL DISTRICT.**

25 **(1) THIS SUBSECTION APPLIES TO THE**
26 **MARYLAND-WASHINGTON REGIONAL DISTRICT ESTABLISHED UNDER**
27 **CHAPTER 992 OF THE ACTS OF THE GENERAL ASSEMBLY OF 1943.**

1 **(2) THIS DIVISION DOES NOT SUPPLEMENT CHAPTER 992 OF THE**
2 **ACTS OF THE GENERAL ASSEMBLY OF 1943 IF A LOCAL AGENCY LOCATED**
3 **WITHIN THE MARYLAND–WASHINGTON REGIONAL DISTRICT ADMINISTERS**
4 **MUNICIPAL AND REGIONAL PLANNING AND ZONING.**

5 **(3) IN THE MARYLAND–WASHINGTON REGIONAL DISTRICT, THE**
6 **ADDITIONAL AND SUPPLEMENTAL POWERS VESTED BY THIS DIVISION IN A**
7 **LEGISLATIVE BODY MAY NOT BE CONSIDERED VESTED IN AND MAY NOT BE**
8 **EXERCISED BY A COUNTY COUNCIL ACTING AS A DISTRICT COUNCIL UNDER**
9 **CHAPTER 992 OF THE ACTS OF THE GENERAL ASSEMBLY OF 1943.**

10 **(4) IN THE MARYLAND–WASHINGTON REGIONAL DISTRICT, THE**
11 **POWERS VESTED BY THIS DIVISION IN A PLANNING COMMISSION OR BOARD OF**
12 **APPEALS MAY NOT BE CONSIDERED VESTED IN AND MAY NOT BE EXERCISED BY**
13 **THE MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION, THE**
14 **PLANNING BOARD, OR THE BOARD OF ZONING APPEALS OF THE AFFECTED**
15 **COUNTY.**

16 **(5) PROVISIONS OF THIS DIVISION THAT ARE INCONSISTENT**
17 **WITH OR CONTRARY TO CHAPTER 992 OF THE ACTS OF THE GENERAL**
18 **ASSEMBLY OF 1943 DO NOT APPLY IN THE MARYLAND–WASHINGTON**
19 **REGIONAL DISTRICT.**

20 **(6) THIS DIVISION DOES NOT AFFECT THE VALIDITY OF CHAPTER**
21 **992 OF THE ACTS OF THE GENERAL ASSEMBLY OF 1943.**

22 REVISOR’S NOTE: This section is new language derived without substantive
23 change from former Art. 66B, § 7.03.

24 In subsections (a)(5) and (b)(5) of this section, the references to a “more
25 restrictive” standard are substituted for the former references to “other
26 higher” standards for clarity.

27 In subsection (c) of this section, the former references to Chapter 992 of
28 1943 “as amended” are deleted as unnecessary in light of Art. 1, § 21.

29 In subsection (c)(2) of this section, the former reference to “Montgomery
30 and Prince George’s counties” is deleted as implicit in the reference to the
31 “Maryland–Washington Regional District”.

32 In subsection (c)(3) of this section, the defined term “legislative body” is
33 substituted for the former reference to a “municipality or council” for
34 clarity and consistency within this division.

1 Defined terms: “County” § 1–101
 2 “Legislative body” § 1–101
 3 “Local law” § 1–101
 4 “Regulation” § 1–101

5 **1–203. REPEAL OF INCONSISTENT LAWS.**

6 **EXCEPT AS OTHERWISE PROVIDED IN THIS DIVISION, ANY LAW OR**
 7 **ORDINANCE THAT IS INCONSISTENT WITH OR CONTRARY TO THIS DIVISION IS**
 8 **REPEALED TO THE EXTENT OF THE INCONSISTENCY.**

9 REVISOR’S NOTE: This section formerly was Art. 66B, § 7.05.

10 The only changes are in style.

11 **1–204. OTHER POTENTIALLY APPLICABLE LAWS.**

12 **(A) IN GENERAL.**

13 **OTHER PUBLIC GENERAL LAWS THAT MAY AFFECT LAND USE IN A LOCAL**
 14 **JURISDICTION UNDER THIS DIVISION, DIVISION II OF THIS ARTICLE, OR**
 15 **OTHERWISE, INCLUDE:**

16 **(1) ARTICLE 23A, §§ 2(30) AND (36), 9, 19, AND 19A(E) OF THE**
 17 **CODE;**

18 **(2) ARTICLE 25, § 3 OF THE CODE;**

19 **(3) ARTICLE 25A, § 5 OF THE CODE; AND**

20 **(4) ARTICLE 25B, § 13 OF THE CODE.**

21 **(B) LIST NOT EXCLUSIVE.**

22 **THE INCLUSION OR EXCLUSION OF A PROVISION OF PUBLIC GENERAL**
 23 **LAW IN THIS SECTION MAY NOT BE CONSTRUED TO IMPLY ANY RELATIONSHIP**
 24 **BETWEEN THE PROVISION AND LAND USE MATTERS INCLUDED IN THIS ARTICLE.**

25 REVISOR’S NOTE: This section is new language added for clarity.

26 Subsection (a) of this section comprises cross–references to other public
 27 general laws in the Code that may directly or indirectly affect the
 28 permissible uses of land.

1 Subsection (b) of this section clarifies that the use of the word “include” in
 2 the introductory language to subsection (a) of this section is consistent
 3 with the usage required under Art. 1, § 30, which provides that “includes”
 4 is used “by way of illustration and not by way of limitation”.

5 Defined term: “Local jurisdiction” § 1–101

6 **1–205. ADOPTION OF LOCAL LAW.**

7 **THE REQUIREMENT OR AUTHORIZATION FOR A LOCAL JURISDICTION TO**
 8 **ENACT A LOCAL LAW TO IMPLEMENT A PROVISION OF THIS DIVISION IS NOT**
 9 **INTENDED TO ALTER IN ANY WAY THE FORM OR LEGISLATIVE MECHANISM THAT**
 10 **THE APPLICABLE ENABLING AUTHORITY REQUIRES FOR THE LOCAL**
 11 **JURISDICTION TO ENACT THE LOCAL LAW, WHETHER BY ORDINANCE,**
 12 **RESOLUTION, OR OTHERWISE, AS OF OCTOBER 1, 2012.**

13 REVISOR’S NOTE: This section is new language added for clarity.

14 This section provides that the substitution of the comprehensive term
 15 “local law” for former references to “ordinances” and “resolutions” does
 16 not in any manner alter the form or mechanism by which a local
 17 jurisdiction, either a county or a municipal corporation, is authorized to
 18 adopt the local law that a provision of this division requires or authorizes.
 19 Neither does it alter the means to challenge such a local law. No
 20 substantive change is intended. *See* General Revisor’s Note to article.

21 Defined terms: “Local jurisdiction” § 1–101

22 “Local law” § 1–101

23 **1–206. REQUIRED EDUCATION.**

24 **(A) PLANNING COMMISSIONS.**

25 **(1) IN THIS SUBSECTION, “PLANNING COMMISSION” INCLUDES A**
 26 **PLANNING COMMISSION OR BOARD ESTABLISHED UNDER:**

27 **(I) TITLE 2 OF THIS ARTICLE;**

28 **(II) DIVISION II OF THIS ARTICLE; OR**

29 **(III) ARTICLE 25A OF THE CODE.**

30 **(2) WITHIN 6 MONTHS AFTER APPOINTMENT TO A PLANNING**
 31 **COMMISSION, A MEMBER SHALL COMPLETE AN EDUCATION COURSE THAT**
 32 **INCLUDES EDUCATION ON:**

1 (I) THE ROLE OF THE COMPREHENSIVE PLAN;

2 (II) IF APPLICABLE, PROPER STANDARDS FOR SPECIAL
3 EXCEPTIONS AND VARIANCES; AND

4 (III) THE LOCAL JURISDICTION'S LOCAL LAWS AND
5 REGULATIONS RELATING TO ZONING, PLANNED DEVELOPMENT, SUBDIVISION,
6 AND OTHER LAND USE MATTERS.

7 (3) THE FAILURE OF A MEMBER TO COMPLETE AN EDUCATION
8 COURSE UNDER THIS SUBSECTION MAY NOT:

9 (I) INVALIDATE A DECISION OF THE PLANNING
10 COMMISSION; OR

11 (II) BE CONSTRUED TO CREATE A PRIVATE CAUSE OF
12 ACTION BY ANY PERSON.

13 (B) BOARDS OF APPEALS.

14 (1) IN THIS SUBSECTION, "BOARD OF APPEALS" INCLUDES A
15 BOARD OF APPEALS ESTABLISHED UNDER:

16 (I) TITLE 4, SUBTITLE 3 OF THIS ARTICLE;

17 (II) § 10-403 OF THIS ARTICLE;

18 (III) DIVISION II OF THIS ARTICLE; OR

19 (IV) ARTICLE 25A OF THE CODE.

20 (2) WITHIN 6 MONTHS AFTER APPOINTMENT TO A BOARD OF
21 APPEALS, A MEMBER SHALL COMPLETE AN EDUCATION COURSE THAT
22 INCLUDES EDUCATION ON:

23 (I) THE ROLE OF THE COMPREHENSIVE PLAN;

24 (II) PROPER STANDARDS FOR SPECIAL EXCEPTIONS AND
25 VARIANCES; AND

1 **(III) THE LOCAL JURISDICTION’S LOCAL LAWS AND**
 2 **REGULATIONS RELATING TO ZONING, PLANNED DEVELOPMENT, SUBDIVISION,**
 3 **AND OTHER LAND USE MATTERS.**

4 **(3) THE FAILURE OF A MEMBER TO COMPLETE AN EDUCATION**
 5 **COURSE UNDER THIS SUBSECTION MAY NOT:**

6 **(I) INVALIDATE A DECISION OF THE BOARD; OR**

7 **(II) BE CONSTRUED TO CREATE A PRIVATE CAUSE OF**
 8 **ACTION BY ANY PERSON.**

9 REVISOR’S NOTE: This section is new language derived without substantive
 10 change from former Art. 66B, §§ 3.02(h) and 4.07(i).

11 In subsection (a)(1)(i) of this section, the reference to a planning
 12 commission established under “Title 2 of this article” is added for clarity.

13 In subsections (a)(1)(ii) and (b)(1)(iii) of this section, the references to
 14 “Division II of this article” are substituted for the former references to
 15 “Article 28 of the Code” to reflect the recodification of Article 28 in
 16 Division II of this article.

17 In subsections (a)(2)(iii) and (b)(2)(iii) of this section, the references to the
 18 “local” jurisdiction are added for clarity and consistency within this
 19 division.

20 In subsection (b)(1)(i) of this section, the reference to a board of appeals
 21 established under “Title 4, Subtitle 3 of this article” is added for clarity.

22 Defined terms: “Development” § 1–101

23 “Local jurisdiction” § 1–101

24 “Local law” § 1–101

25 “Person” § 1–101

26 “Plan” § 1–101

27 “Regulation” § 1–101

28 “Special exception” § 1–101

29 “Subdivision” § 1–101

30 “Variance” § 1–101

31 **1–207. ANNUAL REPORT — IN GENERAL.**

32 **(A) “PLANNING COMMISSION” DEFINED.**

1 **IN THIS SECTION, “PLANNING COMMISSION” INCLUDES A PLANNING**
2 **COMMISSION OR BOARD ESTABLISHED UNDER:**

- 3 **(1) TITLE 2 OF THIS ARTICLE;**
4 **(2) DIVISION II OF THIS ARTICLE; OR**
5 **(3) ARTICLE 25A OF THE CODE.**

6 **(B) REQUIRED.**

7 **ON OR BEFORE JULY 1 OF EACH YEAR, A PLANNING COMMISSION SHALL**
8 **PREPARE, ADOPT, AND FILE AN ANNUAL REPORT FOR THE PREVIOUS CALENDAR**
9 **YEAR WITH THE LEGISLATIVE BODY.**

10 **(C) CONTENTS.**

11 **THE ANNUAL REPORT SHALL:**

12 **(1) INDEX AND LOCATE ON A MAP ANY CHANGES IN**
13 **DEVELOPMENT PATTERNS THAT OCCURRED DURING THE PERIOD COVERED BY**
14 **THE REPORT, INCLUDING:**

- 15 **(I) LAND USE;**
16 **(II) TRANSPORTATION;**
17 **(III) COMMUNITY FACILITIES PATTERNS;**
18 **(IV) ZONING MAP AMENDMENTS; AND**
19 **(V) SUBDIVISION PLATS;**

20 **(2) STATE WHETHER THE CHANGES UNDER ITEM (1) OF THIS**
21 **SUBSECTION ARE CONSISTENT WITH:**

- 22 **(I) EACH OTHER;**
23 **(II) THE RECOMMENDATIONS OF THE LAST ANNUAL**
24 **REPORT;**
25 **(III) THE ADOPTED PLANS OF THE LOCAL JURISDICTION;**

1 **(IV) THE ADOPTED PLANS OF ALL ADJOINING LOCAL**
2 **JURISDICTIONS; AND**

3 **(V) THE ADOPTED PLANS OF STATE AND LOCAL**
4 **JURISDICTIONS THAT HAVE RESPONSIBILITY FOR FINANCING OR**
5 **CONSTRUCTING PUBLIC IMPROVEMENTS NECESSARY TO IMPLEMENT THE**
6 **LOCAL JURISDICTION'S PLAN;**

7 **(3) CONTAIN STATEMENTS AND RECOMMENDATIONS FOR**
8 **IMPROVING THE PLANNING AND DEVELOPMENT PROCESS WITHIN THE LOCAL**
9 **JURISDICTION;**

10 **(4) STATE WHICH LOCAL LAWS OR REGULATIONS HAVE BEEN**
11 **ADOPTED OR CHANGED TO IMPLEMENT THE VISIONS IN § 1-201 OF THIS**
12 **SUBTITLE AS REQUIRED UNDER § 1-417 OF THIS TITLE OR § 3-303 OF THIS**
13 **ARTICLE; AND**

14 **(5) CONTAIN THE MEASURES AND INDICATORS REQUIRED UNDER**
15 **§ 1-208(C) OF THIS SUBTITLE.**

16 **(D) REVIEW.**

17 **THE LEGISLATIVE BODY SHALL REVIEW THE ANNUAL REPORT AND**
18 **DIRECT THAT ANY APPROPRIATE AND NECESSARY STUDIES AND OTHER**
19 **ACTIONS BE UNDERTAKEN TO ENSURE THE CONTINUATION OF A VIABLE**
20 **PLANNING AND DEVELOPMENT PROCESS.**

21 **(E) PUBLIC AVAILABILITY.**

22 **THE LOCAL JURISDICTION SHALL MAKE THE ANNUAL REPORT AVAILABLE**
23 **FOR PUBLIC INSPECTION.**

24 **(F) DEPARTMENT OF PLANNING.**

25 **(1) THE LOCAL JURISDICTION SHALL MAIL A COPY OF THE**
26 **REPORT TO THE SECRETARY OF PLANNING.**

27 **(2) THE DEPARTMENT OF PLANNING MAY COMMENT ON THE**
28 **REPORT.**

29 **REVISOR'S NOTE: This section is new language derived without substantive**
30 **change from former Art. 66B, § 3.09.**

1 In subsection (a)(1) of this section, the reference to “Title 2 of this article”
2 is added for clarity.

3 In subsection (a)(2) of this section, the reference to “Division II of this
4 article” is substituted for the former reference to “Article 28 of the Code”
5 to reflect the recodification of Article 28 in Division II of this article.

6 In the introductory language to subsection (c)(2) of this section, the
7 former reference to changes that are “or are not” consistent is deleted as
8 surplusage.

9 Subsection (c)(5) of this section is new language added to provide an
10 explicit cross-reference to the measures and indicators that the annual
11 report must contain in accordance with § 1–208(c) of this subtitle.

12 The Land Use Article Review Committee notes, for consideration by the
13 General Assembly, that in subsection (c)(2)(iii) through (v) of this section,
14 that the phrase “adopted plan” may refer to a plan that has been adopted
15 by the planning commission of the local jurisdiction but not approved by
16 the legislative body. As such, the “adopted plan” may not be the plan in
17 force at the time the annual report is prepared. If the General Assembly
18 intends that the report should reflect comparison with plans in force
19 rather than adopted plans, it may wish to substitute the phrase
20 “approved plan” where appropriate.

21 Defined terms: “Development” § 1–101

22 “Legislative body” § 1–101

23 “Local jurisdiction” § 1–101

24 “Local law” § 1–101

25 “Plan” § 1–101

26 “Regulation” § 1–101

27 “State” § 1–101

28 “Subdivision” § 1–101

29 **1–208. ANNUAL REPORT — MEASURES AND INDICATORS.**

30 **(A) “NATIONAL CENTER” DEFINED.**

31 **IN THIS SECTION, “NATIONAL CENTER” MEANS THE NATIONAL CENTER**
32 **FOR SMART GROWTH RESEARCH AND EDUCATION AT THE UNIVERSITY OF**
33 **MARYLAND, COLLEGE PARK.**

34 **(B) LEGISLATIVE INTENT.**

35 **(1) THE GENERAL ASSEMBLY FINDS THAT:**

1 **(I) IN ADDITION TO REPORTING ON PAST LAND USE**
2 **INDICATORS AND MEASURES, LOCAL JURISDICTIONS SHOULD STRIVE TO**
3 **ACHIEVE FUTURE LAND USE GOALS THAT IMPLEMENT AND ACHIEVE THE**
4 **VISIONS IN § 1-201 OF THIS SUBTITLE;**

5 **(II) A STATEWIDE LAND USE GOAL THAT EMBODIES THE**
6 **VISIONS IN § 1-201 OF THIS SUBTITLE AND SMART AND SUSTAINABLE GROWTH**
7 **SHOULD BE ESTABLISHED;**

8 **(III) THE VISIONS IN § 1-201 OF THIS SUBTITLE WILL NOT BE**
9 **REALIZED UNLESS LOCAL JURISDICTIONS SET THEIR OWN GOAL TO MAKE**
10 **INCREMENTAL PROGRESS TOWARDS ACHIEVING A STATEWIDE LAND USE GOAL;**
11 **AND**

12 **(IV) RESOURCES ARE NECESSARY TO ACHIEVE A STATEWIDE**
13 **GOAL, INCLUDING FUNDING FOR INFRASTRUCTURE INSIDE THE PRIORITY**
14 **FUNDING AREAS AND LAND PRESERVATION OUTSIDE THE PRIORITY FUNDING**
15 **AREAS.**

16 **(2) (I) THE STATEWIDE LAND USE GOAL IS TO INCREASE THE**
17 **CURRENT PERCENTAGE OF GROWTH INSIDE THE PRIORITY FUNDING AREAS AND**
18 **TO DECREASE THE PERCENTAGE OF GROWTH LOCATED OUTSIDE THE PRIORITY**
19 **FUNDING AREAS.**

20 **(II) LOCAL JURISDICTIONS SHALL DEVELOP A PERCENTAGE**
21 **GOAL TOWARDS ACHIEVING THE STATEWIDE GOAL.**

22 **(C) REQUIRED MEASURES AND INDICATORS.**

23 **(1) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS**
24 **SUBSECTION, THE ANNUAL REPORT REQUIRED TO BE FILED UNDER § 1-207 OF**
25 **THIS SUBTITLE SHALL INCLUDE THE FOLLOWING MEASURES AND INDICATORS:**

26 **(I) THE AMOUNT, SHARE, AND NET DENSITY OF GROWTH**
27 **INSIDE AND OUTSIDE THE PRIORITY FUNDING AREAS;**

28 **(II) THE CREATION OF NEW LOTS AND THE ISSUANCE OF**
29 **RESIDENTIAL AND COMMERCIAL BUILDING PERMITS INSIDE AND OUTSIDE THE**
30 **PRIORITY FUNDING AREAS;**

31 **(III) THE DEVELOPMENT CAPACITY ANALYSIS, UPDATED**
32 **EVERY 3 YEARS AND WHENEVER THERE IS A SIGNIFICANT CHANGE IN ZONING**
33 **OR LAND USE PATTERNS;**

1 **(IV) THE NUMBER OF ACRES PRESERVED USING LOCAL**
2 **AGRICULTURAL LAND PRESERVATION FUNDING, IF APPLICABLE; AND**

3 **(V) THE FOLLOWING INFORMATION ON ACHIEVING THE**
4 **STATEWIDE GOAL STATED IN SUBSECTION (B)(2) OF THIS SECTION:**

5 **1. THE LOCAL GOAL;**

6 **2. THE TIME FRAME FOR ACHIEVING THE LOCAL**
7 **GOAL;**

8 **3. THE RESOURCES NECESSARY FOR**
9 **INFRASTRUCTURE INSIDE THE PRIORITY FUNDING AREAS AND LAND**
10 **PRESERVATION OUTSIDE THE PRIORITY FUNDING AREAS; AND**

11 **4. ANY INCREMENTAL PROGRESS MADE TOWARDS**
12 **ACHIEVING THE LOCAL GOAL.**

13 **(2) IF ALL LAND WITHIN THE BOUNDARIES OF A MUNICIPAL**
14 **CORPORATION IS A PRIORITY FUNDING AREA, THE MUNICIPAL CORPORATION**
15 **NEED NOT:**

16 **(I) ESTABLISH A LOCAL GOAL FOR ACHIEVING THE**
17 **STATEWIDE GOAL STATED IN SUBSECTION (B)(2) OF THIS SECTION; OR**

18 **(II) INCLUDE INFORMATION IN THE ANNUAL REPORT ON A**
19 **LOCAL GOAL AS REQUIRED IN PARAGRAPH (1)(V) OF THIS SUBSECTION.**

20 **(3) A COUNTY OR MUNICIPAL CORPORATION THAT ISSUES FEWER**
21 **THAN 50 BUILDING PERMITS FOR NEW RESIDENTIAL UNITS EACH YEAR:**

22 **(I) NEED NOT INCLUDE INFORMATION IN THE ANNUAL**
23 **REPORT ON MEASURES AND INDICATORS LISTED IN PARAGRAPH (1) OF THIS**
24 **SUBSECTION; BUT**

25 **(II) SHALL PROVIDE DOCUMENTATION TO THE**
26 **DEPARTMENT OF PLANNING EACH YEAR THAT FEWER THAN 50 BUILDING**
27 **PERMITS FOR NEW RESIDENTIAL UNITS ARE ISSUED.**

28 **(D) REGULATIONS.**

1 **(1) IN ACCORDANCE WITH TITLE 2, SUBTITLE 5 AND TITLE 10,**
 2 **SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE, THE DEPARTMENT OF**
 3 **PLANNING MAY ADOPT REGULATIONS TO DETAIL HOW THE MEASURES AND**
 4 **INDICATORS REQUIRED UNDER SUBSECTION (C) OF THIS SECTION ARE**
 5 **SUBMITTED AND TRANSMITTED IN THE ANNUAL REPORT OF EACH LOCAL**
 6 **JURISDICTION.**

7 **(2) THE DEPARTMENT OF PLANNING SHALL:**

8 **(I) DEVELOP MEASURES AND INDICATORS THAT WILL BE**
 9 **COLLECTED BY THE DEPARTMENT; AND**

10 **(II) CONSIDER WHICH MEASURES OR INDICATORS MAY BE**
 11 **COLLECTED BY THE NATIONAL CENTER.**

12 **(E) ANNUAL REPORT BY DEPARTMENT OF PLANNING.**

13 **ON OR BEFORE JANUARY 1 OF EACH YEAR, THE DEPARTMENT OF**
 14 **PLANNING, IN CONSULTATION WITH THE NATIONAL CENTER, SHALL SUBMIT A**
 15 **REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE**
 16 **STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON THE**
 17 **MEASURES AND INDICATORS COLLECTED UNDER THIS SECTION.**

18 REVISOR'S NOTE: This section formerly was Art. 66B, § 3.10(a)(1) and (2) and
 19 (b) through (e).

20 In subsection (d)(1) of this section, the reference to the annual report "of
 21 each local jurisdiction" is added for clarity.

22 The only other changes are in style.

23 Defined terms: "County" § 1-101
 24 "Development" § 1-101
 25 "Local jurisdiction" § 1-101
 26 "Priority funding area" § 1-101

27 **GENERAL REVISOR'S NOTE TO SUBTITLE**

28 Former Art. 66B, § 7.04, which provided that the provisions of former Article
 29 66B were severable, is deleted in light of Art. 1, § 23, which provides that all
 30 legislation enacted after July 1, 1979, is presumed to be severable absent
 31 specific language to the contrary, and in light of the standard rule of judicial
 32 construction favoring severability even in the absence of a severability clause in
 33 the statute. *See, e.g., Muskin v. State Dep't of Assessments and Taxation*, 422
 34 Md. 544 (2011): "We have held that, even in the absence of an express

1 severability clause in legislation that is found defective in some severable part,
 2 there “is a strong presumption that if a portion of an enactment is found to be
 3 invalid, the intent is that such portion be severed.” *Bd. v. Smallwood*, 327 Md.
 4 220, 245, 608 A.2d 1222, 1234 (1992); *see also Balt. v. Stuyvesant Ins. Co.*, 226
 5 Md. 379, 390, 174 A.2d 153, 158 – 59 (1961) (finding that “[i]t is the duty of a
 6 court to separate the valid from the invalid provisions of an ordinance, so long
 7 as the valid portion is independent and severable from that which is void.”).
 8 422 Md. 544, 554 (fn. 5); *see also Jackson v. Dackman Co.*, 422 Md. 357, 383–384
 9 (2011).

10 SUBTITLE 3. CONSISTENCY.

11 1–301. “ACTION” DEFINED.

12 IN THIS SUBTITLE, “ACTION” MEANS:

13 (1) THE ADOPTION OF A LOCAL LAW OR REGULATION
 14 CONCERNING:

15 (I) A SPECIAL EXCEPTION UNDER § 1–101(P) OF THIS TITLE
 16 (DEFINITIONS – “SPECIAL EXCEPTION”); OR

17 (II) PLAN IMPLEMENTATION AND REVIEW UNDER § 1–417
 18 OF THIS TITLE OR § 3–303 OF THIS ARTICLE;

19 (2) A REQUIREMENT UNDER § 9–505(A)(1) OF THE ENVIRONMENT
 20 ARTICLE AND ARTICLE 23A, § 19(O)(3)(III) OF THE CODE (MUNICIPAL
 21 ANNEXATION); OR

22 (3) A REQUIRED FINDING UNDER §§ 9–506(A)(1) AND 9–507(B)(2)
 23 OF THE ENVIRONMENT ARTICLE (WATER AND SEWER PLAN REVIEW).

24 REVISOR’S NOTE: This section is new language derived without substantive
 25 change from former Art. 66B, § 1.02(a).

26 Defined terms: “Local law” § 1–101

27 “Plan” § 1–101

28 “Regulation” § 1–101

29 “Special exception” § 1–101

30 1–302. SCOPE OF SUBTITLE.

31 THIS SUBTITLE APPLIES TO:

1 (1) A SPECIAL EXCEPTION UNDER § 1-101(P) OF THIS TITLE
2 (DEFINITIONS – “SPECIAL EXCEPTION”);

3 (2) PLAN IMPLEMENTATION AND REVIEW UNDER § 1-417 OF THIS
4 TITLE OR § 3-303 OF THIS ARTICLE;

5 (3) §§ 9-505(A)(1), 9-506(A)(1), AND 9-507(B)(2) OF THE
6 ENVIRONMENT ARTICLE (WATER AND SEWER PLAN REVIEW); AND

7 (4) ARTICLE 23A, § 19(O)(3)(III) OF THE CODE (ANNEXATION
8 PLAN).

9 REVISOR’S NOTE: This section is new language derived without substantive
10 change from former Art. 66B, § 1.02(b).

11 Defined terms: “Plan” § 1-101
12 “Special exception” § 1-101

13 **1-303. CONSISTENCY — GENERAL REQUIREMENT.**

14 EXCEPT AS PROVIDED IN § 1-304 OF THIS SUBTITLE, WHEN A PROVISION
15 IN A STATUTE LISTED UNDER § 1-302 OF THIS SUBTITLE REQUIRES AN ACTION
16 TO BE “CONSISTENT WITH” OR HAVE “CONSISTENCY WITH” A COMPREHENSIVE
17 PLAN, THE TERM SHALL MEAN AN ACTION TAKEN THAT WILL FURTHER, AND
18 NOT BE CONTRARY TO, THE FOLLOWING ITEMS IN THE PLAN:

19 (1) POLICIES;

20 (2) TIMING OF THE IMPLEMENTATION OF THE PLAN;

21 (3) TIMING OF DEVELOPMENT;

22 (4) TIMING OF REZONING;

23 (5) DEVELOPMENT PATTERNS;

24 (6) LAND USES; AND

25 (7) DENSITIES OR INTENSITIES.

26 REVISOR’S NOTE: This section formerly was Art. 66B, § 1.02(c).

27 The only changes are in style.

1 Defined terms: “Action” § 1–301
2 “Development” § 1–101
3 “Plan” § 1–101

4 **1–304. CONSISTENCY — PRIORITY FUNDING AREA.**

5 **(A) SCOPE OF SECTION.**

6 **THIS SECTION APPLIES TO PLAN IMPLEMENTATION AND REVIEW UNDER §**
7 **1–301(1)(II) OF THIS SUBTITLE.**

8 **(B) APPLICATION.**

9 **IN A PRIORITY FUNDING AREA, IF § 1–417 OF THIS TITLE OR § 3–303 OF**
10 **THIS ARTICLE REQUIRES AN ACTION TO BE “CONSISTENT WITH” OR HAVE**
11 **“CONSISTENCY WITH” A COMPREHENSIVE PLAN, THE TERM SHALL MEAN AN**
12 **ACTION TAKEN THAT WILL FURTHER, AND NOT BE CONTRARY TO, THE**
13 **FOLLOWING ITEMS IN THE PLAN:**

- 14 **(1) POLICIES;**
15 **(2) TIMING OF THE IMPLEMENTATION OF THE PLAN;**
16 **(3) TIMING OF DEVELOPMENT;**
17 **(4) TIMING OF REZONING; AND**
18 **(5) DEVELOPMENT PATTERNS.**

19 **REVISOR’S NOTE:** This section formerly was Art. 66B, § 1.02(d)(2) and (3).

20 The only changes are in style.

21 Defined terms: “Action” § 1–301
22 “Development” § 1–101
23 “Plan” § 1–101
24 “Priority funding area” § 1–101

25 **SUBTITLE 4. HOME RULE COUNTIES.**

26 **PART I. GENERAL PROVISIONS.**

27 **1–401. CHARTER COUNTIES; LIMITED APPLICATION OF DIVISION.**

1 **(A) GENERAL LIMITED APPLICATION.**

2 **EXCEPT AS PROVIDED IN THIS SECTION, THIS DIVISION DOES NOT APPLY**
3 **TO CHARTER COUNTIES.**

4 **(B) APPLICABLE SECTIONS ENUMERATED.**

5 **THE FOLLOWING PROVISIONS OF THIS DIVISION APPLY TO A CHARTER**
6 **COUNTY:**

7 **(1) THIS SUBTITLE, INCLUDING PARTS II AND III (CHARTER**
8 **COUNTY – COMPREHENSIVE PLANS);**

9 **(2) § 1–101(O) (DEFINITIONS – “SENSITIVE AREA”);**

10 **(3) § 1–201 (VISIONS);**

11 **(4) § 1–206 (REQUIRED EDUCATION);**

12 **(5) § 1–207 (ANNUAL REPORT – IN GENERAL);**

13 **(6) § 1–208 (ANNUAL REPORT – MEASURES AND INDICATORS);**

14 **(7) TITLE 1, SUBTITLE 3 (CONSISTENCY);**

15 **(8) § 4–104(B) (LIMITATIONS – BICYCLE PARKING);**

16 **(9) § 4–208 (EXCEPTIONS – MARYLAND ACCESSIBILITY CODE);**

17 **(10) § 5–102(D) (SUBDIVISION REGULATIONS – BURIAL SITES);**

18 **(11) TITLE 7, SUBTITLE 1 (DEVELOPMENT MECHANISMS);**

19 **(12) TITLE 7, SUBTITLE 2 (TRANSFER OF DEVELOPMENT**
20 **RIGHTS);**

21 **(13) EXCEPT IN MONTGOMERY COUNTY OR PRINCE GEORGE’S**
22 **COUNTY, TITLE 7, SUBTITLE 3 (DEVELOPMENT RIGHTS AND**
23 **RESPONSIBILITIES AGREEMENTS);**

24 **(14) TITLE 7, SUBTITLE 4 (INCLUSIONARY ZONING);**

25 **(15) § 8–401 (CONVERSION OF OVERHEAD FACILITIES);**

1 **(16) FOR BALTIMORE COUNTY ONLY, TITLE 9, SUBTITLE 3**
 2 **(SINGLE-COUNTY PROVISIONS – BALTIMORE COUNTY);**

3 **(17) FOR HOWARD COUNTY ONLY, TITLE 9, SUBTITLE 13**
 4 **(SINGLE-COUNTY PROVISIONS – HOWARD COUNTY); AND**

5 **(18) TITLE 11, SUBTITLE 2 (CIVIL PENALTY).**

6 **(C) SECTION SUPERSEDES INCONSISTENT DIVISION II PROVISIONS.**

7 **THIS SECTION SUPERSEDES ANY INCONSISTENT PROVISION OF DIVISION**
 8 **II OF THIS ARTICLE.**

9 REVISOR'S NOTE: This section is new language derived without substantive
 10 change from former Art. 66B, §§ 1.03 and 8.16(d).

11 In subsection (b)(15) of this section, the inclusion of the reference to “§
 12 8–401 (Conversion of overhead facilities)” in the list of provisions that
 13 apply to charter counties is substituted for the former phrase “[s]ection
 14 1.02 [*sic*] of this article does not apply to this section [former Art. 66B, §
 15 8.16]” for clarity.

16 In subsection (c) this section, the reference to “Division II of this article”
 17 is substituted for the former reference to “Article 28 of the Code” to reflect
 18 the reorganization of material derived from former Article 28 in Division
 19 II of this article.

20 Defined terms: “Charter county” § 1–101

21 “Development” § 1–101

22 “Plan” § 1–101

23 “Regulation” § 1–101

24 “Sensitive area” § 1–101

25 “Subdivision” § 1–101

26 **1–402. CODE COUNTIES — LAND USE POWERS.**

27 **(A) IN GENERAL.**

28 **IN ADDITION TO THE POWERS THE COUNTY MAY HAVE HAD UNDER THIS**
 29 **DIVISION BEFORE ADOPTING CODE HOME RULE, A CODE COUNTY MAY EXERCISE**
 30 **THE POWERS RELATING TO LAND USE STATED IN ARTICLE 25A OF THE CODE.**

31 **(B) TREATMENT AS CHARTER COUNTY.**

1 **A CODE COUNTY THAT CHOOSES TO EXERCISE THE POWERS RELATING TO**
2 **LAND USE STATED IN ARTICLE 25A OF THE CODE SHALL BE TREATED AS A**
3 **CHARTER COUNTY FOR PURPOSES OF § 1-401 OF THIS SUBTITLE.**

4 REVISOR'S NOTE: Subsection (a) of this section is new language patterned
5 after present Art. 25B, § 13, as it relates to land use powers.

6 Subsection (b) of this section is new language added to clarify the method
7 by which a code county may exercise the express powers relating to land
8 use provided to charter counties.

9 The Land Use Article Review Committee notes, for consideration by the
10 General Assembly, that this section is added to clarify the status of land
11 use powers exercised by code counties by providing a specific
12 cross-reference to the powers that a code county shares with charter
13 counties, and may exercise under the express powers relating to land use
14 stated in Article 25A of the Code, as well as the powers previously
15 exercised by the county as a commission county before adoption of code
16 home rule. No substantive change is intended.

17 Defined terms: "Charter county" § 1-101

18 "Code county" § 1-101

19 "County" § 1-101

20 **1-403. RESERVED.**

21 **1-404. RESERVED.**

22 **PART II. COMPREHENSIVE PLANS.**

23 **1-405. PLAN REQUIRED.**

24 **A CHARTER COUNTY SHALL ENACT, ADOPT, AMEND, AND EXECUTE A PLAN**
25 **IN ACCORDANCE WITH THIS PART AND PART III OF THIS SUBTITLE.**

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 66B, § 1.04(a).

28 The phrase "in accordance with this part and Part III of this subtitle" is
29 substituted for the former phrase "as provided in this section" for clarity
30 and to provide specific cross-references to the plan requirements and
31 provisions applicable to charter counties under this part and Part III of
32 this subtitle.

33 Defined terms: "Charter county" § 1-101

34 "Plan" § 1-101

1 **1-406. ELEMENTS — CHARTER COUNTIES.**

2 **(A) REQUIRED ELEMENTS.**

3 **(1) THE PLANNING COMMISSION FOR A CHARTER COUNTY SHALL**
4 **INCLUDE IN THE COMPREHENSIVE OR GENERAL PLAN THE VISIONS UNDER §**
5 **1-201 OF THIS TITLE AND THE FOLLOWING ELEMENTS:**

6 **(I) A DEVELOPMENT REGULATIONS ELEMENT;**

7 **(II) A SENSITIVE AREAS ELEMENT;**

8 **(III) A TRANSPORTATION ELEMENT; AND**

9 **(IV) A WATER RESOURCES ELEMENT.**

10 **(2) IF CURRENT GEOLOGICAL INFORMATION IS AVAILABLE, THE**
11 **PLAN SHALL INCLUDE A MINERAL RESOURCES ELEMENT.**

12 **(B) PERMISSIVE ELEMENT.**

13 **THE PLANNING COMMISSION FOR A CHARTER COUNTY MAY INCLUDE IN**
14 **THE PLAN A PRIORITY PRESERVATION AREA ELEMENT DEVELOPED IN**
15 **ACCORDANCE WITH § 2-518 OF THE AGRICULTURE ARTICLE.**

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 66B, § 1.04(c), (d)(1), and, as it related to the
18 identification of each required plan element, (b)(1).

19 Throughout this section, the former references to a "plan" element are
20 deleted as unnecessary.

21 In the introductory language to subsection (a)(1) and in subsection (b) of
22 this section, the former references to "developing" a plan are deleted as
23 unnecessary.

24 In the introductory language to subsection (a)(1) of this section, the
25 reference to the comprehensive "or general" plan is added for clarity.

26 In subsection (a)(1)(i) of this section, the reference to "a development
27 regulations element" is substituted for the former phrase
28 "recommendation for land development regulations" for consistency
29 within this section.

1 Defined terms: "Charter county" § 1-101
 2 "Development" § 1-101
 3 "Plan" § 1-101
 4 "Regulation" § 1-101
 5 "Sensitive area" § 1-101

6 **1-407. DEVELOPMENT REGULATIONS ELEMENT.**

7 **(A) IN GENERAL.**

8 **THE DEVELOPMENT REGULATIONS ELEMENT SHALL INCLUDE THE**
 9 **PLANNING COMMISSION'S RECOMMENDATION FOR LAND DEVELOPMENT**
 10 **REGULATIONS TO IMPLEMENT THE PLAN.**

11 **(B) PURPOSE.**

12 **THE DEVELOPMENT REGULATIONS ELEMENT SHALL ENCOURAGE:**

13 **(1) THE USE OF FLEXIBLE DEVELOPMENT REGULATIONS TO**
 14 **PROMOTE INNOVATIVE AND COST-SAVING SITE DESIGN AND PROTECT THE**
 15 **ENVIRONMENT; AND**

16 **(2) WITHIN THE AREAS DESIGNATED FOR GROWTH IN THE PLAN:**

17 **(I) ECONOMIC DEVELOPMENT THROUGH THE USE OF**
 18 **INNOVATIVE TECHNIQUES; AND**

19 **(II) STREAMLINED REVIEW OF APPLICATIONS FOR**
 20 **DEVELOPMENT, INCLUDING PERMIT REVIEW AND SUBDIVISION PLAT REVIEW.**

21 REVISOR'S NOTE: This section is new language derived without substantive
 22 change from former Art. 66B, § 1.04(b)(1)(iv).

23 In this section, the references to "[t]he development regulations element"
 24 are substituted for the former references to "[a]n element" for clarity.

25 Defined terms: "Development" § 1-101
 26 "Plan" § 1-101
 27 "Regulation" § 1-101
 28 "Subdivision" § 1-101

29 **1-408. SENSITIVE AREAS ELEMENT.**

30 **(A) IN GENERAL.**

1 A SENSITIVE AREAS ELEMENT SHALL INCLUDE THE GOALS, OBJECTIVES,
2 PRINCIPLES, POLICIES, AND STANDARDS DESIGNED TO PROTECT SENSITIVE
3 AREAS FROM THE ADVERSE EFFECTS OF DEVELOPMENT.

4 **(B) REVIEW.**

5 BEFORE THE PLAN IS ADOPTED, THE DEPARTMENT OF THE
6 ENVIRONMENT AND THE DEPARTMENT OF NATURAL RESOURCES SHALL
7 REVIEW THE SENSITIVE AREAS ELEMENT TO DETERMINE WHETHER THE
8 PROPOSED PLAN IS CONSISTENT WITH THE PROGRAMS AND GOALS OF THE
9 DEPARTMENTS.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 66B, § 1.04(b)(1)(v).

12 In subsection (b) of this section, the phrase "[b]efore the plan is adopted"
13 is added for clarity.

14 Defined terms: "Development" § 1-101
15 "Plan" § 1-101
16 "Sensitive area" § 1-101

17 **1-409. TRANSPORTATION ELEMENT.**

18 **(A) IN GENERAL.**

19 **THE TRANSPORTATION ELEMENT MAY INCLUDE ALL TYPES OF:**

- 20 **(1) AIRWAYS;**
21 **(2) HIGHWAYS OR STREETS;**
22 **(3) RAILWAYS;**
23 **(4) WATERWAYS;**
24 **(5) ROUTINGS FOR MASS TRANSIT; AND**
25 **(6) TERMINALS FOR INDIVIDUALS, GOODS, AND VEHICLES**
26 **RELATED TO AIRWAYS, HIGHWAYS, RAILWAYS, AND WATERWAYS.**

27 **(B) REQUIRED CONTENTS.**

28 **THE TRANSPORTATION ELEMENT SHALL:**

1 **(1) PROPOSE, ON A SCHEDULE THAT EXTENDS AS FAR INTO THE**
 2 **FUTURE AS IS REASONABLE, THE MOST APPROPRIATE AND DESIRABLE**
 3 **PATTERNS FOR:**

4 **(I) THE GENERAL LOCATION, CHARACTER, AND EXTENT OF**
 5 **CHANNELS, ROUTES, AND TERMINALS FOR TRANSPORTATION FACILITIES; AND**

6 **(II) THE CIRCULATION OF INDIVIDUALS AND GOODS;**

7 **(2) PROVIDE FOR BICYCLE AND PEDESTRIAN ACCESS AND**
 8 **TRAVELWAYS; AND**

9 **(3) INCLUDE AN ESTIMATE OF THE USE OF ANY PROPOSED**
 10 **IMPROVEMENT.**

11 REVISOR'S NOTE: This section is new language derived without substantive
 12 change from former Art. 66B, § 1.04(b)(1)(i) and (2).

13 In subsection (a) of this section, the reference to the "transportation
 14 element" is substituted for the former reference to the "channels, routes,
 15 travelways, and terminals required under paragraph (1)(i) of this
 16 subsection" for brevity.

17 Also in subsection (a) of this section, the former references to "bicycle
 18 ways" and "sidewalks" are deleted as redundant of the requirement for
 19 "bicycle and pedestrian access" under subsection (b)(2) of this section.

20 In subsection (b)(3) of this section, the reference to an estimate of the
 21 "use" is substituted for the former reference to an estimate of the
 22 "probable utilization" for brevity and clarity.

23 **1-410. WATER RESOURCES ELEMENT.**

24 **(A) IN GENERAL.**

25 **CONSIDERING AVAILABLE DATA PROVIDED BY THE DEPARTMENT OF THE**
 26 **ENVIRONMENT, THE WATER RESOURCES ELEMENT SHALL IDENTIFY:**

27 **(1) DRINKING WATER AND OTHER WATER RESOURCES THAT WILL**
 28 **BE ADEQUATE FOR THE NEEDS OF EXISTING AND FUTURE DEVELOPMENT**
 29 **PROPOSED IN THE LAND USE ELEMENT OF THE PLAN; AND**

30 **(2) SUITABLE RECEIVING WATERS AND LAND AREAS TO MEET**
 31 **STORMWATER MANAGEMENT AND WASTEWATER TREATMENT AND DISPOSAL**

1 NEEDS OF EXISTING AND FUTURE DEVELOPMENT PROPOSED IN THE LAND USE
2 ELEMENT OF THE PLAN.

3 (B) REVIEW AND TECHNICAL ASSISTANCE.

4 THE DEPARTMENT OF THE ENVIRONMENT SHALL:

5 (1) PROVIDE, ON REQUEST OF A LOCAL JURISDICTION,
6 TECHNICAL ASSISTANCE ON THE DEVELOPMENT OF THE WATER RESOURCES
7 ELEMENT; AND

8 (2) REVIEW THE WATER RESOURCES ELEMENT TO DETERMINE
9 WHETHER THE PROPOSED PLAN IS CONSISTENT WITH THE PROGRAMS AND
10 GOALS OF THE DEPARTMENT REFLECTED IN THE GENERAL WATER RESOURCES
11 PROGRAM REQUIRED UNDER § 5-203 OF THE ENVIRONMENT ARTICLE.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 66B, § 1.04(b)(4) and (1)(iii).

14 In subsection (b) of this section, the former reference to the water
15 resources element "of the comprehensive plan" is deleted as implicit in
16 the reference to the water resources element.

17 The Land Use Article Review Committee notes, for consideration by the
18 General Assembly, that in subsection (a) of this section charter counties
19 are required to adopt a water resources element in relation to a land use
20 element. However, only noncharter counties and municipal corporations
21 are specifically required to adopt a land use element under § 3-111 of this
22 article. In practice, all charter counties do adopt a land use element as
23 part of their comprehensive plans. The General Assembly may wish to
24 consider adding a specific required land use element for charter counties
25 to adopt patterned after § 3-111 of this article.

26 Defined terms: "Development" § 1-101
27 "Local jurisdiction" § 1-101
28 "Plan" § 1-101

29 1-411. MINERAL RESOURCES ELEMENT.

30 (A) IN GENERAL.

31 THE MINERAL RESOURCES ELEMENT SHALL IDENTIFY:

32 (1) UNDEVELOPED LAND THAT SHOULD BE KEPT IN ITS
33 UNDEVELOPED STATE UNTIL THE LAND CAN BE USED TO ASSIST IN PROVIDING A

1 CONTINUOUS SUPPLY OF MINERALS, AS DEFINED IN § 15-801(I) OF THE
2 ENVIRONMENT ARTICLE; AND

3 (2) APPROPRIATE POSTEXCAVATION USES FOR THE LAND THAT
4 ARE CONSISTENT WITH THE COUNTY'S LAND PLANNING PROCESS.

5 (B) REQUIRED CONSIDERATIONS.

6 A MINERAL RESOURCES ELEMENT SHALL INCORPORATE LAND USE
7 POLICIES AND RECOMMENDATIONS FOR REGULATIONS:

8 (1) TO BALANCE MINERAL RESOURCE EXTRACTION WITH OTHER
9 LAND USES; AND

10 (2) TO THE EXTENT FEASIBLE, TO PREVENT THE PREEMPTION OF
11 MINERAL RESOURCES EXTRACTION BY OTHER USES.

12 (C) REVIEW.

13 BEFORE THE PLAN IS ADOPTED, THE DEPARTMENT OF THE
14 ENVIRONMENT SHALL REVIEW THE MINERAL RESOURCES ELEMENT TO
15 DETERMINE WHETHER THE PROPOSED PLAN IS CONSISTENT WITH THE
16 PROGRAMS AND GOALS OF THE DEPARTMENT.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 66B, § 1.04(b)(1)(ii).

19 In subsection (c) of this section, the phrase "[b]efore the plan is adopted"
20 is added for clarity.

21 Former Art. 66B, § 1.04(b)(3), which required the mineral resources
22 element to be included in each new plan and plan amendment after July
23 1, 1986, is deleted as obsolete.

24 Defined terms: "County" § 1-101

25 "Plan" § 1-101

26 "Regulation" § 1-101

27 1-412. RESERVED.

28 1-413. RESERVED.

29 PART III. IMPLEMENTATION.

1 **1-414. IMPLEMENTATION OF VISIONS.**

2 **IN ADDITION TO THE REQUIREMENTS FOR THE PLAN UNDER PART II OF**
3 **THIS SUBTITLE, A PLANNING COMMISSION SHALL IMPLEMENT THE VISIONS SET**
4 **FORTH IN § 1-201 OF THIS TITLE THROUGH THE PLAN.**

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from the introductory language to former Art. 66B, § 1.01.

7 Defined term: "Plan" § 1-101

8 **1-415. PLAN IMPLEMENTATION.**

9 **(A) PLANNING COMMISSION.**

10 **THE PLANNING COMMISSION OF A CHARTER COUNTY SHALL IMPLEMENT**
11 **THE VISIONS SET FORTH IN § 1-201 OF THIS TITLE THROUGH THE**
12 **COMPREHENSIVE PLAN ELEMENTS REQUIRED UNDER PART II OF THIS**
13 **SUBTITLE.**

14 **(B) LEGISLATIVE BODY — REGULATIONS.**

15 **THE LEGISLATIVE BODY OF A CHARTER COUNTY THAT HAS ADOPTED A**
16 **COMPREHENSIVE PLAN UNDER PART II OF THIS SUBTITLE MAY ADOPT**
17 **REGULATIONS IMPLEMENTING THE VISIONS SET FORTH IN § 1-201 OF THIS**
18 **TITLE IN THE PLAN.**

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 66B, § 1.04(e).

21 In this section, the references to units "of a charter county" are added for
22 clarity.

23 In subsection (b) of this section, the reference to a comprehensive plan
24 adopted "under Part II of this subtitle" is added for clarity.

25 The Land Use Article Review Committee notes, for consideration by the
26 General Assembly, that the application of this part to a code county may
27 depend on whether it has chosen to exercise the zoning authority of a
28 charter county under § 1-402 of this subtitle. The General Assembly may
29 wish to add a specific reference to a "code county" to this section for
30 clarity.

31 Defined terms: "Charter county" § 1-101
32 "Legislative body" § 1-101

1 “Plan” § 1–101
2 “Regulation” § 1–101

3 **1–416. PLAN REVISION.**

4 **(A) PERIODIC REVIEW.**

5 **AT LEAST ONCE EVERY 6 YEARS, EACH PLANNING COMMISSION SHALL**
6 **REVIEW THE COMPREHENSIVE PLAN AND, IF NECESSARY, REVISE OR AMEND**
7 **THE COMPREHENSIVE PLAN TO INCLUDE ALL:**

8 **(1) THE ELEMENTS REQUIRED UNDER PART II OF THIS SUBTITLE;**
9 **AND**

10 **(2) THE VISIONS SET FORTH IN § 1–201 OF THIS TITLE.**

11 **(B) GEOGRAPHIC SECTION OR DIVISION.**

12 **THE PLANNING COMMISSION MAY PREPARE COMPREHENSIVE PLANS FOR**
13 **ONE OR MORE GEOGRAPHIC SECTIONS OR DIVISIONS OF THE LOCAL**
14 **JURISDICTION IF THE PLAN FOR EACH GEOGRAPHIC SECTION OR DIVISION IS**
15 **REVIEWED AND, IF NECESSARY, REVISED OR AMENDED AT LEAST ONCE EVERY 6**
16 **YEARS.**

17 REVISOR’S NOTE: This section is new language derived without substantive
18 change from former Art. 66B, § 1.04(d)(2)(i) and (3).

19 In subsection (b) of this section, the former reference to “major”
20 geographic sections or divisions is deleted as surplusage.

21 Former Art. 66B, § 1.04(d)(2)(ii), which required a plan to include a
22 certain discretionary element if chosen, is deleted as surplusage.

23 Defined terms: “Local jurisdiction” § 1–101
24 “Plan” § 1–101

25 **1–417. PERIODIC REVIEW; IMPLEMENTATION.**

26 **(A) REQUIRED REVIEW.**

27 **AT LEAST ONCE EVERY 6 YEARS, WHICH CORRESPONDS TO THE**
28 **COMPREHENSIVE PLAN REVISION PROCESS UNDER § 1–416 OF THIS SUBTITLE,**
29 **A CHARTER COUNTY SHALL ENSURE THE IMPLEMENTATION OF THE VISIONS,**

1 THE DEVELOPMENT REGULATIONS ELEMENT, AND THE SENSITIVE AREAS
2 ELEMENT OF THE PLAN.

3 (B) IMPLEMENTATION.

4 A CHARTER COUNTY SHALL ENSURE THAT THE IMPLEMENTATION OF THE
5 REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION ARE ACHIEVED THROUGH
6 THE ADOPTION OF APPLICABLE:

7 (1) ZONING LAWS; AND

8 (2) LOCAL LAWS GOVERNING:

9 (I) PLANNED DEVELOPMENT;

10 (II) SUBDIVISION; AND

11 (III) OTHER LAND USE PROVISIONS THAT ARE CONSISTENT
12 WITH THE COMPREHENSIVE PLAN.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 66B, § 1.04(f).

15 In subsection (a) of this section, the former phrase "[o]n or before July 1,
16 1997, and subsequently" is deleted as obsolete.

17 Defined terms: "Charter county" § 1-101

18 "Development" § 1-101

19 "Local jurisdiction" § 1-101

20 "Local law" § 1-101

21 "Plan" § 1-101

22 "Regulation" § 1-101

23 "Sensitive area" § 1-101

24 "Subdivision" § 1-101

25 "Zoning law" § 1-101

26 1-418. DEADLINE.

27 (A) IN GENERAL.

28 SUBJECT TO SUBSECTION (B) OF THIS SECTION, ON OR BEFORE OCTOBER
29 1, 2009, A CHARTER COUNTY SHALL INCLUDE IN ITS COMPREHENSIVE PLAN ANY
30 PLAN ELEMENT THAT IS REQUIRED UNDER PART II OF THIS SUBTITLE.

1 **SUBTITLE 1. ORGANIZATION AND GENERAL AUTHORITY.**

2 **2-101. AUTHORITY TO ESTABLISH.**

3 **A LOCAL JURISDICTION MAY ESTABLISH BY LOCAL LAW A PLANNING**
4 **COMMISSION WITH THE POWERS AND DUTIES SET FORTH IN THIS DIVISION.**

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 66B, § 3.01(a), as it related to the establishment
7 of a planning commission.

8 In this section and throughout this title, the references to "this division"
9 are substituted for the former references to "this article" to reflect the
10 reorganization of material derived from former Article 66B in Division I
11 of this article. *See* General Revisor's Note to article.

12 Defined terms: "Local jurisdiction" § 1-101
13 "Local law" § 1-101

14 **2-102. MEMBERSHIP.**

15 **(A) COMPOSITION.**

16 **(1) EXCEPT AS OTHERWISE PROVIDED IN THIS DIVISION, A**
17 **PLANNING COMMISSION ESTABLISHED UNDER THIS SUBTITLE SHALL CONSIST**
18 **OF THREE, FIVE, OR SEVEN MEMBERS.**

19 **(2) ONE MEMBER OF THE PLANNING COMMISSION MAY BE A**
20 **MEMBER OF THE LEGISLATIVE BODY, WHO SERVES AS AN EX OFFICIO MEMBER**
21 **CONCURRENT WITH THE MEMBER'S LEGISLATIVE TERM.**

22 **(B) APPOINTMENT.**

23 **(1) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (2) OF THIS**
24 **SUBSECTION, THE MEMBERS OF A PLANNING COMMISSION SHALL BE**
25 **APPOINTED BY:**

26 **(I) THE LEGISLATIVE BODY; OR**

27 **(II) THE PERSON DESIGNATED AS THE APPOINTING**
28 **AUTHORITY IN THE LOCAL LAW ESTABLISHING THE PLANNING COMMISSION.**

1 **(2) IF THERE IS A SINGLE ELECTED LOCAL EXECUTIVE, THE**
2 **MEMBERS OF A PLANNING COMMISSION SHALL BE APPOINTED BY THE LOCAL**
3 **EXECUTIVE AND CONFIRMED BY THE LEGISLATIVE BODY.**

4 **(C) TENURE.**

5 **(1) THE TERM OF A MEMBER OF A PLANNING COMMISSION OTHER**
6 **THAN AN EX OFFICIO MEMBER IS:**

7 **(I) 5 YEARS; OR**

8 **(II) UNTIL THE MEMBER'S SUCCESSOR TAKES OFFICE.**

9 **(2) THE TERMS OF THE MEMBERS OF A PLANNING COMMISSION**
10 **SHALL BE STAGGERED.**

11 **(D) REMOVAL.**

12 **(1) AFTER A PUBLIC HEARING, A LEGISLATIVE BODY MAY**
13 **REMOVE A MEMBER OF A PLANNING COMMISSION FOR:**

14 **(I) INEFFICIENCY;**

15 **(II) NEGLECT OF DUTY; OR**

16 **(III) MALFEASANCE IN OFFICE.**

17 **(2) A LEGISLATIVE BODY THAT REMOVES A MEMBER OF A**
18 **PLANNING COMMISSION SHALL FILE A WRITTEN STATEMENT OF THE REASONS**
19 **FOR THE REMOVAL.**

20 **(E) VACANCIES.**

21 **IF A VACANCY OCCURS DURING THE TERM OF AN APPOINTED MEMBER,**
22 **THE VACANCY SHALL BE FILLED FOR THE UNEXPIRED TERM BY THE:**

23 **(1) LEGISLATIVE BODY; OR**

24 **(2) PERSON DESIGNATED AS THE APPOINTING AUTHORITY IN THE**
25 **ORDINANCE ESTABLISHING THE COMMISSION.**

26 **(F) MUNICIPAL ALTERNATES.**

1 **(1) IN A MUNICIPAL CORPORATION, THE LEGISLATIVE BODY MAY**
2 **DESIGNATE ONE ALTERNATE MEMBER TO SIT ON THE PLANNING COMMISSION**
3 **IN THE ABSENCE OF ANY MEMBER OF THE COMMISSION.**

4 **(2) IF AN ALTERNATE MEMBER IS ABSENT, THE LEGISLATIVE**
5 **BODY MAY DESIGNATE A TEMPORARY ALTERNATE MEMBER TO SIT ON THE**
6 **PLANNING COMMISSION.**

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 66B, § 3.02(a), (b), and (d) through (g).

9 In subsection (a)(2) of this section, the reference to the member's
10 "legislative" term is substituted for the former reference to the member's
11 "official" term for clarity.

12 In the introductory language to subsection (b)(1) of this section, the
13 phrase "[e]xcept as otherwise provided in paragraph (2) of this
14 subsection," is added for clarity.

15 In the introductory language to subsection (c)(1) of this section, the
16 phrase "other than the ex officio member" is added for clarity.

17 In the introductory language to subsection (e) of this section, the
18 reference to vacancies occurring "during the term of an appointed
19 member" is substituted for the former phrase "other than through the
20 expiration of a term" for clarity.

21 In subsection (e)(2) of this section, the phrase "establishing the planning
22 commission" is added for clarity.

23 The Land Use Article Review Committee notes, for consideration by the
24 General Assembly, that under subsections (a)(2) and (b) of this section,
25 the authority of a legislative body to include one of its own members on a
26 planning commission that it appoints presents an opportunity for a
27 potential conflict of interest. The General Assembly may wish to
28 reconsider the wisdom of allowing a local legislator to serve *ex officio* on a
29 planning commission, or perhaps should consider enacting criteria for
30 recusal of a local legislator serving on a planning commission.

31 The Land Use Article Review Committee also notes, for consideration by
32 the General Assembly, that the provisions for removal of a planning
33 commission member under subsection (d) of this section present several
34 issues. Subsection (d)(1) of this section requires the legislative body to
35 hold a "public hearing" before removing a member, but does not provide
36 guidance as to the type of hearing or the due process protections available
37 to the accused member. It may be presumed that the legislative body

1 would conduct a quasi-judicial hearing to remove a planning commission
2 member. If the General Assembly considers that some other form of
3 evidentiary or other hearing is intended, it may wish to add specific
4 language to subsection (d) of this section, including more specific
5 language on the due process to be afforded to the member sought to be
6 removed.

7 Similarly, the criteria for removal under subsection (d)(1) of this section
8 appear limited to “inefficiency”, “neglect of duty”, or “malfeasance in
9 office”. It is unclear whether any of these criteria would cover common
10 grounds for removal under other statutes, such as “incompetence”,
11 “criminal activity”, whether or not related to planning commission
12 activities, or “other good cause shown”, a catch-all found in other
13 provisions of this article. The General Assembly may wish to compare the
14 removal provisions for the various boards and commissions authorized
15 under this article and conform the removal and related ethical provisions
16 that apply to each type.

17 The Land Use Article Review Committee also notes, for consideration by
18 the General Assembly, that, under subsection (e)(2) of this section, it is
19 unclear whether the filling of a vacancy by a single elected local executive
20 is subject to legislative confirmation under subsection (b)(2) of this
21 section. If so, the General Assembly may wish to clarify subsection (e) of
22 this section by referring to filling a vacancy “in the same manner as is
23 required for appointment under subsection (b) of this section” or similar
24 language.

25 The Land Use Article Review Committee also notes, for consideration by
26 the General Assembly, that under subsection (f) of this section, only a
27 municipal corporation is authorized to designate an alternate or
28 temporary alternate member to serve on a planning commission. It seems
29 to the committee that any rationale for allowing a municipal corporation
30 to designate an alternate member would apply equally in a county subject
31 to this division. The General Assembly may wish to consider authorizing
32 counties as well as municipal corporations to designate alternates and
33 temporary alternates. The committee also notes that alternates and
34 temporary alternates are subject to the same educational requirements
35 as full members of the planning commission.

36 For educational requirements for planning commission members, *see* §
37 1–206 of this article.

38 Defined terms: “Legislative body” § 1–101

39 “Local executive” § 1–101

40 “Local law” § 1–101

41 “Person” § 1–101

1 **2-103. OFFICERS.**

2 (A) CHAIR.

3 (1) FROM AMONG ITS APPOINTED MEMBERS, A PLANNING
4 COMMISSION SHALL ELECT A CHAIR.

5 (2) (I) THE TERM OF A CHAIR IS 1 YEAR.

6 (II) A CHAIR MAY BE REELECTED.

7 (B) OTHER OFFICERS.

8 A PLANNING COMMISSION MAY ESTABLISH AND SELECT OTHER OFFICERS
9 THAT IT CONSIDERS APPROPRIATE.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 66B, § 3.03(a).

12 In subsection (a) of this section, the references to a "chair" are substituted
13 for the former references to a "chairman" because SG § 2-1238 requires
14 the use of terms that are neutral as to gender to the extent practicable.
15 See General Revisor's Note to article.

16 In subsection (b) of this section, the phrase "may establish and select" is
17 substituted for the former phrase "shall ... create and fill" for clarity.

18 Also in subsection (b) of this section, the word "officers" is substituted for
19 the former word "offices" for clarity.

20 **2-104. MEETINGS; COMPENSATION; EMPLOYEES; CONTRACTORS.**

21 (A) MEETINGS.

22 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
23 SUBSECTION, A PLANNING COMMISSION SHALL HOLD AT LEAST ONE REGULAR
24 MEETING EACH MONTH.

25 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
26 PARAGRAPH, A PLANNING COMMISSION APPOINTED BY A MUNICIPAL
27 CORPORATION SHALL HOLD MEETINGS QUARTERLY, OR MORE OFTEN AS THE
28 PLANNING COMMISSION'S DUTIES REQUIRE.

1 **(II) IF THERE IS NO BUSINESS BEFORE THE PLANNING**
2 **COMMISSION, THE CHAIR MAY CANCEL THE QUARTERLY MEETING.**

3 **(B) COMPENSATION.**

4 **EACH MEMBER OF A PLANNING COMMISSION IS ENTITLED TO THE**
5 **COMPENSATION THAT THE LEGISLATIVE BODY CONSIDERS APPROPRIATE.**

6 **(C) EMPLOYEES; CONTRACTORS.**

7 **A PLANNING COMMISSION MAY:**

8 **(1) APPOINT THE EMPLOYEES NECESSARY FOR THE**
9 **PERFORMANCE OF THE PLANNING COMMISSION'S FUNCTIONS; AND**

10 **(2) CONTRACT WITH PLANNERS, ENGINEERS, ARCHITECTS, AND**
11 **OTHER CONSULTANTS FOR SERVICES THAT THE COMMISSION REQUIRES.**

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 66B, §§ 3.02(c), 3.03(b), and 3.04(b)(1).

14 In subsection (a)(2)(ii) of this section, the reference to the "chair" is
15 substituted for the former reference to the "chairman" because SG §
16 2-1238 requires the use of words that are neutral as to gender to the
17 extent practicable. *See* General Revisor's Note to article.

18 In subsection (c)(1) of this section, the reference to "performance of the
19 planning commission's functions" is substituted for the former phrase "its
20 work" for clarity.

21 Defined term: "Legislative body" § 1-101

22 **2-105. MISCELLANEOUS POWERS AND DUTIES.**

23 **(A) IN GENERAL.**

24 **(1) A PLANNING COMMISSION SHALL HAVE THE POWERS**
25 **NECESSARY TO ENABLE THE COMMISSION TO FULFILL ITS FUNCTIONS,**
26 **PROMOTE PLANNING, AND EXECUTE THE PURPOSES OF THIS DIVISION.**

27 **(2) ON A PLANNING COMMISSION'S REQUEST, ALL PUBLIC**
28 **OFFICIALS SHALL PROVIDE TO THE COMMISSION, WITHIN A REASONABLE TIME,**
29 **AVAILABLE INFORMATION THAT THE COMMISSION MAY REQUIRE FOR THE**
30 **PERFORMANCE OF THE PLANNING COMMISSION'S FUNCTIONS.**

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

4 **(4) A PLANNING COMMISSION MAY ACCEPT AND USE GIFTS AND**
5 **PUBLIC OR PRIVATE GRANTS FOR THE PERFORMANCE OF THE COMMISSION’S**
6 **FUNCTIONS.**

7 **(B) EXPENDITURES; RESOURCES.**

8 **(1) A PLANNING COMMISSION’S EXPENDITURES, OTHER THAN**
9 **GIFTS, SHALL BE MADE IN ACCORDANCE WITH:**

10 **(I) THE CONDITIONS OF THE LEGISLATIVE BODY; AND**

11 **(II) THE AMOUNT APPROPRIATED BY THE LEGISLATIVE**
12 **BODY.**

13 **(2) THE LEGISLATIVE BODY SHALL PROVIDE THE FUNDS,**
14 **EQUIPMENT, AND ACCOMMODATIONS NECESSARY FOR THE PERFORMANCE OF**
15 **THE PLANNING COMMISSION’S FUNCTIONS.**

16 **(C) RULES; RECORDS.**

17 **(1) A PLANNING COMMISSION SHALL:**

18 **(I) ADOPT RULES FOR THE CONDUCT OF ITS BUSINESS; AND**

19 **(II) KEEP RECORDS OF ITS RESOLUTIONS, TRANSACTIONS,**
20 **FINDINGS, AND DETERMINATIONS.**

21 **(2) THE RECORDS REQUIRED UNDER PARAGRAPH (1) OF THIS**
22 **SUBSECTION SHALL BE OPEN TO THE PUBLIC.**

23 REVISOR’S NOTE: This section is new language derived without substantive
24 change from former Art. 66B, §§ 3.03(c) and 3.04(a) and (b)(2).

25 In subsections (a)(2) and (b)(2) of this section, the references to “the
26 performance of the planning commission’s functions” are substituted for
27 the former references to “its program” and the “planning commission’s
28 work” for clarity and consistency within this section.

1 In subsection (b)(1) of this section, the phrase “in accordance with the
2 conditions ... and the amount appropriated” is substituted for the former
3 phrase “under the conditions and within the amounts appropriated for
4 the purpose” for clarity.

5 In subsection (c)(2) of this section, the reference to records “required
6 under paragraph (1) of this subsection” is substituted for the former
7 reference to records “of the resolutions, transactions, findings, and
8 determinations of a planning commission” for brevity.

9 Defined term: “Legislative body” § 1–101

10 **TITLE 3. COMPREHENSIVE PLAN.**

11 **SUBTITLE 1. REQUIREMENT AND ELEMENTS.**

12 **3–101. PLAN REQUIRED; MUNICIPAL INCLUSION.**

13 **(A) IN GENERAL.**

14 **A LOCAL JURISDICTION SHALL ENACT, ADOPT, AMEND, AND EXECUTE A**
15 **PLAN IN ACCORDANCE WITH THIS DIVISION.**

16 **(B) MUNICIPAL INCLUSION IN COUNTY PLAN.**

17 **A MUNICIPAL CORPORATION MAY BE INCLUDED AS PART OF A COUNTY**
18 **PLAN UNDER THIS DIVISION IF:**

19 **(1) THE LEGISLATIVE BODY OF THE MUNICIPAL CORPORATION,**
20 **BY RESOLUTION DIRECTED TO THE LEGISLATIVE BODY OF THE COUNTY WHERE**
21 **THE MUNICIPAL CORPORATION IS LOCATED, INDICATES THE INTENTION TO**
22 **PARTICIPATE IN THE COUNTY PLAN; AND**

23 **(2) THE LEGISLATIVE BODY OF THE COUNTY APPROVES THE**
24 **RESOLUTION.**

25 **REVISOR’S NOTE:** This section is new language derived without substantive
26 change from former Art. 66B, § 3.01(b) and, as it related to the adoption
27 of a plan, (a).

28 Defined terms: “County” § 1–101
29 “Legislative body” § 1–101
30 “Local jurisdiction” § 1–101
31 “Plan” § 1–101

1 **3-102. ELEMENTS — NONCHARTER COUNTIES AND MUNICIPAL**
2 **CORPORATIONS.**

3 **(A) REQUIRED ELEMENTS.**

4 **(1) THE PLANNING COMMISSION FOR A LOCAL JURISDICTION**
5 **SHALL INCLUDE IN THE COMPREHENSIVE PLAN THE FOLLOWING ELEMENTS:**

6 **(I) A COMMUNITY FACILITIES ELEMENT;**

7 **(II) AN AREAS OF CRITICAL STATE CONCERN ELEMENT;**

8 **(III) A GOALS AND OBJECTIVES ELEMENT;**

9 **(IV) A LAND USE ELEMENT;**

10 **(V) A DEVELOPMENT REGULATIONS ELEMENT;**

11 **(VI) A SENSITIVE AREAS ELEMENT;**

12 **(VII) A TRANSPORTATION ELEMENT; AND**

13 **(VIII) A WATER RESOURCES ELEMENT.**

14 **(2) IF CURRENT GEOLOGICAL INFORMATION IS AVAILABLE, THE**
15 **PLAN SHALL INCLUDE A MINERAL RESOURCES ELEMENT.**

16 **(3) THE PLAN FOR A MUNICIPAL CORPORATION THAT EXERCISES**
17 **ZONING AUTHORITY SHALL INCLUDE A MUNICIPAL GROWTH ELEMENT.**

18 **(4) THE PLAN FOR A COUNTY THAT IS LOCATED ON THE TIDAL**
19 **WATERS OF THE STATE SHALL INCLUDE A FISHERIES ELEMENT.**

20 **(B) PERMISSIVE ELEMENTS.**

21 **(1) THE PLANNING COMMISSION FOR A LOCAL JURISDICTION**
22 **MAY INCLUDE IN THE PLAN ADDITIONAL ELEMENTS TO ADVANCE THE**
23 **PURPOSES OF THE PLAN.**

24 **(2) THE ADDITIONAL ELEMENTS MAY INCLUDE:**

25 **(I) COMMUNITY RENEWAL ELEMENTS;**

- 1 **(II) CONSERVATION ELEMENTS;**
- 2 **(III) FLOOD CONTROL ELEMENTS;**
- 3 **(IV) HOUSING ELEMENTS;**
- 4 **(V) NATURAL RESOURCES ELEMENTS;**
- 5 **(VI) POLLUTION CONTROL ELEMENTS;**
- 6 **(VII) THE GENERAL LOCATION AND EXTENT OF PUBLIC**
7 **UTILITIES; AND**
- 8 **(VIII) A PRIORITY PRESERVATION AREA ELEMENT**
9 **DEVELOPED IN ACCORDANCE WITH § 2-518 OF THE AGRICULTURE ARTICLE.**

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 66B, § 3.05(a)(6), (4), as it related to the
12 identification of each required plan element, and the introductory
13 language to (7)(i), as it related to the requirement for a fisheries element
14 in certain counties.

15 Throughout this section, the former references to a "plan" element are
16 deleted as unnecessary.

17 In the introductory language to subsection (a)(1) and in subsection (b)(1)
18 of this section, the references to "[t]he planning commission for a local
19 jurisdiction" are added for clarity.

20 In the introductory language to subsection (a)(1) of this section, the
21 former phrase "at a minimum" is deleted as unnecessary.

22 In subsection (a)(1)(ii) of this section, the reference to "an areas of critical
23 State concern element" is substituted for the former reference to "areas
24 within the county that are of critical State concern" for brevity and
25 consistency within this section.

26 In subsection (a)(1)(iii) of this section, the reference to an "element" is
27 substituted for the former reference to a "statement of" for clarity and
28 consistency within this section.

29 In subsection (a)(1)(v) of this section, the reference to "a development
30 regulations element" is substituted for the former phrase
31 "recommendation for land development regulations" for consistency
32 within this section.

1 In subsection (a)(4) of this section, the reference to a “fisheries element” is
 2 substituted for the former reference to “designation of areas on the tidal
 3 water or in close proximity to the tidal water for [certain] purposes” for
 4 brevity and consistency within this section.

5 In subsection (b)(1) of this section, the reference to the planning
 6 commission including additional elements “to” advance the plan is
 7 substituted for the former reference to additional elements “which, in
 8 [their] judgment ... will further” advance the plan for brevity.

9 Defined terms: “County” § 1–101

10 “Development” § 1–101

11 “Local jurisdiction” § 1–101

12 “Plan” § 1–101

13 “Regulation” § 1–101

14 “Sensitive area” § 1–101

15 “State” § 1–101

16 **3–103. DEVELOPMENT REGULATIONS ELEMENT.**

17 **(A) IN GENERAL.**

18 **THE DEVELOPMENT REGULATIONS ELEMENT SHALL INCLUDE THE**
 19 **PLANNING COMMISSION’S RECOMMENDATION FOR LAND DEVELOPMENT**
 20 **REGULATIONS TO IMPLEMENT THE PLAN.**

21 **(B) PURPOSE.**

22 **THE DEVELOPMENT REGULATIONS ELEMENT SHALL ENCOURAGE:**

23 **(1) THE USE OF FLEXIBLE DEVELOPMENT REGULATIONS TO**
 24 **PROMOTE INNOVATIVE AND COST–SAVING SITE DESIGN AND PROTECT THE**
 25 **ENVIRONMENT; AND**

26 **(2) WITHIN THE AREAS DESIGNATED FOR GROWTH IN THE PLAN:**

27 **(I) ECONOMIC DEVELOPMENT THROUGH THE USE OF**
 28 **INNOVATIVE TECHNIQUES; AND**

29 **(II) STREAMLINED REVIEW OF APPLICATIONS FOR**
 30 **DEVELOPMENT, INCLUDING PERMIT REVIEW AND SUBDIVISION PLAT REVIEW.**

31 **REVISOR’S NOTE:** This section is new language derived without substantive
 32 change from former Art. 66B, § 3.05(a)(4)(vii).

1 In this section, the references to “[t]he development regulations element”
2 are substituted for the former references to “[a]n element” for clarity.

3 Defined terms: “Development” § 1–101
4 “Plan” § 1–101
5 “Regulation” § 1–101
6 “Subdivision” § 1–101

7 **3–104. SENSITIVE AREAS ELEMENT.**

8 **(A) IN GENERAL.**

9 A SENSITIVE AREAS ELEMENT SHALL INCLUDE THE GOALS, OBJECTIVES,
10 PRINCIPLES, POLICIES, AND STANDARDS DESIGNED TO PROTECT SENSITIVE
11 AREAS FROM THE ADVERSE EFFECTS OF DEVELOPMENT.

12 **(B) REVIEW.**

13 BEFORE THE PLAN IS ADOPTED, THE DEPARTMENT OF THE
14 ENVIRONMENT AND THE DEPARTMENT OF NATURAL RESOURCES SHALL
15 REVIEW THE SENSITIVE AREAS ELEMENT TO DETERMINE WHETHER THE
16 PROPOSED PLAN IS CONSISTENT WITH THE PROGRAMS AND GOALS OF THE
17 DEPARTMENTS.

18 REVISOR’S NOTE: This section is new language derived without substantive
19 change from former Art. 66B, § 3.05(a)(4)(ix).

20 In subsection (b) of this section, the phrase “[b]efore the plan is adopted”
21 is added for clarity.

22 Defined terms: “Development” § 1–101
23 “Plan” § 1–101
24 “Sensitive area” § 1–101

25 **3–105. TRANSPORTATION ELEMENT.**

26 **(A) IN GENERAL.**

27 **THE TRANSPORTATION ELEMENT MAY INCLUDE ALL TYPES OF:**

- 28 **(1) AIRWAYS;**
29 **(2) HIGHWAYS OR STREETS;**
30 **(3) RAILWAYS;**

- 1 **(4) WATERWAYS;**
2 **(5) ROUTINGS FOR MASS TRANSIT; AND**
3 **(6) TERMINALS FOR INDIVIDUALS, GOODS, AND VEHICLES**
4 **RELATED TO AIRWAYS, HIGHWAYS, RAILWAYS, AND WATERWAYS.**

5 **(B) REQUIRED CONTENTS.**

6 **THE TRANSPORTATION ELEMENT SHALL:**

7 **(1) PROPOSE, ON A SCHEDULE THAT EXTENDS AS FAR INTO THE**
8 **FUTURE AS IS REASONABLE, THE MOST APPROPRIATE AND DESIRABLE**
9 **PATTERNS FOR:**

10 **(I) THE GENERAL LOCATION, CHARACTER, AND EXTENT OF**
11 **CHANNELS, ROUTES, AND TERMINALS FOR TRANSPORTATION FACILITIES; AND**

12 **(II) THE CIRCULATION OF INDIVIDUALS AND GOODS;**

13 **(2) PROVIDE FOR BICYCLE AND PEDESTRIAN ACCESS AND**
14 **TRAVELWAYS; AND**

15 **(3) INCLUDE AN ESTIMATE OF THE USE OF ANY PROPOSED**
16 **IMPROVEMENT.**

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 66B, § 3.05(a)(4)(iii) and (5)(i).

19 In subsection (a) of this section, the former references to "bicycle ways"
20 and "sidewalks" are deleted as redundant of the requirement for "bicycle
21 and pedestrian access" under subsection (b)(2) of this section.

22 In subsection (b)(3) of this section, the reference to an estimate of the
23 "use" is substituted for the former reference to an estimate of the
24 "probable utilization" for brevity and clarity.

25 **3-106. WATER RESOURCES ELEMENT.**

26 **(A) IN GENERAL.**

27 **CONSIDERING AVAILABLE DATA PROVIDED BY THE DEPARTMENT OF THE**
28 **ENVIRONMENT, THE WATER RESOURCES ELEMENT SHALL IDENTIFY:**

1 **(1) DRINKING WATER AND OTHER WATER RESOURCES THAT WILL**
2 **BE ADEQUATE FOR THE NEEDS OF EXISTING AND FUTURE DEVELOPMENT**
3 **PROPOSED IN THE LAND USE ELEMENT OF THE PLAN; AND**

4 **(2) SUITABLE RECEIVING WATERS AND LAND AREAS TO MEET**
5 **STORMWATER MANAGEMENT AND WASTEWATER TREATMENT AND DISPOSAL**
6 **NEEDS OF EXISTING AND FUTURE DEVELOPMENT PROPOSED IN THE LAND USE**
7 **ELEMENT OF THE PLAN.**

8 **(B) REVIEW AND TECHNICAL ASSISTANCE.**

9 **THE DEPARTMENT OF THE ENVIRONMENT SHALL:**

10 **(1) PROVIDE, ON REQUEST OF A LOCAL JURISDICTION,**
11 **TECHNICAL ASSISTANCE ON THE DEVELOPMENT OF THE WATER RESOURCES**
12 **ELEMENT; AND**

13 **(2) REVIEW THE WATER RESOURCES ELEMENT TO DETERMINE**
14 **WHETHER THE PROPOSED PLAN IS CONSISTENT WITH THE PROGRAMS AND**
15 **GOALS OF THE DEPARTMENT REFLECTED IN THE GENERAL WATER RESOURCES**
16 **PROGRAM REQUIRED UNDER § 5-203 OF THE ENVIRONMENT ARTICLE.**

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 66B, § 3.05(a)(8) and (4)(vi).

19 In subsection (b) of this section, the former reference to the water
20 resources element "of the comprehensive plan" is deleted as implicit in
21 the reference to the water resources element.

22 Defined terms: "Development" § 1-101

23 "Plan" § 1-101

24 **3-107. MINERAL RESOURCES ELEMENT.**

25 **(A) IN GENERAL.**

26 **THE MINERAL RESOURCES ELEMENT SHALL IDENTIFY:**

27 **(1) UNDEVELOPED LAND THAT SHOULD BE KEPT IN ITS**
28 **UNDEVELOPED STATE UNTIL THE LAND CAN BE USED TO ASSIST IN PROVIDING A**
29 **CONTINUOUS SUPPLY OF MINERALS, AS DEFINED IN § 15-801(I) OF THE**
30 **ENVIRONMENT ARTICLE; AND**

1 **(2) APPROPRIATE POSTEXCAVATION USES FOR THE LAND THAT**
 2 **ARE CONSISTENT WITH THE COUNTY’S LAND PLANNING PROCESS.**

3 **(B) REQUIRED CONSIDERATIONS.**

4 **A MINERAL RESOURCES ELEMENT SHALL INCORPORATE LAND USE**
 5 **POLICIES AND RECOMMENDATIONS FOR REGULATIONS:**

6 **(1) TO BALANCE MINERAL RESOURCE EXTRACTION WITH OTHER**
 7 **LAND USES; AND**

8 **(2) TO THE EXTENT FEASIBLE, TO PREVENT THE PREEMPTION OF**
 9 **MINERAL RESOURCES EXTRACTION BY OTHER USES.**

10 **(C) REVIEW.**

11 **BEFORE THE PLAN IS ADOPTED, THE DEPARTMENT OF THE**
 12 **ENVIRONMENT SHALL REVIEW THE MINERAL RESOURCES ELEMENT TO**
 13 **DETERMINE WHETHER THE PROPOSED PLAN IS CONSISTENT WITH THE**
 14 **PROGRAMS AND GOALS OF THE DEPARTMENT.**

15 REVISOR’S NOTE: This section is new language derived without substantive
 16 change from former Art. 66B, § 3.05(a)(4)(v).

17 In subsection (c) of this section, the phrase “[b]efore the plan is adopted”
 18 is added for clarity.

19 Also in subsection (c) of this section, the requirement for the Department
 20 of the Environment to “review the mineral resources element” is
 21 substituted for the former phrase “[h]as been reviewed” for clarity and
 22 consistency.

23 Former Art. 66B, § 3.05(a)(5)(ii), which required the mineral resources
 24 element to be included in each new plan and plan amendment after July
 25 1, 1986, is deleted as obsolete.

26 Defined terms: “County” § 1–101

27 “Plan” § 1–101

28 “Regulation” § 1–101

29 **3–108. COMMUNITY FACILITIES ELEMENT.**

30 **(A) IN GENERAL.**

1 **ON A SCHEDULE THAT EXTENDS AS FAR INTO THE FUTURE AS IS**
2 **REASONABLE, A COMMUNITY FACILITIES ELEMENT SHALL PROPOSE THE MOST**
3 **APPROPRIATE AND DESIRABLE PATTERNS FOR THE GENERAL LOCATION,**
4 **CHARACTER, AND EXTENT OF PUBLIC AND SEMIPUBLIC BUILDINGS, LAND, AND**
5 **FACILITIES.**

6 **(B) PERMISSIVE CONTENTS.**

7 **A COMMUNITY FACILITIES ELEMENT MAY INCLUDE:**

- 8 **(1) PLACES OF WORSHIP;**
9 **(2) FIRE STATIONS;**
10 **(3) HOSPITALS;**
11 **(4) INSTITUTIONS;**
12 **(5) JAILS;**
13 **(6) LIBRARIES;**
14 **(7) PARKS AND RECREATION AREAS;**
15 **(8) POLICE STATIONS;**
16 **(9) SCHOOLS AND OTHER EDUCATIONAL FACILITIES;**
17 **(10) CULTURAL FACILITIES;**
18 **(11) SOCIAL WELFARE AND MEDICAL FACILITIES; AND**
19 **(12) OTHER PUBLIC OFFICE OR ADMINISTRATIVE FACILITIES.**

20 **REVISOR'S NOTE:** This section is new language derived without substantive
21 change from former Art. 66B, § 3.05(a)(4)(iv).

22 In subsection (b)(1) of this section, the reference to "places of worship" is
23 substituted for the former reference to "churches" for clarity.

24 **3-109. AREAS OF CRITICAL STATE CONCERN ELEMENT.**

25 **THE AREAS OF CRITICAL STATE CONCERN ELEMENT SHALL INCLUDE THE**
26 **PLANNING COMMISSION'S RECOMMENDATIONS FOR THE DETERMINATION,**

1 IDENTIFICATION, AND DESIGNATION OF AREAS WITHIN THE LOCAL
2 JURISDICTION THAT ARE OF CRITICAL STATE CONCERN.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 66B, § 3.05(a)(4)(viii).

5 The phrase "[t]he areas of critical State concern element shall include the
6 planning commission's" recommendations is added for clarity.

7 Defined terms: "Local jurisdiction" § 1-101
8 "State" § 1-101

9 **3-110. GOALS AND OBJECTIVES ELEMENT.**

10 (A) IN GENERAL.

11 THE GOALS AND OBJECTIVES ELEMENT SHALL INCLUDE A STATEMENT OF
12 GOALS AND OBJECTIVES, PRINCIPLES, POLICIES, AND STANDARDS.

13 (B) PURPOSE.

14 THE STATEMENT SHALL SERVE AS A GUIDE FOR THE DEVELOPMENT AND
15 ECONOMIC AND SOCIAL WELL-BEING OF THE LOCAL JURISDICTION.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 66B, § 3.05(a)(4)(i).

18 In subsection (a) of this section, the phrase "[t]he goals and objectives
19 element shall include" is added for clarity.

20 Defined terms: "Development" § 1-101
21 "Local jurisdiction" § 1-101

22 **3-111. LAND USE ELEMENT.**

23 (A) IN GENERAL.

24 ON A SCHEDULE THAT EXTENDS AS FAR INTO THE FUTURE AS IS
25 REASONABLE, THE LAND USE ELEMENT SHALL PROPOSE THE MOST
26 APPROPRIATE AND DESIRABLE PATTERNS FOR THE GENERAL LOCATION,
27 CHARACTER, EXTENT, AND INTERRELATIONSHIP OF THE USES OF PUBLIC AND
28 PRIVATE LAND.

29 (B) PERMISSIVE CONTENTS.

1 **THE LAND USE ELEMENT MAY INCLUDE THE FOLLOWING PUBLIC AND**
2 **PRIVATE LAND USES:**

3 **(1) AGRICULTURAL;**

4 **(2) COMMERCIAL;**

5 **(3) FORESTRY, IN ACCORDANCE WITH § 5-101 OF THE NATURAL**
6 **RESOURCES ARTICLE;**

7 **(4) INDUSTRIAL;**

8 **(5) RECREATIONAL; AND**

9 **(6) RESIDENTIAL.**

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 66B, § 3.05(a)(4)(ii).

12 **3-112. MUNICIPAL GROWTH ELEMENT.**

13 **(A) IN GENERAL.**

14 **THE MUNICIPAL GROWTH ELEMENT SHALL INCLUDE:**

15 **(1) THE MUNICIPAL CORPORATION'S:**

16 **(I) FUTURE MUNICIPAL GROWTH AREAS OUTSIDE THE**
17 **EXISTING CORPORATE LIMITS;**

18 **(II) PAST GROWTH PATTERNS;**

19 **(III) CAPACITY OF LAND AREAS AVAILABLE FOR**
20 **DEVELOPMENT, REDEVELOPMENT, AND IN-FILL;**

21 **(2) THE LAND AREA NEEDED TO SATISFY DEMAND FOR**
22 **DEVELOPMENT AT DENSITIES CONSISTENT WITH LONG-TERM DEVELOPMENT**
23 **POLICY;**

24 **(3) THE RELATIONSHIP OF THE LONG-TERM DEVELOPMENT**
25 **POLICY TO A VISION OF THE MUNICIPAL CORPORATION'S FUTURE CHARACTER;**

26 **(4) RURAL BUFFERS AND TRANSITION AREAS;**

1 **(5) PROTECTION OF SENSITIVE AREAS THAT COULD BE IMPACTED**
2 **BY DEVELOPMENT PLANNED WITHIN THE PROPOSED MUNICIPAL GROWTH**
3 **AREA;**

4 **(6) POPULATION GROWTH PROJECTIONS;**

5 **(7) PUBLIC SERVICES AND INFRASTRUCTURE NEEDED TO**
6 **ACCOMMODATE GROWTH WITHIN THE PROPOSED MUNICIPAL GROWTH AREAS,**
7 **INCLUDING THOSE NECESSARY FOR:**

8 **(I) LIBRARIES;**

9 **(II) RECREATION;**

10 **(III) WATER AND SEWERAGE FACILITIES;**

11 **(IV) PUBLIC SAFETY, INCLUDING EMERGENCY MEDICAL**
12 **RESPONSE;**

13 **(V) STORMWATER MANAGEMENT SYSTEMS SUFFICIENT TO**
14 **ENSURE WATER QUALITY BOTH INSIDE AND OUTSIDE THE PROPOSED**
15 **MUNICIPAL GROWTH AREA; AND**

16 **(VI) PUBLIC SCHOOLS SUFFICIENT TO ACCOMMODATE**
17 **STUDENT POPULATION CONSISTENT WITH STATE RATED CAPACITY STANDARDS**
18 **ESTABLISHED BY THE INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION;**

19 **(8) ANY BURDEN ON SERVICES AND INFRASTRUCTURE FOR**
20 **WHICH THE MUNICIPAL CORPORATION WOULD BE RESPONSIBLE FOR**
21 **DEVELOPMENT IN AREAS NEAR TO AND OUTSIDE OF THE PROPOSED MUNICIPAL**
22 **GROWTH AREA; AND**

23 **(9) ANTICIPATED FINANCING MECHANISMS TO SUPPORT**
24 **NECESSARY PUBLIC SERVICES AND INFRASTRUCTURE.**

25 **(B) TECHNICAL ASSISTANCE.**

26 **ON REQUEST OF A MUNICIPAL CORPORATION, THE DEPARTMENT OF**
27 **PLANNING SHALL PROVIDE TECHNICAL ASSISTANCE FOR THE PURPOSES OF**
28 **DEVELOPING THE MUNICIPAL GROWTH ELEMENT OF THE COMPREHENSIVE**
29 **PLAN.**

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 66B, § 3.05(e)(1) and (a)(4)(x).

3 Defined terms: "Development" § 1-101
4 "Plan" § 1-101
5 "Sensitive area" § 1-101
6 "State" § 1-101

7 **3-113. FISHERIES ELEMENT.**

8 **(A) DESIGNATION OF TIDAL WATERS.**

9 **THE PLANNING COMMISSION OF A COUNTY THAT IS LOCATED ON THE**
10 **TIDAL WATERS OF THE STATE SHALL DESIGNATE IN THE COMPREHENSIVE PLAN**
11 **AREAS ON OR NEAR THE TIDAL WATERS FOR:**

12 **(1) LOADING, UNLOADING, AND PROCESSING FINFISH AND**
13 **SHELLFISH; AND**

14 **(2) DOCKING AND MOORING COMMERCIAL FISHING BOATS AND**
15 **VESSELS.**

16 **(B) REQUIRED CRITERIA.**

17 **THE AREAS DESIGNATED UNDER SUBSECTION (A) OF THIS SECTION SHALL**
18 **BE GEOGRAPHICALLY LOCATED TO:**

19 **(1) FACILITATE THE COMMERCIAL HARVESTING OF FINFISH AND**
20 **SHELLFISH; AND**

21 **(2) ENSURE REASONABLE ACCESS TO THE WATERWAYS OF THE**
22 **STATE BY COMMERCIAL WATERMEN.**

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 66B, § 3.05(a)(7).

25 In the introductory language to subsection (a) of this section, the former
26 phrase "that exercises authority under this article" is deleted as implicit.

27 The Land Use Article Review Committee notes, for consideration by the
28 General Assembly, that the requirement for a fisheries element under
29 this section predates the conversion of a number of tidal counties to
30 charter or code home rule, notably Talbot and Dorchester counties. It
31 seems unlikely that the General Assembly intended to allow these
32 counties to avoid preparing fisheries elements in their plans simply by

1 changing their form of government. The General Assembly may wish to
2 address whether charter counties located on the State's tidal waters
3 should be required to prepare fisheries elements.

4 Defined terms: "County" § 1-101

5 "Plan" § 1-101

6 "State" § 1-101

7 **SUBTITLE 2. DEVELOPMENT AND ADOPTION.**

8 **3-201. PLAN PREPARATION.**

9 **(A) IN GENERAL.**

10 **(1) A PLANNING COMMISSION SHALL PREPARE A PLAN BY**
11 **CAREFULLY AND COMPREHENSIVELY SURVEYING AND STUDYING:**

12 **(I) THE PRESENT CONDITIONS AND PROJECTIONS OF**
13 **FUTURE GROWTH OF THE LOCAL JURISDICTION; AND**

14 **(II) THE RELATION OF THE LOCAL JURISDICTION TO**
15 **NEIGHBORING JURISDICTIONS.**

16 **(2) A PLANNING COMMISSION SHALL MAKE THE PLAN WITH THE**
17 **GENERAL PURPOSE OF GUIDING AND ACCOMPLISHING THE COORDINATED,**
18 **ADJUSTED, AND HARMONIOUS DEVELOPMENT OF THE LOCAL JURISDICTION**
19 **AND ITS ENVIRONS.**

20 **(3) THE PLAN SHALL SERVE AS A GUIDE TO PUBLIC AND PRIVATE**
21 **ACTIONS AND DECISIONS TO ENSURE THE DEVELOPMENT OF PUBLIC AND**
22 **PRIVATE PROPERTY IN APPROPRIATE RELATIONSHIPS.**

23 **(B) SCOPE AND PURPOSES OF PLAN.**

24 **(1) IN ACCORDANCE WITH PRESENT AND FUTURE NEEDS, A PLAN**
25 **SHALL PROMOTE:**

26 **(I) GOOD CIVIC DESIGN AND ARRANGEMENT;**

27 **(II) A HEALTHY AND CONVENIENT DISTRIBUTION OF**
28 **POPULATION;**

29 **(III) THE HEALTH, SAFETY, AND GENERAL WELFARE OF THE**
30 **LOCAL JURISDICTION; AND**

1 (IV) EFFICIENCY AND ECONOMY IN THE DEVELOPMENT
2 PROCESS.

3 (2) A PLAN SHALL:

4 (I) INCLUDE ANY AREAS OUTSIDE THE BOUNDARIES OF THE
5 PLAN THAT, IN THE PLANNING COMMISSION'S JUDGMENT, RELATE TO THE
6 PLANNING RESPONSIBILITIES OF THE COMMISSION; AND

7 (II) PROVIDE FOR:

- 8 1. TRANSPORTATION NEEDS;
- 9 2. THE PROMOTION OF PUBLIC SAFETY;
- 10 3. LIGHT AND AIR;
- 11 4. THE CONSERVATION OF NATURAL RESOURCES;
- 12 5. THE PREVENTION OF ENVIRONMENTAL
13 POLLUTION;
- 14 6. THE WISE AND EFFICIENT EXPENDITURE OF
15 PUBLIC FUNDS;
- 16 7. ADEQUATE PUBLIC UTILITIES; AND
- 17 8. AN ADEQUATE SUPPLY OF OTHER PUBLIC
18 REQUIREMENTS.

19 (C) IMPLEMENTATION OF VISIONS.

20 IN ADDITION TO THE REQUIREMENTS FOR THE PLAN UNDER SUBTITLE 1
21 OF THIS TITLE, A PLANNING COMMISSION SHALL IMPLEMENT THROUGH THE
22 PLAN THE VISIONS SET FORTH IN § 1-201 OF THIS ARTICLE.

23 (D) PROMOTION.

24 (1) A PLANNING COMMISSION MAY PROMOTE PUBLIC INTEREST
25 IN AND UNDERSTANDING OF THE PLAN.

1 **(2) A PLANNING COMMISSION SHALL CONSULT WITH PUBLIC**
 2 **OFFICIALS AND AGENCIES, PUBLIC UTILITY COMPANIES, CIVIC, EDUCATIONAL,**
 3 **PROFESSIONAL, AND OTHER ORGANIZATIONS, AND CITIZENS ABOUT**
 4 **PROTECTING OR EXECUTING THE PLAN.**

5 REVISOR'S NOTE: This section is new language derived without substantive
 6 change from former Art. 66B, § 3.05(c), (d), and (a)(2) and the
 7 introductory language to § 1.01.

8 In subsection (b)(1)(iii) of this section, the former reference to “[t]he ...
 9 morals, order, convenience, [and] prosperity” of the local jurisdiction is
 10 deleted as included in the reference to “the health, safety, and general
 11 welfare” of the local jurisdiction.

12 In subsections (c) and (d) of this section, the references to a “planning”
 13 commission are added for clarity.

14 Defined terms: “Development” § 1–101
 15 “Local jurisdiction” § 1–101
 16 “Plan” § 1–101

17 **3–202. RECOMMENDATION FOR ADOPTION.**

18 **(A) IN GENERAL.**

19 **(1) A PLANNING COMMISSION SHALL:**

20 **(I) MAKE AND APPROVE A PLAN; AND**

21 **(II) RECOMMEND THE PLAN TO THE LEGISLATIVE BODY FOR**
 22 **ADOPTION.**

23 **(2) A PLANNING COMMISSION MAY RECOMMEND ADOPTION OF:**

24 **(I) THE WHOLE PLAN;**

25 **(II) SUCCESSIVE PARTS OF THE PLAN, WHICH CORRESPOND**
 26 **TO GEOGRAPHIC SECTIONS OR DIVISIONS OF THE LOCAL JURISDICTION; AND**

27 **(III) AN AMENDMENT TO THE PLAN.**

28 **(B) EXPRESSION OF ELEMENTS.**

29 **(1) THE ELEMENTS OF THE PLAN MAY BE EXPRESSED IN WORDS,**
 30 **GRAPHICS, OR ANY OTHER APPROPRIATE FORM.**

1 **(2) THE ELEMENTS OF THE PLAN SHALL BE INTERRELATED AND**
2 **EACH ELEMENT SHALL DESCRIBE HOW IT RELATES TO EACH OF THE OTHER**
3 **ELEMENTS.**

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 66B, §§ 3.05(a)(1) and (3) and 3.07(a).

6 In subsection (a)(2)(ii) of this section, the former reference to "major"
7 geographical sections or divisions is deleted as surplusage.

8 In subsection (b)(2) of this section, the former reference to "the statement
9 of objectives, principles, policies, and standards" is deleted as included in
10 the reference to "the other elements".

11 Defined terms: "Legislative body" § 1-101

12 "Local jurisdiction" § 1-101

13 "Plan" § 1-101

14 **3-203. PLAN DEVELOPMENT.**

15 **(A) CREATION.**

16 **(1) WHEN A LOCAL JURISDICTION INITIALLY IMPLEMENTS THE**
17 **ZONING POWERS UNDER THIS DIVISION, THE PLANNING COMMISSION SHALL**
18 **RECOMMEND THE BOUNDARIES OF THE ORIGINAL DISTRICTS AND ZONES AND**
19 **APPROPRIATE REGULATIONS TO BE ENFORCED IN THE DISTRICTS AND ZONES.**

20 **(2) THE PLANNING COMMISSION SHALL MAKE A PRELIMINARY**
21 **REPORT ON THE PROPOSED DISTRICTS, ZONES, AND REGULATIONS AND HOLD**
22 **AT LEAST ONE PUBLIC HEARING ON THE PRELIMINARY REPORT BEFORE**
23 **SUBMITTING ITS FINAL REPORT TO THE LEGISLATIVE BODY.**

24 **(3) THE LEGISLATIVE BODY MAY NOT HOLD A PUBLIC HEARING**
25 **OR TAKE ACTION UNTIL IT RECEIVES THE FINAL REPORT OF THE PLANNING**
26 **COMMISSION.**

27 **(B) PUBLIC HEARING REQUIRED.**

28 **(1) A PLANNING COMMISSION SHALL HOLD AT LEAST ONE PUBLIC**
29 **HEARING BEFORE THE COMMISSION RECOMMENDS THE ADOPTION OF A PLAN**
30 **OR ANY PART OR AMENDMENT TO A PLAN.**

1 **(2) THE PLANNING COMMISSION SHALL PUBLISH AT LEAST ONE**
2 **NOTICE OF THE TIME AND PLACE OF THE HEARING IN A NEWSPAPER OF**
3 **GENERAL CIRCULATION IN THE LOCAL JURISDICTION.**

4 **(C) RECOMMENDED PLAN COPIES.**

5 **AT LEAST 60 DAYS BEFORE THE PUBLIC HEARING, THE PLANNING**
6 **COMMISSION SHALL PROVIDE COPIES OF THE RECOMMENDED PLAN AND**
7 **AMENDMENTS TO THE PLAN TO:**

8 **(1) ADJOINING JURISDICTIONS; AND**

9 **(2) STATE UNITS AND LOCAL JURISDICTIONS RESPONSIBLE FOR**
10 **FINANCING OR CONSTRUCTING PUBLIC IMPROVEMENTS NECESSARY TO**
11 **IMPLEMENT THE PLAN.**

12 **(D) COMMENTS.**

13 **THE PLANNING COMMISSION SHALL INCLUDE IN ITS REPORT TO THE**
14 **LEGISLATIVE BODY THE RECOMMENDATION OF EACH UNIT AND JURISDICTION**
15 **THAT COMMENTS ON THE PLAN.**

16 **(E) VOTING.**

17 **(1) A MAJORITY OF THE PLANNING COMMISSION, BY**
18 **RESOLUTION, SHALL APPROVE THE PLAN OR ANY PART OF OR AMENDMENT TO**
19 **THE PLAN.**

20 **(2) THE RESOLUTION SHALL REFER EXPRESSLY TO THE TEXT,**
21 **MAP, AND OTHER MATTER THAT THE COMMISSION INTENDS TO FORM THE**
22 **WHOLE OR PART OF THE PLAN.**

23 **(3) THE ACTION TAKEN SHALL BE RECORDED ON THE MAP, PLAN,**
24 **TEXT, OR OTHER MATTER BY THE IDENTIFYING SIGNATURE OF:**

25 **(I) THE CHAIR OF THE PLANNING COMMISSION; OR**

26 **(II) THE SECRETARY OF THE COMMISSION.**

27 **(F) ATTESTED COPY.**

28 **AN ATTESTED COPY OF THE PLAN OR PART OF THE PLAN SHALL BE**
29 **CERTIFIED TO THE LEGISLATIVE BODY.**

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 66B, §§ 3.06(a) and 3.07(b) through (f).

3 In subsection (a)(1) and (2) of this section, the references to “zones” are
4 added for consistency within this article.

5 In subsection (a)(1) of this section, the reference to “initially
6 implement[ing]” zoning powers is substituted for the former reference to
7 “first adopt[ing]” zoning powers for clarity. No substantive change is
8 intended.

9 Also in subsection (a)(1) of this section, the former reference to the
10 “various” original districts is deleted as unnecessary.

11 In subsection (a)(2) of this section, the reference to a preliminary report
12 “on the proposed districts ... and regulations” is added for clarity.

13 Also in subsection (a)(2) of this section, the reference to submitting a final
14 report “to the legislative body” is added for clarity.

15 In subsection (b)(2) of this section, the reference to publishing “at least
16 one” notice is substituted for the former reference to publishing a notice
17 “once” for clarity.

18 In subsection (c) of this section, the former references to “all”
19 amendments, adjoining jurisdictions, and State and local jurisdictions are
20 deleted as surplusage.

21 In subsection (c)(1) of this section, the former reference to “planning”
22 jurisdictions is deleted as surplusage.

23 In subsections (c)(2) and (d) of this section, the references to State
24 “unit[s]” are added for clarity.

25 In subsection (e)(1) of this section, the reference to “[a] majority of the
26 planning commission” is substituted for the former phrase “carried by the
27 affirmative votes of not less than a majority of the commission
28 membership” for brevity.

29 In subsection (e)(3) of this section, the former reference to “[b]oth the
30 secretary and the chairman” is deleted as unnecessary.

31 In subsection (e)(3)(i) of this section, the reference to the “chair” is
32 substituted for the former reference to the “chairman” because SG §
33 2–1238 requires the use of words that are neutral as to gender to the
34 extent practicable. *See* General Revisor’s Note to article.

1 The Land Use Article Review Committee notes, for consideration by the
 2 General Assembly, that in subsection (c) of this section copies of a
 3 recommended plan and amendments need only be provided to “State
 4 units and local jurisdictions”, whereas a number of regional entities such
 5 as multicounty development councils may benefit from receiving the
 6 copies. The General Assembly may wish to consider adding explicit
 7 reference to providing copies to “regional units” to subsections (c) and (d)
 8 of this section to ensure that these entities have an appropriate voice in
 9 local planning.

10 Defined terms: “Legislative body” § 1–101

11 “Local jurisdiction” § 1–101

12 “Plan” § 1–101

13 “Regulation” § 1–101

14 “State” § 1–101

15 **3–204. PLAN ADOPTION.**

16 **(A) IN GENERAL.**

17 **EACH LOCAL JURISDICTION SHALL ADOPT A PLAN THAT INCLUDES:**

18 **(1) THE ELEMENTS REQUIRED UNDER SUBTITLE 1 OF THIS TITLE;**

19 **AND**

20 **(2) THE VISIONS SET FORTH IN § 1–201 OF THIS ARTICLE.**

21 **(B) ADOPTION OF REGULATIONS.**

22 **(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
 23 **SUBSECTION, ONLY A LEGISLATIVE BODY THAT HAS ADOPTED A PLAN MAY**
 24 **ADOPT REGULATIONS IMPLEMENTING THE VISIONS STATED IN § 1–201 OF THIS**
 25 **ARTICLE IN THE PLAN.**

26 **(2) THIS SUBSECTION DOES NOT LIMIT THE DEPARTMENT OF**
 27 **PLANNING FROM EXERCISING ANY AUTHORITY GRANTED UNDER THE STATE**
 28 **FINANCE AND PROCUREMENT ARTICLE.**

29 **REVISOR’S NOTE:** This section is new language derived without substantive
 30 change from former Art. 66B, §§ 3.06(c) and 3.05(b)(1)(i).

31 In subsection (b)(2) of this section, the former obsolete reference to “the
 32 State Economic Growth, Resource Protection, and Planning Commission,

1 or any subcommittee of the State Economic Growth, Resource Protection,
2 and Planning Commission” is deleted as surplusage.

3 Former Art. 66B, § 3.05(b)(1)(ii), which required the plan to include a
4 priority preservation area element if chosen, is deleted as redundant of
5 the authority of any local jurisdiction to adopt a priority preservation
6 element under § 3–102(b)(2)(viii) of this title.

7 Defined terms: “Legislative body” § 1–101

8 “Local jurisdiction” § 1–101

9 “Plan” § 1–101

10 “Regulation” § 1–101

11 **3–205. PLANNING COMMISSION REVIEW.**

12 **(A) SCOPE OF SECTION.**

13 **THIS SECTION APPLIES ONLY TO A LOCAL JURISDICTION WHERE THE**
14 **LEGISLATIVE BODY HAS ADOPTED A WHOLE PLAN OR A PLAN FOR ONE OR MORE**
15 **GEOGRAPHIC SECTIONS OR DIVISIONS OF THE LOCAL JURISDICTION.**

16 **(B) PRIOR APPROVAL REQUIRED.**

17 **A PUBLICLY OR PRIVATELY OWNED STREET, SQUARE, PARK, OR OTHER**
18 **PUBLIC WAY, GROUND, OR OPEN SPACE, A PUBLIC BUILDING OR STRUCTURE, OR**
19 **A PUBLIC UTILITY MAY NOT BE AUTHORIZED OR CONSTRUCTED IN THE LOCAL**
20 **JURISDICTION OR IN A GEOGRAPHIC SECTION OF THE LOCAL JURISDICTION**
21 **UNTIL THE PLANNING COMMISSION HAS APPROVED THE LOCATION,**
22 **CHARACTER, AND EXTENT OF THE DEVELOPMENT AS CONSISTENT WITH THE**
23 **PLAN.**

24 **(C) PLANNING COMMISSION AUTHORIZATION.**

25 **(1) THE PLANNING COMMISSION SHALL COMMUNICATE ITS**
26 **DECISION AND THE REASONS FOR ITS DECISION TO THE LEGISLATIVE BODY OR**
27 **TO THE BODY THAT HAS JURISDICTION OVER THE FINANCING OF THE PUBLIC**
28 **WAY, GROUND, SPACE, BUILDING, STRUCTURE, OR UTILITY.**

29 **(2) THE SUBMISSION TO THE PLANNING COMMISSION SHALL BE**
30 **CONSIDERED APPROVED IF THE PLANNING COMMISSION FAILS TO ACT ON THE**
31 **SUBMISSION WITHIN 60 DAYS AFTER THE DATE IT WAS SUBMITTED.**

1 **(3) THE LEGISLATIVE BODY OR OTHER BODY HAVING**
 2 **JURISDICTION MAY OVERRULE THE DECISION OF THE PLANNING COMMISSION**
 3 **BY A RECORDED VOTE OF AT LEAST TWO-THIRDS OF ITS ENTIRE MEMBERSHIP.**

4 **(D) APPROVAL.**

5 **(1) THE LEGISLATIVE BODY MAY ADOPT:**

6 **(I) THE WHOLE PLAN;**

7 **(II) A PLAN FOR ONE OR MORE GEOGRAPHIC SECTIONS OR**
 8 **DIVISIONS OF THE LOCAL JURISDICTION; OR**

9 **(III) AN AMENDMENT OR EXTENSION OF OR ADDITION TO**
 10 **THE PLAN.**

11 **(2) THE RECOMMENDATION OF THE PLANNING COMMISSION**
 12 **SHALL BE CONSIDERED APPROVED IF THE LEGISLATIVE BODY FAILS TO ACT**
 13 **WITHIN 60 DAYS AFTER THE DATE THE RECOMMENDATION IS SUBMITTED.**

14 REVISOR'S NOTE: This section is new language derived without substantive
 15 change from former Art. 66B, § 3.08.

16 In subsections (b) and (d)(1)(ii) of this section, the former references to a
 17 "major" geographic section or division are deleted as surplusage.

18 In subsection (b) of this section, the former reference to the location,
 19 character, and extent being "submitted to" the planning commission is
 20 deleted as implicit in the reference to the planning commission
 21 "approv[ing]" them.

22 In subsection (d)(2) of this section, the reference to considering a
 23 recommendation "approved" is substituted for the former reference to the
 24 legislative body being considered "to have concurred with" the
 25 recommendation for brevity.

26 The Land Use Article Review Committee notes, for consideration by the
 27 General Assembly, that the procedure for adoption of a plan or a plan
 28 amendment under subsection (d) of this section does not appear to
 29 authorize a remand of a recommended plan or amendment from the
 30 legislative body to the planning commission. The current provision forces
 31 the legislative body to approve or reject the recommended plan or
 32 amendment outright, which might be considered cumbersome by both
 33 bodies, and might unnecessarily prolong an adoption process that may
 34 involve the need to make minor changes to a recommended plan or

1 amendment. Similarly, in most local jurisdictions, it is unclear which
 2 body has the final say in plan adoption, and there is no provision to
 3 determine how a dispute between the legislative body and the planning
 4 body may be resolved. In Frederick County, however, the county
 5 commissioners are specifically authorized to overrule the planning
 6 commission. *See* § 9–1002 of this article. The General Assembly may wish
 7 to consider: (1) specifically authorizing a process for a legislative body to
 8 remand all or part of a recommended plan to the planning commission
 9 with recommended adjustments or a requirement to conduct additional
 10 hearings, and to authorize the adoption of acceptable portions of the
 11 recommended plan or amendment in the meantime; and (2) establishing
 12 or enabling a local jurisdiction to adopt a process for resolving disputes
 13 between the legislative body and the planning commission.

14 The Land Use Article Review Committee also notes, for consideration by
 15 the General Assembly, that under subsection (d)(1)(iii) of this section, it is
 16 unclear whether the “extension” of a plan that may be adopted is a
 17 geographic or a temporal extension. The General Assembly may wish to
 18 clarify this provision.

19 Defined terms: “Development” § 1–101

20 “Legislative body” § 1–101

21 “Local jurisdiction” § 1–101

22 “Plan” § 1–101

23 **3–206. MUNICIPAL GROWTH ELEMENT.**

24 **(A) DEVELOPMENT.**

25 **(1) WHEN DEVELOPING A MUNICIPAL GROWTH ELEMENT OF THE**
 26 **COMPREHENSIVE PLAN, A MUNICIPAL CORPORATION SHALL CONSULT WITH**
 27 **THE COUNTIES IN WHICH THE MUNICIPAL CORPORATION IS LOCATED.**

28 **(2) A MUNICIPAL CORPORATION SHALL PROVIDE A COPY OF A**
 29 **MUNICIPAL GROWTH ELEMENT TO THE COUNTIES IN WHICH THE MUNICIPAL**
 30 **CORPORATION IS LOCATED BEFORE APPROVAL OF THE ELEMENT.**

31 **(B) COMMENT.**

32 **(1) THE MUNICIPAL CORPORATION SHALL ACCEPT COMMENTS**
 33 **FROM THE COUNTIES FOR 30 DAYS AFTER PROVIDING A COPY OF THE**
 34 **MUNICIPAL GROWTH ELEMENT TO THE COUNTIES IN WHICH THE MUNICIPAL**
 35 **CORPORATION IS LOCATED.**

1 **(2) WITHIN 30 DAYS FOLLOWING THE CLOSE OF THE COMMENT**
2 **PERIOD UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COUNTIES AND THE**
3 **MUNICIPAL CORPORATION SHALL MEET AND CONFER REGARDING THE**
4 **MUNICIPAL GROWTH ELEMENT.**

5 **(3) ON REQUEST OF EITHER PARTY, THE COUNTY AND THE**
6 **MUNICIPAL CORPORATION SHALL EMPLOY THE MEDIATION AND CONFLICT**
7 **RESOLUTION OFFICE OF THE MARYLAND COURT SYSTEM TO FACILITATE THE**
8 **MEETING AND CONFERRAL UNDER THIS SUBSECTION.**

9 **(C) JOINT PLANNING AGREEMENT.**

10 **(1) A MUNICIPAL CORPORATION AND THE COUNTIES IN WHICH**
11 **THE MUNICIPAL CORPORATION IS LOCATED MAY ENTER INTO A JOINT**
12 **PLANNING AGREEMENT IN ORDER TO COORDINATE IMPLEMENTATION OF A**
13 **MUNICIPAL GROWTH ELEMENT.**

14 **(2) A JOINT PLANNING AGREEMENT SHALL CONSIDER THE**
15 **MUNICIPAL GROWTH ELEMENT REQUIRED UNDER SUBTITLE 1 OF THIS TITLE.**

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 66B, § 3.05(e)(2) through (6).

18 In subsection (b)(3) of this section, the reference to the Mediation and
19 Conflict Resolution Office "of the Maryland court system" is added for
20 clarity.

21 The Land Use Article Review Committee notes, for consideration by the
22 General Assembly, that in subsection (b)(3) of this section, the specific
23 designation of the "Mediation and Conflict Resolution Office", a unit of
24 the State judicial system, as the required facilitator, may be considered a
25 violation of the separation of powers under the Maryland Constitution.
26 The General Assembly may wish to substitute the phrase "an appropriate
27 mediation and conflict resolution service" for the specific reference to the
28 office in order to give the affected local jurisdictions a choice of
29 facilitators, while not precluding them from using the office.

30 Defined terms: "County" § 1-101
31 "Plan" § 1-101

32 **SUBTITLE 3. IMPLEMENTATION.**

33 **3-301. PLAN REVISION.**

34 **(A) PERIODIC REVIEW.**

1 **AT LEAST ONCE EVERY 6 YEARS, EACH PLANNING COMMISSION SHALL**
 2 **REVIEW THE COMPREHENSIVE PLAN AND, IF NECESSARY, REVISE OR AMEND**
 3 **THE COMPREHENSIVE PLAN TO INCLUDE ALL:**

4 **(1) THE ELEMENTS REQUIRED UNDER SUBTITLE 1 OF THIS TITLE;**
 5 **AND**

6 **(2) THE VISIONS SET FORTH IN § 1–201 OF THIS ARTICLE.**

7 **(B) GEOGRAPHIC SECTION OR DIVISION.**

8 **THE PLANNING COMMISSION MAY PREPARE COMPREHENSIVE PLANS FOR**
 9 **ONE OR MORE GEOGRAPHIC SECTIONS OR DIVISIONS OF THE LOCAL**
 10 **JURISDICTION IF THE PLAN FOR EACH GEOGRAPHIC SECTION OR DIVISION IS**
 11 **REVIEWED AND, IF NECESSARY, REVISED OR AMENDED AT LEAST ONCE EVERY 6**
 12 **YEARS.**

13 REVISOR'S NOTE: This section is new language derived without substantive
 14 change from former Art. 66B, § 3.05(b)(2) and (3).

15 In the introductory language to subsection (a) of this section, the
 16 references to the “comprehensive” plan are substituted for the former
 17 references to the “local” plan for clarity.

18 In subsection (b) of this section, the former reference to “major”
 19 geographic sections or divisions is deleted as surplusage.

20 Defined terms: “Local jurisdiction” § 1–101
 21 “Plan” § 1–101

22 **3–302. RECOMMENDATION TO OFFICIALS.**

23 **TO IMPLEMENT THE PLAN, THE PLANNING COMMISSION SHALL**
 24 **PERIODICALLY RECOMMEND TO THE APPROPRIATE PUBLIC OFFICIALS:**

25 **(1) PROGRAMS FOR PUBLIC STRUCTURES, IMPROVEMENTS, AND**
 26 **LAND ACQUISITIONS; AND**

27 **(2) FINANCING PROGRAMS.**

28 REVISOR'S NOTE: This section formerly was Art. 66B, § 3.06(b).

29 No changes are made.

1 Defined term: “Plan” § 1–101

2 **3–303. PERIODIC REVIEW; IMPLEMENTATION.**

3 **(A) REQUIRED REVIEW.**

4 AT LEAST ONCE EVERY 6 YEARS, WHICH CORRESPONDS TO THE
5 COMPREHENSIVE PLAN REVISION PROCESS UNDER § 3–301 OF THIS SUBTITLE,
6 A LOCAL JURISDICTION SHALL ENSURE THE IMPLEMENTATION OF THE VISIONS,
7 THE DEVELOPMENT REGULATIONS ELEMENT, AND THE SENSITIVE AREAS
8 ELEMENT OF THE PLAN.

9 **(B) IMPLEMENTATION.**

10 A LOCAL JURISDICTION SHALL ENSURE THAT THE IMPLEMENTATION OF
11 THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION ARE ACHIEVED
12 THROUGH THE ADOPTION OF APPLICABLE:

13 **(1) ZONING LAWS;**

14 **(2) PLANNED DEVELOPMENT ORDINANCES AND REGULATIONS;**

15 **(3) SUBDIVISION ORDINANCES AND REGULATIONS; AND**

16 **(4) OTHER LAND USE ORDINANCES AND REGULATIONS THAT ARE**
17 **CONSISTENT WITH THE COMPREHENSIVE PLAN.**

18 REVISOR’S NOTE: This section is new language derived without substantive
19 change from former Art. 66B, § 4.09.

20 In subsection (a) of this section, the reference to “the visions, the
21 development regulations element, and the sensitive areas element” is
22 substituted for the former partly erroneous reference to “the provisions of
23 the plan that comply with §§ 1.01 and 3.05(a)(4)(vii) and (ix) of this
24 article” for clarity and accuracy.

25 Also in subsection (a) of this section, the former phrase “[o]n or before
26 July 1, 1997,” is deleted as obsolete.

27 Defined terms: “Development” § 1–101

28 “Local jurisdiction” § 1–101

29 “Plan” § 1–101

30 “Regulation” § 1–101

31 “Sensitive area” § 1–101

32 “Subdivision” § 1–101

1 “Zoning law” § 1–101

2 **3–304. DEADLINE.**

3 **(A) IN GENERAL.**

4 **SUBJECT TO SUBSECTION (B) OF THIS SECTION, ON OR BEFORE OCTOBER**
5 **1, 2009, A LOCAL JURISDICTION SHALL INCLUDE IN ITS COMPREHENSIVE PLAN**
6 **ANY PLAN ELEMENT REQUIRED UNDER SUBTITLE 1 OF THIS TITLE.**

7 **(B) EXTENSION.**

8 **ON REQUEST OF A LOCAL JURISDICTION AND FOR GOOD CAUSE, THE**
9 **DEPARTMENT OF PLANNING MAY EXTEND THE DEADLINE UNDER SUBSECTION**
10 **(A) OF THIS SECTION FOR THAT LOCAL JURISDICTION BY NO MORE THAN TWO**
11 **6–MONTH EXTENSIONS.**

12 **(C) LIMITATION ON NONCOMPLIANCE.**

13 **A LOCAL JURISDICTION THAT IS NOT IN COMPLIANCE WITH THIS SECTION**
14 **AFTER OCTOBER 1, 2009, OR AFTER THE EXPIRATION OF ANY EXTENSION**
15 **GRANTED UNDER SUBSECTION (B) OF THIS SECTION, MAY NOT CHANGE THE**
16 **ZONING CLASSIFICATION OF A PROPERTY UNTIL THAT LOCAL JURISDICTION**
17 **HAS COMPLIED WITH THIS SECTION.**

18 REVISOR’S NOTE: This section is new language derived without substantive
19 change from former Art. 66B, § 3.05(f).

20 Throughout this section, the comprehensive reference to a “local
21 jurisdiction” is substituted for the former references to a “county or [a]
22 municipal corporation” for consistency within this title.

23 In subsection (b) of this section, the reference to “the deadline under
24 subsection (a) of this section” is substituted for the former references to
25 “the time limit to comply with paragraph (1) of this subsection” for
26 brevity.

27 In subsection (c) of this section, the phrase “has complied” is substituted
28 for the former word “complies” for clarity.

29 The Land Use Article Review Committee notes, for consideration by the
30 General Assembly, that subsection (c) of this section, which prohibits
31 rezoning in a local jurisdiction that fails to have included required
32 elements in its comprehensive plan “after October 1, 2009”, when read
33 together with subsection (a) of this section, may have the unintended

1 consequence of subjecting a local jurisdiction to restrictions on its
 2 rezoning power for the indefinite future, long beyond the originally
 3 intended phase-in period for compliance under the former law
 4 contemplated under the original enactment in 2006. *See* Ch. 381 of 2006.
 5 The General Assembly may wish to consider altering the language of
 6 subsections (a) and (c) of this section to clarify the implementation of that
 7 law, or moving this section and the corresponding provision applicable to
 8 other local jurisdictions, § 1–418 of this article, to the Session Laws. *See,*
 9 *also,* Revisor’s Note to § 1–418.

10 Defined terms: “Local jurisdiction” § 1–101
 11 “Plan” § 1–101

12 TITLE 4. ZONING.

13 SUBTITLE 1. POWERS.

14 4–101. STATEMENT OF POLICY.

15 (A) PLANNING AND ZONING CONTROLS.

16 IT IS THE POLICY OF THE STATE THAT:

17 (1) THE ORDERLY DEVELOPMENT AND USE OF LAND AND
 18 STRUCTURES REQUIRES COMPREHENSIVE REGULATION THROUGH THE
 19 IMPLEMENTATION OF PLANNING AND ZONING CONTROLS; AND

20 (2) PLANNING AND ZONING CONTROLS SHALL BE IMPLEMENTED
 21 BY LOCAL GOVERNMENT.

22 (B) LIMITATION OF ECONOMIC COMPETITION.

23 TO ACHIEVE THE PUBLIC PURPOSES OF THIS REGULATORY SCHEME, IT IS
 24 THE POLICY OF THE GENERAL ASSEMBLY AND THE STATE THAT LOCAL
 25 GOVERNMENT ACTION WILL DISPLACE OR LIMIT ECONOMIC COMPETITION BY
 26 OWNERS AND USERS OF PROPERTY THROUGH THE PLANNING AND ZONING
 27 CONTROLS SET FORTH IN THIS DIVISION AND ELSEWHERE IN THE PUBLIC
 28 GENERAL AND PUBLIC LOCAL LAWS.

29 REVISOR’S NOTE: This formerly was Art. 66B, § 4.01(a).

30 The only changes are in style.

31 Defined terms: “Development” § 1–101
 32 “Regulation” § 1–101

1 “State” § 1–101

2 **4–102. GENERAL POWERS.**

3 **TO PROMOTE THE HEALTH, SAFETY, AND GENERAL WELFARE OF THE**
4 **COMMUNITY, A LEGISLATIVE BODY MAY REGULATE:**

5 **(1) THE HEIGHT, NUMBER OF STORIES, AND SIZE OF BUILDINGS**
6 **AND OTHER STRUCTURES;**

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

8 **(3) OFF–STREET PARKING;**

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

10 **(5) POPULATION DENSITY; AND**

11 **(6) THE LOCATION AND USE OF BUILDINGS, SIGNS, STRUCTURES,**
12 **AND LAND.**

13 REVISOR’S NOTE: This section is new language derived without substantive
14 change from former Art. 66B, § 4.01(b)(1).

15 In the introductory language to this section, the reference to “morals” is
16 deleted as surplusage.

17 Also in the introductory language to this section, the former word
18 “restrict” is deleted as implicit in the word “regulate”.

19 Also in the introductory language to this section, the reference to
20 regulation “for trade, industry, residences, and other purposes” is deleted
21 as surplusage.

22 Defined term: “Legislative body” § 1–101

23 **4–103. ADDITIONAL POWERS.**

24 **(A) ADDITIONAL CONDITIONS OR LIMITATIONS.**

25 **WHEN ZONING OR REZONING LAND UNDER THIS DIVISION, A LEGISLATIVE**
26 **BODY MAY IMPOSE ANY ADDITIONAL CONDITIONS OR LIMITATIONS THAT THE**
27 **LEGISLATIVE BODY CONSIDERS APPROPRIATE TO IMPROVE OR PROTECT THE**
28 **GENERAL CHARACTER AND DESIGN OF:**

1 (1) THE LAND AND IMPROVEMENTS BEING ZONED OR REZONED;
2 OR

3 (2) THE SURROUNDING OR ADJACENT LAND AND IMPROVEMENTS.

4 (B) ANNEXATION AGREEMENT.

5 A MUNICIPAL CORPORATION MAY INCLUDE IN AN ANNEXATION
6 AGREEMENT LIMITATIONS ON THE USE OF LAND AND DENSITY OF
7 DEVELOPMENT OTHERWISE ALLOWED IN THE ZONING DISTRICT WHERE THE
8 LAND IS LOCATED.

9 (C) DESIGN APPROVAL.

10 WHEN ZONING OR REZONING LAND UNDER THIS DIVISION, TO ENSURE
11 CONFORMITY WITH THE INTENT AND PURPOSE OF THIS DIVISION AND OF THE
12 LOCAL JURISDICTION'S ZONING LAW, A LEGISLATIVE BODY MAY RETAIN THE
13 POWER TO APPROVE OR DISAPPROVE:

14 (1) THE DESIGN OF BUILDINGS, CONSTRUCTION, LANDSCAPING,
15 OR OTHER IMPROVEMENTS; AND

16 (2) CHANGES MADE OR TO BE MADE ON THE LAND BEING ZONED
17 OR REZONED.

18 (D) LOCAL LAW REQUIRED.

19 THE POWERS PROVIDED IN THIS SECTION SHALL APPLY ONLY IF THE
20 LEGISLATIVE BODY ADOPTS A LOCAL LAW THAT INCLUDES:

21 (1) ENFORCEMENT PROCEDURES; AND

22 (2) REQUIREMENTS FOR ADEQUATE NOTICE OF:

23 (I) PUBLIC HEARINGS; AND

24 (II) CONDITIONS SOUGHT TO BE IMPOSED.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 66B, § 4.01(c).

1 In the introductory language to subsections (a) and (c) of this section, the
 2 phrase “[w]hen zoning or rezoning land” is substituted for the former
 3 phrase “[o]n the zoning or rezoning of any land” for clarity.

4 In the introductory language to subsection (a) of this section, the former
 5 word “restrictions” is deleted as implicit in the word “limitations”.

6 Also in the introductory language to subsection (a) of this section, the
 7 former word “preserve” is deleted as implicit in the word “protect”.

8 In the introductory language to subsection (c) of this section, the former
 9 word “reserve” is deleted as implicit in the word “retain”.

10 In subsection (c)(2) of this section, the former reference to “alterations” is
 11 deleted as implicit in the term “changes”.

12 The Land Use Article Review Committee notes, for consideration by the
 13 General Assembly, that it is unclear how the notice requirements for
 14 conditions sought in rezoning under subsection (d)(2)(ii) of this section
 15 apply to the limitations on development that may be included in an
 16 annexation agreement under subsection (b) of this section. Read strictly,
 17 subsection (d) seems to impose a requirement to include in local law
 18 notice of both public hearings and conditions sought in connection with
 19 an annexation agreement, without specifically authorizing the imposition
 20 of “conditions”, only limitations. The General Assembly may wish to
 21 consider whether to add substantive authority to impose conditions in
 22 connection with an annexation agreement, without broadening the scope
 23 of limitations under subsection (b) of this section. *See* Ch. 385, Acts of
 24 2004.

25 Defined terms: “Development” § 1–101

26 “Legislative body” § 1–101

27 “Local jurisdiction” § 1–101

28 “Local law” § 1–101

29 “Zoning law” § 1–101

30 **4–104. LIMITATIONS.**

31 **(A) IN GENERAL.**

32 **THE POWERS GRANTED TO A LOCAL JURISDICTION UNDER THIS SUBTITLE**
 33 **DO NOT:**

34 **(1) GRANT THE LOCAL JURISDICTION POWERS IN ANY**
 35 **SUBSTANTIVE AREA NOT OTHERWISE GRANTED TO THE LOCAL JURISDICTION BY**
 36 **ANY OTHER PUBLIC GENERAL OR PUBLIC LOCAL LAW;**

1 **(2) RESTRICT THE LOCAL JURISDICTION FROM EXERCISING ANY**
2 **POWER GRANTED TO THE LOCAL JURISDICTION BY ANY OTHER PUBLIC**
3 **GENERAL OR PUBLIC LOCAL LAW OR OTHERWISE;**

4 **(3) AUTHORIZE THE LOCAL JURISDICTION OR ITS OFFICERS TO**
5 **ENGAGE IN ANY ACTIVITY THAT IS BEYOND THEIR POWER UNDER ANY OTHER**
6 **PUBLIC GENERAL OR PUBLIC LOCAL LAW OR OTHERWISE; OR**

7 **(4) PREEMPT OR SUPERSEDE THE REGULATORY AUTHORITY OF**
8 **ANY UNIT OF THE STATE UNDER ANY PUBLIC GENERAL LAW.**

9 **(B) BICYCLE PARKING.**

10 **(1) IF A LEGISLATIVE BODY REGULATES OFF-STREET PARKING,**
11 **THE LEGISLATIVE BODY SHALL REQUIRE SPACE FOR THE PARKING OF BICYCLES**
12 **IN A MANNER THAT THE LEGISLATIVE BODY CONSIDERS APPROPRIATE.**

13 **(2) A LEGISLATIVE BODY MAY ALLOW A REDUCTION IN THE**
14 **NUMBER OF REQUIRED AUTOMOBILE PARKING SPACES BASED ON THE**
15 **AVAILABILITY OF SPACE FOR PARKING BICYCLES.**

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 66B, § 4.01(d) and (b)(2).

18 In subsection (a)(4) of this section, the reference to a "unit of the State" is
19 substituted for the former reference to "State department or agency" for
20 consistency with other revised articles of the Code.

21 Defined terms: "Legislative body" § 1-101

22 "Local jurisdiction" § 1-101

23 "State" § 1-101

24 **SUBTITLE 2. DESIGNATION AND ADOPTION.**

25 **4-201. DISTRICTS AND ZONES.**

26 **(A) IN GENERAL.**

27 **A LEGISLATIVE BODY MAY DIVIDE THE LOCAL JURISDICTION INTO**
28 **DISTRICTS AND ZONES OF ANY NUMBER, SHAPE, AND AREA THAT THE**
29 **LEGISLATIVE BODY CONSIDERS BEST SUITED TO CARRY OUT THE PURPOSES OF**
30 **THIS DIVISION.**

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

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

7 **(B) PURPOSES.**

8 **THE ZONING REGULATIONS SHALL BE DESIGNED TO:**

9 **(1) CONTROL STREET CONGESTION;**

10 **(2) PROMOTE HEALTH, PUBLIC SAFETY, AND GENERAL WELFARE;**

11 **(3) PROVIDE ADEQUATE LIGHT AND AIR;**

12 **(4) PROMOTE THE CONSERVATION OF NATURAL RESOURCES;**

13 **(5) PREVENT ENVIRONMENTAL POLLUTION;**

14 **(6) AVOID AN UNDUE CONCENTRATION OF POPULATION; AND**

15 **(7) PROMOTE OR FACILITATE ADEQUATE TRANSPORTATION,**
16 **WATER, SEWERAGE, SCHOOLS, RECREATION, PARKS, AND OTHER PUBLIC**
17 **FACILITIES.**

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 66B, § 4.03.

20 In subsection (a)(3) of this section, the reference to conservation of the
21 value of "other structures" is added for clarity.

22 In subsection (b)(7) of this section, the reference to "promot[ing] or
23 facilitat[ing] adequate" public facilities is substituted for the former
24 reference to "[f]acilitat[ing] the adequate provision of" public facilities for
25 clarity.

26 Also in subsection (b)(7) of this section, the reference to public "facilities"
27 is substituted for the former reference to public "requirements" for
28 clarity.

29 The Land Use Article Review Committee notes, for consideration by the
30 General Assembly, that the conservation of value of "buildings and other

1 structures” in subsection (a)(3) of this section may not adequately address
 2 the value placed on other land such as open space in accordance with
 3 current legislatively approved policies including smart growth and
 4 priority funding areas.

5 The Land Use Article Review Committee also notes, for consideration by
 6 the General Assembly, that in subsection (b)(6) of this section, the
 7 concept of simply “avoid[ing] an undue concentration of population” may
 8 be considered obsolete in relation to more modern, legislatively endorsed
 9 policies such as smart growth, preservation of open space, use of cluster
 10 development, and priority funding areas. The General Assembly may
 11 wish to clarify the relationship of this item in relation to other policies for
 12 managing growth while balancing legislatively endorsed policies.

13 Defined terms: “Development” § 1–101

14 “Legislative body” § 1–101

15 “Plan” § 1–101

16 “Regulation” § 1–101

17 **4–203. ZONING REGULATIONS — PROCEDURE; PUBLIC HEARINGS.**

18 **(A) PROCEDURE.**

19 **A LEGISLATIVE BODY SHALL PROVIDE FOR THE MANNER IN WHICH ITS**
 20 **ZONING REGULATIONS AND THE BOUNDARIES OF DISTRICTS AND ZONES SHALL**
 21 **BE ESTABLISHED, ENFORCED, AND AMENDED.**

22 **(B) PUBLIC HEARINGS.**

23 **(1) A LEGISLATIVE BODY SHALL HOLD AT LEAST ONE PUBLIC**
 24 **HEARING ON A PROPOSED ZONING REGULATION OR BOUNDARY AT WHICH**
 25 **PARTIES IN INTEREST AND CITIZENS HAVE AN OPPORTUNITY TO BE HEARD.**

26 **(2) (I) THE LEGISLATIVE BODY SHALL PUBLISH NOTICE OF**
 27 **THE TIME AND PLACE OF THE PUBLIC HEARING, TOGETHER WITH A SUMMARY**
 28 **OF THE PROPOSED ZONING REGULATION OR BOUNDARY, IN AT LEAST ONE**
 29 **NEWSPAPER OF GENERAL CIRCULATION IN THE LOCAL JURISDICTION ONCE**
 30 **EACH WEEK FOR 2 SUCCESSIVE WEEKS.**

31 **(II) THE LEGISLATIVE BODY SHALL PUBLISH THE FIRST**
 32 **NOTICE OF THE HEARING AT LEAST 14 DAYS BEFORE THE HEARING.**

33 **(3) THE ZONING REGULATION OR BOUNDARY MAY NOT BECOME**
 34 **EFFECTIVE UNTIL 10 DAYS AFTER THE HEARING OR HEARINGS.**

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 66B, § 4.04(a) and (b).

3 Throughout this section, the former references to "restriction[s]" are
4 deleted as implicit in the term "regulation[s]".

5 In subsection (a) of this section, the former word "determined" is deleted
6 as implicit in the word "established".

7 Also in subsection (a) of this section, the former reference to the manner
8 in which zoning regulations and boundaries may be "repealed" is deleted
9 as implicit in the manner in which they may be "amended".

10 Also in subsection (a) of this section, the former word "periodically" is
11 deleted as surplusage.

12 In subsection (b)(1) of this section, the language requiring a legislative
13 body to hold a hearing on a proposed regulation or boundary is added to
14 affirmatively state that which was implied in the source law.

15 The Land Use Article Review Committee notes, for consideration by the
16 General Assembly, that in subsection (b)(1) of this section, the
17 relationship between the status of a "citizen" as one with an opportunity
18 to be heard as opposed to that of a "resident" is unclear.

19 Defined terms: "Legislative body" § 1-101

20 "Local jurisdiction" § 1-101

21 "Regulation" § 1-101

22 **4-204. ZONING REGULATIONS — AMENDMENT, REPEAL, AND**
23 **RECLASSIFICATION.**

24 **(A) AUTHORITY.**

25 **ZONING REGULATIONS AND BOUNDARIES MAY BE AMENDED OR**
26 **REPEALED.**

27 **(B) RECLASSIFICATION.**

28 **(1) IF THE PURPOSE AND EFFECT OF A PROPOSED MAP**
29 **AMENDMENT IS TO CHANGE A ZONING CLASSIFICATION, THE LEGISLATIVE BODY**
30 **SHALL MAKE FINDINGS OF FACT THAT ADDRESS:**

31 **(I) POPULATION CHANGE;**

32 **(II) THE AVAILABILITY OF PUBLIC FACILITIES;**

1 (III) PRESENT AND FUTURE TRANSPORTATION PATTERNS;

2 (IV) COMPATIBILITY WITH EXISTING AND PROPOSED
3 DEVELOPMENT FOR THE AREA;

4 (V) THE RECOMMENDATION OF THE PLANNING
5 COMMISSION; AND

6 (VI) THE RELATIONSHIP OF THE PROPOSED AMENDMENT TO
7 THE LOCAL JURISDICTION'S PLAN.

8 (2) THE LEGISLATIVE BODY MAY GRANT THE AMENDMENT TO
9 CHANGE THE ZONING CLASSIFICATION BASED ON A FINDING THAT THERE WAS:

10 (I) A SUBSTANTIAL CHANGE IN THE CHARACTER OF THE
11 NEIGHBORHOOD WHERE THE PROPERTY IS LOCATED; OR

12 (II) A MISTAKE IN THE EXISTING ZONING CLASSIFICATION.

13 (3) THE LEGISLATIVE BODY SHALL KEEP A COMPLETE RECORD
14 OF A HEARING ON AN APPLICATION FOR RECLASSIFICATION AND THE VOTES OF
15 THE MEMBERS OF THE LEGISLATIVE BODY.

16 (4) A LEGISLATIVE BODY MAY NOT ALLOW THE FILING OF AN
17 APPLICATION FOR A RECLASSIFICATION OF ALL OR PART OF ANY LAND FOR
18 WHICH A RECLASSIFICATION HAS BEEN DENIED BY THE LEGISLATIVE BODY ON
19 THE MERITS IN THE 12 MONTHS BEFORE THE DATE OF THE APPLICATION.

20 (5) THE PROVISIONS OF § 4-203(B) OF THIS SUBTITLE
21 CONCERNING PUBLIC HEARINGS AND NOTICE APPLY TO APPLICATIONS FOR
22 RECLASSIFICATION.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 66B, § 4.05(a), (b), and (c).

25 In subsection (a) of this section, the former reference to "restrictions" is
26 deleted as implicit in the term "regulations".

27 Also in subsection (a) of this section, the former word "periodically" is
28 deleted as surplusage.

1 In the introductory language to subsection (b)(1) of this section, the
2 reference to a “map” amendment is added for clarity. *See, also,* §
3 10–304(b)(1) of this article.

4 Also in the introductory language to subsection (b)(1) of this section, the
5 word “address” is substituted for the former phrase “include the following
6 matters” for brevity and consistency with other revised articles of the
7 Code.

8 In subsection (b)(3) of this section, the reference to “a hearing on an
9 application for reclassification” is substituted for the former reference to
10 “the hearing” for clarity.

11 In subsection (b)(5) of this section, the former phrase “in the same
12 manner and to the same extent” is deleted as surplusage.

13 Defined terms: “Development” § 1–101
14 “Legislative body” § 1–101
15 “Plan” § 1–101
16 “Regulation” § 1–101

17 **4–205. ADMINISTRATIVE ADJUSTMENTS.**

18 **(A) TYPES OF REQUIREMENTS.**

19 **A LEGISLATIVE BODY MAY AUTHORIZE THE PLANNING DIRECTOR OR**
20 **ANOTHER DESIGNEE TO GRANT AN ADMINISTRATIVE ADJUSTMENT FROM THE**
21 **FOLLOWING REQUIREMENTS IN A ZONING LAW ENACTED BY THE LEGISLATIVE**
22 **BODY:**

23 **(1) HEIGHT;**

24 **(2) SETBACK;**

25 **(3) BULK;**

26 **(4) PARKING;**

27 **(5) LOADING, DIMENSIONAL, OR AREA; OR**

28 **(6) SIMILAR REQUIREMENTS.**

29 **(B) IMPLEMENTATION.**

1 **BEFORE DEVELOPING CRITERIA AND PROCEDURES FOR ADMINISTRATIVE**
2 **ADJUSTMENTS UNDER THIS SECTION, THE LEGISLATIVE BODY SHALL:**

3 **(1) CONSULT WITH THE PLANNING COMMISSION AND THE BOARD**
4 **OF APPEALS; AND**

5 **(2) PROVIDE:**

6 **(I) REASONABLE PUBLIC NOTICE OF THE PROPOSED**
7 **CRITERIA AND PROCEDURES;**

8 **(II) AN OPPORTUNITY FOR A PUBLIC HEARING; AND**

9 **(III) AN OPPORTUNITY FOR PUBLIC REVIEW AND COMMENT.**

10 **(C) CRITERIA.**

11 **THE CRITERIA FOR AN ADMINISTRATIVE ADJUSTMENT SHALL INCLUDE:**

12 **(1) STANDARDS FOR ACTIONS ON REQUESTS;**

13 **(2) STANDARDS FOR THE CLASSES OF DEVELOPMENT THAT ARE**
14 **ELIGIBLE FOR AN ADMINISTRATIVE ADJUSTMENT; AND**

15 **(3) THE MAXIMUM VARIATION FROM A ZONING REQUIREMENT**
16 **THAT IS ALLOWED UNDER AN ADMINISTRATIVE ADJUSTMENT.**

17 **(D) PROCEDURES.**

18 **PROCEDURES FOR ADMINISTRATIVE ADJUSTMENTS MAY ADDRESS:**

19 **(1) APPLICATIONS;**

20 **(2) NOTICE TO THE PUBLIC AND TO THE PARTIES IN INTEREST;**

21 **(3) AN OPPORTUNITY FOR A PUBLIC HEARING;**

22 **(4) AN OPPORTUNITY FOR THE TAKING OF TESTIMONY AND**
23 **EVIDENCE; AND**

24 **(5) DECISION MAKING.**

25 **(E) FINDINGS OF FACT AND CONCLUSIONS OF LAW.**

1 **A DECISION ON AN APPLICATION FOR AN ADMINISTRATIVE ADJUSTMENT**
 2 **SHALL INCLUDE WRITTEN FINDINGS OF FACT AND CONCLUSIONS OF LAW.**

3 **(F) AUTHORIZATION FOR APPEAL.**

4 **BY ENACTING A LOCAL LAW OR ADOPTING A PROCEDURE, A LEGISLATIVE**
 5 **BODY MAY AUTHORIZE THE APPEAL TO THE BOARD OF APPEALS OF A DECISION**
 6 **TO APPROVE OR DENY AN ADMINISTRATIVE ADJUSTMENT.**

7 **(G) ENVIRONMENTAL PROTECTION.**

8 **NOTHING IN THIS SECTION IS INTENDED TO AUTHORIZE A LOCAL**
 9 **JURISDICTION TO ALLOW AN ADMINISTRATIVE ADJUSTMENT TO STATE OR**
 10 **LOCAL REQUIREMENTS THAT ARE INTENDED TO PROTECT ENVIRONMENTALLY**
 11 **SENSITIVE AREAS SUCH AS STREAMS, SLOPES, WETLANDS, NATURAL HERITAGE**
 12 **AREAS, OR CRITICAL AREAS.**

13 REVISOR'S NOTE: This section is new language derived without substantive
 14 change from former Art. 66B, § 4.05(d).

15 In subsection (a) of this section, the former references to "local" and
 16 "requirements" are deleted as surplusage.

17 In the introductory language to subsection (d) of this section, the word
 18 "address" is substituted for the former word "include" for clarity and
 19 consistency within this subtitle.

20 In subsection (e) of this section, the reference to required "conclusions of
 21 law" is added for clarity and accuracy.

22 The Land Use Article Review Committee notes, for consideration by the
 23 General Assembly, that in subsection (g) of this section, it is unclear
 24 whether the term "critical areas" is intended to: (1) mean a specific
 25 reference to the "Critical Area" under NR, Title 8, Subtitle 18; (2) refer
 26 more generally to "areas of critical State concern" required in
 27 comprehensive plans of noncharter counties and municipal corporations
 28 under § 3-109 of this article; or (3) cover some other type of area. The
 29 General Assembly may wish to address this matter by providing a
 30 specific cross-reference to other relevant provisions as appropriate.

31 Defined terms: "Development" § 1-101

32 "Legislative body" § 1-101

33 "Local jurisdiction" § 1-101

34 "Local law" § 1-101

35 "State" § 1-101

1 “Zoning law” § 1–101

2 **4–206. VARIANCES.**

3 **(A) ALLOWABLE MODIFICATIONS.**

4 **BY LOCAL LAW, A LEGISLATIVE BODY MAY SPECIFY IN A ZONING LAW THE**
5 **ALLOWABLE MODIFICATIONS THAT MAY BE MADE BY A VARIANCE.**

6 **(B) LIMITATIONS.**

7 **THE MODIFICATIONS IN A VARIANCE:**

8 **(1) MAY BE ONLY OF DENSITY, BULK, DIMENSIONAL, OR AREA**
9 **REQUIREMENTS OF THE ZONING LAW;**

10 **(2) MAY BE ONLY ALLOWED WHERE, OWING TO CONDITIONS**
11 **PECULIAR TO THE PROPERTY AND NOT BECAUSE OF ANY ACTION TAKEN BY THE**
12 **APPLICANT, A LITERAL ENFORCEMENT OF THE ZONING LAW WOULD RESULT IN**
13 **UNNECESSARY HARDSHIP OR PRACTICAL DIFFICULTY AS SPECIFIED IN THE**
14 **ZONING LAW; AND**

15 **(3) MAY NOT BE CONTRARY TO THE PUBLIC INTEREST.**

16 REVISOR’S NOTE: This section is new language derived without substantive
17 change from former Art. 66B, § 1.00(m). It is revised as a substantive
18 provision for clarity.

19 In subsection (b)(1) of this section, the reference to “dimensional”
20 requirements is added for clarity.

21 Defined terms: “Legislative body” § 1–101

22 “Local law” § 1–101

23 “Variance” § 1–101

24 “Zoning law” § 1–101

25 **4–207. ADAPTIVE REUSE.**

26 **(A) AUTHORIZATION.**

27 **ON APPLICATION BY A PROPERTY OWNER, A LEGISLATIVE BODY MAY**
28 **AUTHORIZE HOW THE USES ALLOWED IN A ZONING CLASSIFICATION ARE TO BE**
29 **APPLIED TO A PARTICULAR IMPROVED PROPERTY BY GRANTING AN ADAPTIVE**
30 **REUSE.**

1 **(B) SPECIFIC FINDINGS REQUIRED.**

2 **BEFORE GRANTING AN ADAPTIVE REUSE, THE LEGISLATIVE BODY SHALL**
 3 **MAKE SPECIFIC FINDINGS, SUPPORTED BY FACTS IN THE RECORD, THAT:**

4 **(1) THE CHANGE IS CONSISTENT WITH THE PLAN FOR THE LOCAL**
 5 **JURISDICTION;**

6 **(2) THE CHANGE IS IN THE PUBLIC INTEREST AND PROVIDES A**
 7 **POSITIVE BENEFIT TO THE COMMUNITY; AND**

8 **(3) LITERAL ENFORCEMENT OF THE ZONING CLASSIFICATION**
 9 **WOULD DEPRIVE THE OWNER OF ALL REASONABLE ECONOMICALLY VIABLE USE**
 10 **OF THE PROPERTY.**

11 REVISOR'S NOTE: This section formerly was Art. 66B, § 4.05(e).

12 The only changes are in style.

13 Defined terms: "Adaptive reuse" § 1-101

14 "Legislative body" § 1-101

15 "Local jurisdiction" § 1-101

16 "Plan" § 1-101

17 **4-208. EXCEPTIONS — MARYLAND ACCESSIBILITY CODE.**

18 **A LEGISLATIVE BODY SHALL PROVIDE FOR EXCEPTIONS TO THE ZONING**
 19 **LAW WHEN NECESSARY TO BRING AN EXISTING PARKING LOT INTO COMPLIANCE**
 20 **WITH THE REQUIREMENTS FOR PARKING SPACES FOR INDIVIDUALS WITH**
 21 **DISABILITIES AND THE VAN-ACCESSIBLE PARKING RATIO REQUIREMENT OF**
 22 **THE MARYLAND ACCESSIBILITY CODE ADOPTED UNDER § 12-202 OF THE**
 23 **PUBLIC SAFETY ARTICLE.**

24 REVISOR'S NOTE: This section formerly was Art. 66B, § 4.04(c).

25 The only changes are in style.

26 For the adopted parking ratio, *see* COMAR 05.02.02.07.

27 Defined terms: "Legislative body" § 1-101

28 "Zoning law" § 1-101

29 **4-209. HEARING EXAMINERS.**

1 **(A) APPOINTMENT.**

2 **A LEGISLATIVE BODY MAY APPOINT FULL- AND PART-TIME HEARING**
3 **EXAMINERS THAT IT CONSIDERS NECESSARY AND APPROPRIATE.**

4 **(B) PUBLIC HEARINGS.**

5 **(1) A LEGISLATIVE BODY MAY DELEGATE TO A HEARING**
6 **EXAMINER THE POWER TO CONDUCT A PUBLIC HEARING UNDER §§ 4-204 AND**
7 **4-205 OF THIS SUBTITLE.**

8 **(2) A HEARING SHALL BE CONDUCTED UNDER RULES THE**
9 **LEGISLATIVE BODY ADOPTS.**

10 **(C) RECUSAL.**

11 **A HEARING EXAMINER SHALL RECUSE HIMSELF OR HERSELF FROM**
12 **PARTICIPATING IN A MATTER IN WHICH THE HEARING EXAMINER MAY HAVE A**
13 **CONFLICT OF INTEREST OR THE APPEARANCE OF A CONFLICT OF INTEREST.**

14 **(D) TENURE, QUALIFICATIONS, AND COMPENSATION.**

15 **A LEGISLATIVE BODY SHALL DETERMINE THE TERM OF OFFICE,**
16 **REQUIRED QUALIFICATIONS, AND COMPENSATION OF A HEARING EXAMINER**
17 **EMPLOYED BY THE LOCAL JURISDICTION.**

18 **(E) WRITTEN RECOMMENDATION.**

19 **A HEARING EXAMINER SHALL ISSUE A WRITTEN RECOMMENDATION IN**
20 **THE TIME, MANNER, AND FORM REQUIRED BY THE LEGISLATIVE BODY.**

21 REVISOR'S NOTE: This section formerly was Art. 66B, § 4.06.

22 In subsection (b)(2) of this section, the former word "regulations" is
23 deleted as implicit in the word "rules".

24 The only other changes are in style.

25 Defined terms: "Legislative body" § 1-101

26 "Local jurisdiction" § 1-101

27 **SUBTITLE 3. BOARD OF APPEALS.**

28 **4-301. REQUIRED.**

1 **(A) IN GENERAL.**

2 **A LEGISLATIVE BODY SHALL PROVIDE FOR THE APPOINTMENT OF A**
3 **BOARD OF APPEALS.**

4 **(B) LEGISLATIVE BODY DISQUALIFIED.**

5 **THE LEGISLATIVE BODY MAY NOT SERVE AS THE BOARD OF APPEALS.**

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 66B, § 4.07(a)(1) and (8).

8 Defined term: "Legislative body" § 1-101

9 **4-302. MEMBERSHIP.**

10 **(A) COMPOSITION.**

11 **A BOARD OF APPEALS CONSISTS OF AT LEAST THREE MEMBERS.**

12 **(B) APPOINTMENT.**

13 **A MEMBER OF A BOARD OF APPEALS SHALL BE APPOINTED BY THE LOCAL**
14 **EXECUTIVE AND CONFIRMED BY THE LEGISLATIVE BODY.**

15 **(C) TENURE.**

16 **THE TERM OF OFFICE OF A MEMBER OF A BOARD OF APPEALS IS 3 YEARS.**

17 **(D) REMOVAL.**

18 **A MEMBER OF A BOARD OF APPEALS MAY BE REMOVED:**

19 **(1) FOR CAUSE;**

20 **(2) ON WRITTEN CHARGES; AND**

21 **(3) AFTER A PUBLIC HEARING.**

22 **(E) VACANCIES.**

23 **THE APPOINTING AUTHORITY SHALL APPOINT A NEW MEMBER TO FILL**
24 **THE UNEXPIRED TERM OF ANY MEMBER WHO LEAVES A BOARD OF APPEALS.**

1 **(F) ALTERNATE MEMBER.**

2 **(1) A LEGISLATIVE BODY SHALL DESIGNATE ONE ALTERNATE**
3 **MEMBER FOR THE BOARD OF APPEALS WHO MAY SIT ON THE BOARD WHEN**
4 **ANOTHER MEMBER OF THE BOARD IS ABSENT OR RECUSED.**

5 **(2) WHEN THE ALTERNATE MEMBER IS ABSENT OR RECUSED,**
6 **THE LEGISLATIVE BODY MAY DESIGNATE A TEMPORARY ALTERNATE.**

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 66B, § 4.07(b) and (a)(2) through (6).

9 In subsection (f) of this section, the references to a member who is absent
10 "or recused" are added for clarity. The Land Use Article Review
11 Committee brings the addition to the attention of the General Assembly.

12 The Land Use Article Review Committee notes, for consideration by the
13 General Assembly, that in subsection (f) of this section, only one
14 "permanent" alternate member is authorized, although there is no
15 explicit limit on the number of temporary alternate members who may be
16 appointed. Because members of boards of appeals must complete an
17 education course under § 1-206 of this article, the General Assembly may
18 wish to authorize a legislative body to appoint more than one
19 "permanent" alternate member in order to ensure that an adequate
20 number of participating members are available in case of multiple
21 recusals without requiring training of temporary alternate members who
22 may not otherwise be needed.

23 For educational requirements for members of boards of appeals, see §
24 1-206 of this article.

25 Defined terms: "Legislative body" § 1-101
26 "Local executive" § 1-101

27 **4-303. MEETINGS; COMPENSATION.**

28 **(A) MEETINGS.**

29 **(1) THE MEETINGS OF A BOARD OF APPEALS SHALL BE HELD AT**
30 **THE CALL OF THE CHAIR AND AT OTHER TIMES DETERMINED BY THE BOARD.**

31 **(2) THE CHAIR OF A BOARD OF APPEALS OR THE ACTING CHAIR**
32 **MAY ADMINISTER OATHS AND COMPEL THE ATTENDANCE OF WITNESSES.**

1 **(3) ALL MEETINGS OF A BOARD OF APPEALS SHALL BE OPEN TO**
2 **THE PUBLIC.**

3 **(B) COMPENSATION.**

4 **A MEMBER OF A BOARD OF APPEALS MAY RECEIVE COMPENSATION THAT**
5 **THE LEGISLATIVE BODY CONSIDERS APPROPRIATE.**

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 66B, § 4.07(c)(2) through (4) and (a)(7).

8 In subsection (a)(1) and (2) of this section, the references to the "chair"
9 are substituted for the former references to the "chairman" because SG §
10 2–1238 requires the use of terms that are neutral as to gender to the
11 extent practicable. *See* General Revisor's Note to article.

12 Defined term: "Legislative body" § 1–101

13 **4–304. MISCELLANEOUS DUTIES.**

14 **(A) RULES.**

15 **A BOARD OF APPEALS SHALL ADOPT RULES IN ACCORDANCE WITH ANY**
16 **LOCAL LAW ADOPTED UNDER THIS DIVISION.**

17 **(B) RECUSAL.**

18 **A MEMBER OF A BOARD OF APPEALS SHALL RECUSE HIMSELF OR**
19 **HERSELF FROM PARTICIPATING IN A MATTER IN WHICH THE MEMBER MAY HAVE**
20 **A CONFLICT OF INTEREST OR AN APPEARANCE OF A CONFLICT OF INTEREST.**

21 **(C) RECORDING; TRANSCRIPT.**

22 **(1) (I) A BOARD OF APPEALS SHALL MAKE A RECORDING OF**
23 **ALL PROCEEDINGS WITH A CONTEMPORANEOUS WRITTEN RECORD SHOWING**
24 **THE VOTE OF EACH MEMBER ON EACH QUESTION OR THE MEMBER'S ABSENCE**
25 **OR FAILURE TO VOTE.**

26 **(II) 1. A BOARD OF APPEALS SHALL IMMEDIATELY FILE**
27 **THE RECORDING OF ITS PROCEEDINGS IN THE OFFICE OF THE BOARD.**

28 **2. THE RECORDING SHALL BE A PUBLIC RECORD.**

1 **(2) IF A RECORDING OR A TRANSCRIPT OF A RECORDING IS NOT**
 2 **PREPARED IN THE NORMAL COURSE OF THE BOARD’S PROCEEDINGS, THE**
 3 **PARTY WHO REQUESTS A COPY OF THE RECORDING OR ITS TRANSCRIPT SHALL**
 4 **PAY THE COST OF PREPARING THE RECORDING OR TRANSCRIPT.**

5 REVISOR’S NOTE: This section is new language derived without substantive
 6 change from former Art. 66B, § 4.07(c)(1), (5), and (6) and (a)(9).

7 Defined term: “Local law” § 1–101

8 **4–305. POWERS — APPEALS; SPECIAL EXCEPTIONS; VARIANCES.**

9 **A BOARD OF APPEALS MAY:**

10 **(1) HEAR AND DECIDE APPEALS WHEN IT IS ALLEGED THAT**
 11 **THERE IS AN ERROR IN ANY ORDER, REQUIREMENT, DECISION, OR**
 12 **DETERMINATION MADE BY AN ADMINISTRATIVE OFFICER OR UNIT UNDER THIS**
 13 **DIVISION OR OF ANY LOCAL LAW ADOPTED UNDER THIS DIVISION;**

14 **(2) HEAR AND DECIDE SPECIAL EXCEPTIONS TO THE TERMS OF A**
 15 **LOCAL LAW ON WHICH THE BOARD IS REQUIRED TO PASS UNDER THE LOCAL**
 16 **LAW; AND**

17 **(3) AUTHORIZE ON APPEAL IN SPECIFIC CASES A VARIANCE FROM**
 18 **THE TERMS OF A LOCAL LAW.**

19 REVISOR’S NOTE: This section is new language derived without substantive
 20 change from former Art. 66B, § 4.07(d).

21 In item (1) of this section, the reference to an administrative officer “or
 22 unit” is added for clarity.

23 Also in item (1) of this section, the word “under” is substituted for the
 24 former phrase “in the enforcement of” for brevity and clarity.

25 Defined terms: “Local law” § 1–101

26 “Special exception” § 1–101

27 “Variance” § 1–101

28 **4–306. APPEAL — PROCEDURES.**

29 **(A) WHO MAY FILE.**

30 **AN APPEAL TO THE BOARD OF APPEALS MAY BE FILED BY:**

1 **(1) A PERSON AGGRIEVED BY A DECISION OF THE**
2 **ADMINISTRATIVE OFFICER OR UNIT; OR**

3 **(2) AN OFFICER OR UNIT OF THE JURISDICTION AFFECTED BY A**
4 **DECISION OF THE ADMINISTRATIVE OFFICER OR UNIT.**

5 **(B) TIMING.**

6 **A PERSON SHALL FILE AN APPEAL WITHIN A REASONABLE TIME**
7 **PROVIDED BY THE RULES OF THE BOARD OF APPEALS BY FILING WITH THE**
8 **ADMINISTRATIVE OFFICER OR UNIT FROM WHOSE ACTION THE APPEAL IS**
9 **TAKEN AND WITH THE BOARD OF APPEALS A NOTICE OF APPEAL SPECIFYING**
10 **THE GROUNDS OF THE APPEAL.**

11 **(C) RECORD.**

12 **THE ADMINISTRATIVE OFFICER OR UNIT FROM WHOSE ACTION THE**
13 **APPEAL IS TAKEN SHALL TRANSMIT PROMPTLY TO THE BOARD ALL PAPERS**
14 **CONSTITUTING THE RECORD OF THE ACTION APPEALED.**

15 **(D) STAY OF PROCEEDINGS.**

16 **(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
17 **SUBSECTION, AN APPEAL TO A BOARD OF APPEALS STAYS ALL PROCEEDINGS IN**
18 **FURTHERANCE OF THE ACTION APPEALED.**

19 **(2) IF AN ADMINISTRATIVE OFFICER OR UNIT CERTIFIES TO THE**
20 **BOARD OF APPEALS FACTS STATED IN THE CERTIFICATE THAT INDICATE TO THE**
21 **ADMINISTRATIVE OFFICER OR UNIT THAT A STAY WOULD CAUSE IMMINENT**
22 **PERIL TO LIFE OR PROPERTY, THE BOARD OF APPEALS OR THE CIRCUIT COURT**
23 **MAY STAY THE PROCEEDINGS:**

24 **(I) ONLY FOR GOOD CAUSE SHOWN; AND**

25 **(II) THROUGH ISSUING A RESTRAINING ORDER AFTER**
26 **NOTICE IS GIVEN TO THE ADMINISTRATIVE OFFICER OR UNIT.**

27 **(E) HEARING AND DECISION ON APPEAL.**

28 **(1) A BOARD OF APPEALS SHALL:**

29 **(I) ESTABLISH A REASONABLE TIME FOR THE HEARING OF**
30 **AN APPEAL;**

1 **(II) GIVE PUBLIC NOTICE OF THE EXISTENCE OF THE**
2 **APPEAL AND OF THE HEARING;**

3 **(III) GIVE DUE NOTICE TO THE PARTIES IN INTEREST AND TO**
4 **OTHER PERSONS ENTITLED TO NOTICE UNDER LOCAL LAW OR THE RULES OF**
5 **THE BOARD OF APPEALS; AND**

6 **(IV) DECIDE THE APPEAL WITHIN A REASONABLE TIME.**

7 **(2) AT A HEARING, A PARTY MAY:**

8 **(I) APPEAR IN PERSON; OR**

9 **(II) BE REPRESENTED BY AN AGENT OR ATTORNEY.**

10 **(F) AUTHORITY ON APPEAL.**

11 **(1) A BOARD OF APPEALS MAY, IN CONFORMITY WITH THIS**
12 **DIVISION:**

13 **(I) WHOLLY OR PARTLY REVERSE THE ORDER,**
14 **REQUIREMENT, OR DECISION THAT IS THE SUBJECT OF THE APPEAL;**

15 **(II) WHOLLY OR PARTLY AFFIRM THE ORDER,**
16 **REQUIREMENT, OR DECISION THAT IS THE SUBJECT OF THE APPEAL;**

17 **(III) MODIFY THE ORDER, REQUIREMENT, OR DECISION THAT**
18 **IS THE SUBJECT OF THE APPEAL; OR**

19 **(IV) ISSUE A NEW ORDER, REQUIREMENT, OR DECISION.**

20 **(2) THE BOARD OF APPEALS SHALL HAVE ALL THE POWERS OF**
21 **THE ADMINISTRATIVE OFFICER OR UNIT FROM WHOSE ACTION THE APPEAL IS**
22 **TAKEN.**

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 66B, § 4.07(e) through (h).

25 Throughout this section, the references to an administrative officer "or
26 unit" are added for clarity.

1 In subsection (a)(2) of this section, the reference to a “unit” is substituted
2 for the former reference to a “department, board, or bureau” for
3 consistency with other revised articles of the Code.

4 In subsection (d)(2) of this section, the former phrase “as provided in
5 paragraph (1) of this subsection” is deleted as surplusage.

6 In subsection (e)(1)(ii) of this section, the reference to notice “of the
7 existence of the appeal” is added for clarity and consistency within this
8 article.

9 Also in subsection (e)(1)(ii) of this section, the phrase “and to other
10 persons entitled to notice under local law or the rules of the board of
11 appeals” is added for clarity and consistency within this article.

12 In subsection (f)(1) of this section, the former references to a
13 “determination” are deleted as implicit in the word “decision”.

14 The Land Use Article Review Committee notes, for consideration by the
15 General Assembly, that the breadth of the potential stay of proceedings
16 under subsection (d) of this section is considerable. It may be construed to
17 apply to applications for concept plans of developments, even though it is
18 difficult to imagine the circumstances under which appeal of a concept
19 plan could constitute an imminent peril to life or property. The General
20 Assembly may wish to consider the scope of the stay of proceedings under
21 this and the corresponding provision applicable to Baltimore City. *See,*
22 *also,* § 10–405(d) of this article.

23 The Land Use Article Review Committee also notes, for consideration by
24 the General Assembly, that in subsection (e)(1)(ii) of this section, it is
25 unclear whether the term “parties in interest” is intended to be
26 coextensive with the term “aggrieved persons” as found in Maryland case
27 law, and if not, what classes of persons are intended to be entitled to
28 notice of an appeal. The General Assembly may wish to consider
29 clarifying the intended scope of “parties in interest” and whether
30 entitlement to notice under this provision should automatically confer
31 standing to seek judicial review of the matter appealed. *See, also,*
32 *Revisor’s Note to* § 10–405 of this article.

33 Defined terms: “Local law” § 1–101

34 “Person” § 1–101

35 SUBTITLE 4. JUDICIAL REVIEW.

36 4–401. PROCEDURE.

37 (A) WHO MAY FILE.

1 **ANY OF THE FOLLOWING PERSONS MAY FILE A REQUEST FOR JUDICIAL**
 2 **REVIEW OF A DECISION OF A BOARD OF APPEALS OR A ZONING ACTION OF A**
 3 **LEGISLATIVE BODY BY THE CIRCUIT COURT OF THE COUNTY:**

4 **(1) A PERSON AGGRIEVED BY THE DECISION OR ACTION;**

5 **(2) A TAXPAYER; OR**

6 **(3) AN OFFICER OR UNIT OF THE LOCAL JURISDICTION.**

7 **(B) MANNER.**

8 **THE JUDICIAL REVIEW SHALL BE IN ACCORDANCE WITH TITLE 7,**
 9 **CHAPTER 200 OF THE MARYLAND RULES.**

10 **(C) REVIEW STANDARD UNAFFECTED.**

11 **THIS SECTION DOES NOT CHANGE THE EXISTING STANDARDS FOR**
 12 **JUDICIAL REVIEW OF A ZONING ACTION.**

13 REVISOR'S NOTE: This section is new language derived without substantive
 14 change from former Art. 66B, § 4.08(a).

15 In this section and throughout this subtitle, the references to a "judicial
 16 review" are substituted for the former obsolete references to an "appeal"
 17 for accuracy.

18 In subsection (a)(3) of this section, the reference to a "unit" is substituted
 19 for the former reference to any "department, board, or bureau" for
 20 consistency with other revised articles of the Code.

21 Defined terms: "County" § 1-101
 22 "Legislative body" § 1-101
 23 "Local jurisdiction" § 1-101
 24 "Person" § 1-101

25 **4-402. MANNER OF REVIEW; ADDITIONAL EVIDENCE.**

26 **(A) MANNER OF REVIEW.**

27 **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE CIRCUIT**
 28 **COURT SHALL REVIEW THE DECISION OF A BOARD OF APPEALS OR A HEARING**

1 EXAMINER UNDER THIS SUBTITLE ON THE RECORD TRANSMITTED BY THE
2 BOARD OF APPEALS OR HEARING EXAMINER, AND NOT DE NOVO.

3 (B) ADDITIONAL EVIDENCE.

4 (1) IF, AFTER A HEARING, THE CIRCUIT COURT DETERMINES
5 THAT TESTIMONY IS NEEDED FOR THE PROPER DISPOSITION OF THE MATTER,
6 THE COURT MAY TAKE EVIDENCE OR APPOINT A SPECIAL MASTER TO:

7 (I) TAKE THE REQUIRED EVIDENCE; AND

8 (II) REPORT THE EVIDENCE TO THE COURT WITH THE
9 SPECIAL MASTER'S FINDINGS OF FACT AND CONCLUSIONS OF LAW.

10 (2) THE SPECIAL MASTER'S EVIDENCE, FINDINGS, AND
11 CONCLUSIONS SHALL CONSTITUTE A PART OF THE PROCEEDINGS ON WHICH
12 THE COURT SHALL MAKE ITS DETERMINATION.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 66B, § 4.08(b).

15 In subsection (b) of this section, the references to a "special master" are
16 substituted for the former references to a "referee" for accuracy.

17 **4-403. COSTS.**

18 THE CIRCUIT COURT MAY NOT ALLOW AN AWARD OF COSTS AGAINST THE
19 BOARD OF APPEALS UNLESS IT APPEARS TO THE COURT THAT THE BOARD, IN
20 MAKING THE DECISION THAT IS THE SUBJECT OF THE JUDICIAL REVIEW, ACTED:

21 (1) WITH GROSS NEGLIGENCE;

22 (2) IN BAD FAITH; OR

23 (3) WITH MALICE.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 66B, § 4.08(c).

26 In the introductory language to this section, the reference to "an award
27 of" costs is added for clarity.

28 **4-404. SCHEDULING.**

1 **ALL ISSUES IN ANY PROCEEDING UNDER THIS SUBTITLE SHALL BE**
2 **SCHEDULED AND HEARD BEFORE ALL OTHER CIVIL ACTIONS AND**
3 **PROCEEDINGS.**

4 REVISOR'S NOTE: This section formerly was Art. 66B, § 4.08(d).

5 The only changes are in style.

6 **4-405. ORDER OF DECISION; FURTHER REVIEW.**

7 **(A) ORDER OF DECISION.**

8 **AFTER DECIDING A JUDICIAL REVIEW UNDER THIS SUBTITLE, THE**
9 **CIRCUIT COURT SHALL FILE A WRITTEN ORDER AND OPINION EMBODYING THE**
10 **REASONS FOR ITS DECISION.**

11 **(B) FURTHER REVIEW.**

12 **(1) A PARTY MAY FILE AN APPEAL OF A JUDGMENT OF THE**
13 **CIRCUIT COURT WITH THE COURT OF SPECIAL APPEALS DURING THE PERIOD**
14 **AND IN THE MANNER REQUIRED BY THE MARYLAND RULES.**

15 **(2) THE COURT OF SPECIAL APPEALS MAY AWARD COSTS IN ANY**
16 **APPEAL TO THAT COURT UNDER THIS SUBSECTION.**

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 66B, § 4.08(e).

19 **4-406. ADDITIONAL MATTERS FOR JUDICIAL REVIEW.**

20 **(A) BY CIRCUIT COURT.**

21 **IN ADDITION TO THE JUDICIAL REVIEW PROVIDED UNDER THIS SUBTITLE,**
22 **A LEGISLATIVE BODY MAY ALLOW JUDICIAL REVIEW BY THE CIRCUIT COURT OF**
23 **ANY MATTER ARISING UNDER THE PLANNING AND ZONING LAWS OF THE LOCAL**
24 **JURISDICTION.**

25 **(B) FURTHER REVIEW.**

26 **A JUDGMENT OF THE CIRCUIT COURT UNDER THIS SECTION MAY BE**
27 **APPEALED TO THE COURT OF SPECIAL APPEALS.**

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 66B, § 4.08(f).

1 In subsection (b) of this section, the reference to a “judgment” is
2 substituted for the former reference to a “decision” for accuracy.

3 Defined terms: “Legislative body” § 1–101
4 “Local jurisdiction” § 1–101
5 “Zoning law” § 1–101

6 **TITLE 5. SUBDIVISION.**

7 **SUBTITLE 1. POWERS.**

8 **5–101. POWERS.**

9 **(A) LAND LOCATED IN LOCAL JURISDICTION.**

10 **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE**
11 **TERRITORIAL JURISDICTION OF A PLANNING COMMISSION OVER A SUBDIVISION**
12 **IS LIMITED TO LAND LOCATED IN THE LOCAL JURISDICTION.**

13 **(B) LAND BEYOND LIMITS OF MUNICIPAL CORPORATION.**

14 **IN A LOCAL JURISDICTION WHERE A COUNTY HAS NOT ADOPTED**
15 **SUBDIVISION REGULATIONS, THE TERRITORIAL JURISDICTION OF A PLANNING**
16 **COMMISSION OF A MUNICIPAL CORPORATION MAY INCLUDE ALL LAND LOCATED**
17 **UP TO 1 MILE BEYOND THE CORPORATE LIMITS OF THE MUNICIPAL**
18 **CORPORATION THAT IS NOT LOCATED IN ANY OTHER MUNICIPAL CORPORATION.**

19 REVISOR’S NOTE: This section is new language derived without substantive
20 change from former Art. 66B, § 5.01.

21 In subsection (a) of this section and throughout this title, the former
22 reference to a subdivision “of land” is deleted as implicit in the reference
23 to a “subdivision”.

24 In subsection (a) of this section, the reference to the “local” jurisdiction is
25 added for clarity.

26 Defined terms: “County” § 1–101
27 “Local jurisdiction” § 1–101
28 “Regulation” § 1–101
29 “Subdivision” § 1–101

30 **5–102. SUBDIVISION REGULATIONS.**

1 **(A) RECOMMENDATION REQUIRED.**

2 **BEFORE EXERCISING SUBDIVISION POWERS UNDER §§ 5-202 AND 5-203**
3 **OF THIS TITLE, THE PLANNING COMMISSION SHALL RECOMMEND SUBDIVISION**
4 **REGULATIONS TO THE LEGISLATIVE BODY.**

5 **(B) PURPOSE.**

6 **THE SUBDIVISION REGULATIONS SHALL BE FOR THE HEALTH, SAFETY,**
7 **WELFARE, AND COMMON INTEREST OF THE CITIZENS OF THE LOCAL**
8 **JURISDICTION.**

9 **(C) CONTENTS.**

10 **THE SUBDIVISION REGULATIONS MAY INCLUDE PROVISIONS FOR THE**
11 **PURPOSES OF:**

12 **(1) ADEQUATELY CONTROLLING SHORE EROSION;**

13 **(2) CONTROLLING SEDIMENT AND ENSURING PROTECTION FROM**
14 **FLOODING;**

15 **(3) ARRANGING STREETS IN RELATION TO EACH OTHER AND TO**
16 **THE COMPREHENSIVE PLAN;**

17 **(4) ADEQUATELY AND CONVENIENTLY PLACING PUBLIC SCHOOL**
18 **SITES AND OPEN SPACES FOR TRAFFIC, UTILITIES, ACCESS OF FIRE-FIGHTING**
19 **APPARATUS, RECREATION, AND ACCESS TO LIGHT AND AIR;**

20 **(5) AVOIDING INAPPROPRIATE POPULATION CONGESTION;**

21 **(6) SETTING MINIMUM LOT WIDTHS AND AREAS; AND**

22 **(7) DETERMINING THE EXTENT TO WHICH THE FOLLOWING**
23 **ACTIONS SHALL BE TAKEN BEFORE THE APPROVAL OF A PLAT:**

24 **(I) THE GRADING AND IMPROVEMENT OF STREETS AND**
25 **OTHER WAYS;**

26 **(II) THE PROVISION OF SOIL EROSION OR SEDIMENT**
27 **CONTROL; AND**

1 **(III) THE INSTALLATION OF WATER, SEWER, OTHER UTILITY**
2 **MAINS, PIPING, OR OTHER FACILITIES.**

3 **(D) BURIAL SITES.**

4 **(1) SUBDIVISION REGULATIONS SHALL REQUIRE THAT AN**
5 **APPROPRIATE EASEMENT BE PROVIDED FOR ANY BURIAL SITE LOCATED ON THE**
6 **LAND.**

7 **(2) THE EASEMENT SHALL BE SUBJECT TO THE SUBDIVISION**
8 **PLAT FOR ENTRY TO AND EXIT FROM THE BURIAL SITE BY AN INDIVIDUAL**
9 **RELATED BY BLOOD OR MARRIAGE OR A PERSON IN INTEREST, AS DEFINED IN §**
10 **14-121 OF THE REAL PROPERTY ARTICLE.**

11 **(3) THE EXISTING RIGHT-OF-WAY NEED NOT BE EXTENDED FOR**
12 **ANY IMPROVEMENTS ON THE BURIAL SITE.**

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 66B, § 5.03(a), (b)(1), and (d).

15 In subsection (c)(3) of this section, the reference to the "comprehensive"
16 plan is substituted for the former reference to the "master" plan for
17 consistency within this division.

18 In subsection (c)(5) of this section, the reference to avoiding
19 "inappropriate" population congestion is added for clarity. The Land Use
20 Article Review Committee brings this addition to the attention of the
21 General Assembly. No substantive change is intended.

22 In subsection (d)(2) of this section, the reference to an "individual" is
23 substituted for the former reference to a "person[s]" because only a
24 human being, and not the other entities included in the definition of
25 "person", can be related by blood or marriage.

26 The Land Use Article Review Committee notes, for consideration by the
27 General Assembly, that in subsection (c)(5) of this section, the concept of
28 simply "avoid[ing] ... population congestion" may be considered obsolete
29 in relation to more modern, legislatively endorsed policies such as smart
30 growth, preservation of open space, use of cluster development, and
31 priority funding areas. While the Land Use Article Review Committee
32 added the qualification "inappropriate" to the phrase, the General
33 Assembly may wish to clarify further the relationship of this concept to
34 other policies for managing growth while balancing legislatively endorsed
35 policies.

36 Defined terms: "Legislative body" § 1-101

- 1 “Local jurisdiction” § 1–101
2 “Person” § 1–101
3 “Regulation” § 1–101
4 “Subdivision” § 1–101

5 **5–103. NOTICE AND HEARING FOR REGULATIONS.**

6 **(A) PUBLIC HEARING REQUIREMENT.**

7 **BEFORE ADOPTION OF A SUBDIVISION REGULATION, THE LEGISLATIVE**
8 **BODY SHALL HOLD A PUBLIC HEARING ON THE SUBDIVISION REGULATION.**

9 **(B) NOTICE OF PUBLIC HEARING.**

10 **THE LEGISLATIVE BODY SHALL PUBLISH A NOTICE OF THE PUBLIC**
11 **HEARING AT LEAST ONCE IN A WEEKLY OR DAILY NEWSPAPER THAT**
12 **CIRCULATES IN THE LOCAL JURISDICTION.**

13 **(C) CONTENTS OF NOTICE.**

14 **THE NOTICE SHALL CONTAIN:**

15 **(1) THE TEXT OF THE SUBDIVISION REGULATION OR, AT THE**
16 **DISCRETION OF THE LEGISLATIVE BODY, A BRIEF AND ACCURATE SUMMARY OF**
17 **THE NATURE AND CONTENTS OF THE SUBDIVISION REGULATION SUFFICIENT TO**
18 **INFORM AN INDIVIDUAL OF ORDINARY INTELLIGENCE OF THE NATURE AND**
19 **CONTENTS OF THE SUBDIVISION REGULATION; AND**

20 **(2) THE TIME AND PLACE OF THE PUBLIC HEARING.**

21 **(D) CERTIFIED COPY OF REGULATION REQUIRED.**

22 **WHEN THE LEGISLATIVE BODY ADOPTS A SUBDIVISION REGULATION, THE**
23 **LEGISLATIVE BODY SHALL FILE A CERTIFIED COPY OF THE SUBDIVISION**
24 **REGULATION WITH THE CLERK OF THE CIRCUIT COURT IN WHICH THE LOCAL**
25 **JURISDICTION IS LOCATED FOR RECORDING.**

26 REVISOR’S NOTE: This section is new language derived without substantive
27 change from former Art. 66B, § 5.03(c).

28 In subsection (c)(1) of this section, the phrase “at the discretion of the
29 legislative body” is substituted for the former phrase “if the planning
30 commission believes it would be better” for accuracy and clarity.

1 Also in subsection (c)(1) of this section, the reference to “the nature and
2 contents of the subdivision regulation” is added for clarity.

3 Defined terms: “Legislative body” § 1–101
4 “Local jurisdiction” § 1–101
5 “Regulation” § 1–101
6 “Subdivision” § 1–101

7 **5–104. EXISTING PLATTING STATUTES.**

8 **(A) EXCLUSIVE AUTHORITY OF COMMISSION.**

9 AFTER A PLANNING COMMISSION BEGINS TO EXERCISE CONTROL OVER
10 SUBDIVISIONS UNDER THIS SUBTITLE, THE AUTHORITY OF THE PLANNING
11 COMMISSION OVER PLATS SHALL BE EXCLUSIVE WITHIN THE TERRITORY UNDER
12 ITS JURISDICTION.

13 **(B) TRANSFER OF STATUTORY CONTROL.**

14 UNLESS OTHERWISE PROVIDED IN THIS DIVISION, ALL STATUTORY
15 CONTROL OVER PLATS OR SUBDIVISIONS GRANTED BY OTHER STATUTES SHALL
16 BE CONSIDERED TRANSFERRED TO THE PLANNING COMMISSION OF THE LOCAL
17 JURISDICTION.

18 REVISOR’S NOTE: This section is new language derived without substantive
19 change from former Art. 66B, § 5.07.

20 In subsection (b) of this section, the phrase “[u]nless otherwise provided
21 in this division” is substituted for the former phrase “[t]o the extent that
22 statutory control is in conformity with the provisions of this article” for
23 brevity and clarity.

24 Defined terms: “Local jurisdiction” § 1–101
25 “Subdivision” § 1–101

26 **SUBTITLE 2. PLAT APPROVAL.**

27 **5–201. FINAL PLAT APPROVAL — PROCEDURE AND EFFECT.**

28 **(A) DEADLINE; EXTENSION.**

29 **(1) (I) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF**
30 **AN APPLICANT HAS COMPLIED WITH ALL SUBDIVISION REGULATIONS, A**
31 **PLANNING COMMISSION SHALL APPROVE OR DISAPPROVE A FINAL PLAT WITHIN**

1 **30 DAYS AFTER THE APPLICANT SUBMITS THE FINAL PLAT TO THE PLANNING**
2 **COMMISSION.**

3 **(II) IF THE PLANNING COMMISSION DOES NOT APPROVE OR**
4 **DISAPPROVE THE PLAT WITHIN 30 DAYS, THE PLAT SHALL BE CONSIDERED**
5 **APPROVED AND THE PLANNING COMMISSION SHALL ISSUE A CERTIFICATE TO**
6 **THAT EFFECT ON DEMAND.**

7 **(2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, IF**
8 **THE PLANNING COMMISSION DOES NOT APPROVE OR DISAPPROVE THE PLAT**
9 **WITHIN 30 DAYS, AN APPLICANT FOR APPROVAL OF A FINAL PLAT MAY WAIVE**
10 **THIS REQUIREMENT AND CONSENT TO AN EXTENSION OF THE PERIOD FOR**
11 **APPROVAL.**

12 **(3) IF A FINAL PLAT IS DISAPPROVED, THE PLANNING**
13 **COMMISSION SHALL STATE THE GROUNDS FOR THE DISAPPROVAL IN THE**
14 **PLANNING COMMISSION'S RECORDS.**

15 **(B) EFFECT OF PLAT APPROVAL.**

16 **(1) EACH PLAT APPROVED BY THE PLANNING COMMISSION**
17 **SHALL, THROUGH THE APPROVAL, BE CONSIDERED:**

18 **(I) AN AMENDMENT OR A DETAIL OF THE COMPREHENSIVE**
19 **PLAN; AND**

20 **(II) A PART OF THE COMPREHENSIVE PLAN.**

21 **(2) APPROVAL OF A PLAT DOES NOT CONSTITUTE OR EFFECT AN**
22 **ACCEPTANCE BY THE PUBLIC OF ANY STREET OR OTHER OPEN SPACE SHOWN**
23 **ON THE PLAT.**

24 **(3) A PLANNING COMMISSION PERIODICALLY MAY RECOMMEND**
25 **TO THE LEGISLATIVE BODY AMENDMENTS OF THE ZONING LAW OR MAP TO**
26 **CONFORM TO THE PLANNING COMMISSION'S RECOMMENDATIONS FOR THE**
27 **ZONING REGULATION OF THE TERRITORY WITHIN APPROVED SUBDIVISIONS.**

28 **(C) AGREEMENT ON REQUIREMENTS OR RESTRICTIONS.**

29 **(1) A PLANNING COMMISSION MAY AGREE WITH AN APPLICANT**
30 **ON USE, HEIGHT, AREA, OR BULK REQUIREMENTS OR RESTRICTIONS THAT ARE**
31 **DESIGNED TO PROMOTE THE PURPOSES OF THE ZONING LAW OF THE LOCAL**
32 **JURISDICTION.**

1 **(2) (I) THE REQUIREMENTS OR RESTRICTIONS SHALL BE**
 2 **STATED ON THE PLAT BEFORE THE PLAT IS APPROVED AND RECORDED.**

3 **(II) THE REQUIREMENTS OR RESTRICTIONS SHALL HAVE**
 4 **THE SAME FORCE OF LAW, SHALL BE ENFORCEABLE IN THE SAME MANNER AND**
 5 **WITH THE SAME SANCTIONS AND PENALTIES, AND SHALL BE SUBJECT TO THE**
 6 **SAME POWER OF AMENDMENT OR REPEAL AS THOUGH PART OF THE ZONING**
 7 **LAW OR MAP OF THE LOCAL JURISDICTION.**

8 REVISOR'S NOTE: This section is new language derived without substantive
 9 change from former Art. 66B, § 5.04.

10 Defined terms: "Legislative body" § 1-101

11 "Local jurisdiction" § 1-101

12 "Plan" § 1-101

13 "Regulation" § 1-101

14 "Subdivision" § 1-101

15 "Zoning law" § 1-101

16 **5-202. FINAL PLAT APPROVAL — FILING.**

17 **(A) SCOPE OF SECTION.**

18 **THIS SECTION APPLIES ONLY WHERE A LEGISLATIVE BODY HAS:**

19 **(1) ADOPTED THE TRANSPORTATION ELEMENT OF THE**
 20 **COMPREHENSIVE PLAN OF ALL OR PART OF THE TERRITORY WITHIN ITS**
 21 **SUBDIVISION JURISDICTION; AND**

22 **(2) FILED A CERTIFIED COPY OF THE PLAN WITH THE CLERK OF**
 23 **THE CIRCUIT COURT OF THE COUNTY IN WHICH ALL OR PART OF THE**
 24 **TERRITORY IS LOCATED.**

25 **(B) FILING AND RECORDATION OF PLAT.**

26 **A PLAT OF A SUBDIVISION WITHIN THE TERRITORY OR PART MAY NOT BE**
 27 **FILED OR RECORDED UNTIL:**

28 **(1) THE PLANNING COMMISSION APPROVES THE PLAT; AND**

29 **(2) THE CHAIR OR SECRETARY OF THE PLANNING COMMISSION**
 30 **INDICATES AN APPROVAL IN WRITING ON THE PLAT.**

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 66B, § 5.02(a).

3 In subsection (b)(2) of this section, the reference to the "chair" is
4 substituted for the former reference to the "chairman" because SG § 2-
5 1238 requires the use of words that are neutral as to gender to the extent
6 practicable. *See* General Revisor's Note to article.

7 Defined terms: "County" § 1-101

8 "Legislative body" § 1-101

9 "Plan" § 1-101

10 "Subdivision" § 1-101

11 **5-203. FINAL PLAT APPROVAL — DELEGATION.**

12 **(A) IN GENERAL.**

13 **A PLANNING COMMISSION MAY AUTHORIZE AN ADMINISTRATIVE OFFICER**
14 **TO APPROVE SUBDIVISION PLATS AND SITE PLANS UNDER § 5-202 OF THIS**
15 **SUBTITLE IN ACCORDANCE WITH NONDISCRETIONARY CRITERIA ADOPTED AND**
16 **SPECIFIED BY LOCAL LAW.**

17 **(B) MEANS OF APPROVAL.**

18 **THE ADMINISTRATIVE OFFICER SHALL APPROVE A PLAT BY INDICATING**
19 **AN APPROVAL IN WRITING ON THE PLAT.**

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 66B, § 5.02(b).

22 In subsections (a) and (b) of this section, the former references to a
23 "zoning administrator" are deleted as included in the comprehensive
24 reference to an "administrative officer" for brevity.

25 Defined terms: "Local law" § 1-101

26 "Plan" § 1-101

27 "Subdivision" § 1-101

28 **5-204. TENTATIVE PLAT APPROVAL.**

29 **(A) IN GENERAL.**

30 **A PLANNING COMMISSION MAY PROVIDE IN THE SUBDIVISION**
31 **REGULATIONS OR PRACTICE FOR TENTATIVE APPROVAL OF A PLAT BEFORE**
32 **COMPLETION OF IMPROVEMENTS OR INSTALLATION OF UTILITIES.**

1 **(B) REVOCABILITY.**

2 **TENTATIVE APPROVAL OF A PLAT SHALL BE REVOCABLE AND MAY NOT BE**
3 **INDICATED ON THE PLAT.**

4 **(C) ALTERNATE FORMS OF SECURITY ACCEPTABLE.**

5 **(1) INSTEAD OF REQUIRING THE COMPLETION OF**
6 **IMPROVEMENTS AND INSTALLATION OF UTILITIES BEFORE THE FINAL**
7 **APPROVAL OF A PLAT, A PLANNING COMMISSION MAY ACCEPT SECURITY**
8 **APPROVED BY THE LOCAL JURISDICTION TO SECURE THE CONSTRUCTION OF**
9 **IMPROVEMENTS AND INSTALLATION OF UTILITIES.**

10 **(2) FORMS OF SECURITY ACCEPTED BY A PLANNING COMMISSION**
11 **UNDER PARAGRAPH (1) OF THIS SUBSECTION:**

12 **(I) SHALL SPECIFY THE TIME FOR COMPLETION AND**
13 **SPECIFICATIONS SET BY OR IN ACCORDANCE WITH THE SUBDIVISION**
14 **REGULATIONS OF THE PLANNING COMMISSION;**

15 **(II) MAY INCLUDE A BOND WITH SURETY, AN IRREVOCABLE**
16 **LETTER OF CREDIT, OR ANY OTHER FORM OF SECURITY APPROVED BY THE**
17 **LOCAL JURISDICTION; AND**

18 **(III) MAY BE ENFORCED BY ANY APPROPRIATE LEGAL OR**
19 **EQUITABLE REMEDY.**

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 66B, § 5.03(b)(2) and (3).

22 In subsection (a) of this section, the reference to "completion of
23 improvements or installation of utilities" is substituted for the former
24 reference to "installation" for clarity.

25 In subsection (c)(1) of this section, the former reference to security
26 "acceptable to" the local jurisdiction is deleted as included in the
27 reference to security "approved by" the local jurisdiction.

28 Also in subsection (c)(1) of this section, the former reference to security
29 provided "to the local jurisdiction" is deleted as unnecessary.

30 In subsection (c)(2)(i) of this section, the reference to "subdivision"
31 regulations is added for clarity.

1 Defined terms: "Local jurisdiction" § 1-101

2 "Regulation" § 1-101

3 "Subdivision" § 1-101

4 **SUBTITLE 3. UNAPPROVED PLATS AND SUBDIVISIONS.**

5 **5-301. SALE OR TRANSFER OF LOTS IN UNAPPROVED SUBDIVISIONS.**

6 **(A) CIVIL PENALTY FOR USE OF UNAPPROVED PLAT.**

7 **(1) EXCEPT AS OTHERWISE PROVIDED IN §§ 9-603, 9-806,**
8 **9-1004, 9-1605, 9-1606, AND 9-1607 OF THIS ARTICLE, AN OWNER OR AGENT**
9 **OF AN OWNER OF LAND LOCATED WITHIN A SUBDIVISION MAY NOT TRANSFER,**
10 **SELL, AGREE TO SELL, OR NEGOTIATE TO SELL LAND BY REFERENCE TO,**
11 **EXHIBITION OF, OR OTHER USE OF A PLAT OF A SUBDIVISION BEFORE THE PLAT**
12 **HAS BEEN:**

13 **(I) APPROVED BY THE PLANNING COMMISSION; AND**

14 **(II) RECORDED OR FILED IN THE OFFICE OF THE**
15 **APPROPRIATE COUNTY CLERK.**

16 **(2) A PERSON WHO VIOLATES THIS SUBSECTION IS SUBJECT TO A**
17 **CIVIL PENALTY OF NOT LESS THAN \$200 AND NOT EXCEEDING \$1,000 FOR EACH**
18 **VIOLATION.**

19 **(3) EACH LOT OR PARCEL TRANSFERRED OR SOLD OR AGREED**
20 **OR NEGOTIATED TO BE SOLD IN VIOLATION OF THIS SUBSECTION IS A SEPARATE**
21 **VIOLATION.**

22 **(B) METES AND BOUNDS DESCRIPTION.**

23 **THE DESCRIPTION OF A LOT OR PARCEL BY METES AND BOUNDS IN THE**
24 **INSTRUMENT OF TRANSFER OR OTHER DOCUMENT USED IN THE PROCESS OF**
25 **SELLING OR TRANSFERRING DOES NOT EXEMPT THE TRANSACTION FROM THE**
26 **PENALTIES OR REMEDIES PROVIDED IN THIS SECTION.**

27 **(C) REMEDIES.**

28 **A LOCAL JURISDICTION MAY SEEK TO:**

29 **(1) ENJOIN THE TRANSFER, SALE, OR AGREEMENT IN ANY**
30 **CIRCUIT COURT; OR**

1 **(2) RECOVER THE PENALTY BY CIVIL ACTION IN A COURT OF**
 2 **COMPETENT JURISDICTION.**

3 REVISOR'S NOTE: This section is new language derived without substantive
 4 change from former Art. 66B, § 5.05.

5 In subsection (c)(1) of this section, the reference to a "circuit court" is
 6 substituted for the former reference to a "court of equity" to reflect the
 7 merger of law and equity effected by Md. Rule 2-301, which mandates
 8 "one form of action known as the 'civil action'".

9 The Land Use Article Review Committee notes, for consideration by the
 10 General Assembly, that in subsection (c)(1) of this section, the prohibition
 11 against simple negotiation in advance of plat approval and recordation
 12 may run contrary to common commercial practice, as well as perhaps
 13 constituting a prior restraint on commercial speech. The General
 14 Assembly may wish to consider how closely the process of pre-recordation
 15 negotiation should be regulated, especially in the context of economic
 16 development and commercial enterprises. One option for the General
 17 Assembly to consider might be to allow the sale of property to be
 18 conditioned on final plat approval.

19 Defined terms: "County" § 1-101
 20 "Local jurisdiction" § 1-101
 21 "Person" § 1-101
 22 "Subdivision" § 1-101

23 **5-302. RECORDING UNAPPROVED SUBDIVISION PLAT.**

24 **(A) CIRCUIT COURT CLERK RECORDING PROHIBITION.**

25 **A CLERK OF THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE LOCAL**
 26 **JURISDICTION IS LOCATED MAY NOT RECORD A SUBDIVISION PLAT UNLESS THE**
 27 **PLAT HAS BEEN APPROVED BY THE PLANNING COMMISSION FOR THE LOCAL**
 28 **JURISDICTION IN THE MANNER REQUIRED BY LAW.**

29 **(B) LEGAL EFFECT.**

30 **A SUBDIVISION PLAT THAT IS RECORDED WITHOUT THE REQUIRED**
 31 **APPROVAL IS LIMITED TO THE LEGAL EFFECT OF AN UNRECORDED PLAT.**

32 REVISOR'S NOTE: This section formerly was Art. 66B, § 5.06.

33 In this section, the references to a "subdivision" plat are substituted for
 34 the former references to a plat "of a subdivision" for brevity.

1 In subsection (b) of this section, the phrase “is limited to the legal effect”
2 is substituted for the former phrase “has only the legal effect” for clarity.

3 The only other changes are in style.

4 Defined terms: “County” § 1-101
5 “Local jurisdiction” § 1-101
6 “Subdivision” § 1-101

7 **SUBTITLE 4. JUDICIAL REVIEW.**

8 **5-401. AUTHORIZED.**

9 **(A) BY CIRCUIT COURT.**

10 **A LEGISLATIVE BODY MAY AUTHORIZE JUDICIAL REVIEW BY THE CIRCUIT**
11 **COURT OF ANY MATTER ARISING UNDER THIS TITLE.**

12 **(B) MANNER.**

13 **THE JUDICIAL REVIEW SHALL BE IN ACCORDANCE WITH TITLE 7,**
14 **CHAPTER 200 OF THE MARYLAND RULES.**

15 **(C) FURTHER REVIEW.**

16 **A JUDGMENT OF THE CIRCUIT COURT UNDER THIS SECTION MAY BE**
17 **APPEALED TO THE COURT OF SPECIAL APPEALS.**

18 REVISOR’S NOTE: This section is new language added to provide a specific
19 reference to the availability and manner of judicial review of a
20 subdivision matter, as distinguished from the specific requirements for
21 judicial review of a zoning matter under Title 4, Subtitle 4 of this article.
22 It is patterned after former Art. 66B, § 4.08(f) and (a)(2). The Land Use
23 Article Review Committee brings this addition to the attention of the
24 General Assembly. No substantive change is intended.

25 In subsection (a) of this section, the reference to any matter arising under
26 “this title” is added to highlight the application of this provision and §
27 4-406 of this article to subdivision matters, as opposed to general
28 planning and zoning matters.

29 Defined term: “Legislative body” § 1-101

30 **TITLE 6. STREET PLANNING.**

1 **SUBTITLE 1. STREET RESERVATION.**

2 **6–101. SURVEY; RESERVATION PLAT.**

3 **AFTER ADOPTING THE TRANSPORTATION ELEMENT OF A**
4 **COMPREHENSIVE PLAN, A PLANNING COMMISSION PERIODICALLY MAY:**

5 **(1) CONDUCT SURVEYS TO LOCATE STREET LINES AND ANY**
6 **OTHER PART OF THE TRANSPORTATION ELEMENT; AND**

7 **(2) MAKE A RESERVATION PLAT OF THE AREA SURVEYED,**
8 **SHOWING THE LAND THAT THE PLANNING COMMISSION RECOMMENDS BE**
9 **RESERVED FOR FUTURE DEDICATION OR ACQUISITION AS PUBLIC STREETS AND**
10 **ANY OTHER PART OF THE TRANSPORTATION ELEMENT.**

11 REVISOR’S NOTE: This section is new language derived without substantive
12 change from former Art. 66B, § 6.01(a).

13 In the introductory language to this section, the reference to a
14 “comprehensive” plan is added for consistency within this division.

15 Also in the introductory language to this section, the former reference to
16 a plan “of the territory within its subdivision jurisdiction or of any major
17 section or district of its jurisdiction” is deleted as unnecessary.

18 In item (2) of this section, the reference to a “reservation” plat is added
19 for clarity.

20 Also in item (2) of this section, the former reference to the “district” is
21 deleted as included in the reference to the “area”.

22 Defined term: “Plan” § 1–101

23 **6–102. RESERVATION FOR FUTURE ACQUISITION.**

24 **(A) IN GENERAL.**

25 **ON APPROVAL AND ADOPTION OF A PLAT, STREETS LOCATED ON THE**
26 **PLAT ARE RESERVED FOR FUTURE ACQUISITION FOR PUBLIC USE.**

27 **(B) ADOPTION OF PLAT NOT ESTABLISHMENT OF STREET OR**
28 **ACQUISITION OF LAND.**

1 **THE APPROVAL AND ADOPTION OF A PLAT DOES NOT CONSTITUTE THE**
2 **ESTABLISHMENT OF A STREET OR ACQUISITION OF ANY LAND TO CREATE A**
3 **STREET, PUBLIC USE, OR PUBLIC IMPROVEMENT.**

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 66B, § 6.01(f)(1) and (2).

6 In subsection (a) of this section, the former reference to "taking" is
7 deleted as included in the reference to "acquisition".

8 In subsection (b) of this section, the reference to the "acquisition" of land
9 is substituted for the former reference to the "taking" of land for
10 consistency within this section.

11 Also in subsection (b) of this section, the former reference to "opening" a
12 street is deleted as included in the reference to "establish[ing]" a street.

13 **6-103. PUBLIC HEARING.**

14 **(A) REQUIRED.**

15 **BEFORE ADOPTING A PLAT, A PLANNING COMMISSION SHALL HOLD A**
16 **PUBLIC HEARING ON THE PLAT.**

17 **(B) NOTICE.**

18 **AT LEAST 10 DAYS BEFORE THE PUBLIC HEARING, THE PLANNING**
19 **COMMISSION SHALL PUBLISH A NOTICE OF THE TIME AND PLACE OF THE**
20 **HEARING, WITH A GENERAL DESCRIPTION OF THE AREA COVERED BY THE PLAT,**
21 **IN A NEWSPAPER OF GENERAL CIRCULATION IN THE LOCAL JURISDICTION IN**
22 **WHICH THE AREA IS LOCATED.**

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 66B, § 6.01(b).

25 In subsection (a) of this section, the reference to holding a public hearing
26 "on the plat" is added for clarity.

27 In subsection (b) of this section, the former references to the "district" are
28 deleted as included in the references to the "area".

29 Defined term: "Local jurisdiction" § 1-101

30 **6-104. LEGISLATIVE BODY.**

1 **(A) TRANSMISSION OF PLAT.**

2 **AFTER THE PUBLIC HEARING UNDER § 6-103 OF THIS SUBTITLE, THE**
3 **PLANNING COMMISSION MAY TRANSMIT THE PLAT, AS ORIGINALLY MADE OR AS**
4 **AMENDED BY THE PLANNING COMMISSION, TO THE LEGISLATIVE BODY WITH**
5 **THE PLANNING COMMISSION'S ESTIMATE OF THE SCHEDULE BY WHICH THE**
6 **LOCAL JURISDICTION SHOULD ACQUIRE THE RESERVED LAND.**

7 **(B) APPROVAL AND ADOPTION.**

8 **AFTER RECEIVING THE PLAT FROM THE PLANNING COMMISSION, THE**
9 **LEGISLATIVE BODY, BY RESOLUTION, MAY:**

10 **(1) APPROVE AND ADOPT THE PLAT;**

11 **(2) DISAPPROVE THE PLAT;**

12 **(3) MODIFY THE PLAT WITH THE APPROVAL OF THE PLANNING**
13 **COMMISSION; OR**

14 **(4) ADOPT A MODIFIED PLAT, NOTWITHSTANDING THE PRIOR**
15 **DISAPPROVAL OF THE MODIFICATION BY THE PLANNING COMMISSION, WITH A**
16 **FAVORABLE VOTE OF AT LEAST TWO-THIRDS OF THE ENTIRE MEMBERSHIP OF**
17 **THE LEGISLATIVE BODY.**

18 **(C) DURATION OF RESERVATION.**

19 **IN THE RESOLUTION ADOPTING THE PLAT, THE LEGISLATIVE BODY SHALL**
20 **ESTABLISH THE PERIOD FOR WHICH LAND IS TO BE RESERVED UNDER § 6-102**
21 **OF THIS SUBTITLE.**

22 **(D) PROCEDURES.**

23 **AFTER THE PLAT IS ADOPTED, THE CLERK OF THE LEGISLATIVE BODY**
24 **SHALL:**

25 **(1) TRANSMIT ONE ATTESTED COPY OF THE PLAT TO THE CLERK**
26 **OF THE CIRCUIT COURT OF EACH COUNTY IN WHICH THE PLATTED LAND IS**
27 **LOCATED; AND**

28 **(2) KEEP ONE COPY OF THE PLAT FOR PUBLIC EXAMINATION.**

29 **REVISOR'S NOTE: This section is new language derived without substantive**
30 **change from former Art. 66B, § 6.01(c) through (e).**

1 In subsection (a) of this section, the reference to “reserved land” is
2 substituted for the former reference to “lands shown on the plat as street
3 locations” for brevity.

4 In the introductory language to subsection (b) of this section, the former
5 reference to the “transmitted” plat is deleted as surplusage.

6 In subsection (b)(4) of this section, the phrase “notwithstanding the prior
7 disapproval of the modification by the planning commission” is
8 substituted for the former phrase “[i]f the planning commission
9 disapproves the plat” for clarity.

10 In subsection (c) of this section, the reference to the period for which
11 “land is to be reserved under § 6–102 of this subtitle” is substituted for
12 the former reference to the period for which “the street locations shown
13 on the plat shall be reserved for future taking or acquisition for public
14 use” for brevity.

15 In subsection (d)(1) of this section, the reference to the “clerk of the circuit
16 court of” each county is substituted for the former reference to the
17 “county recorder of” each county for clarity and accuracy.

18 Defined terms: “County” § 1–101
19 “Legislative body” § 1–101
20 “Local jurisdiction” § 1–101

21 **6–105. NEGOTIATION WITH LANDOWNERS.**

22 **(A) CLAIMS FOR DAMAGES OR COMPENSATION.**

23 **A PLANNING COMMISSION MAY NEGOTIATE FOR OR SECURE FROM THE**
24 **OWNER OF RESERVED LAND:**

25 **(1) A RELEASE OF CLAIMS FOR DAMAGES OR COMPENSATION FOR**
26 **THE RESERVATION OF THE LAND; OR**

27 **(2) AN AGREEMENT INDEMNIFYING THE LOCAL JURISDICTION**
28 **FROM CLAIMS BY OTHERS FOR DAMAGES OR COMPENSATION.**

29 **(B) BINDING ON LANDOWNER AND SUCCESSORS.**

30 **A NEGOTIATED RELEASE OR AGREEMENT SHALL BIND THE LANDOWNER**
31 **EXECUTING THE RELEASE OR AGREEMENT AND THE LANDOWNER’S**
32 **SUCCESSORS IN TITLE.**

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 66B, § 6.01(f)(3).

3 In the introductory language to subsection (a) of this section, the former
4 phrase "[a]t any time" is deleted as unnecessary.

5 Also in the introductory language to subsection (a) of this section, the
6 former reference to land reserved "for the location of a street" is deleted
7 as unnecessary.

8 Defined term: "Local jurisdiction" § 1-101

9 **6-106. MODIFICATION OF PLAT.**

10 **(A) AGREEMENT.**

11 **AT ANY TIME AFTER THE FILING OF A PLAT WITH THE CLERK OF THE**
12 **CIRCUIT COURT OF THE COUNTY AND DURING THE PERIOD SPECIFIED FOR THE**
13 **RESERVATION, A PLANNING COMMISSION AND THE OWNER OF RESERVED LAND**
14 **MAY AGREE TO MODIFY THE LOCATION OF THE LINES OF A PROPOSED STREET.**

15 **(B) RELEASE OF CLAIMS.**

16 **AN AGREEMENT TO MODIFY THE LOCATION SHALL INCLUDE A RELEASE**
17 **BY THE LANDOWNER OF ANY CLAIM FOR COMPENSATION OR DAMAGES CAUSED**
18 **BY THE MODIFICATION.**

19 **(C) PROCEDURES.**

20 **(1) AFTER THE RELEASE IS EXECUTED, THE PLANNING**
21 **COMMISSION MAY MAKE A PLAT CORRESPONDING TO THE MODIFICATION AND**
22 **TRANSMIT THE PLAT TO THE LEGISLATIVE BODY FOR APPROVAL.**

23 **(2) IF THE LEGISLATIVE BODY APPROVES THE MODIFIED PLAT,**
24 **THE CLERK OF THE LEGISLATIVE BODY SHALL TRANSMIT AN ATTESTED COPY OF**
25 **THE MODIFIED PLAT TO THE CLERK OF THE CIRCUIT COURT OF THE COUNTY IN**
26 **WHICH THE LOCAL JURISDICTION IS LOCATED.**

27 **(3) THE MODIFIED PLAT SHALL SUPERSEDE THE ORIGINAL OR**
28 **PRIOR PLAT.**

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 66B, § 6.01(g).

1 In subsection (a) of this section, the reference to “reserved land” is
 2 substituted for the former reference to “any land containing a reserved
 3 street location” for brevity.

4 In subsection (c)(3) of this section, the reference to a “prior” plat is added
 5 for clarity.

6 Also in subsection (c)(3) of this section, the reference to “supersed[ing]” a
 7 plat is substituted for the former reference to “replac[ing]” a plat for
 8 accuracy.

9 Defined terms: “County” § 1–101
 10 “Legislative body” § 1–101
 11 “Local jurisdiction” § 1–101

12 **6–107. ABANDONMENT OF RESERVATION.**

13 **THE LEGISLATIVE BODY, BY RESOLUTION, MAY ABANDON A RESERVATION**
 14 **AND CERTIFY THE ABANDONMENT TO THE CLERK OF THE CIRCUIT COURT OF**
 15 **THE COUNTY IN WHICH THE LOCAL JURISDICTION IS LOCATED.**

16 REVISOR’S NOTE: This section formerly was Art. 66B, § 6.01(h).

17 The former phrase “[a]t any time” is deleted as surplusage.

18 The only other changes are in style.

19 Defined terms: “County” § 1–101
 20 “Legislative body” § 1–101
 21 “Local jurisdiction” § 1–101

22 **SUBTITLE 2. DEVELOPMENT RESTRICTIONS.**

23 **6–201. “APPELLATE BOARD” DEFINED.**

24 **IN THIS SUBTITLE, “APPELLATE BOARD” MEANS:**

25 **(1) THE BOARD OF APPEALS OF A LOCAL JURISDICTION**
 26 **ESTABLISHED UNDER TITLE 4, SUBTITLE 3 OF THIS ARTICLE; OR**

27 **(2) A SPECIAL BOARD OF APPEALS CREATED TO CONSIDER**
 28 **APPEALS UNDER THIS SUBTITLE.**

29 REVISOR’S NOTE: This section is new language derived without substantive
 30 change from the introductory language to former Art. 66B, § 6.02(b)(1), as
 31 it related to the unit with jurisdiction over appeals under this subtitle.

1 In item (1) of this section, the reference to a board of appeals “established
2 under Title 4, Subtitle 3 of this article” is added for clarity.

3 In item (2) of this section, the reference to a special board created “to
4 consider appeals under this subtitle” is substituted for the former
5 reference to a special board created “for the purpose by the local
6 legislative body” for clarity.

7 The Land Use Article Review Committee notes, for consideration by the
8 General Assembly, that it is unclear whether any local jurisdiction has
9 actually created a special board under item (2) of this section, or whether
10 all local jurisdictions subject to this division use for this purpose a board
11 of appeals established under Title 4, Subtitle 3 of this article. If no local
12 jurisdiction has created such a special board, the General Assembly may
13 wish to consider repealing this definition and substituting the term
14 “board of appeals” for the term “appellate board” throughout this subtitle.

15 Defined term: “Local jurisdiction” § 1–101

16 **6–202. DEVELOPMENT PROHIBITED IN RESERVED AREAS.**

17 **EXCEPT AS OTHERWISE PROVIDED IN § 6–203 OF THIS SUBTITLE, AFTER**
18 **RECORDING A RESERVATION PLAT APPROVED BY A LEGISLATIVE BODY UNDER**
19 **SUBTITLE 1 OF THIS TITLE, A LOCAL JURISDICTION MAY NOT ISSUE A PERMIT**
20 **TO DEVELOP ANY PART OF THE LAND BETWEEN THE LINES OF A PROPOSED**
21 **STREET AS PLATTED.**

22 REVISOR’S NOTE: This section formerly was Art. 66B, § 6.02(a).

23 The reference to a “reservation” plat is substituted for the former
24 reference to a “street” plat for consistency within this title.

25 The only other changes are in style.

26 Defined terms: “Legislative body” § 1–101
27 “Local jurisdiction” § 1–101

28 **6–203. DEVELOPMENT PERMIT.**

29 **(A) AUTHORIZED; HEARING REQUIRED.**

30 **THE APPELLATE BOARD OF THE LOCAL JURISDICTION WHERE A PLATTED**
31 **STREET IS LOCATED MAY GRANT A PERMIT TO DEVELOP A PLATTED STREET ON**
32 **AN APPEAL FILED BY THE OWNER OF THE LAND ON WHICH THE STREET IS**
33 **LOCATED:**

1 **(1) AFTER A HEARING AT WHICH THE PARTIES IN INTEREST HAVE**
2 **AN OPPORTUNITY TO BE HEARD; AND**

3 **(2) BY A VOTE OF A MAJORITY OF THE AUTHORIZED MEMBERSHIP**
4 **OF THE APPELLATE BOARD.**

5 **(B) NOTICE.**

6 **AT LEAST 15 DAYS BEFORE THE HEARING REQUIRED UNDER SUBSECTION**
7 **(A) OF THIS SECTION, THE APPELLATE BOARD SHALL:**

8 **(1) MAIL TO THE APPELLANT, AT THE ADDRESS SPECIFIED IN THE**
9 **APPEAL PETITION, NOTICE OF THE TIME AND PLACE OF THE HEARING; AND**

10 **(2) PUBLISH A NOTICE OF THE HEARING IN A NEWSPAPER OF**
11 **GENERAL CIRCULATION IN THE LOCAL JURISDICTION.**

12 **(C) REQUIRED FINDINGS.**

13 **(1) IN ORDER TO GRANT A DEVELOPMENT PERMIT, THE**
14 **APPELLATE BOARD SHALL FIND FROM THE EVIDENCE AND ARGUMENTS**
15 **PRESENTED ON APPEAL THAT:**

16 **(I) THE ENTIRE PROPERTY OF THE APPELLANT, OF WHICH**
17 **THE RESERVED STREET LOCATION FORMS A PART, CANNOT YIELD A**
18 **REASONABLE RETURN TO THE OWNER UNLESS THE PERMIT IS GRANTED; AND**

19 **(II) AFTER BALANCING THE INTERESTS OF THE LOCAL**
20 **JURISDICTION AND THE APPELLANT, THE PERMIT IS REQUIRED BY**
21 **REASONABLE JUSTICE AND EQUITY.**

22 **(2) IN BALANCING THE INTERESTS OF EACH PARTY, THE**
23 **APPELLATE BOARD SHALL CONSIDER:**

24 **(I) THE INTEREST OF THE LOCAL JURISDICTION IN**
25 **PRESERVING THE INTEGRITY OF THE STREET PLAT AND COMPREHENSIVE PLAN;**
26 **AND**

27 **(II) THE INTEREST OF THE APPELLANT IN THE USE OF THE**
28 **PROPERTY AND IN THE BENEFITS OF PROPERTY OWNERSHIP.**

29 **(D) SPECIFICATIONS; CONDITIONS.**

1 **IF THE APPELLATE BOARD GRANTS A DEVELOPMENT PERMIT, THE**
2 **APPELLATE BOARD:**

3 **(1) SHALL SPECIFY THE EXACT LOCATION, GROUND AREA,**
4 **HEIGHT, AND OTHER DETAILS OF THE DEVELOPMENT; AND**

5 **(2) MAY IMPOSE REASONABLE REQUIREMENTS BENEFITING THE**
6 **LOCAL JURISDICTION AS A CONDITION OF GRANTING THE PERMIT.**

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 66B, § 6.02(b).

9 In subsection (a)(2) of this section, the reference to a vote of the
10 "authorized membership" of the appellate board is substituted for the
11 former reference to the vote of the "members" of the appellate board for
12 clarity. No substantive change is intended. The Land Use Article Review
13 Committee brings this substitution to the attention of the General
14 Assembly.

15 In subsection (c)(1)(ii) and (2)(ii) of this section, the references to the
16 "appellant" are substituted for the former reference to the "owner of the
17 property" for brevity and consistency with subsection (b)(1) of this
18 section.

19 In subsection (c)(2)(i) of this section, the reference to the "comprehensive"
20 plan is substituted for the former reference to the "municipal" plan for
21 clarity.

22 In subsection (d)(1) of this section, the former reference to the
23 development "for which the permit is granted" is deleted as surplusage.

24 Defined terms: "Appellate board" § 6-201

25 "Development" § 1-101

26 "Local jurisdiction" § 1-101

27 "Plan" § 1-101

28 **6-204. DEVELOPMENT PROHIBITIONS; OFFICIAL MAP.**

29 **(A) PUBLIC UTILITIES OR IMPROVEMENTS.**

30 **A PUBLIC SEWER OR OTHER PUBLIC STREET UTILITY OR IMPROVEMENT**
31 **MAY NOT BE CONSTRUCTED IN A STREET OR HIGHWAY UNTIL THE STREET OR**
32 **HIGHWAY IS PLACED ON THE OFFICIAL MAP.**

33 **(B) ACCESS REQUIRED FOR DEVELOPMENT.**

1 **A DEVELOPMENT PERMIT MAY NOT BE ISSUED UNLESS A STREET OR**
 2 **HIGHWAY GIVING ACCESS TO THE PROPOSED DEVELOPMENT HAS BEEN PLACED**
 3 **ON THE OFFICIAL MAP.**

4 **(C) APPEALS.**

5 **(1) AN APPLICANT FOR A PERMIT MAY APPEAL FROM A DECISION**
 6 **OF THE ADMINISTRATIVE OFFICER IN CHARGE OF ISSUING PERMITS TO AN**
 7 **APPELLATE BOARD IF:**

8 **(I) THE ENFORCEMENT OF THIS SECTION WOULD ENTAIL**
 9 **EXCEPTIONAL DIFFICULTY OR UNWARRANTED HARDSHIP; AND**

10 **(II) THE CIRCUMSTANCES DO NOT REQUIRE THE**
 11 **DEVELOPMENT TO BE RELATED TO EXISTING OR PROPOSED STREETS OR**
 12 **HIGHWAYS.**

13 **(2) IN DECIDING AN APPEAL UNDER THIS SUBSECTION, THE**
 14 **APPELLATE BOARD MAY MAKE ANY REASONABLE EXCEPTION AND ISSUE THE**
 15 **PERMIT SUBJECT TO CONDITIONS THAT WILL PROTECT ANY FUTURE STREET OR**
 16 **HIGHWAY LAYOUT.**

17 **(3) A DECISION RENDERED UNDER THIS SUBSECTION SHALL BE**
 18 **SUBJECT TO JUDICIAL REVIEW IN THE SAME MANNER AND SUBJECT TO THE**
 19 **SAME PROVISIONS OF LAW AS A DECISION OF A BOARD OF APPEALS ON ZONING**
 20 **REGULATIONS UNDER TITLE 4, SUBTITLE 4 OF THIS ARTICLE.**

21 REVISOR'S NOTE: This section is new language derived without substantive
 22 change from former Art. 66B, § 6.03.

23 In subsection (c)(1) and (2) of this section, the defined term "appellate
 24 board" is substituted for the former references to a "board of appeals" for
 25 clarity.

26 In subsection (c)(3) of this section, the reference to an appeal from a
 27 decision "under Title 4, Subtitle 4 of this article" is added for clarity.

28 The Land Use Article Review Committee notes, for the consideration of
 29 the General Assembly, that in subsection (a) of this section the identity of
 30 the "official map" and its relationship to a capital acquisition or
 31 improvement plan of a local jurisdiction are unclear.

32 Defined terms: "Appellate board" § 6-201
 33 "Development" § 1-101

1 “Regulation” § 1–101

2 **TITLE 7. OTHER DEVELOPMENT MANAGEMENT TOOLS.**

3 **SUBTITLE 1. DEVELOPMENT MECHANISMS.**

4 **7–101. LOCAL AUTHORITY.**

5 **TO ENCOURAGE THE PRESERVATION OF NATURAL RESOURCES OR THE**
6 **PROVISION OF AFFORDABLE HOUSING AND TO FACILITATE ORDERLY**
7 **DEVELOPMENT AND GROWTH, A LOCAL JURISDICTION THAT EXERCISES**
8 **AUTHORITY GRANTED BY THIS DIVISION MAY ENACT, AND IS ENCOURAGED TO**
9 **ENACT, LOCAL LAWS PROVIDING FOR OR REQUIRING:**

10 **(1) THE PLANNING, STAGING, OR PROVISION OF ADEQUATE**
11 **PUBLIC FACILITIES AND AFFORDABLE HOUSING;**

12 **(2) OFF–SITE IMPROVEMENTS OR THE DEDICATION OF LAND FOR**
13 **PUBLIC FACILITIES ESSENTIAL FOR A DEVELOPMENT;**

14 **(3) MODERATELY PRICED DWELLING UNIT PROGRAMS;**

15 **(4) MIXED USE DEVELOPMENTS;**

16 **(5) CLUSTER DEVELOPMENTS;**

17 **(6) PLANNED UNIT DEVELOPMENTS;**

18 **(7) ALTERNATIVE SUBDIVISION REQUIREMENTS THAT:**

19 **(I) MEET MINIMUM PERFORMANCE STANDARDS SET BY THE**
20 **LOCAL JURISDICTION; AND**

21 **(II) REDUCE INFRASTRUCTURE COSTS;**

22 **(8) FLOATING ZONES;**

23 **(9) INCENTIVE ZONING; AND**

24 **(10) PERFORMANCE ZONING.**

25 REVISOR’S NOTE: This section formerly was Art. 66B, § 10.01(a).

1 In the introductory language to this section, the defined term “local
2 law[s]” is substituted for the former reference to “ordinances or laws” for
3 consistency within this division.

4 The only other changes are in style.

5 Defined terms: “Development” § 1–101

6 “Local jurisdiction” § 1–101

7 “Local law” § 1–101

8 “Subdivision” § 1–101

9 **7–102. TRANSFER OF REAL PROPERTY.**

10 **NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A LEGISLATIVE BODY**
11 **THAT EXERCISES AUTHORITY GRANTED BY THIS DIVISION MAY ENACT LOCAL**
12 **LAWS PROVIDING FOR THE TRANSFER, WITH OR WITHOUT CONSIDERATION, OF**
13 **REAL PROPERTY BELONGING TO THE LOCAL JURISDICTION TO A PUBLIC OR**
14 **PRIVATE ENTITY, TO USE IN DEVELOPING OR PRESERVING AFFORDABLE**
15 **HOUSING.**

16 REVISOR’S NOTE: This section formerly was Art. 66B, § 10.01(b).

17 The defined term “local law[s]” is substituted for the former reference to
18 “ordinances or laws” for consistency within this division.

19 The only other changes are in style.

20 Defined terms: “Legislative body” § 1–101

21 “Local jurisdiction” § 1–101

22 “Local law” § 1–101

23 **7–103. SCOPE OF AUTHORITY.**

24 **THE AUTHORITY GRANTED UNDER THIS SUBTITLE IS NOT INTENDED TO**
25 **LIMIT A LOCAL JURISDICTION’S AUTHORITY TO:**

26 **(1) EXERCISE ANY PLANNING AND ZONING POWERS NOT**
27 **EXPRESSLY AUTHORIZED UNDER THIS SUBTITLE; OR**

28 **(2) ADOPT OTHER METHODS TO:**

29 **(I) FACILITATE ORDERLY DEVELOPMENT AND GROWTH;**

30 **(II) ENCOURAGE THE PRESERVATION OF NATURAL**
31 **RESOURCES; OR**

1 **(III) PROVIDE AFFORDABLE HOUSING.**

2 REVISOR'S NOTE: This section formerly was Art. 66B, § 10.01(c).

3 The only changes are in style.

4 Defined terms: "Development" § 1-101

5 "Local jurisdiction" § 1-101

6 **7-104. RESTRICTION IN PRIORITY FUNDING AREA — REPORTS.**

7 **(A) "RESTRICTION" DEFINED.**

8 **IN THIS SECTION, "RESTRICTION" MEANS A RESTRICTION, MORATORIUM,**
9 **OR CAPACITY LIMITATION IMPOSED ON DEVELOPMENT AS A RESULT OF A LOCAL**
10 **LAW ENACTED UNDER THIS SUBTITLE.**

11 **(B) BY LOCAL JURISDICTION.**

12 **(1) IF AN ADEQUATE PUBLIC FACILITY LAW HAS RESULTED IN A**
13 **RESTRICTION WITHIN A PRIORITY FUNDING AREA, ON OR BEFORE JULY 1**
14 **EVERY 2 YEARS, A LOCAL JURISDICTION SHALL REPORT ON THE RESTRICTION**
15 **TO THE DEPARTMENT OF PLANNING.**

16 **(2) THE REPORT SHALL INCLUDE:**

17 **(I) THE LOCATION OF THE RESTRICTION;**

18 **(II) THE TYPE OF INFRASTRUCTURE AFFECTED BY THE**
19 **RESTRICTION;**

20 **(III) THE PROPOSED RESOLUTION OF THE RESTRICTION, IF**
21 **AVAILABLE;**

22 **(IV) THE ESTIMATED DATE FOR THE RESOLUTION OF THE**
23 **RESTRICTION, IF AVAILABLE;**

24 **(V) IF A RESTRICTION WAS LIFTED, THE DATE THE**
25 **RESTRICTION WAS LIFTED; AND**

26 **(VI) THE LOCAL LAW OR RESOLUTION THAT LIFTED THE**
27 **RESTRICTION.**

1 **(C) BY DEPARTMENT OF PLANNING.**

2 **(1) ON OR BEFORE JANUARY 1 EVERY 2 YEARS, THE**
 3 **DEPARTMENT OF PLANNING SHALL PREPARE AND PUBLISH A REPORT ON THE**
 4 **STATEWIDE IMPACTS OF ADEQUATE PUBLIC FACILITY LAWS.**

5 **(2) THE REPORT SHALL INCLUDE THE IDENTIFICATION OF:**

6 **(I) GEOGRAPHIC AREAS AND FACILITIES WITHIN PRIORITY**
 7 **FUNDING AREAS THAT FAIL TO MEET LOCAL ADEQUATE PUBLIC FACILITY**
 8 **STANDARDS; AND**

9 **(II) IMPROVEMENTS TO FACILITIES SCHEDULED OR**
 10 **PROPOSED IN THE LOCAL JURISDICTION'S CAPITAL IMPROVEMENT PROGRAM.**

11 REVISOR'S NOTE: This section is new language derived without substantive
 12 change from former Art. 66B, § 10.01(d)(2), (3), and (1)(i) and (iii).

13 In subsection (a) of this section, the phrase "local law enacted" is
 14 substituted for the former phrase "ordinance or law adopted" for
 15 consistency within this division.

16 In subsections (b)(1) and (c)(1) of this section, the references to an
 17 "adequate public facility law" are substituted for the former references to
 18 an "adequate public facilit[y] ordinance" for consistency with the term
 19 "local law" defined in § 1-101 of this article.

20 In subsection (b)(2)(vi) of this section, the reference to a "local law" is
 21 added for clarity.

22 The Land Use Article Review Committee notes, for consideration by the
 23 General Assembly, that in subsection (b) of this section, it is unclear
 24 whether the required reporting of restrictions and their resolution also
 25 requires reporting of waivers granted to the provisions of a restriction.
 26 The General Assembly may wish to explicitly include a reference to the
 27 reporting of such waivers.

28 Former Art. 66B, § 10.01(d)(1)(ii), which defined "priority funding area",
 29 is revised in § 1-101 of this article.

30 Defined terms: "Development" § 1-101

31 "Local jurisdiction" § 1-101

32 "Local law" § 1-101

33 "Priority funding area" § 1-101

34 **SUBTITLE 2. TRANSFER OF DEVELOPMENT RIGHTS.**

1 **7-201. LOCAL AUTHORITY.**

2 **A LEGISLATIVE BODY THAT EXERCISES AUTHORITY GRANTED BY THIS**
 3 **DIVISION MAY ESTABLISH A PROGRAM FOR THE TRANSFER OF DEVELOPMENT**
 4 **RIGHTS TO:**

5 **(1) ENCOURAGE THE PRESERVATION OF NATURAL RESOURCES;**
 6 **AND**

7 **(2) FACILITATE ORDERLY GROWTH AND DEVELOPMENT IN THE**
 8 **STATE.**

9 REVISOR'S NOTE: This section formerly was Art. 66B, § 11.01(a).

10 The only changes are in style.

11 The Land Use Article Review Committee notes, for consideration by the
 12 General Assembly, that programs for the transfer of development rights
 13 often intersect with the programs for the preservation of open space and
 14 agricultural land. The General Assembly may wish to consider explicitly
 15 including a reference to these and other development management
 16 programs and techniques in the purposes for which a legislative body
 17 may adopt a program under this section.

18 Defined terms: "Development" § 1-101

19 "Legislative body" § 1-101

20 "State" § 1-101

21 **7-202. PRIORITY FUNDING AREAS.**

22 **(A) "PUBLIC FACILITY" DEFINED.**

23 **IN THIS SUBSECTION, "PUBLIC FACILITY" INCLUDES:**

24 **(1) RECREATIONAL FACILITIES;**

25 **(2) TRANSPORTATION FACILITIES AND TRANSIT-ORIENTED**
 26 **DEVELOPMENT; AND**

27 **(3) SCHOOLS AND EDUCATIONAL FACILITIES.**

28 **(B) AUTHORITY.**

1 **A LEGISLATIVE BODY THAT EXERCISES AUTHORITY GRANTED BY THIS**
2 **DIVISION MAY ESTABLISH A PROGRAM FOR THE TRANSFER OF DEVELOPMENT**
3 **RIGHTS WITHIN A PRIORITY FUNDING AREA TO ASSIST A LOCAL JURISDICTION**
4 **IN THE ACQUISITION OF LAND FOR THE CONSTRUCTION OF A PUBLIC FACILITY**
5 **WITHIN A PRIORITY FUNDING AREA.**

6 **(C) USE OF PROCEEDS.**

7 **(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
8 **SUBSECTION, PROCEEDS OF THE SALE OF DEVELOPMENT RIGHTS SHALL BE**
9 **USED TO ASSIST IN:**

10 **(I) THE ACQUISITION OF THE PUBLIC SITE; OR**

11 **(II) THE CONSTRUCTION OF THE PUBLIC FACILITY.**

12 **(2) FOR SCHOOLS AND EDUCATIONAL FACILITIES, PROCEEDS OF**
13 **THE SALE OF DEVELOPMENT RIGHTS MAY ONLY BE USED TO ASSIST IN THE**
14 **ACQUISITION OF THE LAND ON WHICH THE SCHOOL OR EDUCATIONAL FACILITY**
15 **WILL BE LOCATED.**

16 **(D) LIMITATIONS ON SALE.**

17 **(1) ANY DEVELOPMENT RIGHTS SOLD UNDER THIS SECTION MAY**
18 **ONLY BE TRANSFERRED WITHIN A PRIORITY FUNDING AREA.**

19 **(2) DEVELOPMENT RIGHTS ASSOCIATED WITH EXISTING PUBLIC**
20 **LAND THAT IS OWNED BY A LOCAL JURISDICTION ON OCTOBER 1, 2009, MAY**
21 **NOT BE SOLD OR TRANSFERRED UNDER THIS SECTION.**

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 66B, § 11.01(b)(2) through (5) and (1)(i) and (iii).

24 In subsections (b) and (c) of this section, the references to "acquisition"
25 are substituted for the former references to "purchase" for clarity and
26 accuracy.

27 In subsection (c)(2) of this section, the phrase "may only" is substituted
28 for the former word "shall" for clarity. Similarly, in subsection (d)(1) of
29 this section, the phrase "may only" is substituted for the former phrase
30 "shall only".

31 Former Art. 66B, § 11.01(b)(1)(ii), which defined "priority funding area",
32 is revised in § 1-101 of this article.

1 Defined terms: “Development” § 1–101
2 “Legislative body” § 1–101
3 “Local jurisdiction” § 1–101
4 “Priority funding area” § 1–101

5 **SUBTITLE 3. DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENTS.**

6 **7–301. DEFINITIONS.**

7 **(A) IN GENERAL.**

8 **IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
9 **INDICATED.**

10 REVISOR’S NOTE: This subsection formerly was Art. 66B, § 13.01(a)(1).

11 The only change is in style.

12 **(B) DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENT.**

13 **“DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENT” OR**
14 **“AGREEMENT” MEANS AN AGREEMENT BETWEEN A LOCAL GOVERNING BODY**
15 **AND A PERSON HAVING A LEGAL OR EQUITABLE INTEREST IN REAL PROPERTY**
16 **TO ESTABLISH CONDITIONS UNDER WHICH DEVELOPMENT MAY PROCEED FOR A**
17 **SPECIFIED TIME.**

18 REVISOR’S NOTE: This subsection is new language derived without
19 substantive change from former Art. 66B, §§ 1.00(d) and 13.01(a)(2).

20 The defined term “local governing body” is substituted for the former
21 reference to a “governmental body of a jurisdiction” for brevity and
22 clarity.

23 Defined terms: “Development” § 1–101
24 “Development rights and responsibilities agreement” § 7–301
25 “Local governing body” § 7–301
26 “Person” § 1–101

27 **(C) LOCAL GOVERNING BODY.**

28 **“LOCAL GOVERNING BODY” MEANS THE LEGISLATIVE BODY, THE LOCAL**
29 **EXECUTIVE, OR OTHER ELECTED GOVERNMENTAL BODY THAT HAS ZONING**
30 **POWERS UNDER THIS DIVISION.**

1 REVISOR'S NOTE: This subsection formerly was Art. 66B, § 13.01(a)(3).

2 The word "local" is added to the defined term "governing body" for clarity.

3 The only other changes are in style.

4 Defined terms: "Legislative body" § 1-101

5 "Local executive" § 1-101

6 **(D) PUBLIC PRINCIPAL.**

7 **"PUBLIC PRINCIPAL" MEANS THE GOVERNMENTAL ENTITY OF A LOCAL**
8 **JURISDICTION THAT HAS BEEN GRANTED THE AUTHORITY TO ENTER**
9 **AGREEMENTS UNDER § 7-302(A) OF THIS SUBTITLE.**

10 REVISOR'S NOTE: This subsection formerly was Art. 66B, § 13.01(a)(4).

11 The only change is in style.

12 Defined terms: "Agreement" § 7-301

13 "Local jurisdiction" § 1-101

14 **7-302. POWERS.**

15 **(A) OF LOCAL GOVERNING BODY.**

16 **SUBJECT TO §§ 7-303 THROUGH 7-305 OF THIS SUBTITLE, THE LOCAL**
17 **GOVERNING BODY OF A LOCAL JURISDICTION MAY:**

18 **(1) BY LOCAL LAW, ESTABLISH PROCEDURES AND**
19 **REQUIREMENTS FOR THE CONSIDERATION AND EXECUTION OF AGREEMENTS;**
20 **AND**

21 **(2) DELEGATE ALL OR PART OF THE AUTHORITY ESTABLISHED**
22 **UNDER THE LOCAL LAW TO A PUBLIC PRINCIPAL WITHIN THE JURISDICTION OF**
23 **THE LOCAL GOVERNING BODY.**

24 **(B) OF PUBLIC PRINCIPAL.**

25 **THE PUBLIC PRINCIPAL MAY:**

26 **(1) EXECUTE AGREEMENTS FOR REAL PROPERTY LOCATED**
27 **WITHIN THE JURISDICTION OF THE LOCAL GOVERNING BODY WITH A PERSON**
28 **HAVING A LEGAL OR EQUITABLE INTEREST IN THE REAL PROPERTY; AND**

1 **(2) INCLUDE A FEDERAL, STATE, OR LOCAL GOVERNMENT OR**
 2 **UNIT AS AN ADDITIONAL PARTY TO THE AGREEMENT.**

3 REVISOR'S NOTE: This section formerly was Art. 66B, § 13.01(b).

4 The only changes are in style.

5 The Land Use Article Review Committee notes, for consideration by the
 6 General Assembly, that it is unclear whether subsection (b) of this section
 7 confers on a public principal the authority to enter into an agreement in
 8 conjunction with annexation of land to a municipal corporation. If the
 9 General Assembly wishes to authorize the public principal to enter into
 10 an agreement in these circumstances, it may be advisable to include
 11 specific authorization in this subsection.

12 Defined terms: "Agreement" § 7-301

13 "Local governing body" § 7-301

14 "Local jurisdiction" § 1-101

15 "Local law" § 1-101

16 "Person" § 1-101

17 "Public principal" § 7-301

18 "State" § 1-101

19 **7-303. CONTENTS OF AGREEMENT.**

20 **(A) REQUIRED CONTENTS.**

21 **A DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENT SHALL**
 22 **INCLUDE:**

23 **(1) A LEGAL DESCRIPTION OF THE REAL PROPERTY SUBJECT TO**
 24 **THE AGREEMENT;**

25 **(2) THE NAMES OF THE PERSONS HAVING A LEGAL OR EQUITABLE**
 26 **INTEREST IN THE REAL PROPERTY SUBJECT TO THE AGREEMENT;**

27 **(3) THE DURATION OF THE AGREEMENT;**

28 **(4) THE PERMISSIBLE USES OF THE REAL PROPERTY;**

29 **(5) THE DENSITY OR INTENSITY OF USE OF THE REAL PROPERTY;**

30 **(6) THE MAXIMUM HEIGHT AND SIZE OF STRUCTURES TO BE**
 31 **LOCATED ON THE REAL PROPERTY;**

1 **(7) A DESCRIPTION OF THE PERMITS REQUIRED OR ALREADY**
 2 **APPROVED FOR THE DEVELOPMENT OF THE REAL PROPERTY;**

3 **(8) A STATEMENT THAT THE PROPOSED DEVELOPMENT IS**
 4 **CONSISTENT WITH THE COMPREHENSIVE PLAN AND DEVELOPMENT**
 5 **REGULATIONS OF THE LOCAL JURISDICTION;**

6 **(9) A DESCRIPTION OF THE CONDITIONS, TERMS, RESTRICTIONS,**
 7 **OR OTHER REQUIREMENTS DETERMINED BY THE LOCAL GOVERNING BODY OF**
 8 **THE LOCAL JURISDICTION TO BE NECESSARY TO ENSURE THE PUBLIC HEALTH,**
 9 **SAFETY, OR WELFARE; AND**

10 **(10) TO THE EXTENT APPLICABLE, PROVISIONS FOR THE:**

11 **(I) DEDICATION OF A PORTION OF THE REAL PROPERTY**
 12 **FOR PUBLIC USE;**

13 **(II) PROTECTION OF SENSITIVE AREAS;**

14 **(III) PRESERVATION AND RESTORATION OF HISTORIC**
 15 **STRUCTURES; AND**

16 **(IV) CONSTRUCTION OR FINANCING OF PUBLIC FACILITIES.**

17 **(B) PERMISSIBLE CONTENTS.**

18 **AN AGREEMENT MAY:**

19 **(1) SET THE TIME FRAME AND TERMS FOR DEVELOPMENT AND**
 20 **CONSTRUCTION ON THE REAL PROPERTY; AND**

21 **(2) PROVIDE FOR OTHER MATTERS CONSISTENT WITH THIS**
 22 **DIVISION.**

23 REVISOR'S NOTE: This section formerly was Art. 66B, § 13.01(f).

24 The only changes are in style.

25 Defined terms: "Agreement" § 7-301

26 "Development" § 1-101

27 "Local governing body" § 7-301

28 "Local jurisdiction" § 1-101

29 "Person" § 1-101

1 “Plan” § 1–101
 2 “Regulation” § 1–101
 3 “Sensitive area” § 1–101

4 **7–304. APPLICABLE LOCAL LAWS, RULES, REGULATIONS, AND POLICIES.**

5 **(A) IN GENERAL.**

6 **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE LOCAL**
 7 **LAWS, RULES, REGULATIONS, AND POLICIES GOVERNING THE USE, DENSITY, OR**
 8 **INTENSITY OF THE REAL PROPERTY SUBJECT TO AN AGREEMENT SHALL BE THE**
 9 **LOCAL LAWS, RULES, REGULATIONS, AND POLICIES IN FORCE AT THE TIME THE**
 10 **PARTIES EXECUTE THE AGREEMENT.**

11 **(B) COMPLIANCE WITH LATER ENACTMENTS.**

12 **IF THE LOCAL JURISDICTION DETERMINES THAT COMPLIANCE WITH**
 13 **LOCAL LAWS, RULES, REGULATIONS, AND POLICIES ENACTED OR ADOPTED**
 14 **AFTER THE EFFECTIVE DATE OF AN AGREEMENT IS ESSENTIAL TO ENSURE THE**
 15 **PUBLIC HEALTH, SAFETY, OR WELFARE, AN AGREEMENT MAY NOT PREVENT A**
 16 **LOCAL GOVERNMENT FROM REQUIRING A PERSON TO COMPLY WITH THOSE**
 17 **LOCAL LAWS, RULES, REGULATIONS, AND POLICIES.**

18 REVISOR’S NOTE: This section formerly was Art. 66B, § 13.01(j).

19 In this section, the references to “local” law are added for consistency
 20 within this division.

21 In subsection (b) of this section, the reference to the “public” health,
 22 safety, or welfare is added for clarity.

23 Also in subsection (b) of this section, the former reference to the health,
 24 safety, or welfare “of residents of all or part of the jurisdiction” is deleted
 25 as unnecessary.

26 The only other changes are in style.

27 Defined terms: “Agreement” § 7–301
 28 “Local jurisdiction” § 1–101
 29 “Local law” § 1–101
 30 “Person” § 1–101
 31 “Regulation” § 1–101

32 **7–305. PROCEDURES.**

1 **(A) PETITION.**

2 **BEFORE ENTERING INTO AN AGREEMENT, A PERSON HAVING A LEGAL OR**
3 **EQUITABLE INTEREST IN REAL PROPERTY OR THE PERSON'S REPRESENTATIVE**
4 **SHALL PETITION THE PUBLIC PRINCIPAL OF THE LOCAL JURISDICTION IN**
5 **WHICH THE PROPERTY IS LOCATED.**

6 **(B) PUBLIC HEARING.**

7 **(1) AFTER RECEIVING A PETITION AND BEFORE ENTERING INTO**
8 **AN AGREEMENT, THE PUBLIC PRINCIPAL SHALL CONDUCT A PUBLIC HEARING.**

9 **(2) A PUBLIC HEARING THAT IS REQUIRED FOR APPROVAL OF**
10 **THE DEVELOPMENT SATISFIES THE PUBLIC HEARING REQUIREMENT.**

11 **(C) REVIEW BY PLANNING COMMISSION.**

12 **THE PUBLIC PRINCIPAL OF A LOCAL JURISDICTION MAY NOT ENTER INTO**
13 **AN AGREEMENT UNLESS THE PLANNING COMMISSION OF THE LOCAL**
14 **JURISDICTION DETERMINES WHETHER THE PROPOSED AGREEMENT IS**
15 **CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE LOCAL JURISDICTION.**

16 **(D) RECORDATION.**

17 **(1) IF AN AGREEMENT IS NOT RECORDED IN THE LAND RECORDS**
18 **OF THE LOCAL JURISDICTION WITHIN 20 DAYS AFTER THE DATE ON WHICH THE**
19 **PARTIES EXECUTE THE AGREEMENT, THE AGREEMENT IS VOID.**

20 **(2) THE PARTIES TO AN AGREEMENT AND THEIR SUCCESSORS IN**
21 **INTEREST ARE BOUND TO THE AGREEMENT AFTER THE AGREEMENT IS**
22 **RECORDED.**

23 **(E) TIME LIMITATIONS.**

24 **AN AGREEMENT SHALL BE VOID 5 YEARS AFTER THE DATE ON WHICH THE**
25 **PARTIES EXECUTE THE AGREEMENT UNLESS:**

26 **(1) OTHERWISE ESTABLISHED UNDER § 7-303 OF THIS SUBTITLE;**
27 **OR**

28 **(2) EXTENDED BY AMENDMENT UNDER SUBSECTION (F) OF THIS**
29 **SECTION.**

1 **(F) AMENDMENT.**

2 **(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION AND**
3 **AFTER A PUBLIC HEARING, THE PARTIES TO AN AGREEMENT MAY AMEND THE**
4 **AGREEMENT BY MUTUAL CONSENT.**

5 **(2) UNLESS THE PLANNING COMMISSION OF THE LOCAL**
6 **JURISDICTION DETERMINES WHETHER THE PROPOSED AMENDMENT IS**
7 **CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE LOCAL JURISDICTION,**
8 **THE PARTIES MAY NOT AMEND AN AGREEMENT.**

9 **(G) TERMINATION.**

10 **(1) THE PARTIES TO AN AGREEMENT MAY TERMINATE THE**
11 **AGREEMENT BY MUTUAL CONSENT.**

12 **(2) IF THE PUBLIC PRINCIPAL OR THE LOCAL GOVERNING BODY**
13 **DETERMINES THAT SUSPENSION OR TERMINATION IS ESSENTIAL TO ENSURE**
14 **THE PUBLIC HEALTH, SAFETY, OR WELFARE, THE PUBLIC PRINCIPAL OR THE**
15 **LOCAL GOVERNING BODY MAY SUSPEND OR TERMINATE AN AGREEMENT AFTER**
16 **A PUBLIC HEARING.**

17 **(H) ENFORCEMENT.**

18 **UNLESS THE AGREEMENT IS TERMINATED UNDER SUBSECTION (G) OF**
19 **THIS SECTION, THE PARTIES TO AN AGREEMENT OR THEIR SUCCESSORS IN**
20 **INTEREST MAY ENFORCE THE AGREEMENT.**

21 REVISOR'S NOTE: This section formerly was Art. 66B, § 13.01(c) through (e),
22 (g) through (i), (k), and (l).

23 The only changes are in style.

24 The Land Use Article Review Committee notes, for consideration by the
25 General Assembly, that the standards for determining consistency
26 between an agreement and the comprehensive plan under former Art.
27 66B, § 13.01(e) [revised in subsection (c) of this section], or a proposed
28 amendment to an agreement and the comprehensive plan under former
29 Art. 66B, § 13.01(h)(2) [revised in subsection (f)(2) of this section], were
30 different and inconsistent. In the former case, the planning commission
31 was required to determine "whether" the proposed agreement was
32 consistent with the comprehensive plan, whereas in the latter, the
33 commission was to determine "that" an amendment to the agreement was
34 consistent with the comprehensive plan. Applying the word "that" in the
35 latter case would give the appointed planning commission a veto over

1 action of its appointing governing body, raising serious State
 2 constitutional concerns. A review of the legislative history convinced the
 3 committee that both reviews should use the word “whether”, as indeed
 4 the original 1995 enactment specified, but was inadvertently altered in a
 5 2000 recodification that was intended to be nonsubstantive. The
 6 committee considered the change in the 2000 legislation to be purely a
 7 scrivener’s error. No substantive change is intended. *See* Ch. 562, Acts of
 8 1995; Ch. 426, Acts of 2000.

9 The Land Use Article Review Committee also notes, for consideration by
 10 the General Assembly, that under subsection (d) of this section, the time
 11 limit for recording an executed agreement, 20 days, is quite short,
 12 considering that an unrecorded agreement becomes void after that. The
 13 General Assembly may wish to consider whether another period would be
 14 more appropriate in light of the complicated nature of the transactions
 15 that would be subject to an agreement, as well as the effect of potential
 16 litigation and judicial review on such a transaction and agreement.

17 Defined terms: “Agreement” § 7–301

18 “Development” § 1–101

19 “Local governing body” § 7–301

20 “Local jurisdiction” § 1–101

21 “Person” § 1–101

22 “Plan” § 1–101

23 “Public principal” § 7–301

24 **7–306. LIMITATIONS.**

25 **THIS SUBTITLE DOES NOT REQUIRE THE ADOPTION OF A LOCAL LAW BY A**
 26 **LOCAL GOVERNING BODY OR AUTHORIZE A LOCAL GOVERNING BODY TO**
 27 **REQUIRE A PARTY TO ENTER INTO AN AGREEMENT.**

28 REVISOR’S NOTE: This section formerly was Art. 66B, § 13.01(m).

29 The only changes are in style.

30 Defined terms: “Agreement” § 7–301

31 “Local governing body” § 7–301

32 “Local law” § 1–101

33 **SUBTITLE 4. INCLUSIONARY ZONING.**

34 **7–401. AFFORDABLE HOUSING.**

35 **(A) POWERS.**

1 **TO PROMOTE THE CREATION OF HOUSING THAT IS AFFORDABLE BY**
2 **INDIVIDUALS AND FAMILIES WITH LOW OR MODERATE INCOMES, A LEGISLATIVE**
3 **BODY THAT EXERCISES AUTHORITY UNDER THIS DIVISION MAY ENACT LOCAL**
4 **LAWS:**

5 **(1) IMPOSING INCLUSIONARY ZONING, AND AWARDING DENSITY**
6 **BONUSES, TO CREATE AFFORDABLE HOUSING UNITS; AND**

7 **(2) RESTRICTING THE USE, COST, AND RESALE OF HOUSING THAT**
8 **IS CREATED UNDER THIS SUBTITLE TO ENSURE THAT THE PURPOSES OF THIS**
9 **SUBTITLE ARE CARRIED OUT.**

10 **(B) POWER ADDITIONAL.**

11 **THE AUTHORITY GRANTED UNDER THIS SUBTITLE IS IN ADDITION TO ANY**
12 **OTHER ZONING AND PLANNING POWERS.**

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 66B, § 12.01.

15 In the introductory language to subsection (a) of this section, the
16 reference to "individuals" is substituted for the former reference to
17 "persons" to reflect that the affordable housing created is intended to
18 benefit human beings and not the other entities included in the definition
19 of "person".

20 Also in the introductory language to subsection (a) of this section, the
21 defined term "local law[s]" is substituted for the former reference to
22 "ordinances or laws" for consistency within this division.

23 Defined terms: "Legislative body" § 1-101
24 "Local law" § 1-101

25 **TITLE 8. HISTORIC PRESERVATION.**

26 **SUBTITLE 1. GENERAL PROVISIONS.**

27 **8-101. DEFINITIONS.**

28 **(A) IN GENERAL.**

29 **IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

30 REVISOR'S NOTE: This subsection formerly was Art. 66B, § 8.01(a)(1).

1 The only change is in style.

2 **(B) APPURTENANCE AND ENVIRONMENTAL SETTING.**

3 **“APPURTENANCE AND ENVIRONMENTAL SETTING” INCLUDES:**

4 **(1) PAVED OR UNPAVED WALKWAYS AND DRIVEWAYS;**

5 **(2) TREES;**

6 **(3) LANDSCAPING;**

7 **(4) PASTURES;**

8 **(5) CROPLANDS;**

9 **(6) WATERWAYS; AND**

10 **(7) ROCKS.**

11 REVISOR’S NOTE: This subsection formerly was Art. 66B, § 8.01(a)(2).

12 The only changes are in style.

13 **(C) COMMISSION.**

14 **“COMMISSION” INCLUDES A HISTORIC DISTRICT COMMISSION OR A**
15 **HISTORIC PRESERVATION COMMISSION.**

16 REVISOR’S NOTE: This subsection is new language added to define the term
17 “commission”, which appears throughout this title, and to eliminate the
18 need to refer to a historic district commission and a historic preservation
19 commission in every instance.

20 **(D) DEMOLITION.**

21 **“DEMOLITION” INCLUDES ANY WILLFUL NEGLECT IN THE MAINTENANCE**
22 **AND REPAIR OF A STRUCTURE, OTHER THAN THE APPURTENANCE AND**
23 **ENVIRONMENTAL SETTING OF THE STRUCTURE, THAT:**

24 **(1) IS NOT DUE TO A FINANCIAL INABILITY TO MAINTAIN AND**
25 **REPAIR THE STRUCTURE; AND**

1 **(2) THREATENS TO RESULT IN A SUBSTANTIAL DETERIORATION**
2 **OF THE EXTERIOR FEATURES OF THE STRUCTURE.**

3 REVISOR'S NOTE: This subsection is new language derived without
4 substantive change from former Art. 66B, § 8.01(a)(3).

5 Defined term: "Appurtenance and environmental setting" § 8-101

6 **(E) DISTRICT.**

7 **"DISTRICT" MEANS A SIGNIFICANT CONCENTRATION, LINKAGE, OR**
8 **CONTINUITY OF SITES, STRUCTURES, OR OBJECTS UNITED HISTORICALLY OR**
9 **AESTHETICALLY BY PLAN OR DEVELOPMENT.**

10 REVISOR'S NOTE: This subsection formerly was Art. 66B, § 8.01(a)(4).

11 The former reference to "physical" development is deleted as implicit in
12 the reference to "development".

13 No other changes are made.

14 Defined terms: "Development" § 1-101

15 "Plan" § 1-101

16 "Site" § 8-101

17 "Structure" § 8-101

18 **(F) ROUTINE MAINTENANCE.**

19 **"ROUTINE MAINTENANCE" MEANS WORK THAT:**

20 **(1) DOES NOT ALTER THE EXTERIOR FABRIC OR FEATURES OF A**
21 **SITE OR STRUCTURE; AND**

22 **(2) HAS NO MATERIAL EFFECT ON THE HISTORICAL,**
23 **ARCHAEOLOGICAL, OR ARCHITECTURAL SIGNIFICANCE OF THE SITE OR**
24 **STRUCTURE.**

25 REVISOR'S NOTE: This subsection formerly was Art. 66B, § 8.01(a)(5).

26 The only changes are in style.

27 Defined terms: "Site" § 8-101

28 "Structure" § 8-101

29 **(G) SITE.**

1 **“SITE” MEANS THE LOCATION OF:**

2 **(1) AN EVENT OF HISTORIC SIGNIFICANCE; OR**

3 **(2) A STRUCTURE OR RUIN THAT POSSESSES HISTORIC,**
4 **ARCHAEOLOGICAL, OR CULTURAL SIGNIFICANCE.**

5 REVISOR’S NOTE: This subsection is new language derived without
6 substantive change from former Art. 66B, § 8.01(a)(6).

7 Defined term: “Structure” § 8–101

8 **(H) STRUCTURE.**

9 **(1) “STRUCTURE” MEANS A COMBINATION OF MATERIAL TO**
10 **FORM A CONSTRUCTION THAT IS STABLE.**

11 **(2) “STRUCTURE” INCLUDES:**

12 **(I) A BUILDING;**

13 **(II) A STADIUM;**

14 **(III) A REVIEWING STAND;**

15 **(IV) A PLATFORM;**

16 **(V) STAGING;**

17 **(VI) AN OBSERVATION TOWER;**

18 **(VII) A RADIO TOWER;**

19 **(VIII) A WATER TANK OR TOWER;**

20 **(IX) A TRESTLE;**

21 **(X) A BRIDGE;**

22 **(XI) A PIER;**

23 **(XII) PAVING;**

- 1 **(XIII) A BULKHEAD;**
- 2 **(XIV) A WHARF;**
- 3 **(XV) A SHED;**
- 4 **(XVI) A COAL BIN;**
- 5 **(XVII) A SHELTER;**
- 6 **(XVIII) A FENCE;**
- 7 **(XIX) A DISPLAY SIGN THAT IS VISIBLE OR INTENDED TO BE**
 8 **VISIBLE FROM A PUBLIC WAY; AND**
- 9 **(XX) A PART OF A STRUCTURE.**

10 REVISOR'S NOTE: This subsection is new language derived without
 11 substantive change from former Art. 66B, § 8.01(a)(7)(i), (ii), and (iv).

12 The Land Use Article Review Committee notes, for consideration by the
 13 General Assembly, that the comprehensive definition of "structure" in
 14 paragraph (1) of this subsection is very broad and perhaps overly
 15 inclusive.

16 REVISOR'S NOTE TO SECTION:

17 The Land Use Article Review Committee notes, for consideration by the
 18 General Assembly, that § 8-302(a) of this subtitle requires a "person" to
 19 file an application for a permit to change a site or structure, and the term
 20 "person" defined in § 1-101 of this title does not generally include a
 21 governmental unit. However, units of local government have historically
 22 been required to file an application for such a permit. *See City of*
 23 *Annapolis v. Anne Arundel County*, 271 Md. 265 (1974); 87 Op. Att'y
 24 Gen'l 119 (2002); *cf.* Op. Att'y Gen'l 17 (2002). For purposes of clarity, the
 25 General Assembly may wish add an affirmative definition of "person" to
 26 this section specifically including "a unit of local government" to "person"
 27 for this title. *See* Revisor's Note to § 1-101(k) of this article.

28 **8-102. DECLARATION OF PUBLIC PURPOSE.**

29 **IT IS A PUBLIC PURPOSE IN THE STATE TO PRESERVE SITES,**
 30 **STRUCTURES, AND DISTRICTS OF HISTORICAL, ARCHAEOLOGICAL, OR**
 31 **ARCHITECTURAL SIGNIFICANCE AND THEIR APPURTENANCES AND**
 32 **ENVIRONMENTAL SETTINGS.**

1 REVISOR'S NOTE: This section formerly was Art. 66B, § 8.01(b)(1).

2 The only change is in style.

3 Defined terms: "Appurtenance and environmental setting" § 8-101

4 "District" § 8-101

5 "Site" § 8-101

6 "State" § 1-101

7 "Structure" § 8-101

8 **8-103. SCOPE AND CONSTRUCTION OF TITLE.**

9 **(A) SCOPE OF TITLE.**

10 **THE PRESERVATION OF A DESIGNATED STRUCTURE UNDER THIS TITLE**
 11 **INCLUDES PRESERVATION OF AN ASSOCIATED:**

12 **(1) NATURAL LAND FORMATION; AND**

13 **(2) APPURTENANCE AND ENVIRONMENTAL SETTING.**

14 **(B) CONSTRUCTION OF TITLE.**

15 **THIS TITLE MAY NOT BE CONSTRUED TO PREVENT ROUTINE**
 16 **MAINTENANCE, CUSTOMARY FARMING OPERATIONS, OR LANDSCAPING THAT**
 17 **DOES NOT HAVE A MATERIAL EFFECT ON THE HISTORIC, ARCHAEOLOGICAL, OR**
 18 **ARCHITECTURAL SIGNIFICANCE OF A DESIGNATED SITE, STRUCTURE, OR**
 19 **DISTRICT.**

20 REVISOR'S NOTE: Subsection (a) of this section is new language derived
 21 without substantive change from former Art. 66B, § 8.01(a)(7)(iii). It is
 22 revised as a scope provision rather than as a part of the definition of
 23 "structure" for clarity.

24 Subsection (b) of this section formerly was the first sentence of Art. 66B, §
 25 8.13.

26 The only changes are in style.

27 The second sentence of former Art. 66B, § 8.13, which restricted the
 28 application of the former law to work under certain authorization issued
 29 before October 1, 1995, is deleted as obsolete.

30 Defined terms: "Appurtenance and environmental setting" § 8-101

1 “District” § 8–101
2 “Routine maintenance” § 8–101
3 “Site” § 8–101
4 “Structure” § 8–101

5 **8–104. REGULATION OF SITES AND STRUCTURES.**

6 **(A) POWERS OF LEGISLATIVE BODY.**

7 **THE LEGISLATIVE BODY OF EACH LOCAL JURISDICTION, BY LOCAL LAW,**
8 **MAY REGULATE:**

9 **(1) THE CONSTRUCTION, RECONSTRUCTION, ALTERATION,**
10 **MOVING, AND DEMOLITION OF SITES OR STRUCTURES OF HISTORICAL,**
11 **ARCHAEOLOGICAL, OR ARCHITECTURAL SIGNIFICANCE;**

12 **(2) THE CONSTRUCTION, RECONSTRUCTION, ALTERATION,**
13 **MOVING, AND DEMOLITION OF SITES AND STRUCTURES WITHIN DISTRICTS; AND**

14 **(3) THE APPURTENANCES AND ENVIRONMENTAL SETTINGS OF**
15 **SITES AND STRUCTURES WITHIN THE LIMITS OF THE LOCAL JURISDICTION.**

16 **(B) PURPOSE OF LOCAL LAW.**

17 **THE PURPOSE OF A LOCAL LAW ADOPTED UNDER THIS SECTION IS TO:**

18 **(1) SAFEGUARD THE HERITAGE OF THE LOCAL JURISDICTION BY**
19 **PRESERVING SITES, STRUCTURES, OR DISTRICTS THAT REFLECT ELEMENTS OF**
20 **CULTURAL, SOCIAL, ECONOMIC, POLITICAL, ARCHAEOLOGICAL, OR**
21 **ARCHITECTURAL HISTORY;**

22 **(2) STABILIZE AND IMPROVE THE PROPERTY VALUES OF THOSE**
23 **SITES, STRUCTURES, OR DISTRICTS;**

24 **(3) FOSTER CIVIC BEAUTY;**

25 **(4) STRENGTHEN THE LOCAL ECONOMY; AND**

26 **(5) PROMOTE THE PRESERVATION AND APPRECIATION OF THOSE**
27 **SITES, STRUCTURES, AND DISTRICTS FOR THE EDUCATION AND WELFARE OF**
28 **THE RESIDENTS OF EACH LOCAL JURISDICTION.**

29 REVISOR’S NOTE: This section is new language derived without substantive
30 change from former Art. 66B, § 8.01(c) and (b)(2).

1 In the introductory language to subsection (a) of this section, the former
 2 phrase “[e]xcept for the Mayor and City Council of Baltimore,” is deleted
 3 as unnecessary in light of § 10–103 of this article, which excludes
 4 Baltimore City from this title and many other provisions of this division.

5 In subsection (a)(3) of this section, the reference to “the limits of the local
 6 jurisdiction” is substituted for the former reference to “their limits” for
 7 clarity.

8 In the introductory language to subsection (b) of this section, the
 9 reference to “this section” is substituted for the former reference to “this
 10 subtitle” for accuracy.

11 Defined terms: “Appurtenance and environmental setting” § 8–101

12 “Demolition” § 8–101

13 “District” § 8–101

14 “Legislative body” § 1–101

15 “Local jurisdiction” § 1–101

16 “Local law” § 1–101

17 “Site” § 8–101

18 “Structure” § 8–101

19 **8–105. DESIGNATION OF BOUNDARIES FOR SITES, STRUCTURES, AND**
 20 **DISTRICTS.**

21 **FOR THE PURPOSES OF THIS TITLE, EACH LOCAL JURISDICTION MAY**
 22 **DESIGNATE BOUNDARIES FOR SITES, STRUCTURES, AND DISTRICTS THAT ARE**
 23 **CONSIDERED TO BE OF HISTORIC, ARCHAEOLOGICAL, OR ARCHITECTURAL**
 24 **SIGNIFICANCE, BY FOLLOWING THE PROCEDURES OF THE LOCAL JURISDICTION**
 25 **FOR ESTABLISHING OR CHANGING ZONING DISTRICTS AND CLASSIFICATIONS.**

26 REVISOR’S NOTE: This section formerly was Art. 66B, § 8.02.

27 The reference to sites, structures, “and” districts is substituted for the
 28 former reference to sites, structures, “or” districts to clarify that a local
 29 jurisdiction may designate boundaries for all three.

30 The only other changes are in style.

31 Defined terms: “District” § 8–101

32 “Local jurisdiction” § 1–101

33 “Site” § 8–101

34 “Structure” § 8–101

35 **SUBTITLE 2. COMMISSION.**

1 **8-201. ESTABLISHMENT.**

2 **A LOCAL JURISDICTION MAY CREATE A HISTORIC DISTRICT COMMISSION**
3 **OR A HISTORIC PRESERVATION COMMISSION.**

4 REVISOR'S NOTE: This section formerly was Art. 66B, § 8.03(a)(1).

5 The only change is in style.

6 Defined term: "Local jurisdiction" § 1-101

7 **8-202. MEMBERSHIP.**

8 **(A) COMPOSITION.**

9 **(1) A COMMISSION SHALL CONSIST OF AT LEAST FIVE MEMBERS.**

10 **(2) A MAJORITY OF THE MEMBERS OF A COMMISSION SHALL BE**
11 **RESIDENTS OF THE LOCAL JURISDICTION THAT CREATED THE COMMISSION.**

12 **(B) QUALIFICATIONS.**

13 **(1) EACH MEMBER OF A COMMISSION SHALL HAVE A**
14 **DEMONSTRATED SPECIAL INTEREST, SPECIFIC KNOWLEDGE, OR PROFESSIONAL**
15 **OR ACADEMIC TRAINING IN:**

16 **(I) HISTORY;**

17 **(II) ARCHITECTURE;**

18 **(III) ARCHITECTURAL HISTORY;**

19 **(IV) PLANNING;**

20 **(V) ARCHAEOLOGY;**

21 **(VI) ANTHROPOLOGY;**

22 **(VII) CURATION;**

23 **(VIII) CONSERVATION;**

24 **(IX) LANDSCAPE ARCHITECTURE;**

1 **(X) HISTORIC PRESERVATION;**

2 **(XI) URBAN DESIGN; OR**

3 **(XII) A RELATED DISCIPLINE.**

4 **(2) A LOCAL JURISDICTION THAT CREATES A COMMISSION MAY**
5 **ESTABLISH AND PUBLICLY ADOPT ADDITIONAL QUALIFICATIONS FOR A**
6 **MEMBER OF THE COMMISSION.**

7 **(C) TENURE; VACANCIES.**

8 **(1) THE TERM OF A MEMBER OF A COMMISSION IS 3 YEARS.**

9 **(2) THE TERMS OF THE MEMBERS SHALL BE STAGGERED.**

10 **(3) A MEMBER IS ELIGIBLE FOR REAPPOINTMENT.**

11 **(4) THE APPOINTING AUTHORITY SHALL FILL ANY VACANCY ON A**
12 **COMMISSION FOR THE UNEXPIRED TERM OF THE VACANT POSITION.**

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 66B, § 8.03(a)(2) and (3).

15 Defined terms: "Commission" § 8-101

16 "Local jurisdiction" § 1-101

17 **8-203. MEETINGS.**

18 **(A) RULES AND REGULATIONS.**

19 **A COMMISSION SHALL ADOPT RULES AND REGULATIONS NECESSARY FOR**
20 **THE CONDUCT OF ITS BUSINESS.**

21 **(B) RIGHT TO APPEAR.**

22 **AN INTERESTED PERSON OR REPRESENTATIVE OF AN INTERESTED**
23 **PERSON MAY APPEAR AND BE HEARD AT A PUBLIC HEARING THAT A**
24 **COMMISSION CONDUCTS.**

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 66B, § 8.11.

1 Defined terms: "Commission" § 8-101

2 "Person" § 1-101

3 "Regulation" § 1-101

4 **8-204. ACCEPTING GIFTS.**

5 **SUBJECT TO ANY REQUIREMENTS OF THE LOCAL JURISDICTION THAT**
6 **RELATE TO THE ACCEPTANCE AND USE OF GIFTS BY PUBLIC OFFICIALS, A**
7 **COMMISSION MAY ACCEPT AND USE GIFTS AS NEEDED TO PERFORM ITS DUTIES.**

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 66B, § 8.03(a)(4).

10 The phrase "that relate to" is substituted for the former word "governing"
11 for consistency with other revised articles of the Code.

12 The Land Use Article Review Committee notes, for consideration by the
13 General Assembly, that a commission may be subject to provisions
14 concerning ethics and disclosure of gifts and their disposition.

15 The Land Use Article Review Committee also notes, for consideration by
16 the General Assembly, that this section does not describe the nature of
17 permissible gifts. It may be inferred that a gift may be in the form of any
18 sort of property, such as money or an easement. The General Assembly
19 may wish to consider whether it is advisable to specify that gifts may be
20 in any form, not merely monetary.

21 Defined terms: "Commission" § 8-101

22 "Local jurisdiction" § 1-101

23 **8-205. POWERS.**

24 **(A) ACQUISITION OF EASEMENTS.**

25 **(1) SUBJECT TO ANY REQUIREMENTS OF THE LOCAL**
26 **JURISDICTION THAT RELATE TO THE ACQUISITION OF EASEMENTS, A**
27 **COMMISSION MAY ACQUIRE EASEMENTS IN CONNECTION WITH INDIVIDUAL**
28 **SITES OR STRUCTURES, OR WITH SITES OR STRUCTURES LOCATED IN OR**
29 **ADJACENT TO A LOCALLY DESIGNATED HISTORIC DISTRICT.**

30 **(2) AN EASEMENT ACQUIRED BY A COMMISSION MAY GRANT TO**
31 **THE COMMISSION, THE RESIDENTS OF THE HISTORIC DISTRICT, AND THE**
32 **PUBLIC THE RIGHT TO ENSURE THAT ANY SITE, STRUCTURE, OR SURROUNDING**
33 **PROPERTY ON WHICH THE EASEMENT IS APPLIED IS PROTECTED IN**
34 **PERPETUITY FROM CHANGES THAT WOULD AFFECT THE HISTORIC,**

1 ARCHAEOLOGICAL, OR ARCHITECTURAL SIGNIFICANCE OF THE SITE,
2 STRUCTURE, OR SURROUNDING PROPERTY.

3 (B) DESIGNATION OF MARYLAND HISTORICAL TRUST.

4 (1) A COMMISSION MAY DESIGNATE THE MARYLAND HISTORICAL
5 TRUST TO ANALYZE AND MAKE RECOMMENDATIONS ON THE PRESERVATION OF
6 SITES, STRUCTURES, OR DISTRICTS OF HISTORIC, ARCHAEOLOGICAL,
7 ARCHITECTURAL, OR CULTURAL SIGNIFICANCE WITHIN THE AREA THE
8 COMMISSION SERVES.

9 (2) THE RECOMMENDATIONS OF THE MARYLAND HISTORICAL
10 TRUST MAY INCLUDE:

11 (I) PROPOSED BOUNDARIES FOR SITES, STRUCTURES, AND
12 DISTRICTS; AND

13 (II) THE IDENTIFICATION AND DESIGNATION OF THE SITES,
14 STRUCTURES, AND DISTRICTS TO BE PRESERVED.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 66B, §§ 8.04 and 8.03(b).

17 In subsection (a)(1) of this section, the phrase "that relate to" is
18 substituted for the former word "governing" for consistency with other
19 revised articles of the Code.

20 In subsection (a)(2) of this section, the former reference to the "general"
21 public is deleted as unnecessary.

22 In subsection (b)(2)(i) and (ii), the references to sites, structures, "and"
23 districts are substituted for the former references to sites, structures, "or"
24 districts to clarify that the Maryland Historical Trust may recommend
25 boundaries and designations for all three.

26 Defined terms: "Commission" § 8-101

27 "District" § 8-101

28 "Local jurisdiction" § 1-101

29 "Site" § 8-101

30 "Structure" § 8-101

31 SUBTITLE 3. PRESERVATION AND PERMITTING.

32 8-301. GUIDELINES FOR REHABILITATION AND NEW CONSTRUCTION DESIGN.

1 **(A) ADOPTION.**

2 **A LOCAL JURISDICTION SHALL ADOPT GUIDELINES FOR REHABILITATION**
3 **AND NEW CONSTRUCTION DESIGN FOR DESIGNATED SITES, STRUCTURES, AND**
4 **DISTRICTS THAT ARE CONSISTENT WITH THOSE GENERALLY RECOGNIZED BY**
5 **THE MARYLAND HISTORICAL TRUST.**

6 **(B) CONTENTS.**

7 **THE GUIDELINES ADOPTED UNDER THIS SECTION MAY INCLUDE:**

8 **(1) DESIGN CHARACTERISTICS INTENDED TO MEET THE NEEDS**
9 **OF PARTICULAR TYPES OF SITES, STRUCTURES, AND DISTRICTS; AND**

10 **(2) IDENTIFICATION OF CATEGORIES OF CHANGES THAT ARE SO**
11 **MINIMAL IN NATURE THAT THEY DO NOT:**

12 **(I) AFFECT HISTORIC, ARCHAEOLOGICAL, OR**
13 **ARCHITECTURAL SIGNIFICANCE; AND**

14 **(II) REQUIRE REVIEW BY A COMMISSION.**

15 **REVISOR'S NOTE:** This section formerly was Art. 66B, § 8.06(a)(1) and (2)(i).

16 The only changes are in style.

17 Defined terms: "Commission" § 8-101
18 "District" § 8-101
19 "Local jurisdiction" § 1-101
20 "Site" § 8-101
21 "Structure" § 8-101

22 **8-302. APPLICATION FOR CHANGES TO SITES OR STRUCTURES — IN GENERAL.**

23 **(A) APPLICATION.**

24 **A PERSON SHALL FILE AN APPLICATION WITH THE COMMISSION BEFORE**
25 **CONSTRUCTING, RECONSTRUCTING, ALTERING, MOVING, OR DEMOLISHING A**
26 **SITE OR STRUCTURE LOCATED WITHIN A LOCALLY DESIGNATED DISTRICT IF**
27 **ANY EXTERIOR CHANGES ARE INVOLVED THAT WOULD AFFECT THE HISTORIC,**
28 **ARCHAEOLOGICAL, OR ARCHITECTURAL SIGNIFICANCE OF THE SITE OR**
29 **STRUCTURE, ANY PORTION OF WHICH IS VISIBLE OR INTENDED TO BE VISIBLE**
30 **FROM A PUBLIC WAY.**

1 **(B) APPROVAL OR REJECTION OF APPLICATION.**

2 **(1) AN APPLICATION FILED UNDER SUBSECTION (A) OF THIS**
3 **SECTION SHALL BE CONSIDERED AND APPROVED OR REJECTED BY THE**
4 **COMMISSION.**

5 **(2) THE COMMISSION MAY REJECT AN APPLICATION BASED ONLY**
6 **ON THE CONSIDERATIONS LISTED IN § 8-303(A) OF THIS SUBTITLE.**

7 **(C) RESUBMISSION OF APPLICATION.**

8 **AN APPLICANT MAY NOT RESUBMIT AN APPLICATION THAT IS IDENTICAL**
9 **TO A REJECTED APPLICATION FOR 1 YEAR AFTER THE REJECTION.**

10 **(D) RESTRICTIONS.**

11 **A LOCAL JURISDICTION MAY NOT GRANT A PERMIT FOR A CHANGE TO A**
12 **LOCALLY DESIGNATED SITE OR STRUCTURE, OR TO A SITE OR STRUCTURE**
13 **LOCATED IN A LOCALLY DESIGNATED DISTRICT, UNTIL THE COMMISSION HAS**
14 **ACTED ON THE APPLICATION IN ACCORDANCE WITH § 8-303(A) OF THIS**
15 **SUBTITLE.**

16 **REVISOR'S NOTE:** This section is new language derived without substantive
17 change from former Art. 66B, §§ 8.05 and 8.07(b).

18 In subsection (b)(2) of this section, the reference to “reject[ion]” is
19 substituted for the former reference to “disapprov[al]” for consistency
20 within this section.

21 The Land Use Article Review Committee notes, for consideration by the
22 General Assembly, that in subsection (a) of this section, the reference to a
23 structure “intended” to be visible from a public way is ambiguous. It is
24 unclear *whose* intent is meant – that of the person filing the application
25 for a structure to be built or altered, or that of the commission concerned
26 with the structure present or contemplated. It is also unclear whether the
27 intent refers only to an existing structure that may be altered or to a
28 structure that may be added to the site. The General Assembly may wish
29 to clarify the nature of the “intent” of visibility as to whose viewpoint, and
30 as to what is to be viewed. In the alternative, the General Assembly may
31 wish to delete the phrase “or intended to be visible”.

32 The Land Use Article Review Committee also notes, for consideration by
33 the General Assembly, that in subsection (a) of this section, the meaning
34 of the term “public way” from which a site or structure is visible is
35 unclear. It may mean a roadway, an alley, or a path that people may

1 traverse, as opposed to an easement for a storm drain, for example. The
2 General Assembly may wish to clarify the potential effects of a proposed
3 change to a site or structure that is intended to be protected if any
4 portion of the site or structure “is visible or intended to be visible from a
5 public way”.

6 Defined terms: “Commission” § 8–101

7 “Demolition” § 8–101

8 “District” § 8–101

9 “Local jurisdiction” § 1–101

10 “Person” § 1–101

11 “Site” § 8–101

12 “Structure” § 8–101

13 **8–303. APPLICATION FOR CHANGES TO SITES OR STRUCTURES — REVIEW OF**
14 **APPLICATION.**

15 **(A) REQUIREMENTS.**

16 **IN REVIEWING AN APPLICATION, A COMMISSION SHALL:**

17 **(1) USE THE GUIDELINES ADOPTED UNDER § 8–301 OF THIS**
18 **SUBTITLE; AND**

19 **(2) CONSIDER:**

20 **(I) THE HISTORIC, ARCHAEOLOGICAL, OR ARCHITECTURAL**
21 **SIGNIFICANCE OF THE SITE OR STRUCTURE AND ITS RELATIONSHIP TO THE**
22 **HISTORIC, ARCHAEOLOGICAL, OR ARCHITECTURAL SIGNIFICANCE OF THE**
23 **SURROUNDING AREA;**

24 **(II) THE RELATIONSHIP OF THE EXTERIOR ARCHITECTURAL**
25 **FEATURES OF THE STRUCTURE TO THE REMAINDER OF THE STRUCTURE AND TO**
26 **THE SURROUNDING AREA;**

27 **(III) THE GENERAL COMPATIBILITY OF EXTERIOR DESIGN,**
28 **SCALE, PROPORTION, ARRANGEMENT, TEXTURE, AND MATERIALS PROPOSED TO**
29 **BE USED; AND**

30 **(IV) ANY OTHER FACTORS, INCLUDING AESTHETICS, THAT**
31 **THE COMMISSION CONSIDERS PERTINENT.**

32 **(B) RESTRICTIONS.**

1 **A COMMISSION SHALL CONSIDER ONLY THE EXTERIOR FEATURES OF A**
 2 **STRUCTURE.**

3 REVISOR'S NOTE: This section is new language derived without substantive
 4 change from former Art. 66B, §§ 8.06(b) and (a)(2)(ii) and 8.07(a).

5 In subsection (a)(1) of this section, the reference to the guidelines
 6 "adopted under § 8–301 of this subtitle" is added for clarity.

7 In subsection (b) of this section, the former phrase "and may not consider
 8 any interior arrangements" is deleted as unnecessary in light of the
 9 reference to "only [considering] the exterior features".

10 The Land Use Article Review Committee notes, for consideration by the
 11 General Assembly, that in subsection (a)(2)(iv) of this section, the ability
 12 of a commission to consider "any other factors, including aesthetics, that
 13 the commission considers pertinent" provides broad grounds for rejecting
 14 an application under § 8–302(b) of this subtitle, which provides that a
 15 commission "may reject an application based only on the considerations
 16 listed in § 8–303(a) of this subtitle". While the latter provision seems on
 17 its face to be restrictive, the language in subsection (a)(2)(iv) allows a
 18 commission considerable discretion to reject an application. The General
 19 Assembly may wish to consider more closely the criteria that a
 20 commission may use to approve, approve with conditions, modify, or
 21 reject an application, and the standards that the commission must apply.

22 Defined terms: "Commission" § 8–101

23 "Site" § 8–101

24 "Structure" § 8–101

25 **8–304. PLANS FOR SITES OR STRUCTURES.**

26 **(A) REQUIREMENTS.**

27 **A COMMISSION SHALL STRICTLY JUDGE PLANS FOR SITES OR**
 28 **STRUCTURES DETERMINED BY RESEARCH TO BE OF HISTORIC,**
 29 **ARCHAEOLOGICAL, OR ARCHITECTURAL SIGNIFICANCE.**

30 **(B) PROHIBITIONS.**

31 **UNLESS THE PLANS WOULD SERIOUSLY IMPAIR THE HISTORIC,**
 32 **ARCHAEOLOGICAL, OR ARCHITECTURAL SIGNIFICANCE OF THE SURROUNDING**
 33 **SITE OR STRUCTURE, A COMMISSION MAY NOT STRICTLY JUDGE PLANS:**

1 **(1) FOR A SITE OR STRUCTURE OF LITTLE HISTORIC,**
2 **ARCHAEOLOGICAL, OR ARCHITECTURAL SIGNIFICANCE; OR**

3 **(2) INVOLVING NEW CONSTRUCTION.**

4 **(C) LIMITATIONS ON ARCHITECTURAL STYLE.**

5 **A COMMISSION IS NOT REQUIRED TO LIMIT CONSTRUCTION,**
6 **RECONSTRUCTION, OR ALTERATION TO THE ARCHITECTURAL STYLE OF ANY**
7 **ONE PERIOD.**

8 REVISOR'S NOTE: This section formerly was Art. 66B, § 8.08.

9 The only changes are in style.

10 Defined terms: "Commission" § 8-101

11 "Plan" § 1-101

12 "Site" § 8-101

13 "Structure" § 8-101

14 **8-305. PRESERVATION OF SITES OR STRUCTURES.**

15 **(A) PLAN FOR PRESERVATION.**

16 **A COMMISSION SHALL ATTEMPT, WITH THE OWNER OF A SITE OR**
17 **STRUCTURE, TO FORMULATE AN ECONOMICALLY FEASIBLE PLAN TO PRESERVE**
18 **THE SITE OR STRUCTURE IF:**

19 **(1) AN APPLICATION IS SUBMITTED FOR CONSTRUCTION,**
20 **RECONSTRUCTION, OR ALTERATION AFFECTING A SITE OR THE EXTERIOR OF A**
21 **STRUCTURE OR FOR THE MOVING OR DEMOLITION OF A STRUCTURE; AND**

22 **(2) THE COMMISSION CONSIDERS PRESERVATION OF THE SITE OR**
23 **STRUCTURE TO BE OF UNUSUAL IMPORTANCE TO THE LOCAL JURISDICTION,**
24 **THE STATE, OR THE NATION.**

25 **(B) REJECTION OF APPLICATION.**

26 **UNLESS THE COMMISSION IS SATISFIED THAT THE PROPOSED**
27 **CONSTRUCTION, RECONSTRUCTION, OR ALTERATION WILL NOT MATERIALLY**
28 **IMPAIR THE HISTORIC, ARCHAEOLOGICAL, OR ARCHITECTURAL SIGNIFICANCE**
29 **OF THE SITE OR STRUCTURE, THE COMMISSION SHALL:**

30 **(1) REJECT THE APPLICATION; AND**

1 **(2) FILE A COPY OF ITS REJECTION WITH THE BUILDING**
 2 **INSPECTOR OF THE LOCAL JURISDICTION.**

3 **(C) NEGOTIATIONS FOR PRESERVATION.**

4 **THE COMMISSION SHALL HAVE 90 DAYS AFTER THE DATE ON WHICH THE**
 5 **COMMISSION CONCLUDES THAT AN ECONOMICALLY FEASIBLE PLAN CANNOT BE**
 6 **FORMULATED UNDER THIS SECTION TO NEGOTIATE WITH THE OWNER AND**
 7 **OTHER PARTIES TO FIND A MEANS OF PRESERVING THE SITE OR STRUCTURE.**

8 **(D) EXCEPTIONS.**

9 **IF A SITE OR STRUCTURE IS CONSIDERED TO BE VALUABLE FOR ITS**
 10 **HISTORIC, ARCHAEOLOGICAL, OR ARCHITECTURAL SIGNIFICANCE, A**
 11 **COMMISSION MAY APPROVE PROPOSED CONSTRUCTION, RECONSTRUCTION,**
 12 **ALTERATION, MOVING, OR DEMOLITION, DESPITE THE FACT THAT THE CHANGES**
 13 **COME WITHIN THE PROVISIONS OF THIS SECTION IF:**

14 **(1) THE SITE OR STRUCTURE IS A DETERRENT TO A MAJOR**
 15 **IMPROVEMENT PROGRAM THAT WILL BE OF SUBSTANTIAL BENEFIT TO THE**
 16 **LOCAL JURISDICTION; OR**

17 **(2) THE RETENTION OF THE SITE OR STRUCTURE WOULD:**

18 **(I) CAUSE UNDUE FINANCIAL HARDSHIP TO THE OWNER;**
 19 **OR**

20 **(II) NOT BE IN THE BEST INTERESTS OF A MAJORITY OF**
 21 **PERSONS IN THE COMMUNITY.**

22 **REVISOR'S NOTE:** This section is new language derived without substantive
 23 change from former Art. 66B, §§ 8.09 and 8.10.

24 In the introductory language to subsection (a) of this section, the
 25 reference to the owner of a "site or" structure is added for consistency
 26 within this section.

27 **Defined terms: "Commission" § 8-101**

28 **"Demolition" § 8-101**

29 **"Local jurisdiction" § 1-101**

30 **"Person" § 1-101**

31 **"Plan" § 1-101**

32 **"Site" § 8-101**

1 “State” § 1–101
2 “Structure” § 8–101

3 **8–306. CERTIFICATE OF APPROVAL, MODIFICATION, OR REJECTION.**

4 **(A) FILING WITH BUILDING INSPECTOR.**

5 **(1) A COMMISSION SHALL FILE WITH THE BUILDING INSPECTOR**
6 **OF THE LOCAL JURISDICTION A CERTIFICATE OF THE COMMISSION’S APPROVAL,**
7 **APPROVAL WITH CONDITIONS, OR MODIFICATION, OR WRITTEN NOTICE OF**
8 **REJECTION OF AN APPLICATION OR PLAN SUBMITTED TO THE COMMISSION FOR**
9 **REVIEW.**

10 **(2) AN APPLICANT MAY NOT BEGIN WORK ON A PROJECT**
11 **SUBMITTED TO THE COMMISSION FOR REVIEW UNTIL THE COMMISSION HAS**
12 **FILED THE CERTIFICATE OF APPROVAL, APPROVAL WITH CONDITIONS, OR**
13 **MODIFICATION WITH THE BUILDING INSPECTOR.**

14 **(3) THE BUILDING INSPECTOR MAY NOT ISSUE A BUILDING**
15 **PERMIT FOR A CHANGE OR CONSTRUCTION SUBMITTED TO THE COMMISSION**
16 **FOR REVIEW UNTIL THE BUILDING INSPECTOR HAS RECEIVED THE**
17 **CERTIFICATE OF APPROVAL, APPROVAL WITH CONDITIONS, OR MODIFICATION**
18 **FROM THE COMMISSION.**

19 **(B) ISSUANCE TO OWNER, LESSEE, OR TENANT.**

20 **IF THERE IS NO BUILDING INSPECTOR IN THE LOCAL JURISDICTION:**

21 **(1) A COMMISSION SHALL ISSUE A CERTIFICATE OF THE**
22 **COMMISSION’S APPROVAL, APPROVAL WITH CONDITIONS, OR MODIFICATION,**
23 **OR A WRITTEN NOTICE OF REJECTION, TO THE OWNER, LESSEE, OR TENANT OF**
24 **THE PROPERTY THAT IS THE SUBJECT OF THE APPLICATION OR PLAN; AND**

25 **(2) THE OWNER, LESSEE, OR TENANT MAY NOT BEGIN THE**
26 **PROPOSED WORK OR CHANGE UNTIL THE COMMISSION HAS ISSUED THE**
27 **CERTIFICATE OF APPROVAL, APPROVAL WITH CONDITIONS, OR MODIFICATION.**

28 **REVISOR’S NOTE:** This section is new language derived without substantive
29 change from former Art. 66B, § 8.12(a) through (d).

30 In subsections (a)(1) and (b)(1) of this section, the references to “approval
31 with conditions” are added for clarity. Similarly, in subsections (a)(2) and
32 (3) and (b)(2) of this section, the references to “approval with conditions,
33 or modification” are added for clarity and consistency within this section.

1 In subsection (a)(3) of this section, the reference to receiving the
2 certificate of approval “from the commission” is added for clarity.

3 In the introductory language to subsection (b) of this section, the defined
4 term “local jurisdiction” is substituted for the former reference to the
5 “county or municipal corporation” for consistency within this division.

6 Defined terms: “Commission” § 8–101
7 “Local jurisdiction” § 1–101
8 “Plan” § 1–101

9 **8–307. FAILURE TO ACT ON COMPLETED APPLICATION.**

10 **IF A COMMISSION FAILS TO ACT ON A COMPLETED APPLICATION WITHIN**
11 **45 DAYS AFTER THE DATE WHEN THE COMPLETED APPLICATION WAS FILED,**
12 **THE APPLICATION SHALL BE CONSIDERED APPROVED UNLESS:**

13 **(1) THE APPLICANT AND THE COMMISSION AGREE TO AN**
14 **EXTENSION OF THE 45–DAY PERIOD; OR**

15 **(2) THE APPLICATION IS WITHDRAWN.**

16 REVISOR’S NOTE: This section is new language derived without substantive
17 change from former Art. 66B, § 8.12(e).

18 Defined term: “Commission” § 8–101

19 **8–308. APPEAL OF DECISION.**

20 **ANY PERSON AGGRIEVED BY A DECISION OF A COMMISSION MAY APPEAL**
21 **THE DECISION IN THE MANNER PROVIDED FOR AN APPEAL FROM THE DECISION**
22 **OF THE PLANNING COMMISSION OF THE LOCAL JURISDICTION.**

23 REVISOR’S NOTE: This section is new language derived without substantive
24 change from former Art. 66B, § 8.15.

25 The phrase “planning commission” is substituted for the former phrase
26 “zoning board or commission” for clarity. *Cf. Casey v. Mayor of Rockville,*
27 *400 Md. 259, 315 (2007) (fn. 44); 67 Op. Att’y Gen’l 409 (1982).*

28 The Land Use Article Review Committee notes, for consideration by the
29 General Assembly, that under this section it is unclear: (1) whether an
30 appeal is always available through the local board of appeals; (2) whether
31 a local jurisdiction may divest an applicant of the opportunity to appeal to
32 the local board of appeals rather than seeking judicial review; and (3)

1 who bears the costs of an action in direct judicial review compared with
2 consideration by the board of appeals. The committee recommends
3 establishing a clear appellate path for these matters, indicating whether
4 or not there is a local option or requirement to proceed through the local
5 board of appeal, or whether direct judicial review is always available.

6 Defined terms: "Commission" § 8-101

7 "Local jurisdiction" § 1-101

8 "Person" § 1-101

9 **SUBTITLE 4. MISCELLANEOUS PROVISIONS.**

10 **8-401. CONVERSION OF OVERHEAD FACILITIES.**

11 **(A) LOCAL LAWS.**

12 **(1) EACH LOCAL JURISDICTION IN WHICH A DISTRICT IS**
13 **DESIGNATED MAY ENACT LOCAL LAWS REQUIRING THAT:**

14 **(I) UTILITY COMPANIES RELOCATE EXISTING OVERHEAD**
15 **LINES AND FACILITIES UNDERGROUND WITHIN THE DEFINED PART OF THE**
16 **DISTRICT OR THE ENTIRE DISTRICT; AND**

17 **(II) IF NECESSARY, PRIVATE OWNERS WHO RECEIVE**
18 **SERVICE FROM THE RELOCATED LINES AND FACILITIES PLACE ANY**
19 **CONNECTION UNDERGROUND.**

20 **(2) A LOCAL LAW ENACTED UNDER THIS SECTION SHALL:**

21 **(I) REQUIRE THAT THE ESTIMATED COST TO PROPERTY**
22 **OWNERS FOR WORK PERFORMED ON PRIVATE PROPERTY BE DETERMINED AND**
23 **MADE AVAILABLE TO AFFECTED PROPERTY OWNERS;**

24 **(II) PROVIDE FINANCING FOR THESE COSTS TO PRIVATE**
25 **OWNERS, INCLUDING FINANCING FOR ANY CHARGES FOR THE AMORTIZATION**
26 **OF BONDS ISSUED TO INITIALLY COVER PRIVATE COSTS; AND**

27 **(III) INCLUDE ANY OTHER PROVISIONS REASONABLY**
28 **RELATED TO PLACING OVERHEAD LINES AND FACILITIES UNDERGROUND AND**
29 **ADMINISTERING UNDERGROUND RELOCATION PROJECTS.**

30 **(B) APPORTIONMENT OF COSTS BY PUBLIC SERVICE COMMISSION.**

1 **(1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE**
2 **PUBLIC SERVICE COMMISSION SHALL:**

3 **(I) DETERMINE THE AMOUNT OF THE MONTHLY**
4 **SURCHARGE REQUIRED TO SUPPORT THE NET CAPITAL COSTS OF AN**
5 **UNDERGROUND RELOCATION AND DETERMINE WHICH CUSTOMERS OF THE**
6 **APPLICABLE UTILITY ARE SUBJECT TO THE SURCHARGE;**

7 **(II) INCLUDE THE RELATED NET CAPITAL COSTS IN THE**
8 **RATE BASE; OR**

9 **(III) ADOPT ANY OTHER METHOD TO APPROPRIATELY**
10 **APPORTION THE COSTS.**

11 **(2) A UTILITY MAY NOT BE REQUIRED TO PAY MORE THAN**
12 **ONE-HALF OF THE NET CAPITAL COSTS OF AN UNDERGROUND RELOCATION.**

13 **(C) APPROPRIATION BY LOCAL JURISDICTION.**

14 **A LOCAL JURISDICTION MAY APPROPRIATE MONEY FOR UNDERGROUND**
15 **RELOCATION PROJECTS FROM ANY FEDERAL, STATE, AND LOCAL FUNDS THE**
16 **LOCAL JURISDICTION RECEIVES FOR THAT PURPOSE.**

17 **(D) AGREEMENTS WITH PROPERTY OWNERS.**

18 **(1) IN IMPLEMENTING SUBSECTION (A)(2)(II) OF THIS SECTION,**
19 **THE LOCAL JURISDICTION MAY ENTER INTO AN AGREEMENT WITH INDIVIDUAL**
20 **PROPERTY OWNERS UNDER WHICH THE LOCAL JURISDICTION AGREES TO**
21 **ADVANCE FUNDS TO COVER THE PROPERTY OWNERS' COSTS FOR THE**
22 **RELOCATION OF THE OVERHEAD LINES AND FACILITIES.**

23 **(2) (I) THE LOCAL JURISDICTION MAY APPROPRIATE MONEY,**
24 **IMPOSE TAXES, OR BORROW MONEY TO PAY AND ADVANCE THE COSTS OF AN**
25 **UNDERGROUND RELOCATION.**

26 **(II) IN ORDER TO RECAPTURE EXPENDED COSTS, THE**
27 **LOCAL JURISDICTION MAY:**

28 **1. IMPOSE A BENEFIT ASSESSMENT AGAINST**
29 **PROPERTY IN THE DISTRICT ON BEHALF OF WHICH THE UTILITY IS RELOCATED**
30 **UNDERGROUND; AND**

1 **2. PROVIDE FOR THE COLLECTION OF THE**
 2 **ASSESSMENT.**

3 REVISOR'S NOTE: This section is new language derived without substantive
 4 change from former Art. 66B, § 8.16(a) through (c).

5 In subsection (d)(2)(i) of this section, the reference to "impos[ing]" taxes is
 6 substituted for the former reference to "levy[ing]" taxes for consistency
 7 with other recently revised articles of the Code. *See, e.g.*, PU § 17–201.

8 For general provisions relating to conversion of overhead facilities, *see*
 9 PU, Title 12, Subtitle 3.

10 Former Art. 66B, § 8.16(d), which excluded this section from former Art.
 11 66B, § 1.02, is revised in § 1–401 of this article.

12 Defined terms: "District" § 8–101
 13 "Local jurisdiction" § 1–101
 14 "Local law" § 1–101
 15 "State" § 1–101

16 **SUBTITLE 5. ENFORCEMENT.**

17 **8–501. REQUEST FOR ENFORCEMENT.**

18 **A COMMISSION MAY REQUEST THAT THE APPROPRIATE ENFORCEMENT**
 19 **AUTHORITY OF THE LOCAL JURISDICTION SEEK ANY OF THE REMEDIES AND**
 20 **PENALTIES PROVIDED BY LAW FOR ANY VIOLATION OF A LOCAL LAW ADOPTED**
 21 **UNDER THIS TITLE.**

22 REVISOR'S NOTE: This section is new language derived without substantive
 23 change from former Art. 66B, § 8.14.

24 The reference to the enforcement authority "of the local jurisdiction" is
 25 added for clarity.

26 The reference to "seek[ing]" remedies and penalties is substituted for the
 27 former reference to "institut[ing]" remedies and penalties for consistency
 28 with other revised articles of the Code.

29 Defined terms: "Commission" § 8–101
 30 "Local jurisdiction" § 1–101
 31 "Local law" § 1–101

32 GENERAL REVISOR'S NOTE TO TITLE

1 Former Art. 66B, § 8.17, which provided that the provisions of former Art. 66B,
2 §§ 8.01 through 8.17 were severable, is deleted in light of Art. 1, § 23, which provides
3 that all legislation enacted after July 1, 1979, is presumed to be severable absent
4 specific language to the contrary, and in light of the standard rule of judicial
5 construction favoring severability even in the absence of a severability clause in the
6 statute. *See, e.g., Muskin v. State Dep't of Assessments and Taxation*, 422 Md. 544
7 (2011): “We have held that, even in the absence of an express severability clause in
8 legislation that is found defective in some severable part, there “is a strong
9 presumption that if a portion of an enactment is found to be invalid, the intent is that
10 such portion be severed.” *Bd. v. Smallwood*, 327 Md. 220, 245, 608 A.2d 1222, 1234
11 (1992); *see also Balt. v. Stuyvesant Ins. Co.*, 226 Md. 379, 390, 174 A.2d 153, 158 – 59
12 (1961) (finding that “[i]t is the duty of a court to separate the valid from the invalid
13 provisions of an ordinance, so long as the valid portion is independent and severable
14 from that which is void.”) 422 Md. 544, 554 (fn. 5); *see also Jackson v. Dackman Co.*,
15 422 Md. 357, 383–384 (2011).

16 **TITLE 9. SINGLE-COUNTY PROVISIONS.**

17 **SUBTITLE 1. ALLEGANY COUNTY.**

18 **9–101. SCOPE OF SUBTITLE.**

19 **THIS SUBTITLE APPLIES TO ALLEGANY COUNTY.**

20 REVISOR’S NOTE: This section formerly was Art. 66B, § 14.01(a).

21 The only change is in style.

22 **9–102. PLANNING COMMISSION.**

23 **(A) COMPOSITION.**

24 **THE PLANNING COMMISSION MAY CONSIST OF NINE MEMBERS.**

25 **(B) TENURE.**

26 **(1) THE TERM OF A MEMBER OF THE PLANNING COMMISSION IS 5**
27 **YEARS.**

28 **(2) THE TERMS OF TWO OF THE MEMBERS OF THE PLANNING**
29 **COMMISSION SHALL BE STAGGERED.**

30 **(3) AT THE END OF A TERM, A MEMBER OF THE PLANNING**
31 **COMMISSION CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND**
32 **QUALIFIES.**

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 66B, § 14.01(b) and (c).

3 **SUBTITLE 2. ANNE ARUNDEL COUNTY.**

4 **9-201. RESERVED.**

5 **SUBTITLE 3. BALTIMORE COUNTY.**

6 **9-301. SCOPE OF SUBTITLE.**

7 **THIS SUBTITLE APPLIES TO BALTIMORE COUNTY.**

8 REVISOR'S NOTE: This section formerly was Art. 66B, § 14.02(a).

9 The only change is in style.

10 **9-302. ENFORCEMENT OF ZONING REGULATIONS.**

11 **(A) ADMINISTRATIVE PROCEEDING.**

12 **IN ADDITION TO THE JURISDICTION GRANTED IN TITLE 11, SUBTITLE 2**
13 **OF THIS ARTICLE, THE LEGISLATIVE BODY OF BALTIMORE COUNTY MAY**
14 **PROVIDE BY LOCAL LAW FOR AN ADMINISTRATIVE PROCEEDING TO ENFORCE**
15 **ITS ZONING REGULATIONS.**

16 **(B) CIVIL FINES AND PENALTIES.**

17 **THE LOCAL LAW MAY INCLUDE THE AUTHORITY TO IMPOSE CIVIL FINES**
18 **AND PENALTIES FOR ZONING VIOLATIONS.**

19 REVISOR'S NOTE: This section formerly was Art. 66B, § 14.02(b) and (c).

20 The only changes are in style.

21 Defined terms: "Local law" § 1-101

22 "Regulation" § 1-101

23 **SUBTITLE 4. CALVERT COUNTY.**

24 **9-401. RESERVED.**

25 **SUBTITLE 5. CAROLINE COUNTY.**

1 **9-501. RESERVED.**

2 **SUBTITLE 6. CARROLL COUNTY.**

3 **9-601. SCOPE OF SUBTITLE.**

4 **THIS SUBTITLE APPLIES TO CARROLL COUNTY.**

5 REVISOR'S NOTE: This section formerly was Art. 66B, § 14.03(a).

6 The only change is in style.

7 **9-602. APPOINTMENT TO PLANNING COMMISSION.**

8 **(A) MEMBER OF BOARD OF COUNTY COMMISSIONERS.**

9 **THE COUNTY COMMISSIONERS MAY APPOINT ONE OF THE MEMBERS OF**
10 **THE BOARD OF COUNTY COMMISSIONERS TO THE PLANNING COMMISSION.**

11 **(B) ALTERNATE MEMBER.**

12 **(1) THE COUNTY COMMISSIONERS SHALL DESIGNATE ONE**
13 **ALTERNATE MEMBER OF THE PLANNING COMMISSION WHO MAY SIT ON THE**
14 **PLANNING COMMISSION IN THE ABSENCE OF A MEMBER OF THE PLANNING**
15 **COMMISSION.**

16 **(2) WHEN THE ALTERNATE IS ABSENT, THE COUNTY**
17 **COMMISSIONERS MAY DESIGNATE A TEMPORARY ALTERNATE.**

18 REVISOR'S NOTE: This section formerly was Art. 66B, § 14.03(b).

19 In this section, the former references to the planning "and zoning"
20 commission are deleted for consistency within this division.

21 No other changes are made.

22 **9-603. SALE OF CERTAIN PROPERTY BY USE OF UNAPPROVED PLAT OF**
23 **SUBDIVISION.**

24 **IF A PLAT IS APPROVED AND RECORDED IN ACCORDANCE WITH THIS**
25 **DIVISION BEFORE THE TRANSFER OF THE PROPERTY, § 5-301 OF THIS ARTICLE**
26 **DOES NOT APPLY TO A CONTRACT FOR SALE OR NEGOTIATION FOR SALE OF**
27 **PROPERTY ZONED INDUSTRIAL, COMMERCIAL, OR BOTH INDUSTRIAL AND**
28 **COMMERCIAL.**

1 REVISOR'S NOTE: This section formerly was Art. 66B, § 14.03(c).

2 The only changes are in style.

3 **9-604. ASSESSMENT FOR ABATEMENT OF ZONING VIOLATION.**

4 **(A) ASSESSMENT OF REASONABLE COSTS.**

5 **IF THE COUNTY COMMISSIONERS ABATE A VIOLATION OF A ZONING LAW,**
6 **THE COUNTY COMMISSIONERS MAY ASSESS AGAINST THE PROPERTY THE**
7 **REASONABLE COSTS OF THE ABATEMENT.**

8 **(B) COLLECTION OF ASSESSMENT.**

9 **(1) THE ASSESSMENT SHALL BE:**

10 **(I) ADDED TO THE ANNUAL TAX BILL OF THE PROPERTY TO**
11 **BE COLLECTED IN THE SAME MANNER AS ORDINARY TAXES ARE COLLECTED;**
12 **AND**

13 **(II) SUBJECT TO THE SAME INTEREST AND PENALTY FOR**
14 **NONPAYMENT AS PROVIDED BY LAW FOR THE NONPAYMENT OF COUNTY TAXES.**

15 **(2) THE ASSESSMENT IS A LIEN AGAINST THE PROPERTY FROM**
16 **THE DATE OF ASSESSMENT UNTIL PAID.**

17 **(C) PETITION FOR RELIEF FROM ASSESSMENT.**

18 **(1) A PROPERTY OWNER AGGRIEVED BY THE ASSESSMENT MAY**
19 **PETITION THE COUNTY COMMISSIONERS FOR RELIEF.**

20 **(2) WITHIN 30 DAYS AFTER RECEIVING A PETITION, THE COUNTY**
21 **COMMISSIONERS SHALL CONDUCT A HEARING TO DETERMINE THE PROPRIETY**
22 **AND REASONABLENESS OF THE ASSESSMENT.**

23 **(3) AT THE HEARING, THE PETITIONER SHALL HAVE THE BURDEN**
24 **OF SHOWING GOOD CAUSE AS TO WHY THE ASSESSMENT SHOULD NOT BE MADE.**

25 REVISOR'S NOTE: This section formerly was Art. 66B, § 14.03(d).

26 The only changes are in style.

27 Defined term: "Zoning law" § 1-101

1 **(1) THE BOARD OF COUNTY COMMISSIONERS SHALL APPOINT A**
2 **DIRECTOR OF PLANNING AND ZONING FOR THE COUNTY.**

3 **(2) THE DIRECTOR SHALL SERVE AT THE PLEASURE OF THE**
4 **COUNTY COMMISSIONERS.**

5 **(B) APPOINTMENT BY PLANNING COMMISSION PROHIBITED.**

6 **THE PLANNING COMMISSION MAY NOT APPOINT A DIRECTOR OF**
7 **PLANNING AND ZONING.**

8 REVISOR'S NOTE: This section formerly was Art. 66B, § 14.04(c).

9 No changes are made.

10 **9-704. BOARD OF APPEALS.**

11 **(A) COMPOSITION.**

12 **NOTWITHSTANDING § 4-302 OF THIS ARTICLE, THE BOARD OF APPEALS**
13 **CONSISTS OF FIVE REGULAR MEMBERS AND ONE ALTERNATE MEMBER.**

14 **(B) TENURE.**

15 **(1) THE TERM OF A MEMBER OF THE BOARD OF APPEALS IS 3**
16 **YEARS.**

17 **(2) THE TERMS OF THE MEMBERS OF THE BOARD OF APPEALS**
18 **SHALL BE STAGGERED.**

19 **(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE**
20 **UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.**

21 **(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN**
22 **SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS**
23 **APPOINTED AND QUALIFIES.**

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 66B, § 14.04(d).

26 **SUBTITLE 8. CHARLES COUNTY.**

27 **9-801. SCOPE OF SUBTITLE.**

1 **THIS SUBTITLE APPLIES TO CHARLES COUNTY.**

2 REVISOR'S NOTE: This section formerly was Art. 66B, § 14.05(a).

3 The only change is in style.

4 **9-802. PLANNING COMMISSION.**

5 **(A) COMPOSITION.**

6 **(1) THE PLANNING COMMISSION CONSISTS OF SEVEN MEMBERS**
7 **WHO SHALL REPRESENT AS MANY DIFFERENT GEOGRAPHICAL AREAS OF THE**
8 **COUNTY AS IS POSSIBLE.**

9 **(2) A MEMBER OF THE COUNTY COMMISSIONERS MAY NOT SIT ON**
10 **THE PLANNING COMMISSION.**

11 **(B) TENURE.**

12 **(1) THE TERM OF A MEMBER OF THE PLANNING COMMISSION IS 3**
13 **YEARS.**

14 **(2) THE TERMS OF THE MEMBERS OF THE PLANNING**
15 **COMMISSION SHALL BE STAGGERED.**

16 **(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE**
17 **UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.**

18 **(C) CHAIR.**

19 **EACH YEAR, THE COUNTY COMMISSIONERS SHALL APPOINT THE CHAIR**
20 **OF THE PLANNING COMMISSION.**

21 **(D) COMPENSATION.**

22 **EACH MEMBER OF THE PLANNING COMMISSION IS ENTITLED TO THE**
23 **COMPENSATION THE COUNTY COMMISSIONERS CONSIDER APPROPRIATE.**

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 66B, § 14.05(b).

26 **9-803. TENURE OF BOARD OF APPEALS MEMBERS.**

27 **(A) LENGTH OF TERMS.**

1 **NOTWITHSTANDING § 4-302 OF THIS ARTICLE, THE MEMBERS OF THE**
2 **BOARD OF APPEALS SHALL BE APPOINTED TO 4-YEAR TERMS.**

3 **(B) STAGGERED TERMS.**

4 **THE TERMS OF THE MEMBERS OF THE BOARD OF APPEALS SHALL BE**
5 **STAGGERED.**

6 REVISOR'S NOTE: This section formerly was Art. 66B, § 14.05(c).

7 The only changes are in style.

8 **9-804. SPECIAL EXCEPTIONS.**

9 **(A) SCOPE OF SECTION.**

10 **THIS SECTION APPLIES ONLY TO AN APPLICATION FOR A SPECIAL**
11 **EXCEPTION FOR:**

12 **(1) AN ASPHALT PLANT;**

13 **(2) A CONCRETE PLANT;**

14 **(3) SAND AND GRAVEL WASHING, CRUSHING, OR SCREENING; OR**

15 **(4) SURFACE MINING.**

16 **(B) APPEALS.**

17 **(1) NOTWITHSTANDING TITLE 4, SUBTITLE 3 OF THIS ARTICLE,**
18 **THE COUNTY COMMISSIONERS MAY HEAR AND DECIDE A SPECIAL EXCEPTION**
19 **UNDER AN APPEAL FILED BY A PROPERTY OWNER WHO IS AGGRIEVED BY A**
20 **DECISION OF THE BOARD OF APPEALS ON THE SPECIAL EXCEPTION.**

21 **(2) THE COUNTY COMMISSIONERS SHALL HEAR AND DECIDE AN**
22 **APPEAL OF A SPECIAL EXCEPTION IN ACCORDANCE WITH RULES AND**
23 **PROCEDURES ADOPTED BY THE COUNTY COMMISSIONERS.**

24 **(C) JUDICIAL REVIEW.**

25 **IF THE COUNTY COMMISSIONERS ADOPT RULES AND PROCEDURES FOR**
26 **CONSIDERING A SPECIAL EXCEPTION UNDER THIS SECTION, THE DECISION OF**

1 THE COUNTY COMMISSIONERS TO GRANT, DENY, MODIFY, OR REMAND THE
2 APPLICATION FOR THE SPECIAL EXCEPTION IS A FINAL DECISION FOR WHICH
3 JUDICIAL REVIEW MAY BE REQUESTED IN THE CIRCUIT COURT UNDER TITLE 4,
4 SUBTITLE 4 OF THIS ARTICLE.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 66B, § 14.05(d).

7 In subsection (c) of this section, the phrase "judicial review may be
8 requested" is substituted for the former phrase "an appeal may be taken"
9 for accuracy.

10 Defined term: "Special exception" § 1-101

11 **9-805. SUBDIVISION REGULATIONS — IN GENERAL.**

12 **(A) RESERVATION OF PROPERTY.**

13 SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION, THE
14 SUBDIVISION REGULATIONS MAY PROVIDE FOR THE RESERVATION OF
15 PROPERTY FOR TRAFFIC, RECREATION, OR OTHER PUBLIC PURPOSES.

16 **(B) LIMITATION.**

17 A RESERVATION OF PROPERTY UNDER SUBSECTION (A) OF THIS SECTION
18 MAY NOT CONTINUE FOR LONGER THAN 3 YEARS WITHOUT THE WRITTEN
19 APPROVAL OF ALL PERSONS WITH A LEGAL OR EQUITABLE INTEREST IN THE
20 PROPERTY.

21 **(C) NOTICE AND HEARING.**

22 THE SUBDIVISION REGULATIONS SHALL PROVIDE FOR PUBLIC NOTICE
23 AND AN OPPORTUNITY FOR A PUBLIC HEARING BEFORE A PROPERTY MAY BE
24 RESERVED.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 66B, § 5.03(b)(4).

27 In subsections (a) and (c) of this section, the references to "subdivision"
28 regulations are added for clarity.

29 In subsection (a) of this section, the former phrase "in Charles County" is
30 deleted as implicit in the organization of material in this subtitle.

31 Defined terms: "Person" § 1-101

1 "Regulation" § 1-101
2 "Subdivision" § 1-101

3 **9-806. SUBDIVISION REGULATIONS — SALE OF INDUSTRIAL PROPERTY.**

4 **SECTION 5-301 OF THIS ARTICLE DOES NOT APPLY TO THE SALE OR**
5 **NEGOTIATION FOR SALE OF INDUSTRIAL PROPERTY.**

6 REVISOR'S NOTE: This section formerly was Art. 66B, § 14.05(e).

7 The only change is in style.

8 **GENERAL REVISOR'S NOTE TO SUBTITLE**

9 Former Art. 66B, § 14.05(f), which related to new school capacity construction
10 bonds in Charles County, is amended and transferred to Article 24 in preparation for
11 revision in the anticipated Local Government Article. See § 4 of Ch. ____, Acts of 2012.

12 **SUBTITLE 9. DORCHESTER COUNTY.**

13 **9-901. RESERVED.**

14 **SUBTITLE 10. FREDERICK COUNTY.**

15 **9-1001. SCOPE OF SUBTITLE.**

16 **THIS SUBTITLE APPLIES TO FREDERICK COUNTY.**

17 REVISOR'S NOTE: This section formerly was Art. 66B, § 14.06(a).

18 The only change is in style.

19 **9-1002. AUTHORITY OF COUNTY COMMISSIONERS TO OVERRULE PLANNING**
20 **COMMISSION.**

21 **NOTWITHSTANDING ANY OTHER PROVISION OF THIS DIVISION, THE**
22 **BOARD OF COUNTY COMMISSIONERS MAY OVERRULE AN ACTION OF THE**
23 **COUNTY PLANNING COMMISSION UNDER TITLE 3, SUBTITLE 2 OR 3 OF THIS**
24 **ARTICLE BY A MAJORITY VOTE OF THE MEMBERSHIP OF THE BOARD OF COUNTY**
25 **COMMISSIONERS.**

26 REVISOR'S NOTE: This section formerly was Art. 66B, § 14.06(b).

27 The only changes are in style.

1 For general provisions relating to the review of planning commission
2 actions by a legislative body or other body with jurisdiction, *see* § 3–205 of
3 this article.

4 **9–1003. TENURE OF BOARD OF APPEALS MEMBERS.**

5 **(A) LENGTH OF TERMS.**

6 **NOTWITHSTANDING § 4–302 OF THIS ARTICLE, THE MEMBERS OF THE**
7 **BOARD OF APPEALS MAY BE APPOINTED TO TERMS OF 1 TO 3 YEARS.**

8 **(B) STAGGERED TERMS.**

9 **THE TERMS OF THE MEMBERS OF THE BOARD OF APPEALS SHALL BE**
10 **STAGGERED.**

11 REVISOR’S NOTE: This section formerly was Art. 66B, § 14.06(c).

12 In subsection (b) of this section, the reference to “the members of” the
13 board of appeals is added for clarity.

14 The only other change is in style.

15 **9–1004. SALE OF CERTAIN PROPERTY BY USE OF UNAPPROVED PLAT OF**
16 **SUBDIVISION.**

17 **IF A PLAT IS APPROVED AND RECORDED IN ACCORDANCE WITH THIS**
18 **DIVISION BEFORE THE TRANSFER OF THE PROPERTY, § 5–301 OF THIS ARTICLE**
19 **DOES NOT APPLY TO A CONTRACT FOR SALE OR NEGOTIATION FOR SALE OF**
20 **PROPERTY ZONED INDUSTRIAL, COMMERCIAL, OR BOTH INDUSTRIAL AND**
21 **COMMERCIAL.**

22 REVISOR’S NOTE: This section formerly was Art. 66B, § 14.06(d).

23 The only changes are in style.

24 **SUBTITLE 11. GARRETT COUNTY.**

25 **9–1101. RESERVED.**

26 **SUBTITLE 12. HARFORD COUNTY.**

27 **9–1201. RESERVED.**

28 **SUBTITLE 13. HOWARD COUNTY.**

1 **9-1301. SCOPE OF SUBTITLE.**

2 **THIS SUBTITLE APPLIES TO HOWARD COUNTY.**

3 REVISOR'S NOTE: This section formerly was Art. 66B, § 14.06.1(a).

4 The only change is in style.

5 **9-1302. ENFORCEMENT OF ZONING REGULATIONS.**

6 **(A) ADMINISTRATIVE PROCEEDING.**

7 **IN ADDITION TO THE JURISDICTION GRANTED IN TITLE 11 OF THIS**
8 **ARTICLE, THE COUNTY COUNCIL MAY PROVIDE BY LOCAL LAW FOR AN**
9 **ADMINISTRATIVE PROCEEDING TO ENFORCE ITS ZONING REGULATIONS.**

10 **(B) CIVIL FINES AND PENALTIES, LIENS, AND ASSESSMENT OF COSTS.**

11 **THE LOCAL LAW MAY INCLUDE THE AUTHORITY TO IMPOSE CIVIL FINES**
12 **AND PENALTIES AND TO CREATE LIENS AND ASSESS COSTS FOR ZONING**
13 **VIOLATIONS.**

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 66B, § 14.06.1(b) and (c).

16 Defined terms: "Local law" § 1-101

17 "Regulation" § 1-101

18 **SUBTITLE 14. KENT COUNTY.**

19 **9-1401. RESERVED.**

20 **SUBTITLE 15. QUEEN ANNE'S COUNTY.**

21 **9-1501. RESERVED.**

22 **SUBTITLE 16. ST. MARY'S COUNTY.**

23 **9-1601. SCOPE OF SUBTITLE.**

24 **THIS SUBTITLE APPLIES TO ST. MARY'S COUNTY.**

25 REVISOR'S NOTE: This section formerly was Art. 66B, § 14.07(a).

1 The only change is in style.

2 **9-1602. PROHIBITION OF CERTAIN LAND USES.**

3 **(A) PROHIBITION.**

4 **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, LAND OR**
5 **BUILDINGS MAY NOT BE USED FOR CHEMICAL OR CATALYTIC MANUFACTURING,**
6 **CHEMICAL FABRICATION, GASOLINE PROCESSING, OR REFINING OF**
7 **PETROLEUM OR PETROLEUM PRODUCTS.**

8 **(B) EXCEPTIONS.**

9 **SUBSECTION (A) OF THIS SECTION DOES NOT APPLY TO LAND OR**
10 **BUILDINGS USED:**

11 **(1) ON OR BEFORE JULY 23, 1974, FOR CHEMICAL OR CATALYTIC**
12 **MANUFACTURING, CHEMICAL FABRICATION, GASOLINE FABRICATION,**
13 **GASOLINE PROCESSING, OR REFINING OF PETROLEUM OR PETROLEUM**
14 **PRODUCTS; OR**

15 **(2) ON OR AFTER JULY 1, 1980, FOR MANUFACTURING ALCOHOL**
16 **FUEL.**

17 **REVISOR'S NOTE:** This section is new language derived without substantive
18 change from former Art. 66B, § 14.07(b).

19 In subsection (a) of this section, the phrase "[e]xcept as provided in
20 subsection (b) of this section," is added for clarity.

21 Also in subsection (a) of this section, the disjunctive "or" is substituted for
22 the former conjunctive "and" to clarify that the prohibition applies
23 separately to land or buildings and for consistency with subsection (b) of
24 this section.

25 In the introductory language to subsection (b) of this section, the
26 reference to "[s]ubsection (a) of this section" is substituted for the former
27 reference to "[t]his prohibition" for clarity.

28 **9-1603. RACETRACK HOURS OF OPERATION.**

29 **(A) CESSATION OF OPERATION.**

30 **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, ANY LAND OR**
31 **BUILDING USED FOR RACES OR SPEED CONTESTS INVOLVING AUTOMOBILES OR**

1 OTHER VEHICLES, AS DEFINED IN § 11-176 OF THE TRANSPORTATION ARTICLE,
2 SHALL CEASE OPERATION:

3 (1) BY 12:30 A.M.; OR

4 (2) IF A RACE OR SPEED CONTEST IS IN PROGRESS AT 12:30 A.M.,
5 WITHIN 30 MINUTES AFTER THE CONCLUSION OF THAT RACE OR SPEED
6 CONTEST.

7 (B) EXCEPTION.

8 THE REQUIRED CLOSING TIME FOR LAND OR BUILDINGS UNDER
9 SUBSECTION (A) OF THIS SECTION DOES NOT APPLY TO AREAS USED FOR THE
10 OPERATION OF CONCESSIONS OR TO A PASSAGE USED AS AN ENTRANCE TO OR
11 EXIT FROM THE CONCESSION AREAS.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 66B, § 14.07(c).

14 In subsection (a) of this section, the phrase "shall cease operation" is
15 substituted for the former phrase "shall be restricted to hours of
16 operation that cease" for brevity.

17 In subsection (b) of this section, the disjunctive "or" is substituted for the
18 former conjunctive "and" to clarify that the exception applies separately
19 to land or buildings and for consistency with subsection (a) of this section.

20 **9-1604. TENURE OF BOARD OF APPEALS MEMBERS.**

21 (A) LENGTH OF TERMS.

22 NOTWITHSTANDING § 4-302 OF THIS ARTICLE, THE MEMBERS OF THE
23 BOARD OF APPEALS MAY BE APPOINTED TO TERMS OF 1 TO 3 YEARS.

24 (B) STAGGERED TERMS.

25 THE TERMS OF THE MEMBERS OF THE BOARD OF APPEALS SHALL BE
26 STAGGERED.

27 REVISOR'S NOTE: This section formerly was Art. 66B, § 14.07(d).

28 The only change is in style.

1 **9-1605. SALE OF INDUSTRIAL PROPERTY BY USE OF UNAPPROVED PLAT OF**
2 **SUBDIVISION.**

3 **SECTION 5-301 OF THIS ARTICLE DOES NOT APPLY TO THE SALE OR**
4 **NEGOTIATION FOR SALE OF INDUSTRIAL PROPERTY.**

5 REVISOR'S NOTE: This section formerly was Art. 66B, § 14.07(e)(1).

6 The only change is in style.

7 **9-1606. SUBDIVISION REGULATIONS — EXEMPTION.**

8 **A PROPERTY DEEDED BEFORE JANUARY 1, 1994, AND IMPROVED WITH A**
9 **RESIDENCE BEFORE JANUARY 1, 2007, IS EXEMPT FROM THE SUBDIVISION**
10 **REGULATIONS ADOPTED BY THE COUNTY UNDER TITLE 5 OF THIS ARTICLE FOR**
11 **PURPOSES OF CONSTRUCTING ADDITIONS TO THE RESIDENCE OR ACCESSORY**
12 **BUILDINGS.**

13 REVISOR'S NOTE: This section formerly was Art. 66B, § 14.07(e)(2).

14 The only changes are in style.

15 Defined terms: "Regulation" § 1-101
16 "Subdivision" 1-101

17 **9-1607. CIVIL PENALTY FOR SUBDIVISION VIOLATION.**

18 **(A) AUTHORITY OF COUNTY COMMISSIONERS.**

19 **NOTWITHSTANDING § 5-301(A) OF THIS ARTICLE, THE COUNTY**
20 **COMMISSIONERS MAY PROVIDE A CIVIL PENALTY FOR A SUBDIVISION**
21 **VIOLATION.**

22 **(B) ENFORCEMENT.**

23 **IN A PROCEEDING BEFORE THE DISTRICT COURT, A SUBDIVISION**
24 **VIOLATION SHALL BE ENFORCED IN THE SAME MANNER AND TO THE SAME**
25 **EXTENT AS A MUNICIPAL INFRACTION UNDER ARTICLE 23A, § 3(B) OF THE**
26 **CODE.**

27 REVISOR'S NOTE: This section formerly was Art. 66B, § 14.07(f).

28 The only change is in style.

1 Defined term: "Subdivision" § 1-101

2 **9-1608. CIVIL PENALTY FOR ZONING VIOLATION.**

3 (A) **AUTHORITY OF COUNTY COMMISSIONERS.**

4 **NOTWITHSTANDING TITLE 11, SUBTITLE 2 OF THIS ARTICLE, THE**
5 **COUNTY COMMISSIONERS MAY PROVIDE A CIVIL PENALTY FOR A ZONING**
6 **VIOLATION.**

7 (B) **ENFORCEMENT.**

8 **IN A PROCEEDING BEFORE THE DISTRICT COURT, A ZONING VIOLATION**
9 **SHALL BE ENFORCED IN THE SAME MANNER AND TO THE SAME EXTENT AS A**
10 **MUNICIPAL INFRACTION UNDER ARTICLE 23A, § 3(B) OF THE CODE.**

11 REVISOR'S NOTE: This section formerly was Art. 66B, § 14.07(g).

12 The only change is in style.

13 **SUBTITLE 17. SOMERSET COUNTY.**

14 **9-1701. RESERVED.**

15 **SUBTITLE 18. TALBOT COUNTY.**

16 **9-1801. RESERVED.**

17 **SUBTITLE 19. WASHINGTON COUNTY.**

18 **9-1901. SCOPE OF SUBTITLE.**

19 **EXCEPT FOR LAND WITHIN A MUNICIPAL CORPORATION, THIS SUBTITLE**
20 **APPLIES TO WASHINGTON COUNTY.**

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 66B, § 14.08(b).

23 The former phrase "in Washington County" is deleted as surplusage.

24 **9-1902. ADEQUATE PUBLIC FACILITIES LAW.**

25 (A) **"PUBLIC FACILITIES" DEFINED.**

1 **IN THIS SECTION, “PUBLIC FACILITIES” MEANS SCHOOLS, ROADS, WATER,**
2 **WASTEWATER, AND STORMWATER MANAGEMENT FACILITIES, AND OTHER**
3 **INFRASTRUCTURE SUPPORTED BY THE FEDERAL, STATE, OR LOCAL**
4 **GOVERNMENT FOR PUBLIC PURPOSES.**

5 **(B) AUTHORITY TO ADOPT LOCAL LAW.**

6 **IN ADDITION TO THE AUTHORITY GRANTED IN TITLE 7, SUBTITLE 1 OF**
7 **THIS ARTICLE, THE COUNTY COMMISSIONERS MAY PROVIDE BY LOCAL LAW FOR**
8 **THE PROVISION AND FINANCING OF ADEQUATE PUBLIC FACILITIES**
9 **CONCURRENTLY WITH THE NEED FOR THOSE FACILITIES.**

10 **(C) CONTENTS OF LOCAL LAW.**

11 **THE LOCAL LAW MAY INCLUDE THE AUTHORITY FOR THE COUNTY**
12 **COMMISSIONERS TO:**

13 **(1) DETERMINE THE FUNCTIONAL OR DESIGN CAPACITY OF**
14 **PUBLIC FACILITIES;**

15 **(2) ESTABLISH STANDARDS FOR DETERMINING THE ADEQUACY**
16 **OF PUBLIC FACILITIES;**

17 **(3) DETERMINE SCHOOL CAPACITY STANDARDS;**

18 **(4) DETERMINE THE STUDENT YIELD FACTORS FOR SCHOOLS AT**
19 **VARIOUS LEVELS;**

20 **(5) ESTABLISH CATEGORIES OF DEVELOPMENTS THAT WILL BE**
21 **EXEMPT FROM THE APPLICATION OF THE LOCAL LAW;**

22 **(6) ESTABLISH FORMULAS FOR MEASURING AVAILABLE CAPACITY**
23 **OF PUBLIC FACILITIES;**

24 **(7) DETERMINE THE ADEQUACY OF PUBLIC FACILITIES IN AREAS**
25 **AFFECTED BY NEW DEVELOPMENTS IN THE DEVELOPMENT PLAN REVIEW**
26 **PROCESS;**

27 **(8) ENTER INTO AGREEMENTS WITH DEVELOPERS PROVIDING**
28 **FOR THE PAYMENT OF MONETARY COMPENSATION TO ADDRESS INADEQUACIES**
29 **IN PUBLIC FACILITIES CAUSED BY PROPOSED DEVELOPMENTS AS A PART OF**
30 **THE DEVELOPMENT PLAN APPROVAL PROCESS;**

1 **(9) DETERMINE THE VALUE OF IN-KIND CONTRIBUTIONS OF**
2 **EQUIVALENT VALUE SUCH AS REAL ESTATE;**

3 **(10) REQUIRE FORFEITURE OF CONTRIBUTIONS 3 YEARS AFTER**
4 **FINAL PLAT APPROVAL;**

5 **(11) ESTABLISH AN APPEAL PROCESS FOR DECISIONS MADE**
6 **UNDER THE LOCAL LAW;**

7 **(12) LIMIT THE NUMBER OF BUILDING PERMITS IN ANY SCHOOL**
8 **DISTRICT; AND**

9 **(13) LIMIT THE NUMBER OF RESIDENTIAL BUILDING LOTS**
10 **APPROVED FOR DEVELOPMENT ON AN ANNUAL BASIS.**

11 **(D) PENALTY FOR VIOLATION OF LOCAL LAW.**

12 **THE LOCAL LAW MAY AUTHORIZE THE COUNTY COMMISSIONERS TO**
13 **IMPOSE CIVIL FINES AND PENALTIES FOR ANY VIOLATION OF THE LOCAL LAW.**

14 REVISOR'S NOTE: This section formerly was Art. 66B, § 14.08(a) and (c)
15 through (e).

16 The only changes are in style.

17 Defined terms: "Development" § 1-101

18 "Local law" § 1-101

19 "Plan" § 1-101

20 "State" § 1-101

21 **SUBTITLE 20. WICOMICO COUNTY.**

22 **9-2001. RESERVED.**

23 **SUBTITLE 21. WORCESTER COUNTY.**

24 **9-2101. SCOPE OF SUBTITLE.**

25 **THIS SUBTITLE APPLIES TO WORCESTER COUNTY.**

26 REVISOR'S NOTE: This section formerly was Art. 66B, § 14.09(a).

27 The only change is in style.

28 **9-2102. CONDITIONAL ZONING AUTHORITY.**

1 **(A) AUTHORITY TO IMPOSE CONDITIONS.**

2 **NOTWITHSTANDING ANY OTHER LAW, ON THE ZONING OR REZONING OF**
3 **LAND, THE COUNTY COMMISSIONERS MAY IMPOSE APPROPRIATE RESTRICTIONS**
4 **OR CONDITIONS TO PRESERVE OR IMPROVE THE GENERAL CHARACTER AND**
5 **DESIGN OF:**

6 **(1) THE LAND AND IMPROVEMENTS BEING ZONED OR REZONED;**
7 **OR**

8 **(2) THE SURROUNDING LAND AND IMPROVEMENTS.**

9 **(B) AUTHORITY TO APPROVE OR DISAPPROVE DESIGN.**

10 **ON THE ZONING OR REZONING OF LAND, THE COUNTY COMMISSIONERS**
11 **MAY RETAIN THE POWER TO APPROVE OR DISAPPROVE THE DESIGN OF**
12 **BUILDINGS, CONSTRUCTION, LANDSCAPING, OR OTHER IMPROVEMENTS OR**
13 **ALTERATIONS MADE ON THE LAND TO ASSURE CONFORMITY WITH THE**
14 **PURPOSES OF THIS DIVISION AND THE COUNTY ZONING LAW.**

15 **(C) PROCEDURES.**

16 **THE COUNTY COMMISSIONERS MAY EXERCISE THE POWER GRANTED**
17 **UNDER THIS SECTION ONLY IF THE COUNTY COMMISSIONERS ADOPT A LOCAL**
18 **LAW THAT INCLUDES:**

19 **(1) ENFORCEMENT PROCEDURES; AND**

20 **(2) REQUIREMENTS FOR ADEQUATE NOTICE OF PUBLIC**
21 **HEARINGS AND CONDITIONS SOUGHT TO BE IMPOSED.**

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 66B, § 14.09(b).

24 In the introductory language to subsection (a) of this section, the
25 reference to "appropriate restrictions or conditions" is substituted for the
26 former reference to "restrictions, conditions, or limitations considered by
27 the County Commissioners to be appropriate" for brevity.

28 Also in the introductory language to subsection (a) of this section, the
29 former word "protect" is deleted as redundant of the word "preserve".

1 In subsection (a)(2) of this section, the former word “adjacent” is deleted
2 as unnecessary in light of the word “surrounding”.

3 In subsection (b) of this section, the reference to the “county”
4 commissioners is added for clarity.

5 Also in subsection (b) of this section, the former word “reserve” is deleted
6 as redundant of the word “retain”.

7 Also in subsection (b) of this section, the former word “changes” is deleted
8 as included in the word “alterations”.

9 Also in subsection (b) of this section, the former word “intent” is deleted
10 as redundant of the word “purposes”.

11 Defined terms: “Local law” § 1-101
12 “Zoning law” § 1-101

13 **9-2103. ZONING APPLICATION REQUIREMENTS.**

14 **NOTWITHSTANDING ANY OTHER PROVISION OF THIS DIVISION OR OF THE**
15 **LOCAL LAWS OF THE COUNTY, AN APPLICATION FOR ZONING CLASSIFICATION**
16 **OR RECLASSIFICATION SHALL CONTAIN THE FOLLOWING INFORMATION:**

17 **(1) IF THE APPLICANT IS A CORPORATION, THE NAMES AND**
18 **RESIDENCES OF THE OFFICERS, DIRECTORS, AND ALL STOCKHOLDERS OWNING**
19 **MORE THAN 20% OF THE CAPITAL STOCK OF THE CORPORATION;**

20 **(2) IF THE APPLICANT IS A GENERAL OR LIMITED PARTNERSHIP,**
21 **THE NAMES AND RESIDENCES OF ALL PARTNERS WHO OWN MORE THAN 20% OF**
22 **THE INTEREST OF THE PARTNERSHIP;**

23 **(3) IF THE APPLICANT IS AN INDIVIDUAL, THE APPLICANT’S NAME**
24 **AND RESIDENCE; OR**

25 **(4) IF THE APPLICANT IS A JOINT VENTURE, UNINCORPORATED**
26 **ASSOCIATION, REAL ESTATE INVESTMENT TRUST, OR OTHER BUSINESS TRUST**
27 **OR STATUTORY TRUST, THE NAMES AND RESIDENCES OF ALL PERSONS**
28 **HOLDING AN INTEREST OF MORE THAN 20% IN THE JOINT VENTURE,**
29 **UNINCORPORATED ASSOCIATION, REAL ESTATE INVESTMENT TRUST, OR OTHER**
30 **BUSINESS TRUST OR STATUTORY TRUST.**

31 REVISOR’S NOTE: This section formerly was Art. 66B, § 14.09(c).

32 The only changes are in style.

1 Defined terms: "Local law" § 1-101
2 "Person" § 1-101

3 **TITLE 10. BALTIMORE CITY ZONING.**

4 **SUBTITLE 1. GENERAL PROVISIONS.**

5 **10-101. "BOARD" DEFINED.**

6 **IN THIS TITLE, "BOARD" MEANS THE BOARD OF MUNICIPAL AND ZONING**
7 **APPEALS.**

8 REVISOR'S NOTE: This section is new language added to avoid repetition of
9 the full title "Board of Municipal and Zoning Appeals".

10 **10-102. CONFLICT WITH OTHER LAWS.**

11 **(A) REGULATIONS ADOPTED UNDER THIS TITLE GOVERN.**

12 **A REGULATION ADOPTED UNDER THIS TITLE THAT CONFLICTS WITH ANY**
13 **STATUTE, LOCAL LAW, OR OTHER REGULATION SHALL GOVERN IF THE**
14 **REGULATION ADOPTED UNDER THIS TITLE:**

15 **(1) REQUIRES A GREATER WIDTH OR SIZE OF YARDS, COURTS, OR**
16 **OTHER OPEN SPACES;**

17 **(2) REQUIRES A LOWER HEIGHT OF BUILDINGS;**

18 **(3) REQUIRES A REDUCED NUMBER OF STORIES;**

19 **(4) REQUIRES A GREATER PERCENTAGE OF LOT LEFT**
20 **UNOCCUPIED; OR**

21 **(5) IMPOSES A MORE RESTRICTIVE STANDARD.**

22 **(B) STATUTES OR LOCAL LAWS GOVERN.**

23 **A STATUTE, LOCAL LAW, OR OTHER REGULATION THAT CONFLICTS WITH A**
24 **REGULATION ADOPTED UNDER THIS TITLE SHALL GOVERN IF THE STATUTE,**
25 **LOCAL LAW, OR OTHER REGULATION:**

26 **(1) REQUIRES A GREATER WIDTH OR SIZE OF YARDS, COURTS, OR**
27 **OTHER OPEN SPACES;**

- 1 **(2) REQUIRES A LOWER HEIGHT OF BUILDINGS;**
 2 **(3) REQUIRES A REDUCED NUMBER OF STORIES;**
 3 **(4) REQUIRES A GREATER PERCENTAGE OF LOT LEFT**
 4 **UNOCCUPIED; OR**
 5 **(5) IMPOSES A MORE RESTRICTIVE STANDARD.**

6 REVISOR'S NOTE: This section is new language derived without substantive
 7 change from former Art. 66B, § 2.11. It is restated for consistency with
 8 the corresponding provisions of § 1-202(a) and (b) of this article.

9 Defined terms: "Local law" § 1-101
 10 "Regulation" § 1-101

11 **10-103. LIMITED APPLICATION OF DIVISION.**

12 **(A) PROVISIONS NOT APPLICABLE TO BALTIMORE CITY.**

13 **EXCEPT AS PROVIDED IN THIS SECTION, THIS DIVISION DOES NOT APPLY**
 14 **TO BALTIMORE CITY.**

15 **(B) PROVISIONS APPLICABLE TO BALTIMORE CITY.**

16 **THE FOLLOWING PROVISIONS OF THIS DIVISION APPLY TO BALTIMORE**
 17 **CITY:**

- 18 **(1) THIS TITLE;**
 19 **(2) § 1-101(M) (DEFINITIONS – "PRIORITY FUNDING AREA");**
 20 **(3) § 1-101(O) (DEFINITIONS – "SENSITIVE AREA");**
 21 **(4) § 1-201 (VISIONS);**
 22 **(5) § 1-206 (REQUIRED EDUCATION);**
 23 **(6) § 1-207 (ANNUAL REPORT – IN GENERAL);**
 24 **(7) § 1-208 (ANNUAL REPORT – MEASURES AND INDICATORS);**
 25 **(8) TITLE 1, SUBTITLE 3 (CONSISTENCY);**

1 **TO ACHIEVE THE PUBLIC PURPOSES OF THIS REGULATORY SCHEME, THE**
 2 **GENERAL ASSEMBLY RECOGNIZES THAT LOCAL GOVERNMENT ACTION WILL**
 3 **LIMIT FREE BUSINESS ENTERPRISE AND COMPETITION BY OWNERS AND USERS**
 4 **OF PROPERTY THROUGH THE PLANNING AND ZONING CONTROLS SET FORTH IN**
 5 **THIS TITLE AND ELSEWHERE IN THE PUBLIC GENERAL AND PUBLIC LOCAL**
 6 **LAWS.**

7 REVISOR'S NOTE: This section formerly was Art. 66B, § 2.01(a).

8 The only changes are in style.

9 Defined terms: "Development" § 1-101

10 "Regulation" § 1-101

11 "State" § 1-101

12 **10-202. GENERAL POWERS.**

13 **TO PROMOTE THE HEALTH, SAFETY, AND GENERAL WELFARE OF THE**
 14 **COMMUNITY, THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY MAY**
 15 **REGULATE:**

16 **(1) THE HEIGHT, NUMBER OF STORIES, AND SIZE OF BUILDINGS**
 17 **AND OTHER STRUCTURES;**

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

19 **(3) OFF-STREET PARKING;**

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

21 **(5) POPULATION DENSITY; AND**

22 **(6) THE LOCATION AND USE OF BUILDINGS, SIGNS, STRUCTURES,**
 23 **AND LAND.**

24 REVISOR'S NOTE: This section is new language derived without substantive
 25 change from former Art. 66B, § 2.01(b).

26 In the introductory language to this section, the reference to "safety" is
 27 substituted for the former reference to "security" for consistency with the
 28 corresponding provision of § 4-102 of this article.

29 Also in the introductory language to this section, the former reference to
 30 "morals" is deleted as beyond the scope of governmental regulation.

1 Also in the introductory language to this section, the former word
2 “restrict” is deleted as implicit in the word “regulate”.

3 Also in the introductory language to this section, the former reference to
4 regulation “for trade, industry, residence, or other purposes” is deleted as
5 surplusage.

6 **10-203. LIMITATIONS.**

7 **THE POWERS GRANTED TO THE MAYOR AND CITY COUNCIL OF**
8 **BALTIMORE CITY UNDER THIS TITLE DO NOT:**

9 **(1) GRANT TO THE MAYOR AND CITY COUNCIL POWERS IN ANY**
10 **SUBSTANTIVE AREA NOT OTHERWISE GRANTED TO THE MAYOR AND CITY**
11 **COUNCIL BY ANY OTHER PUBLIC GENERAL OR PUBLIC LOCAL LAW;**

12 **(2) RESTRICT THE MAYOR AND CITY COUNCIL FROM EXERCISING**
13 **ANY POWER GRANTED TO THE MAYOR AND CITY COUNCIL BY ANY OTHER**
14 **PUBLIC GENERAL OR PUBLIC LOCAL LAW OR OTHERWISE;**

15 **(3) AUTHORIZE THE MAYOR AND CITY COUNCIL OR THE**
16 **OFFICERS OF BALTIMORE CITY TO ENGAGE IN ANY ACTIVITY THAT IS BEYOND**
17 **THEIR POWER UNDER ANY OTHER PUBLIC GENERAL LAW OR PUBLIC LOCAL LAW**
18 **OR OTHERWISE; OR**

19 **(4) PREEMPT OR SUPERSEDE THE REGULATORY AUTHORITY OF**
20 **ANY UNIT OF THE STATE UNDER ANY PUBLIC GENERAL LAW.**

21 REVISOR’S NOTE: This section formerly was Art. 66B, § 2.01(c).

22 In item (4) of this section, the reference to a “unit of the State” is
23 substituted for the former reference to a “State department or agency” for
24 brevity and consistency with other revised articles of the Code. *See*
25 *General Revisor’s Note to article.*

26 The only other changes are in style.

27 Defined term: “State” § 1-101

28 **10-204. HISTORIC AND LANDMARK ZONING AND PRESERVATION.**

29 **(A) ENACTMENTS AUTHORIZED.**

1 **TO PRESERVE STRUCTURES AND LANDMARKS OF HISTORIC AND**
2 **ARCHITECTURAL VALUE AS A PUBLIC PURPOSE OF THE STATE, THE MAYOR AND**
3 **CITY COUNCIL OF BALTIMORE CITY MAY ENACT LAWS FOR HISTORIC AND**
4 **LANDMARK ZONING AND PRESERVATION.**

5 **(B) NO RESTRICTION OF OTHER POWERS.**

6 **THIS SECTION DOES NOT RESTRICT ANY CHARTER POWER OR OTHER**
7 **POWER OF BALTIMORE CITY.**

8 REVISOR'S NOTE: This section formerly was Art. 66B, § 2.12.

9 No changes are made.

10 Defined term: "State" § 1-101

11 **SUBTITLE 3. DESIGNATION AND ADOPTION.**

12 **10-301. DISTRICTS AND ZONES.**

13 **(A) IN GENERAL.**

14 **THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY MAY DIVIDE**
15 **BALTIMORE CITY INTO DISTRICTS AND ZONES OF ANY NUMBER, SHAPE, AND**
16 **AREA AS THEY DETERMINE ARE BEST SUITED TO CARRY OUT THE PURPOSES**
17 **LISTED IN § 10-302 OF THIS SUBTITLE.**

18 **(B) AUTHORIZED ACTION WITHIN DISTRICTS AND ZONES.**

19 **(1) WITHIN THE DISTRICTS AND ZONES, THE MAYOR AND CITY**
20 **COUNCIL OF BALTIMORE CITY MAY REGULATE THE CONSTRUCTION,**
21 **ALTERATION, REPAIR, OR USE OF BUILDINGS, STRUCTURES, OR LAND.**

22 **(2) (I) ZONING REGULATIONS ADOPTED BY THE MAYOR AND**
23 **CITY COUNCIL OF BALTIMORE CITY UNDER THIS SUBTITLE SHALL BE UNIFORM**
24 **FOR EACH CLASS OR KIND OF DEVELOPMENT THROUGHOUT EACH DISTRICT OR**
25 **ZONE.**

26 **(II) ZONING REGULATIONS IN ONE DISTRICT OR ZONE MAY**
27 **DIFFER FROM THOSE IN OTHER DISTRICTS OR ZONES.**

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 66B, § 2.02.

1 In this section and throughout this subtitle, the references to “zone[s]”
 2 are added for consistency with corresponding provisions of Titles 4 and 22
 3 of this article, which govern zoning in noncharter jurisdictions and the
 4 regional district, respectively.

5 In subsection (b)(1) of this section, the former word “restrict” is deleted as
 6 implicit in the word “regulate”.

7 Also in subsection (b)(1) of this section, the former references to “erection”
 8 and “reconstruction” are deleted as implicit in the reference to
 9 “construction”.

10 In subsection (b)(2) of this section and throughout this subtitle, the
 11 references to “[z]oning” regulations are added for clarity.

12 Defined terms: “Development” § 1–101
 13 “Regulation” § 1–101

14 **10–302. ZONING REGULATIONS — PURPOSES; CONSIDERATIONS.**

15 **ZONING REGULATIONS ADOPTED BY THE MAYOR AND CITY COUNCIL OF**
 16 **BALTIMORE CITY UNDER THIS SUBTITLE SHALL:**

17 **(1) BE IN ACCORDANCE WITH THE PLAN;**

18 **(2) BE DESIGNED TO:**

19 **(I) CONTROL STREET CONGESTION;**

20 **(II) PROMOTE HEALTH, PUBLIC SAFETY, AND GENERAL**
 21 **WELFARE;**

22 **(III) PROVIDE ADEQUATE LIGHT AND AIR;**

23 **(IV) PROMOTE THE CONSERVATION OF NATURAL**
 24 **RESOURCES;**

25 **(V) PREVENT ENVIRONMENTAL POLLUTION;**

26 **(VI) AVOID AN UNDUE CONCENTRATION OF POPULATION;**
 27 **AND**

28 **(VII) PROMOTE OR FACILITATE ADEQUATE**
 29 **TRANSPORTATION, WATER, SEWERAGE, SCHOOLS, RECREATION, PARKS, AND**
 30 **OTHER PUBLIC FACILITIES; AND**

1 **(3) INCLUDE REASONABLE CONSIDERATION FOR:**

2 **(I) THE CHARACTER OF THE DISTRICT OR ZONE AND ITS**
 3 **SUITABILITY FOR PARTICULAR USES;**

4 **(II) THE CONSERVATION OF THE VALUE OF BUILDINGS AND**
 5 **OTHER STRUCTURES; AND**

6 **(III) ENCOURAGEMENT FOR ORDERLY DEVELOPMENT AND**
 7 **THE MOST APPROPRIATE USE OF LAND THROUGHOUT BALTIMORE CITY.**

8 REVISOR'S NOTE: This section is new language derived without substantive
 9 change from former Art. 66B, § 2.03.

10 In item (2)(vii) of this section, the reference to public "facilities" is
 11 substituted for the former reference to public "requirements" for clarity.

12 Also in item (2)(vii) of this section, the reference to "promot[ing] or
 13 facilitat[ing] adequate" public facilities is substituted for the former
 14 reference to "[f]acilitat[ing] the adequate provision of" public facilities for
 15 clarity.

16 In item (3)(ii) of this section, the reference to conservation of the value of
 17 "other structures" is added for clarity.

18 The Land Use Article Review Committee notes, for consideration by the
 19 General Assembly, that in item (2)(vi) of this section, the concept of
 20 simply "avoid[ing] an undue concentration of population" may be
 21 considered obsolete in relation to more modern, legislatively endorsed
 22 policies such as smart growth, preservation of open space, use of cluster
 23 development, and priority funding areas. The General Assembly may
 24 wish to clarify the relationship of this item in relation to other policies for
 25 managing growth while balancing legislatively endorsed policies.

26 Defined terms: "Development" § 1-101

27 "Plan" § 1-101

28 "Regulation" § 1-101

29 **10-303. ZONING REGULATIONS — PROCEDURE; PUBLIC HEARINGS.**

30 **(A) PROCEDURE.**

1 **THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY SHALL PROVIDE**
2 **FOR THE MANNER IN WHICH ZONING REGULATIONS AND THE BOUNDARIES OF**
3 **DISTRICTS AND ZONES SHALL BE ESTABLISHED, ENFORCED, AND AMENDED.**

4 **(B) PUBLIC HEARINGS; EFFECT.**

5 **(1) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY SHALL**
6 **HOLD AT LEAST ONE PUBLIC HEARING ON A PROPOSED ZONING REGULATION OR**
7 **BOUNDARY AT WHICH PARTIES IN INTEREST AND CITIZENS HAVE AN**
8 **OPPORTUNITY TO BE HEARD.**

9 **(2) THE ZONING REGULATION OR BOUNDARY MAY NOT BECOME**
10 **EFFECTIVE UNTIL AFTER THE HEARING OR HEARINGS.**

11 **(C) HEARING NOTICE — GENERALLY.**

12 **AT LEAST 15 DAYS BEFORE A PUBLIC HEARING IS HELD UNDER THIS**
13 **SECTION, THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY SHALL PUBLISH**
14 **NOTICE OF THE TIME AND PLACE OF THE HEARING IN A NEWSPAPER OF**
15 **GENERAL CIRCULATION IN BALTIMORE CITY.**

16 **(D) HEARING NOTICE — ZONING DISTRICT BOUNDARY CHANGES.**

17 **IF A HEARING UNDER THIS SECTION WILL BE ON A PROPOSED CHANGE IN**
18 **THE BOUNDARIES OF A DISTRICT OR ZONE, THE MAYOR AND CITY COUNCIL OF**
19 **BALTIMORE CITY SHALL:**

20 **(1) POST A SIMILAR NOTICE AT A PLACE DESIGNATED BY THE**
21 **RESPECTIVE ZONING AUTHORITIES WITHIN THE DISTRICT OR ZONE PROPOSED**
22 **TO BE CHANGED; AND**

23 **(2) MAIL NOTICE OF THE PROPOSED CHANGE BY UNITED STATES**
24 **FIRST-CLASS MAIL TO ANY PERSON WHOSE NAME LAST APPEARED IN THE**
25 **BALTIMORE CITY TAX RECORDS AS THE OWNER OF THE PROPERTY PROPOSED**
26 **TO BE CHANGED.**

27 **REVISOR'S NOTE:** This section is new language derived without substantive
28 change from former Art. 66B, § 2.04.

29 In this section and throughout this subtitle, the former references to
30 “restriction[s]” are deleted as implicit in the term “regulation[s]”.

31 In subsection (a) of this section, the former word “determined” is deleted
32 as implicit in the word “established”.

1 Also in subsection (a) of this section, the former word “periodically” is
2 deleted as surplusage.

3 In subsection (b)(1) of this section, the language requiring the Mayor and
4 City Council of Baltimore City to hold a hearing on a proposed regulation
5 or boundary is added to state affirmatively that which was only implied
6 in the former law.

7 In subsection (c) of this section, the former reference to “an official paper”
8 is deleted as included in the reference to “a newspaper of general
9 circulation”.

10 In subsection (d)(1) of this section, the former reference to “places” is
11 deleted in light of the reference to “a place” and Art. 1, § 8, which
12 provides that the singular generally includes the plural.

13 The Land Use Article Review Committee notes, for consideration by the
14 General Assembly, that in subsection (b)(1) of this section, the
15 relationship between the status of a “citizen” as one with an opportunity
16 to be heard as opposed to that of a “resident” is unclear.

17 Defined terms: “Person” § 1–101
18 “Regulation” § 1–101

19 **10–304. ZONING REGULATIONS — AMENDMENT, REPEAL, AND**
20 **RECLASSIFICATION.**

21 **(A) AUTHORITY.**

22 **THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY MAY AMEND OR**
23 **REPEAL ZONING REGULATIONS AND BOUNDARIES.**

24 **(B) RECLASSIFICATION.**

25 **(1) IF THE PURPOSE AND EFFECT OF A PROPOSED MAP**
26 **AMENDMENT IS TO CHANGE THE ZONING CLASSIFICATION OF PARTICULAR**
27 **PROPERTY, THE CITY COUNCIL SHALL MAKE FINDINGS OF FACT THAT**
28 **ADDRESS:**

29 **(I) POPULATION CHANGE;**

30 **(II) THE AVAILABILITY OF PUBLIC FACILITIES;**

31 **(III) PRESENT AND FUTURE TRANSPORTATION PATTERNS;**

1 (IV) COMPATIBILITY WITH EXISTING AND PROPOSED
2 DEVELOPMENT FOR THE AREA;

3 (V) THE RECOMMENDATIONS OF THE BALTIMORE CITY
4 PLANNING COMMISSION AND THE BOARD; AND

5 (VI) THE RELATIONSHIP OF THE PROPOSED AMENDMENT TO
6 BALTIMORE CITY'S PLAN.

7 (2) THE CITY COUNCIL MAY GRANT THE AMENDMENT TO
8 CHANGE THE ZONING CLASSIFICATION BASED ON A FINDING THAT THERE WAS:

9 (I) A SUBSTANTIAL CHANGE IN THE CHARACTER OF THE
10 NEIGHBORHOOD WHERE THE PROPERTY IS LOCATED; OR

11 (II) A MISTAKE IN THE EXISTING ZONING CLASSIFICATION.

12 (3) THE CITY COUNCIL MAY NOT ALLOW THE FILING OF AN
13 APPLICATION FOR A RECLASSIFICATION OF A TRACT OR PARCEL OF LAND FOR
14 WHICH A RECLASSIFICATION HAS BEEN DENIED BY THE CITY COUNCIL ON THE
15 MERITS IN THE 12 MONTHS BEFORE THE DATE OF THE APPLICATION.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 66B, § 2.05(a) and (c).

18 In subsection (a) of this section, the former word "periodically" is deleted
19 as surplusage.

20 In the introductory language to subsection (b)(1) of this section, the
21 reference to a "map" amendment is added for clarity. *See also* §
22 4-204(b)(1) of this article.

23 In the introductory language to subsection (b)(2) of this section, the
24 reference to an amendment "to change the zoning classification" is added
25 for clarity and consistency with § 4-204(b)(2) of this article.

26 Subsection (b)(3) of this section is restated for conformity with the
27 corresponding provision of § 4-204(b)(4).

28 Defined terms: "Board" § 10-101

29 "Development" § 1-101

30 "Plan" § 1-101

31 "Regulation" § 1-101

1 **10-305. CHANGES TO BOUNDARIES OF DISTRICTS OR ZONES.**

2 **(A) FUNCTIONS OF PLANNING COMMISSION AND BOARD.**

3 **(1) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY SHALL**
4 **REFER PROPOSED CHANGES TO THE BOUNDARIES OF A DISTRICT OR ZONE TO**
5 **THE BALTIMORE CITY PLANNING COMMISSION AND TO THE BOARD.**

6 **(2) THE PLANNING COMMISSION AND THE BOARD SHALL:**

7 **(I) STUDY THE PROPOSED CHANGES IN RELATION TO:**

8 **1. THE PLAN;**

9 **2. THE NEEDS OF BALTIMORE CITY; AND**

10 **3. THE NEEDS OF THE PARTICULAR NEIGHBORHOOD**
11 **IN THE VICINITY OF THE PROPOSED CHANGES; AND**

12 **(II) REPORT THEIR FINDINGS AND RECOMMENDATIONS TO**
13 **THE MAYOR AND CITY COUNCIL.**

14 **(3) IF THE PLANNING COMMISSION AND THE BOARD**
15 **RECOMMEND DISAPPROVAL OF THE PROPOSED CHANGES TO THE BOUNDARIES**
16 **OF A DISTRICT OR ZONE, THE CHANGES MAY NOT TAKE EFFECT UNLESS A**
17 **MAJORITY OF THE MEMBERS OF THE CITY COUNCIL VOTE TO APPROVE THE**
18 **CHANGES.**

19 **(B) PUBLIC HEARINGS AND NOTICE.**

20 **THE PROVISIONS OF § 10-303 OF THIS SUBTITLE CONCERNING PUBLIC**
21 **HEARINGS AND NOTICE APPLY TO ALL CHANGES OR AMENDMENTS TO**
22 **REGULATIONS AND BOUNDARIES.**

23 **REVISOR'S NOTE:** This section formerly was Art. 66B, § 2.05(b) and (d).

24 In subsection (b) of this section, the former reference to "official" notice is
25 deleted as surplusage.

26 Also in subsection (b) of this section, the former reference to provisions
27 applying "equally" is deleted as surplusage.

28 The only other changes are in style.

1 Defined terms: "Board" § 10-101

2 "Plan" § 1-101

3 "Regulation" § 1-101

4 **SUBTITLE 4. IMPLEMENTATION.**

5 **10-401. ENFORCEMENT.**

6 **(A) IN GENERAL.**

7 **A VIOLATION OF THIS TITLE OR A LOCAL LAW ENACTED OR REGULATION**
8 **ADOPTED UNDER THIS TITLE IS A MISDEMEANOR.**

9 **(B) AUTHORITY OF MAYOR AND CITY COUNCIL OF BALTIMORE CITY.**

10 **(1) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY MAY**
11 **PROVIDE BY LOCAL LAW FOR THE ENFORCEMENT OF THIS TITLE AND ANY**
12 **LOCAL LAW ENACTED OR REGULATION ADOPTED UNDER THIS TITLE.**

13 **(2) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY MAY:**

14 **(I) REQUIRE PUNISHMENT BY FINE OR IMPRISONMENT OR**
15 **BOTH; AND**

16 **(II) ENACT OR ADOPT CIVIL PENALTIES FOR A VIOLATION.**

17 **(3) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY MAY**
18 **PROVIDE BY LOCAL LAW THAT A VIOLATION OF THIS TITLE OR A LOCAL LAW**
19 **ENACTED OR REGULATION ADOPTED UNDER THIS TITLE IS A CIVIL ZONING**
20 **VIOLATION.**

21 **(C) ADDITIONAL REMEDIES.**

22 **IN ADDITION TO ANY OTHER AVAILABLE REMEDIES, THE PROPER**
23 **AUTHORITIES OF BALTIMORE CITY MAY INSTITUTE ANY APPROPRIATE ACTION**
24 **OR PROCEEDINGS TO:**

25 **(1) PREVENT THE UNLAWFUL CONSTRUCTION, ALTERATION,**
26 **REPAIR, CONVERSION, MAINTENANCE, OR USE OF A SIGN, A BUILDING, A**
27 **STRUCTURE, OR LAND IN VIOLATION OF THIS TITLE OR ANY LOCAL LAW**
28 **ENACTED OR REGULATION ADOPTED UNDER THIS TITLE;**

29 **(2) RESTRAIN, CORRECT, OR ABATE THE VIOLATION;**

1 **(3) PREVENT THE OCCUPANCY OF THE BUILDING, STRUCTURE,**
2 **OR LAND; OR**

3 **(4) PREVENT ANY ILLEGAL ACT, CONDUCT, BUSINESS, OR USE IN**
4 **OR ABOUT THE PREMISES OF THE BUILDING, STRUCTURE, OR LAND.**

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 66B, § 2.10.

7 In subsection (b)(3) of this section, the former requirement that “[a] civil
8 zoning violation shall be enforced as provided in § 7.02 of this article” is
9 deleted as redundant of § 10–103 of this title and the explicit terms of
10 Title 11, Subtitle 2 of this article, which provides for enforcement of civil
11 zoning violations.

12 In the introductory language to subsection (c) of this section, the former
13 reference to “local” authorities is deleted as implicit in the reference to
14 “Baltimore City”.

15 In subsection (c)(1) of this section, the former references to “erection” and
16 “reconstruction” are deleted as implicit in the reference to “construction”.

17 Defined terms: “Local law” § 1–101
18 “Regulation” § 1–101

19 **10–402. HEARING EXAMINERS.**

20 **(A) APPOINTMENT.**

21 **THE CITY COUNCIL OF BALTIMORE CITY MAY APPOINT FULL- AND**
22 **PART-TIME HEARING EXAMINERS THAT IT CONSIDERS NECESSARY AND**
23 **APPROPRIATE TO CONDUCT PUBLIC HEARINGS AS REQUIRED UNDER §§ 10–303**
24 **THROUGH 10–305 OF THIS TITLE.**

25 **(B) TENURE OF OFFICE, QUALIFICATIONS, AND COMPENSATION.**

26 **THE CITY COUNCIL SHALL ESTABLISH THE TERM OF OFFICE,**
27 **QUALIFICATIONS, AND COMPENSATION FOR HEARING EXAMINERS.**

28 **(C) HEARINGS.**

29 **A HEARING EXAMINER SHALL CONDUCT A HEARING IN THE SAME MANNER**
30 **AND SUBJECT TO THE SAME RULES AS A HEARING CONDUCTED BY THE CITY**
31 **COUNCIL.**

1 **(D) WRITTEN RECOMMENDATION.**

2 **A HEARING EXAMINER SHALL ISSUE A WRITTEN RECOMMENDATION IN**
3 **THE TIME, MANNER, AND FORM ESTABLISHED BY THE CITY COUNCIL.**

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 66B, § 2.06.

6 In subsection (a) of this section, the reference to conducting public
7 hearings as required under “§§ 10–303 through 10–305 of this title” is
8 substituted for the former incomplete reference to such hearings under “§
9 2.05 of this subtitle” for clarity.

10 Also in subsection (a) of this section, the former word “periodically” is
11 deleted as surplusage.

12 Also in subsection (a) of this section, the former reference to
13 “[d]elegat[ing] to any hearing examiner the power” to conduct public
14 hearings is deleted as surplusage.

15 In subsection (c) of this section, the former word “regulations” is deleted
16 as implicit in the word “rules”.

17 **10–403. BOARD — ESTABLISHED.**

18 **(A) APPOINTMENT.**

19 **WITH THE ADVICE AND CONSENT OF THE CITY COUNCIL, THE MAYOR**
20 **MAY PROVIDE FOR THE APPOINTMENT OF A BOARD OF MUNICIPAL AND ZONING**
21 **APPEALS.**

22 **(B) MEMBERSHIP.**

23 **(1) THE BOARD SHALL CONSIST OF FIVE MEMBERS.**

24 **(2) (I) THE TERM OF A MEMBER OF THE BOARD IS 4 YEARS.**

25 **(II) THE TERMS OF THE MEMBERS OF THE BOARD SHALL BE**
26 **STAGGERED AS PROVIDED ON OCTOBER 1, 2012.**

27 **(3) WITH THE ADVICE AND CONSENT OF THE CITY COUNCIL, THE**
28 **MAYOR SHALL APPOINT AN INDIVIDUAL TO FILL THE UNEXPIRED TERM OF ANY**
29 **MEMBER.**

1 **(4) ON WRITTEN CHARGES AND AFTER A PUBLIC HEARING, THE**
2 **MAYOR MAY REMOVE ANY MEMBER OF THE BOARD FOR CAUSE.**

3 **(C) RULES; MEETINGS; WITNESSES; MINUTES; RECORDS.**

4 **(1) THE BOARD SHALL ADOPT RULES IN ACCORDANCE WITH ANY**
5 **LOCAL LAW ADOPTED UNDER THIS TITLE.**

6 **(2) MEETINGS OF THE BOARD SHALL BE:**

7 **(I) HELD AT THE CALL OF THE CHAIR AND AT OTHER TIMES**
8 **DETERMINED BY THE BOARD; AND**

9 **(II) OPEN TO THE PUBLIC.**

10 **(3) THE CHAIR OF THE BOARD OR, IN THE CHAIR'S ABSENCE, THE**
11 **ACTING CHAIR MAY ADMINISTER OATHS AND COMPEL THE ATTENDANCE OF**
12 **WITNESSES.**

13 **(4) THE BOARD SHALL KEEP MINUTES OF ITS PROCEEDINGS,**
14 **INCLUDING THE VOTE OF EACH MEMBER ON EACH QUESTION, OR THE**
15 **MEMBER'S ABSENCE OR FAILURE TO VOTE.**

16 **(5) (I) THE BOARD SHALL KEEP RECORDS OF THE**
17 **EXAMINATIONS AND OTHER OFFICIAL ACTIONS OF THE BOARD.**

18 **(II) THE RECORDS OF THE BOARD SHALL BE:**

19 **1. FILED PROMPTLY IN THE OFFICE OF THE BOARD;**
20 **AND**

21 **2. OPEN TO THE PUBLIC.**

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 66B, § 2.08(a) and (b).

24 In subsection (b)(2)(ii) of this section, the reference to terms staggered "as
25 provided on October 1, 2012" is added for clarity and accuracy.

26 In subsection (b)(3) of this section, the reference to an "individual" is
27 substituted for the former reference to a "person" because only a human
28 being and not the other entities included in the definition of "person" can
29 serve as a member of a board.

1 In subsection (c)(2)(i) and (3) of this section, the references to the “chair”
2 are substituted for the former references to the “chairman” because SG §
3 2–1238 requires the use of terms that are neutral as to gender to the
4 extent practicable.

5 In subsection (c)(5)(ii)1 of this section, the reference to filing records
6 “promptly” is substituted for the former reference to filing records
7 “immediately” for clarity.

8 The Land Use Article Review Committee notes, for consideration by the
9 General Assembly, that in subsection (b) of this section, there is no
10 provision for appointment of an alternate or temporary alternate member
11 of the Board, only for the filling of a vacancy, unlike the boards of appeal
12 authorized for noncharter counties and other municipal corporations
13 under Title 4, Subtitle 3 of this article. Because members of the Board
14 must complete an education course under § 1–206 of this article, the
15 General Assembly may wish to authorize the appointment of one or more
16 “permanent” alternate members, or other temporary alternate members,
17 in order to ensure that an adequate number of participating members are
18 available in case of multiple recusals. *Cf.* § 4–302 of this article.

19 The Land Use Article Review Committee also notes, for consideration by
20 the General Assembly, that in subsection (b) of this section, there are no
21 specific standards for removal of a member of the Board other than “for
22 cause”, unlike the general provision for appointment of members of a
23 planning commission under Title 2, Subtitle 1 of this article. The General
24 Assembly may wish to consider whether standards for appointing
25 members of boards of appeals and planning commissions should be the
26 same or similar, and whether those standards should be relatively
27 specific or should remain vague. *See* § 2–102 of this article.

28 For educational requirements for Board members, *see* § 1–206 of this
29 article.

30 Defined terms: “Board” § 10–101
31 “Local law § 1–101

32 **10–404. BOARD — AUTHORITY.**

33 **(A) IN GENERAL.**

34 **THE BOARD MAY:**

35 **(1) HEAR AND DECIDE APPEALS WHEN IT IS ALLEGED THAT**
36 **THERE WAS AN ERROR IN ANY ORDER, REQUIREMENT, DECISION, OR**

1 DETERMINATION MADE BY AN ADMINISTRATIVE OFFICIAL OR UNIT UNDER THIS
2 TITLE OR ANY LOCAL LAW ADOPTED UNDER THIS TITLE;

3 (2) HEAR AND DECIDE SPECIAL EXCEPTIONS OR CONDITIONAL
4 USES ON WHICH THE BOARD IS REQUIRED TO ACT UNDER A LOCAL LAW;

5 (3) AUTHORIZE ON APPEAL IN SPECIFIC CASES A VARIANCE FROM
6 THE TERMS OF A LOCAL LAW;

7 (4) APPROVE BUILDINGS AND USES LIMITED AS TO LOCATION BY
8 ANY REGULATION ADOPTED UNDER A LOCAL LAW; AND

9 (5) WHEN ACTING ON A ZONING APPLICATION, CONSIDER THE
10 AVAILABILITY OF PUBLIC FACILITIES IN THE AREA, INCLUDING SCHOOLS AND
11 FLOOD PLAIN FACILITIES, UNDER REGULATIONS ADOPTED UNDER A LOCAL
12 LAW.

13 (B) APPLICABILITY TO AUTHORITY OF MAYOR AND CITY COUNCIL OF
14 BALTIMORE CITY.

15 IF AUTHORIZED BY THE GENERAL ZONING LAWS OF BALTIMORE CITY,
16 THIS SUBTITLE DOES NOT PREVENT THE MAYOR AND CITY COUNCIL OF
17 BALTIMORE CITY FROM GRANTING BY LOCAL LAW:

18 (1) VARIANCES;

19 (2) SPECIAL EXCEPTIONS; OR

20 (3) CONDITIONAL USES.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 66B, § 2.08(c).

23 In subsection (a)(1) of this section, the reference to an administrative
24 officer "or unit" is added for clarity.

25 Also in subsection (a)(1) of this section, the word "under" is substituted
26 for the former phrase "in the enforcement of" for brevity and clarity.

27 In subsection (a)(2) of this section, the reference to hearing and deciding
28 special exceptions "or conditional uses" is added for clarity. The Land Use
29 Article Review Committee brings the addition to the attention of the
30 General Assembly.

1 Also in subsection (a)(2) of this section, the former reference to special
2 exceptions “to the terms of an ordinance” is deleted as surplusage.

3 In subsection (a)(4) of this section, the former reference to a local law
4 “passed by the City Council” is deleted as surplusage.

5 Defined terms: “Board” § 10–101

6 “Local law” § 1–101

7 “Regulation” § 1–101

8 “Special exception” § 1–101

9 “Variance” § 1–101

10 “Zoning law” § 1–101

11 **10–405. BOARD — APPEAL PROCEDURES.**

12 **(A) WHO MAY FILE.**

13 **AN APPEAL TO THE BOARD MAY BE FILED BY:**

14 **(1) A PERSON AGGRIEVED BY A DECISION OF THE**
15 **ADMINISTRATIVE OFFICER OR UNIT; OR**

16 **(2) AN OFFICER OR UNIT OF BALTIMORE CITY AFFECTED BY A**
17 **DECISION OF THE ADMINISTRATIVE OFFICER OR UNIT.**

18 **(B) TIMING.**

19 **A PERSON SHALL FILE AN APPEAL WITHIN A REASONABLE TIME**
20 **PROVIDED BY LOCAL LAW OR THE RULES OF THE BOARD BY FILING WITH THE**
21 **ADMINISTRATIVE OFFICER OR UNIT FROM WHOSE ACTION THE APPEAL IS**
22 **TAKEN AND WITH THE BOARD A NOTICE OF APPEAL SPECIFYING THE GROUNDS**
23 **OF THE APPEAL.**

24 **(C) RECORD.**

25 **ON RECEIVING THE NOTICE OF APPEAL, THE ADMINISTRATIVE OFFICER**
26 **OR UNIT FROM WHOSE ACTION THE APPEAL IS TAKEN SHALL TRANSMIT TO THE**
27 **BOARD ALL PAPERS CONSTITUTING THE RECORD OF THE ACTION APPEALED.**

28 **(D) STAY ON PROCEEDINGS.**

29 **(1) UNLESS THE ADMINISTRATIVE OFFICER OR UNIT FROM**
30 **WHOSE ACTION AN APPEAL IS TAKEN, AFTER RECEIVING THE NOTICE OF**
31 **APPEAL, CERTIFIES FACTS TO THE BOARD THAT THE ADMINISTRATIVE OFFICER**

1 OR UNIT BELIEVES THAT A STAY WOULD CAUSE IMMINENT PERIL TO LIFE OR
2 PROPERTY, AN APPEAL STAYS ALL PROCEEDINGS IN THE ACTION APPEALED.

3 (2) IF THE ADMINISTRATIVE OFFICER OR UNIT PROVIDES FACTS
4 SHOWING THAT A STAY WOULD CAUSE IMMINENT PERIL TO LIFE OR PROPERTY,
5 THE PROCEEDINGS MAY BE STAYED ONLY BY A RESTRAINING ORDER GRANTED
6 BY:

7 (I) THE BOARD; OR

8 (II) THE CIRCUIT COURT FOR BALTIMORE CITY.

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

10 (I) ON APPLICATION;

11 (II) FOR GOOD CAUSE SHOWN; AND

12 (III) AFTER NOTICE IS GIVEN TO THE ADMINISTRATIVE
13 OFFICER OR UNIT FROM WHOSE ACTION THE APPEAL IS TAKEN.

14 (E) HEARING AND DECISION ON APPEAL.

15 (1) THE BOARD SHALL:

16 (I) ESTABLISH A REASONABLE TIME FOR THE HEARING OF
17 AN APPEAL;

18 (II) GIVE PUBLIC NOTICE OF THE EXISTENCE OF THE
19 APPEAL AND OF THE HEARING, AND DUE NOTICE TO THE PARTIES IN INTEREST
20 AND TO OTHER PERSONS ENTITLED TO NOTICE UNDER LOCAL LAW OR THE
21 RULES OF THE BOARD; AND

22 (III) DECIDE THE APPEAL WITHIN A REASONABLE TIME.

23 (2) AT A HEARING, A PARTY MAY:

24 (I) APPEAR IN PERSON; OR

25 (II) BE REPRESENTED BY AN AGENT OR ATTORNEY.

26 (F) AUTHORITY ON APPEAL.

1 **(1) THE BOARD MAY, IN CONFORMITY WITH THIS TITLE:**

2 **(I) WHOLLY OR PARTLY REVERSE THE ORDER,**
3 **REQUIREMENT, OR DECISION THAT IS THE SUBJECT OF THE APPEAL;**

4 **(II) WHOLLY OR PARTLY AFFIRM THE ORDER,**
5 **REQUIREMENT, OR DECISION THAT IS THE SUBJECT OF THE APPEAL; OR**

6 **(III) MODIFY THE ORDER, REQUIREMENT, OR DECISION THAT**
7 **IS THE SUBJECT OF THE APPEAL.**

8 **(2) THE BOARD SHALL HAVE THE POWERS OF THE**
9 **ADMINISTRATIVE OFFICER OR UNIT FROM WHOSE ACTION THE APPEAL IS**
10 **TAKEN.**

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 66B, § 2.08(d) through (h).

13 Throughout this section, the references to an administrative officer "or
14 unit" are added for clarity.

15 In subsection (a)(2) of this section, the reference to a "unit" is substituted
16 for the former reference to a "department, board, or bureau" for brevity
17 and consistency with other revised articles of the Code. *See* General
18 Revisor's Note to article.

19 In subsection (b) of this section, the reference to "local law" is added for
20 clarity.

21 In subsection (d)(2) of this section, the specific reference to "the Circuit
22 Court for Baltimore City" is substituted for the former reference to "a
23 court of record" for clarity.

24 In subsection (e)(1)(ii) of this section, the reference to the existence "of the
25 hearing" is added for clarity and consistency with the corresponding
26 general provision in § 4-306(e) of this article.

27 Also in subsection (e)(1)(ii) of this section, the phrase "and to other
28 persons entitled to notice under local law or the rules of the Board" is
29 added for clarity and consistency with the corresponding general
30 provision in § 4-306(e) of this article.

31 In subsection (e)(2) of this section, the reference to "a hearing" is
32 substituted for the former reference to "an appeal" for clarity.

1 In the introductory language to subsection (f)(1) of this section, the
2 former phrase “[i]n exercising its powers under this section” is deleted as
3 surplusage.

4 In subsection (f)(1) of this section, the former references to a
5 “determination” are deleted as implicit in the word “decision”.

6 The Land Use Article Review Committee notes, for consideration by the
7 General Assembly, that in subsection (e)(1)(ii) of this section, it is unclear
8 whether the term “parties in interest” is intended to be coextensive with
9 the term “aggrieved persons” as found in Maryland case law and, if not,
10 what class of persons are intended to be entitled to notice of an appeal.
11 The General Assembly may wish to consider clarifying the intended scope
12 of “parties in interest” and whether entitlement to notice under this
13 provision should automatically confer standing to seek judicial review of
14 the matter appealed. *See, also*, Revisor’s Note to § 4–306 of this article.

15 Defined terms: “Board” § 10–101

16 “Local law § 1–101

17 “Person” § 1–101

18 **10–406. BOARD — VOTING.**

19 **(A) IF FIVE MEMBERS PRESENT.**

20 **IF FIVE MEMBERS OF THE BOARD ARE PRESENT, THE CONCURRING VOTE**
21 **OF AT LEAST FOUR MEMBERS IS NECESSARY TO:**

22 **(1) REVERSE ANY ORDER, REQUIREMENT, OR DECISION OF AN**
23 **ADMINISTRATIVE OFFICER OR UNIT;**

24 **(2) DECIDE IN FAVOR OF THE APPLICANT ON ANY MATTER ON**
25 **WHICH THE BOARD IS REQUIRED TO ACT UNDER A LOCAL LAW; OR**

26 **(3) EFFECT ANY VARIATION IN A LOCAL LAW.**

27 **(B) IF FOUR MEMBERS PRESENT.**

28 **IF FOUR MEMBERS OF THE BOARD ARE PRESENT, THE CONCURRING VOTE**
29 **OF AT LEAST THREE MEMBERS IS NECESSARY TO TAKE ANY ACTION UNDER THIS**
30 **SECTION.**

31 REVISOR’S NOTE: This section is new language derived without substantive
32 change from former Art. 66B, § 2.08(i).

1 In subsection (a)(1) of this section, the reference to an administrative
2 officer “or unit” is added for clarity.

3 Also in subsection (a)(1) of this section, the former reference to a
4 “determination” is deleted as implicit in the word “decision”.

5 Defined terms: “Board” § 10–101
6 “Local law” § 1–101

7 **SUBTITLE 5. JUDICIAL REVIEW.**

8 **10–501. PROCEDURE.**

9 **(A) WHO MAY FILE.**

10 **A REQUEST FOR JUDICIAL REVIEW BY THE CIRCUIT COURT FOR**
11 **BALTIMORE CITY MAY BE FILED BY ANY PERSON, TAXPAYER, OR OFFICER OR**
12 **UNIT OF BALTIMORE CITY AGGRIEVED BY:**

13 **(1) A DECISION OF THE BOARD; OR**

14 **(2) A ZONING ACTION BY THE CITY COUNCIL.**

15 **(B) MANNER.**

16 **THE JUDICIAL REVIEW SHALL BE IN ACCORDANCE WITH TITLE 7,**
17 **CHAPTER 200 OF THE MARYLAND RULES.**

18 **(C) REVIEW STANDARD UNAFFECTED.**

19 **THIS SECTION DOES NOT CHANGE THE EXISTING STANDARDS FOR**
20 **JUDICIAL REVIEW OF A ZONING ACTION.**

21 **REVISOR’S NOTE:** This section is new language derived without substantive
22 change from former Art. 66B, § 2.09(a).

23 In this section and throughout this subtitle, the references to a “judicial
24 review” are substituted for the former obsolete references to an “appeal”
25 for accuracy.

26 In the introductory language to subsection (a) of this section, the
27 reference to a “unit” is substituted for the former reference to a
28 “department, board, or bureau” for brevity and consistency with other
29 revised articles of the Code. *See* General Revisor’s Note to article.

1 Also in the introductory language to subsection (a) of this section, the
2 former phrase “jointly and severally” is deleted as unnecessary.

3 In subsection (b) of this section, the reference to “[t]he judicial review
4 [being] in accordance with” the Maryland Rules is substituted for the
5 former reference to “[a] person filing an appeal [complying] with” the
6 Maryland Rules for clarity.

7 Defined terms: “Board” § 10–101

8 “Person” § 1–101

9 **10–502. HEARING; DISPOSITION.**

10 **(A) HEARING.**

11 **(1) THE CIRCUIT COURT FOR BALTIMORE CITY MAY:**

12 **(I) CONSIDER THE JUDICIAL REVIEW ON THE RECORD; OR**

13 **(II) ALLOW EITHER SIDE OR BOTH SIDES TO PRESENT**
14 **ADDITIONAL TESTIMONY IF THE COURT BELIEVES THAT ADDITIONAL**
15 **TESTIMONY IS REQUIRED FOR THE PROPER DISPOSITION OF THE JUDICIAL**
16 **REVIEW.**

17 **(2) THE COURT SHALL CONSIDER THE JUDICIAL REVIEW**
18 **WITHOUT A JURY.**

19 **(B) DISPOSITION.**

20 **(1) IN REVIEWING A DECISION OF THE BOARD, THE CIRCUIT**
21 **COURT FOR BALTIMORE CITY MAY:**

22 **(I) REVERSE IN WHOLE OR PART;**

23 **(II) AFFIRM IN WHOLE OR PART;**

24 **(III) MODIFY; OR**

25 **(IV) REMAND FOR FURTHER CONSIDERATION.**

26 **(2) (I) IF A PETITION FOR JUDICIAL REVIEW IS REMANDED**
27 **FOR FURTHER CONSIDERATION, ANY TESTIMONY TAKEN IN COURT SHALL BE**
28 **MADE AVAILABLE TO THE BOARD.**

1 **(II) THE COSTS OF PREPARING THE TESTIMONY SHALL BE**
2 **MADE A PART OF THE COSTS OF JUDICIAL REVIEW.**

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 66B, § 2.09(b), (c), and (d).

5 Defined term: "Board" § 10-101

6 **10-503. APPEAL TO COURT OF SPECIAL APPEALS.**

7 **A JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY UNDER §**
8 **10-502 OF THIS SUBTITLE MAY BE APPEALED TO THE COURT OF SPECIAL**
9 **APPEALS.**

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 66B, § 2.09(e).

12 The reference to a judgment "under § 10-502 of this subtitle" is added for
13 clarity.

14 The reference to a "judgment" is substituted for the former reference to a
15 "decision" for accuracy.

16 **10-504. ADDITIONAL MATTERS FOR JUDICIAL REVIEW.**

17 **(A) BY CIRCUIT COURT.**

18 **IN ADDITION TO THE JUDICIAL REVIEW PROVIDED UNDER § 10-501 OF**
19 **THIS SUBTITLE, THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY MAY**
20 **ALLOW JUDICIAL REVIEW BY THE CIRCUIT COURT FOR BALTIMORE CITY OF**
21 **ANY MATTER ARISING UNDER THE PLANNING AND ZONING LAWS OF BALTIMORE**
22 **CITY.**

23 **(B) FURTHER REVIEW.**

24 **A JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY UNDER THIS**
25 **SECTION MAY BE APPEALED TO THE COURT OF SPECIAL APPEALS.**

26 **(C) CONSTRUCTION OF SECTION.**

27 **THIS SECTION DOES NOT RESTRICT ANY CHARTER POWER OR OTHER**
28 **POWER OF THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY.**

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 66B, § 2.09(f).

1 In subsection (b) of this section, the reference to a “judgment” is
2 substituted for the former reference to a “decision” for accuracy.

3 Defined term: “Zoning law” § 1–101

4 **TITLE 11. ENFORCEMENT.**

5 **SUBTITLE 1. GENERAL PROVISIONS.**

6 **11–101. LOCAL LAW; SUBDIVISION REGULATIONS.**

7 **(A) ENFORCEMENT BY LOCAL LAW.**

8 **A LEGISLATIVE BODY MAY PROVIDE BY LOCAL LAW FOR THE**
9 **ENFORCEMENT OF THIS DIVISION AND OF ANY LOCAL LAW ENACTED OR**
10 **REGULATION ADOPTED UNDER THIS DIVISION.**

11 **(B) SUBDIVISION REGULATIONS.**

12 **ANY PROPERTY SUBDIVIDED IN VIOLATION OF §§ 5–301 AND 5–302 OF**
13 **THIS ARTICLE SHALL REMAIN SUBJECT TO THE ADOPTED SUBDIVISION**
14 **REGULATIONS.**

15 REVISOR’S NOTE: This section is new language derived without substantive
16 change from former Art. 66B, § 7.01(a)(1) and (b)(3).

17 Defined terms: “Legislative body” § 1–101

18 “Local law” § 1–101

19 “Regulation” § 1–101

20 “Subdivision” § 1–101

21 **11–102. VIOLATION; PENALTY.**

22 **(A) VIOLATION.**

23 **A VIOLATION OF THIS DIVISION OR OF A LOCAL LAW ENACTED OR**
24 **REGULATION ADOPTED UNDER THIS DIVISION IS A MISDEMEANOR.**

25 **(B) PENALTIES.**

26 **A LEGISLATIVE BODY MAY:**

27 **(1) PROVIDE FOR PUNISHMENT OF A VIOLATION BY FINE OR**
28 **IMPRISONMENT OR BOTH; AND**

1 **(2) IMPOSE CIVIL PENALTIES FOR A VIOLATION.**

2 REVISOR'S NOTE: This section is new language derived without substantive
3 change from former Art. 66B, § 7.01(a)(2) and (3).

4 Defined terms: "Legislative body" § 1-101
5 "Local law" § 1-101
6 "Regulation" § 1-101

7 **11-103. REMEDIES.**

8 **(A) INSTITUTION OF ACTION OR PROCEEDING.**

9 **IN ADDITION TO ANY OTHER AVAILABLE REMEDY, A LOCAL JURISDICTION**
10 **MAY INSTITUTE ANY APPROPRIATE ACTION OR PROCEEDING TO:**

11 **(1) PREVENT THE UNLAWFUL CONSTRUCTION, ALTERATION,**
12 **REPAIR, CONVERSION, MAINTENANCE, OR USE OF A BUILDING, STRUCTURE,**
13 **SIGN, OR LAND IN VIOLATION OF THIS DIVISION OR OF A LOCAL LAW ENACTED**
14 **OR REGULATION ADOPTED UNDER THIS DIVISION;**

15 **(2) RESTRAIN, CORRECT, OR ABATE THE VIOLATION;**

16 **(3) PREVENT THE OCCUPANCY OF THE BUILDING, STRUCTURE,**
17 **OR LAND; OR**

18 **(4) PREVENT ANY ILLEGAL ACT, CONDUCT, BUSINESS, OR USE IN**
19 **OR ABOUT THE PREMISES.**

20 **(B) LIMITATION ON INSTITUTION OF ACTION OR PROCEEDING.**

21 **NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, A LOCAL**
22 **JURISDICTION MAY NOT INSTITUTE AN ACTION OR PROCEEDING TO:**

23 **(1) ABATE A TRANSFER THAT HAS BEEN COMPLETED; OR**

24 **(2) PREVENT THE OCCUPANCY OF A BUILDING, STRUCTURE, OR**
25 **LAND INVOLVED IN THE TRANSFER AS A RESULT OF A VIOLATION OF § 5-301 OR**
26 **§ 5-302 OF THIS ARTICLE.**

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 66B, § 7.01(b)(1) and (2).

1 In subsection (a)(1) of this section, the former reference to “erection” is
2 deleted as included in the comprehensive reference to “construction”.
3 Similarly, the reference to “reconstruction” is deleted as included in the
4 reference to “construction”.

5 In subsection (b) of this section, while the cross-reference to “subsection
6 (a) of this section” is unchanged, the provision of law to which it refers
7 has been changed. Formerly, the reference to “subsection (a) of this
8 section” erroneously referred to former Art. 66B, § 7.01(a), codified in this
9 revision as §§ 11–101(a) and 11–102. These provisions concern the
10 authority of a legislative body to provide by local law for the enforcement
11 of local laws and regulations. However, because subsection (b) of this
12 section is not a limitation on that enforcement authority, but, rather, is a
13 limitation on the general authority of a local jurisdiction to institute
14 certain actions or proceedings, it is clear that the reference should have
15 been to former Art. 66B, § 7.01(b)(1), which established the general
16 authority of a local jurisdiction to institute actions and proceedings. Since
17 that authority to institute actions and proceedings is codified in this
18 revision in subsection (a) of this section, the cross-reference to
19 “subsection (a) of this section” is now correct. A review of the legislative
20 history of former Art. 66B, § 7.01(b) supports this conclusion and
21 indicates that the former cross-reference resulted from a drafting error.
22 *See* Ch. 426, Acts of 2000. This revision corrects the source law to which
23 the phrase “subsection (a) of this section” properly refers. No substantive
24 change is intended.

25 The Land Use Article Review Committee notes, for consideration by the
26 General Assembly, that in subsection (a)(4) of this section the extent of
27 the authority of a local jurisdiction to prevent an illegal act in or about
28 the “premises” is unclear. The word “premises” might mean a structure, a
29 structure and immediate surroundings, or a larger area such as a lot or
30 subdivision. The General Assembly may wish to consider substituting one
31 of these terms for the existing word “premises”.

32 Defined terms: “Local jurisdiction” § 1–101

33 “Local law” § 1–101

34 “Regulation” § 1–101

35 SUBTITLE 2. CIVIL PENALTY.

36 11–201. “ZONING OFFICIAL” DEFINED.

37 IN THIS SUBTITLE, “ZONING OFFICIAL” MEANS A COUNTY EMPLOYEE WITH
38 THE DUTY OF ENFORCING THE ZONING LAW.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 66B, § 7.02(a)(1) and (4).

3 Former Art. 66B, § 7.02(a)(2), which defined "commission", is deleted
4 because the term was not used elsewhere in the source law and,
5 therefore, is not used in the revision.

6 Former Art. 66B, § 7.02(a)(3), which defined "local legislative body", is
7 deleted as redundant of the term "legislative body" defined in § 1-101 of
8 this article.

9 Defined terms: "County" § 1-101
10 "Zoning law" § 1-101

11 **11-202. CIVIL PENALTY.**

12 **(A) AUTHORIZED.**

13 **A LEGISLATIVE BODY OF A COUNTY MAY PROVIDE A CIVIL PENALTY FOR A**
14 **ZONING VIOLATION, WHICH SHALL BE ENFORCED AS PROVIDED IN THIS**
15 **SUBTITLE.**

16 **(B) FINES.**

17 **THE LEGISLATIVE BODY MAY:**

18 **(1) IMPOSE A FINE NOT EXCEEDING \$500 FOR EACH VIOLATION;**

19 **(2) ESTABLISH A SCHEDULE OF ADDITIONAL FINES FOR EACH**
20 **VIOLATION; AND**

21 **(3) ADOPT PROCEDURES FOR THE COLLECTION OF THE FINES.**

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 66B, § 7.02(b) and (d).

24 Defined terms: "County" § 1-101
25 "Legislative body" § 1-101

26 **11-203. CITATION.**

27 **(A) ISSUANCE OF CITATION.**

28 **A ZONING OFFICIAL MAY DELIVER A CITATION TO A PERSON WHO HAS**
29 **COMMITTED A CIVIL ZONING VIOLATION.**

1 **(B) CITATION CONTENTS.**

2 **(1) THE CITATION SHALL CONTAIN:**

3 **(I) THE NAME AND ADDRESS OF THE PERSON CHARGED;**

4 **(II) THE NATURE OF THE VIOLATION, INCLUDING THE**
5 **PROVISION VIOLATED;**

6 **(III) THE LOCATION AND TIME OF THE VIOLATION;**

7 **(IV) THE AMOUNT OF THE FINE;**

8 **(V) THE MANNER, LOCATION, AND TIME FOR PAYMENT OF**
9 **THE FINE; AND**

10 **(VI) NOTICE OF THE CITED PERSON'S RIGHT TO ELECT TO**
11 **STAND TRIAL FOR THE VIOLATION AND HOW TO EXERCISE THAT RIGHT.**

12 **(2) THE CITATION SHALL BEAR A CERTIFICATION ATTESTING TO**
13 **THE TRUTH OF THE MATTERS SET FORTH IN THE CITATION.**

14 **(C) COPY OF CITATION.**

15 **THE ZONING OFFICIAL SHALL KEEP A COPY OF THE CITATION.**

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 66B, § 7.02(c).

18 In subsection (a) of this section, the reference to delivering a citation to a
19 person "who has committed" a zoning violation is substituted for the
20 former reference to delivering a citation to a person "believed to be
21 committing" a civil zoning violation for clarity and accuracy.

22 In subsection (b)(1)(ii) of this section, the phrase "including the provision
23 violated" is added for clarity.

24 In subsection (b)(1)(vi) of this section, the reference to "notice of" the right
25 to stand trial is added to state explicitly that which was only implied in
26 the former law.

27 Also in subsection (b)(1)(vi) of this section, the phrase "and how to
28 exercise that right" is added for clarity.

1 Defined terms: "Person" § 1-101
2 "Zoning official" § 11-201

3 **11-204. ELECTION TO STAND TRIAL.**

4 **(A) NOTICE OF INTENTION TO STAND TRIAL.**

5 A PERSON WHO RECEIVES A CITATION MAY ELECT TO STAND TRIAL FOR
6 THE VIOLATION BY FILING A NOTICE OF INTENTION TO STAND TRIAL WITH THE
7 ZONING OFFICIAL AT LEAST 5 BUSINESS DAYS BEFORE THE DATE SET FORTH IN
8 THE CITATION FOR THE PAYMENT OF FINES.

9 **(B) NOTICE TO DISTRICT COURT.**

10 AFTER RECEIVING A NOTICE OF INTENTION TO STAND TRIAL, THE ZONING
11 OFFICIAL SHALL FORWARD THE NOTICE, WITH A COPY OF THE CITATION, TO
12 THE DISTRICT COURT HAVING VENUE.

13 **(C) TRIAL ASSIGNMENT.**

14 AFTER RECEIVING THE CITATION AND NOTICE, THE DISTRICT COURT
15 SHALL:

16 **(1) SCHEDULE THE CASE FOR TRIAL; AND**

17 **(2) NOTIFY THE DEFENDANT OF THE TRIAL DATE.**

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 66B, § 7.02(e)(1) through (4).

20 In subsection (a) of this section, the reference to 5 "business" days is
21 added for consistency with Art. 1, § 36, which provides that a time period
22 of 7 days or less does not include weekends, holidays, and other days that
23 the office of a court where a filing must occur is not open the entire day
24 during ordinary business hours. The Land Use Article Review Committee
25 notes the addition for consideration by the General Assembly.

26 Defined terms: "Person" § 1-101
27 "Zoning official" § 11-201

28 **11-205. FAILURE TO RESPOND.**

29 **(A) FORMAL NOTICE OF VIOLATION.**

1 **IF A PERSON THAT RECEIVES A CITATION FOR A VIOLATION FAILS TO PAY**
2 **THE FINE BY THE DATE OF PAYMENT SET FORTH IN THE CITATION AND FAILS TO**
3 **FILE A NOTICE OF INTENTION TO STAND TRIAL, THE ZONING OFFICIAL SHALL**
4 **MAIL A NOTICE OF THE VIOLATION TO THE PERSON’S LAST KNOWN ADDRESS.**

5 **(B) ADDITIONAL FINES FOR NONPAYMENT OF CITATION.**

6 **IF THE PERSON THAT RECEIVES THE CITATION DOES NOT PAY OR**
7 **OTHERWISE SATISFY THE CITATION WITHIN 15 DAYS AFTER THE DATE THE**
8 **NOTICE OF VIOLATION IS MAILED, THE PERSON SHALL BE SUBJECT TO AN**
9 **ADDITIONAL FINE NOT EXCEEDING TWICE THE AMOUNT OF THE ORIGINAL FINE.**

10 **(C) REQUEST FOR ADJUDICATION OF UNPAID VIOLATION.**

11 **(1) IF THE PERSON THAT RECEIVES THE CITATION DOES NOT PAY**
12 **OR OTHERWISE SATISFY THE CITATION WITHIN 35 DAYS AFTER THE NOTICE OF**
13 **VIOLATION IS MAILED, THE ZONING OFFICIAL MAY REQUEST THE DISTRICT**
14 **COURT TO ADJUDICATE THE VIOLATION.**

15 **(2) IF THE ZONING OFFICIAL REQUESTS ADJUDICATION, THE**
16 **DISTRICT COURT SHALL:**

17 **(I) SCHEDULE THE CASE FOR TRIAL; AND**

18 **(II) SUMMON THE DEFENDANT TO APPEAR.**

19 **REVISOR’S NOTE:** This section is new language derived without substantive
20 change from former Art. 66B, § 7.02(f).

21 In subsection (a) of this section, the reference to the requirement that
22 “the zoning official shall mail” notice of the violation is added to state
23 explicitly that which was only implied in the former law, *i.e.* that
24 consistent with other provisions in the title, the zoning official is
25 responsible for sending the notice.

26 Also in subsection (a) of this section, the reference to the “person’s” last
27 known address is substituted for the former reference to the “owner’s”
28 last known address for consistency within this section.

29 In subsection (b) of this section, the reference to “pay[ing] or otherwise”
30 satisfying the citation is added for clarity and consistency with subsection
31 (c) of this section. Similarly, in subsection (c) of this section, the reference
32 to paying “or otherwise satisfy[ing]” the citation is added.

33 **Defined terms: “Person” § 1–101**

1 “Zoning official” § 11–201

2 **11–206. ADJUDICATION OF VIOLATION IN DISTRICT COURT.**

3 **IN A PROCEEDING BEFORE THE DISTRICT COURT, A VIOLATION SHALL BE**
4 **ADJUDICATED IN THE SAME MANNER AND TO THE SAME EXTENT AS A**
5 **MUNICIPAL INFRACTION UNDER ARTICLE 23A, § 3(B)(7) THROUGH (15) OF THE**
6 **CODE.**

7 REVISOR’S NOTE: This section formerly was Art. 66B, § 7.02(g).

8 The word “adjudicated” is substituted for the former word “prosecuted”
9 for clarity and consistency within this subtitle.

10 No other changes are made.

11 **11–207. JUDGMENTS AND COURT COSTS.**

12 **(A) FINES, PENALTIES, OR FORFEITURES.**

13 **ALL FINES, PENALTIES, OR FORFEITURES COLLECTED BY THE DISTRICT**
14 **COURT FOR ZONING VIOLATIONS SHALL BE REMITTED TO THE COUNTY IN**
15 **WHICH THE ZONING VIOLATION OCCURRED.**

16 **(B) COURT COSTS.**

17 **IF THE DISTRICT COURT FINDS THAT A PERSON HAS COMMITTED A CIVIL**
18 **ZONING VIOLATION, THE PERSON SHALL BE LIABLE FOR THE COSTS OF THE**
19 **COURT PROCEEDINGS.**

20 REVISOR’S NOTE: This section formerly was Art. 66B, § 7.02(i) and (e)(5).

21 No changes are made.

22 The Land Use Article Review Committee notes, for consideration by the
23 General Assembly, that in subsection (a) of this section it is unclear how
24 the reference to “forfeitures” would be applied by the District Court, as
25 the term is not otherwise used in this subtitle.

26 Defined terms: “County” § 1–101

27 “Person” § 1–101

28 **11–208. REQUEST FOR ADJUDICATION.**

1 THE GOVERNING BODY OF A COUNTY MAY AUTHORIZE THE COUNTY
2 ATTORNEY TO SEEK ADJUDICATION OF A CIVIL ZONING VIOLATION.

3 REVISOR’S NOTE: This section formerly was Art. 66B, § 7.02(h).

4 The reference to “seek[ing] adjudication of” a civil zoning violation is
5 substituted for the former reference to “prosecut[ing]” the violation for
6 accuracy and consistency within this subtitle.

7 No other changes are made.

8 Defined term: “County” § 1–101

9 **11–209. FINDING OF VIOLATION NOT A CRIMINAL CONVICTION.**

10 A FINDING BY THE DISTRICT COURT OF A VIOLATION UNDER THIS
11 SUBTITLE IS NOT A CRIMINAL CONVICTION AND DOES NOT IMPOSE ANY OF THE
12 CIVIL DISABILITIES ORDINARILY IMPOSED BY A CRIMINAL CONVICTION.

13 REVISOR’S NOTE: This section formerly was Art. 66B, § 7.02(j).

14 The only changes are in style.

15 **TITLE 12. RESERVED.**

16 **TITLE 13. RESERVED.**

17 **DIVISION II. MARYLAND–NATIONAL CAPITAL PARK AND PLANNING**
18 **COMMISSION.**

19 **TITLE 14. DEFINITIONS; GENERAL PROVISIONS.**

20 **SUBTITLE 1. DEFINITIONS.**

21 **14–101. DEFINITIONS.**

22 **(A) IN GENERAL.**

23 **IN THIS DIVISION THE FOLLOWING WORDS HAVE THE MEANINGS**
24 **INDICATED.**

25 REVISOR’S NOTE: This subsection formerly was Art. 28, § 7–101(a).

1 The reference to this “division” is substituted for the former reference to
2 this “title” to reflect the reorganization of material derived from former
3 Article 28 in Division II of this article. Although the former provision
4 applied only to material in former Art. 28, Title 7, and this provision
5 applies to all material derived from former Article 28, no substantive
6 change is intended. *See* General Revisor’s Note to article.

7 No other changes are made.

8 **(B) COMMISSION.**

9 **“COMMISSION” MEANS THE MARYLAND–NATIONAL CAPITAL PARK AND**
10 **PLANNING COMMISSION.**

11 REVISOR’S NOTE: This subsection is new language derived without
12 substantive change from former Art. 28, § 5–114.1(a)(2) and the third
13 sentence and, as it referred to the full title of the Maryland–National
14 Capital Park and Planning Commission, the first sentence of § 1–101.

15 **(C) COMMISSIONER.**

16 **“COMMISSIONER” MEANS A MEMBER OF THE COMMISSION.**

17 REVISOR’S NOTE: This subsection is new language added for brevity and
18 consistency throughout this division.

19 Defined term: “Commission” § 14–101

20 **(D) COUNTY.**

21 **“COUNTY” MEANS A COUNTY OF THE STATE OR BALTIMORE CITY.**

22 REVISOR’S NOTE: This subsection is new language added to indicate that a
23 reference in this division to a “county” includes Baltimore City unless the
24 reference specifically provides otherwise.

25 Article 1, § 14(a) provides that “county” includes Baltimore City “unless
26 such construction would be unreasonable”. Because the word
27 “unreasonable” has been interpreted in various ways, the Land Use
28 Article Review Committee decided that an explicit definition of “county”
29 should be included in this division.

30 The term conforms to the same term defined in many recently revised
31 articles. *See, e.g.,* IN § 1–101(l), PU § 1–101(g), CP § 1–101(d), CR §
32 1–101(d), PS § 1–101(b), and EC §§ 1–101(b) and 9–101(b).

1 In almost every instance in this division, the defined term “county” refers
2 only to Montgomery County or Prince George’s County, rather than any
3 of the other counties of the State.

4 *See also* § 1–101 of this article.

5 Defined term: “State” § 14–101

6 **(E) COUNTY PLANNING BOARD.**

7 **“COUNTY PLANNING BOARD” MEANS A PLANNING BOARD FOR A COUNTY**
8 **ESTABLISHED UNDER TITLE 20, SUBTITLE 2 OF THIS ARTICLE.**

9 REVISOR’S NOTE: This subsection is new language added for clarity.

10 Defined term: “County” § 14–101

11 **(F) DISTRICT COUNCIL.**

12 **“DISTRICT COUNCIL” MEANS:**

13 **(1) FOR A SINGLE COUNTY, THE COUNTY COUNCIL SITTING AS**
14 **THE DISTRICT COUNCIL OF THE COUNTY WITH RESPECT TO THAT PORTION OF**
15 **THE REGIONAL DISTRICT IN THE COUNTY UNDER § 22–101 OF THIS ARTICLE;**

16 **(2) FOR THE DISTRICT COUNCIL AS A WHOLE, THE COUNTY**
17 **COUNCILS OF BOTH COUNTIES SITTING JOINTLY AS THE BI-COUNTY DISTRICT**
18 **COUNCIL OF THE REGIONAL DISTRICT UNDER § 22–102 OF THIS ARTICLE; OR**

19 **(3) FOR A MUNICIPAL CORPORATION, THE GOVERNING BODY OF**
20 **THE MUNICIPAL CORPORATION SITTING AS THE DISTRICT COUNCIL FOR THE**
21 **MUNICIPAL CORPORATION UNDER AN AGREEMENT AUTHORIZED UNDER §**
22 **20–704(C) OF THIS ARTICLE.**

23 REVISOR’S NOTE: This subsection is new language added to provide a
24 convenient reference to a “district council”.

25 Defined terms: “County” § 14–101

26 “Regional district” § 14–101

27 **(G) GOVERNED SPECIAL TAXING DISTRICT.**

28 **“GOVERNED SPECIAL TAXING DISTRICT” OR “GOVERNED DISTRICT”**
29 **MEANS A SPECIAL TAXING DISTRICT THAT:**

1 **(1) HAS AN ELECTED LOCAL GOVERNING BODY; AND**

2 **(2) PERFORMS GENERAL MUNICIPAL FUNCTIONS.**

3 REVISOR'S NOTE: This subsection is new language derived without
4 substantive change from the third sentence of former Art. 28, § 8–104(c)
5 as it related to certain self-governed special taxing areas.

6 The Land Use Article Review Committee notes, for consideration by the
7 General Assembly, that the term “governed special taxing district”
8 defined in this subsection represents those local governed areas that are
9 not incorporated as municipal corporations under Art. XI–E of the
10 Maryland Constitution but are part of the zoning, subdivision, and land
11 acquisition functions of the Commission under this division. No
12 substantive change is intended. *See, e.g.*, §§ 18–401(i), 20–509, 22–206
13 through 22–208, and 23–202 of this article.

14 **(H) LOCAL LAW.**

15 **(1) “LOCAL LAW” MEANS AN ENACTMENT OF THE LEGISLATIVE**
16 **BODY OF A LOCAL JURISDICTION, WHETHER BY ORDINANCE, RESOLUTION, OR**
17 **OTHERWISE.**

18 **(2) “LOCAL LAW” DOES NOT INCLUDE A PUBLIC LOCAL LAW.**

19 REVISOR'S NOTE: This subsection is new language added to provide a single
20 term encompassing the various forms of local legislative enactments by
21 which a local jurisdiction may implement provisions of this division.

22 The Land Use Article Review Committee notes, for consideration by the
23 General Assembly, that this provision is not intended to alter the
24 legislative mechanisms required to implement any portion of this division
25 in any local jurisdiction. *See* § 14–203 of this title; *cf.* Revisor's Note to §
26 1–101(j) of this article. Neither is the term “local law” defined in this
27 subsection to be confused with the term “public local law”, an enactment
28 of the General Assembly that applies to a single county. *Cf. Kent Island*
29 *Defense League v. Queen Anne's Co. Bd. of Elections*, 145 Md. App. 684
30 (2002).

31 *See also* § 1–101(j) of this article.

32 **(I) METROPOLITAN DISTRICT.**

1 **“METROPOLITAN DISTRICT” MEANS THE MARYLAND–WASHINGTON**
2 **METROPOLITAN DISTRICT ESTABLISHED UNDER TITLE 19 OF THIS ARTICLE.**

3 REVISOR’S NOTE: This subsection is new language added to avoid repetition of
4 the full name “Maryland–Washington Metropolitan District”.

5 **(J) PARK.**

6 **“PARK” INCLUDES A PUBLIC PLAYGROUND, PLAY FIELD, AND ANY OTHER**
7 **RECREATIONAL GROUND, SPACE, OR FACILITY.**

8 REVISOR’S NOTE: This subsection is new language derived without
9 substantive change from former Art. 28, § 7–101(c).

10 The reference to a “public” playground and other areas is added for
11 clarity.

12 The reference to a recreational “facility” is added for clarity.

13 The former reference to “parks” is deleted in light of the reference to
14 “park” and Art. 1, § 8, which provides that the singular generally includes
15 the plural.

16 The former references to “means” and “relates to” are deleted as
17 surplusage.

18 **(K) PERSON.**

19 **“PERSON” MEANS AN INDIVIDUAL, RECEIVER, TRUSTEE, GUARDIAN,**
20 **PERSONAL REPRESENTATIVE, FIDUCIARY, REPRESENTATIVE OF ANY KIND,**
21 **PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, LIMITED LIABILITY**
22 **COMPANY, OR OTHER ENTITY.**

23 REVISOR’S NOTE: This subsection is new language added to provide an
24 express definition of the term “person”.

25 The term is similar to the same term defined in many recently revised
26 articles. *See, e.g.*, IN § 1–101(dd), PU § 1–101(u), CS § 1–101(l), CP §
27 1–101(l), PS § 1–101(c), and EC §§ 1–101(d) and 9–101(d). The reference
28 to a “limited liability company” is added for clarity. No substantive
29 change is intended.

30 The definition of “person” in this subsection does not include a
31 governmental entity or unit. The Court of Appeals of Maryland has held
32 consistently that the word “person” in a statute generally does not
33 include the State, its agencies, or subdivisions unless an intention to

1 include these entities is made manifest by the legislature. *See, e.g., Sillers*
2 *v. Washington Suburban Sanitary Comm'n*, 413 Md. 606, 622–630 (2010).
3 This rule does not apply when there is no impairment of sovereign powers
4 and the provision that uses the term enhances a proprietary interest of
5 the governmental unit. *See* 89 Op. Att’y Gen. 53, 58 (2004).

6 *See also* § 1–101 of this article.

7 As to the term “personal representative”, *see* Art. 1, § 15.

8 **(L) REGIONAL DISTRICT.**

9 **“REGIONAL DISTRICT” MEANS THE MARYLAND–WASHINGTON REGIONAL**
10 **DISTRICT ESTABLISHED UNDER TITLE 20, SUBTITLE 1 OF THIS ARTICLE.**

11 REVISOR’S NOTE: This subsection is new language added to avoid repetition of
12 the full name “Maryland–Washington Regional District”.

13 **(M) ROAD.**

14 **“ROAD” INCLUDES A HIGHWAY, FREEWAY, BOULEVARD, PARKWAY,**
15 **STREET, AVENUE, LANE, ALLEY, VIADUCT, BRIDGE, AND ANY OTHER WAY OR**
16 **PART OF A WAY.**

17 REVISOR’S NOTE: This subsection is new language derived without
18 substantive change from former Art. 28, § 7–101(b).

19 The former reference to “roads” is deleted in light of the reference to
20 “road” and Art. 1, § 8, which provides that the singular generally includes
21 the plural. Similarly, the former reference to “parts” is deleted as
22 included in the reference to “part”.

23 The former references to “means” and “relates to” are deleted as
24 surplusage.

25 The Land Use Article Review Committee notes, for consideration by the
26 General Assembly, that it is unclear whether the term “road” defined in
27 this subsection includes a “trail” or “bicycle path”. If these or similar
28 travel ways are intended to be included in the “roads” that the
29 Commission constructs and maintains under this division, the General
30 Assembly may wish to consider adding those terms to this definition.

31 **(N) SENSITIVE AREA.**

32 **“SENSITIVE AREA” HAS THE MEANING STATED IN § 1–101 OF THIS**
33 **ARTICLE.**

1 REVISOR'S NOTE: This subsection is new language added to provide an
 2 express cross-reference to the term "sensitive area" defined in § 1-101 of
 3 this article that is applicable to Montgomery County and Prince George's
 4 County under § 1-401(b)(2) of this article.

5 **(O) STATE.**

6 **(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
 7 **SUBSECTION, "STATE" MEANS:**

8 **(I) A STATE, POSSESSION, TERRITORY, OR**
 9 **COMMONWEALTH OF THE UNITED STATES; OR**

10 **(II) THE DISTRICT OF COLUMBIA.**

11 **(2) WHEN CAPITALIZED, "STATE" MEANS MARYLAND.**

12 REVISOR'S NOTE: This subsection is standard language added to provide an
 13 express definition of the word "state". The term conforms to the same
 14 term defined in other recently revised articles of the Code. *See, e.g.,* EC §§
 15 1-101(g) and 9-101(f).

16 *See also* § 1-101 of this article.

17 **(P) SUBDIVISION.**

18 **(1) "SUBDIVISION" MEANS:**

19 **(I) THE PROCESS AND CONFIGURATION OF LAND BY WHICH**
 20 **ONE OR MORE LOTS, TRACTS, OR PARCELS OF LAND ARE DIVIDED,**
 21 **CONSOLIDATED, OR ESTABLISHED AS ONE OR MORE LOTS OR PARCELS, OR**
 22 **OTHER DIVISIONS OF LAND, CONSISTENT WITH CRITERIA ESTABLISHED BY THE**
 23 **LEGISLATIVE BODY OF THE LOCAL JURISDICTION; OR**

24 **(II) THE LAND SO SUBDIVIDED.**

25 **(2) "SUBDIVISION" INCLUDES RESUBDIVISION.**

26 REVISOR'S NOTE: This subsection is new language derived without
 27 substantive change from the first sentence of former Art. 28, § 7-101(d).

28 In paragraph (1)(i) of this subsection, the reference to the "process and
 29 configuration of land by which ... lots ... are divided" is substituted for
 30 the former reference to the "division of a lot ... for the purpose, whether

1 immediate or future, of sale or building development, ... and, when
 2 appropriate to the context, relates to the process of subdivision” for
 3 clarity. No substantive change is intended.

4 The Land Use Article Review Committee notes, for consideration by the
 5 General Assembly, that in paragraph (1)(i) of this subsection, the phrase
 6 “consistent with criteria established by the legislative body of the local
 7 jurisdiction”, which was implicit in the former law, is added for clarity.
 8 No substantive change is intended.

9 For the exclusion of certain agricultural land from the requirements of
 10 the subdivision process, *see* § 23–101 of this article.

11 **(Q) ZONING LAW.**

12 **(1) “ZONING LAW” MEANS THE LEGISLATIVE IMPLEMENTATION**
 13 **OF REGULATIONS FOR ZONING BY A LOCAL JURISDICTION.**

14 **(2) “ZONING LAW” INCLUDES A ZONING ORDINANCE, ZONING**
 15 **REGULATION, ZONING CODE, AND ANY SIMILAR LEGISLATIVE ACTION TO**
 16 **IMPLEMENT ZONING CONTROLS IN A LOCAL JURISDICTION.**

17 REVISOR’S NOTE: This subsection is new language added to provide a single
 18 term encompassing the various terms used by local jurisdictions for
 19 legislatively adopted zoning controls.

20 *See also* § 1–101 of this article.

21 **SUBTITLE 2. GENERAL PROVISIONS.**

22 **14–201. SCOPE OF DIVISION.**

23 **THIS DIVISION APPLIES ONLY IN MONTGOMERY COUNTY AND PRINCE**
 24 **GEORGE’S COUNTY.**

25 REVISOR’S NOTE: This section is new language added for clarity.

26 This section merely states explicitly what was implied in the former law,
 27 as former Article 28 established the metropolitan district and the
 28 regional district, which are only in Montgomery and Prince George’s
 29 counties, and governed other specific programs and services only in those
 30 counties and their municipal corporations.

31 **14–202. OTHER APPLICABLE LAW.**

1 **(A) ARTICLE XI–E NOT GENERALLY APPLICABLE.**

2 **EXCEPT AS OTHERWISE PROVIDED IN TITLE 20, SUBTITLE 7, PART I,**
3 **TITLE 24, SUBTITLE 2, AND TITLE 25, SUBTITLE 3 OF THIS ARTICLE, ARTICLE**
4 **XI–E OF THE MARYLAND CONSTITUTION DOES NOT APPLY TO THE**
5 **COMMISSION, THE METROPOLITAN DISTRICT, OR THE REGIONAL DISTRICT.**

6 **(B) COMMISSION AND DISTRICTS NOT MUNICIPAL CORPORATIONS.**

7 **NEITHER THE COMMISSION, THE METROPOLITAN DISTRICT, NOR THE**
8 **REGIONAL DISTRICT IS A “MUNICIPAL CORPORATION” UNDER ARTICLE XI–E OF**
9 **THE MARYLAND CONSTITUTION.**

10 REVISOR’S NOTE: This section is new language derived without substantive
11 change from former Art. 28, § 2–119.

12 In subsection (a) of this section, the limitation “[e]xcept as otherwise
13 provided in Title 20, Subtitle 7, Part I, Title 24, Subtitle 2, and Title 25,
14 Subtitle 3 of this article,” is added for clarity.

15 In subsection (b) of this section, the reference to the Commission and the
16 districts not “[being]” a municipal corporation is substituted for the
17 former reference to the definition of “municipal corporation” not
18 “embrac[ing] or includ[ing]” those entities for clarity.

19 Defined terms: “Commission” § 14–101
20 “Metropolitan district” § 14–101
21 “Regional district” § 14–101

22 **14–203. ADOPTION OF LOCAL LAW.**

23 **THE REQUIREMENT OR AUTHORIZATION FOR A LOCAL JURISDICTION TO**
24 **ENACT A LOCAL LAW TO IMPLEMENT A PROVISION OF THIS DIVISION IS NOT**
25 **INTENDED TO ALTER IN ANY WAY THE FORM OR LEGISLATIVE MECHANISM THAT**
26 **THE APPLICABLE ENABLING AUTHORITY REQUIRES FOR THE LOCAL**
27 **JURISDICTION TO ENACT THE LOCAL LAW, WHETHER BY ORDINANCE,**
28 **RESOLUTION, OR OTHERWISE, AS OF OCTOBER 1, 2012.**

29 REVISOR’S NOTE: This section is new language added for clarity.

30 This section provides that the substitution of the comprehensive term
31 “local law” for former references to “ordinances” and “resolutions” does
32 not in any manner alter the form or mechanism by which a local
33 jurisdiction, either a county or a municipal corporation, is authorized to
34 adopt the local law that a provision of this division requires or authorizes.

1 Neither does it alter the means to challenge such a local law. No
2 substantive change is intended. *See* General Revisor’s Note to article.

3 Defined term: “Local law” § 14–101

4 GENERAL REVISOR’S NOTE TO TITLE

5 Former Art. 28, § 1–101, which provided that the Commission was continued as
6 a body corporate as the successor to the agency with the same name created by
7 Ch. 448 of 1927, is not retained in the Code because it is apparently obsolete. It
8 is transferred to the Session Laws to avoid any inadvertent substantive effect
9 its repeal might have. *See* § 6 of Ch. ___, Acts of 2012.

10 Former Art. 28, §§ 1–102, 1–103, and 1–104, which provided for the continuity
11 of certain property rights and liabilities, bonds, ordinances, and decisions in
12 connection with the recodification of the Public Local Laws governing the
13 Commission as Article 66D of the Annotated Code of Maryland in 1975, and the
14 renumbering of that article as Article 28 in 1983, are not retained in the Code
15 because they are apparently obsolete. They are transferred to the Session Laws
16 to avoid any inadvertent substantive effect their repeal might have. *See* § 6 of
17 Ch. ___, Acts of 2012.

18 Former Art. 28, § 1–105, which provided for the continuity of certain zoning
19 actions taken by the local governing bodies of Montgomery County and Prince
20 George’s County before April 29, 1977, is not retained in the Code because it is
21 apparently obsolete. It is transferred to the Session Laws to avoid any
22 inadvertent substantive effect that its repeal might have. *See* § 6 of Ch. ___,
23 Acts of 2012.

24 Former Art. 28, § 2–121, which provided that all laws or parts of laws
25 inconsistent with or contrary to the provisions in Article 28 were repealed to the
26 extent of the inconsistency, is not retained in the Code because it is apparently
27 obsolete. It is transferred to the Session Laws to avoid any inadvertent
28 substantive effect that its repeal might have. *See* § 6 of Ch. ___, Acts of 2012.

29 Former Art. 28, § 2–122, which provided for the severability of provisions of
30 former Article 28, is deleted in light of Art. 1, § 23, which provides that all
31 legislation enacted after July 1, 1979, is presumed to be severable absent
32 specific language to the contrary and in light of the standard rule of judicial
33 construction favoring severability even in the absence of a severability clause in
34 the statute. *See, e.g., Muskin v. State Dep’t of Assessments and Taxation*, 422
35 Md. 544 (2011): “We have held that, even in the absence of an express
36 severability clause in legislation that is found defective in some severable part,
37 there “is a strong presumption that if a portion of an enactment is found to be
38 invalid, the intent is that such portion be severed.” *Bd. v. Smallwood*, 327 Md.
39 220, 245, 608 A.2d 1222, 1234 (1992); *see also Balt. v. Stuyvesant Ins. Co.*, 226
40 Md. 379, 390, 174 A.2d 153, 158 – 59 (1961) (finding that “[i]t is the duty of a

1 court to separate the valid from the invalid provisions of an ordinance, so long
2 as the valid portion is independent and severable from that which is void.”
3 422 Md. 544, 554 (fn. 5); *see also Jackson v. Dackman Co.*, 422 Md. 357, 383–384
4 (2011).

5 **TITLE 15. COMMISSION.**

6 **SUBTITLE 1. ORGANIZATION AND GENERAL AUTHORITY OF COMMISSION.**

7 **15–101. ESTABLISHED.**

8 **(A) IN GENERAL.**

9 **THERE IS A MARYLAND–NATIONAL CAPITAL PARK AND PLANNING**
10 **COMMISSION.**

11 **(B) STATUS.**

12 **THE COMMISSION IS A BODY POLITIC AND CORPORATE AND IS AN AGENCY**
13 **OF THE STATE.**

14 REVISOR’S NOTE: Subsection (a) of this section is new language derived
15 without substantive change from the first sentence of former Art. 28, §
16 1–101, as it related to the continuation of the Commission. It is restated
17 in standard language used to establish a governmental unit.

18 Subsection (b) of this section is new language derived without substantive
19 change from the first sentences of former Art. 28, §§ 1–101 and 3–101 as
20 they related to the corporate structure of the Commission.

21 The Land Use Article Review Committee notes, for consideration by the
22 General Assembly, that in subsection (b) of this section the reference to
23 the Commission as a “body politic and corporate and ... an agency of the
24 State” is substituted for the former references to the Commission as a
25 “body corporate” and a “corporate agency” for clarity and consistency with
26 provisions establishing similar bodies in recently revised articles of the
27 Code. No substantive change is intended.

28 Defined terms: “Commission” § 14–101
29 “State” § 14–101

30 **15–102. MEMBERSHIP.**

31 **(A) COMPOSITION; APPOINTMENT OF MEMBERS.**

32 **(1) THE COMMISSION CONSISTS OF 10 MEMBERS.**

1 **(2) OF THE 10 MEMBERS OF THE COMMISSION:**

2 **(I) FIVE SHALL BE RESIDENTS AND REGISTERED VOTERS**
3 **OF MONTGOMERY COUNTY; AND**

4 **(II) FIVE SHALL BE RESIDENTS AND REGISTERED VOTERS**
5 **OF PRINCE GEORGE'S COUNTY.**

6 **(3) (I) SUBJECT TO THE APPROVAL OF THE COUNTY**
7 **EXECUTIVE, THE COUNTY COUNCIL SHALL APPOINT EACH COMMISSIONER**
8 **FROM MONTGOMERY COUNTY.**

9 **(II) SUBJECT TO THE APPROVAL OF THE COUNTY COUNCIL,**
10 **THE COUNTY EXECUTIVE SHALL APPOINT EACH COMMISSIONER FROM PRINCE**
11 **GEORGE'S COUNTY.**

12 **(B) QUALIFICATIONS OF COMMISSIONERS.**

13 **EACH COMMISSIONER SHALL BE AN INDIVIDUAL OF ABILITY,**
14 **EXPERIENCE, AND INTEGRITY.**

15 **(C) RESTRICTIONS ON COMMISSIONERS.**

16 **(1) OF THE COMMISSIONERS FROM EACH COUNTY, NOT MORE**
17 **THAN THREE SHALL BE MEMBERS OF THE SAME POLITICAL PARTY.**

18 **(2) A COMMISSIONER MAY NOT BE SELECTED AS REPRESENTING**
19 **OR SUPPORTING ANY SPECIAL INTEREST.**

20 **(D) TENURE; VACANCIES.**

21 **(1) THE TERM OF A COMMISSIONER IS 4 YEARS AND BEGINS ON**
22 **JUNE 15.**

23 **(2) THE TERMS OF COMMISSIONERS ARE STAGGERED AS**
24 **REQUIRED BY THE TERMS PROVIDED FOR COMMISSIONERS ON OCTOBER 1,**
25 **2012.**

26 **(3) AT THE END OF A TERM, A COMMISSIONER CONTINUES TO**
27 **SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.**

1 **(4) A COMMISSIONER WHO IS APPOINTED AFTER A TERM HAS**
2 **BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS**
3 **APPOINTED AND QUALIFIES.**

4 **(5) A COMMISSIONER WHO IS APPOINTED TO FILL A VACANCY**
5 **FOR AN UNEXPIRED TERM SHALL BE A MEMBER OF THE SAME POLITICAL PARTY**
6 **AS THE COMMISSIONER WHO VACATED THE OFFICE.**

7 **(6) A COMMISSIONER APPOINTED FROM MONTGOMERY COUNTY**
8 **MAY NOT BE APPOINTED FOR THREE CONSECUTIVE FULL TERMS.**

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from the first through fifth sentences of former Art. 28, § 2-102,
11 the eighth sentence of § 2-103, and the first through fourth sentences
12 and, as it related to appointments by the Montgomery County Council,
13 the tenth sentence of § 2-101(a).

14 In subsection (a)(3)(i) of this section, the reference to "approval of the
15 County Executive" is added for consistency with § 15-103(a) of this
16 subtitle.

17 In subsection (b) of this section, the reference to "an individual" is
18 substituted for the former reference to "persons" because only a human
19 being, and not the other entities included in the definition of "person",
20 may be a member of the Commission.

21 In subsection (c)(2) of this section, the former reference to "interests" is
22 deleted in light of the reference to "interest" and Art. 1, § 8, which
23 provides that the singular generally includes the plural.

24 In subsection (d)(1) of this section, the reference to terms "begin[ning] on
25 June 15" is substituted for the former reference to "[a]ppointments
26 [being] made on or before June 15 of the year in which any appointment
27 is made, and the terms of office [beginning] as of that date" for brevity
28 and clarity.

29 In subsection (d)(2) of this section, the reference to terms being
30 "staggered as required by the terms provided for commissioners on
31 October 1, 2012" is substituted for the former obsolete reference to
32 "members of the Commission in office immediately prior to July 1, 1975
33 [remaining] in office ... for the remainder of the terms for which they
34 were appointed". This substitution is not intended to alter the term of any
35 member of the Commission. See § 19 of Ch. __, Acts of 2012. The terms of
36 the members serving on October 1, 2012, adjusting for holdovers, end as
37 follows: (1) one in 2013; (2) three in 2014; (3) four in 2015; and (4) two in
38 2016.

1 In subsection (d)(3) of this section, the former reference to “any
2 appointment [not being] made as provided in this section [causing] a
3 vacancy [to exist] which shall be filled as provided in this article for the
4 filling of vacancies on the Commission” is deleted as implicit.

5 Subsection (d)(4) of this section is added as standard language. It follows
6 from the requirement that there be staggered terms. An inherent aspect
7 of staggered terms is that they must begin and end at set intervals. For
8 circumstances under which subsection (d)(4) applies, *see* General
9 Revisor’s Note to article.

10 The sixth sentence of former Art. 28, § 2–102, which allowed
11 term–limited Montgomery County members who had served two
12 consecutive terms to “complete their current terms” is deleted as obsolete.
13 All members who would have been affected by this provision when it was
14 enacted in 1986 would have long ago completed their terms. *See* Ch. 536,
15 Acts of 1986.

16 The seventh sentence of former Art. 28, § 2–103, which provided for the
17 manner of filling a vacancy in the membership of the Commission, is
18 deleted as redundant of subsection (a)(3) of this section and § 15–103 of
19 this subtitle.

20 Defined terms: “Commission” § 14–101
21 “Commissioner” § 14–101

22 **15–103. APPOINTMENT PROCEDURES.**

23 **(A) MONTGOMERY COUNTY.**

24 **(1) IN MONTGOMERY COUNTY, THE COUNTY COUNCIL SHALL**
25 **MAKE AN APPOINTMENT TO THE COMMISSION FROM A LIST OF APPLICANTS.**

26 **(2) THE LIST SHALL BE:**

27 **(I) COMPLETED AT LEAST 3 WEEKS BEFORE AN**
28 **APPOINTMENT IS MADE; AND**

29 **(II) MADE AVAILABLE TO THE PUBLIC.**

30 **(3) IF THE COUNTY COUNCIL DOES NOT APPOINT AN INDIVIDUAL**
31 **WHOSE NAME APPEARS ON THE LIST OR IF NO NAME APPEARS ON THE LIST, THE**
32 **COUNTY COUNCIL SHALL PROVIDE FOR THE PREPARATION OF A SECOND LIST**
33 **AND FOLLOW THE PROCEDURES UNDER PARAGRAPH (2) OF THIS SUBSECTION.**

1 (4) WITHIN 3 DAYS AFTER MAKING AN APPOINTMENT, THE
2 COUNTY COUNCIL SHALL SUBMIT THE NAME OF THE APPOINTEE TO THE
3 COUNTY EXECUTIVE.

4 (5) WITHIN 30 DAYS AFTER THE APPOINTMENT IS SUBMITTED,
5 THE COUNTY EXECUTIVE SHALL APPROVE OR DISAPPROVE THE APPOINTMENT.

6 (6) AN APPOINTMENT THAT IS NOT DISAPPROVED BY THE
7 COUNTY EXECUTIVE IN ACCORDANCE WITH THIS SUBSECTION IS DEEMED TO BE
8 APPROVED.

9 (7) IF THE COUNTY EXECUTIVE DISAPPROVES AN APPOINTMENT,
10 THE COUNTY EXECUTIVE SHALL RETURN THE APPOINTMENT TO THE COUNTY
11 COUNCIL WITH THE REASONS FOR THE DISAPPROVAL STATED IN WRITING.

12 (8) BY THE AFFIRMATIVE VOTE OF SEVEN OF ITS MEMBERS, THE
13 COUNTY COUNCIL MAY APPOINT A COMMISSIONER OVER THE DISAPPROVAL OF
14 THE COUNTY EXECUTIVE.

15 **(B) PRINCE GEORGE'S COUNTY.**

16 (1) IN PRINCE GEORGE'S COUNTY, THE COUNTY COUNCIL SHALL
17 HOLD PUBLIC HEARINGS ON AN APPOINTMENT TO THE COMMISSION NOT LESS
18 THAN 10 DAYS AND NOT MORE THAN 20 DAYS AFTER THE COUNTY EXECUTIVE
19 SUBMITS THE NAME OF THE APPOINTEE TO THE COUNTY COUNCIL.

20 (2) IF THE COUNTY COUNCIL FAILS TO ACT ON THE
21 APPOINTMENT WITHIN 30 DAYS AFTER THE COUNTY EXECUTIVE SUBMITS THE
22 NAME OF THE APPOINTEE, THE APPOINTMENT IS DEEMED TO BE APPROVED.

23 (3) A VOTE OF A MAJORITY OF THE FULL COUNTY COUNCIL IS
24 REQUIRED TO APPROVE OR DISAPPROVE AN APPOINTMENT.

25 (4) (I) IN MAKING AND APPROVING APPOINTMENTS, THE
26 COUNTY COUNCIL AND COUNTY EXECUTIVE SHALL ATTEMPT TO PROVIDE
27 REASONABLE GEOGRAPHIC BALANCE WITH RESPECT TO THE COMMISSIONERS'
28 PLACES OF RESIDENCE.

29 (II) THE APPOINTMENT RESOLUTION FOR EACH
30 APPOINTMENT SHALL DESCRIBE THE RESULTING GEOGRAPHIC DISTRIBUTION
31 AND PROVIDE APPROPRIATE EXPLANATIONS.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from the fifth through sixteenth sentences of former Art. 28, §
3 2-101(a).

4 In subsection (a)(2)(i) of this section, the former reference to a
5 "reappointment" is deleted for consistency within this section.

6 In subsection (a)(2)(ii) of this section, the former phrase "at all times" is
7 deleted as surplusage.

8 In subsection (a)(3) of this section, the reference to the procedures "under
9 paragraph (2) of this subsection" is substituted for the former reference to
10 the procedures "applicable to the first list" for clarity.

11 In subsection (a)(4) of this section, the reference to the "County Council"
12 submitting the name of the appointee is added for clarity.

13 In subsection (a)(5) of this section, the reference to the appointment being
14 submitted is added for clarity.

15 In subsection (a)(6) of this section, the reference to this "subsection" is
16 substituted for the former overbroad reference to this "title".

17 In subsection (b)(1) of this section, the introductory phrase "[i]n Prince
18 George's County" is added for clarity.

19 Also in subsection (b)(1) of this section, the reference to "the County
20 Executive" submitting the name of the appointee is added for clarity and
21 consistency with subsection (b)(2) of this section.

22 In subsection (b)(2) of this section, the reference to the County Council
23 acting "on an" appointment is substituted for the former reference to the
24 County Council acting "to confirm or reject the" appointment for brevity.

25 Also in subsection (b)(2) of this section, the reference to an appointment
26 "[being] deemed to be" approved is substituted for the former reference to
27 an appointment "stand[ing]" approved for consistency with subsection
28 (a)(6) of this section.

29 In subsection (b)(3) of this section, the reference to "approv[ing] or
30 disapprov[ing]" an appointment is substituted for the former references to
31 "confirm[ing] or reject[ing]" an appointment for consistency with
32 subsection (a) of this section.

33 In subsection (b)(4)(i) of this section, the reference to the "commissioners'
34 places of residence" is substituted for the former reference to the "places
35 of residence of the members" for clarity.

1 The Land Use Article Review Committee notes, for consideration by the
2 General Assembly, that it is unclear whether the eighth and ninth
3 sentences of former Art. 28, § 2–101(a), revised as subsection (b)(4) of this
4 section, were intended to apply only to appointments in Prince George’s
5 County or also to appointments in Montgomery County. If intended to
6 apply in both counties, the General Assembly should consider either
7 moving subsection (b)(4) of this section so that it applies in both counties
8 or duplicating the language in subsection (a) of this section.

9 Former Art. 28, § 2–101(b), which provided that “[a]ll appointments or
10 reappointments in Montgomery County shall be subject to § 2–114 of this
11 subtitle”, is deleted as unnecessary in light of § 15–104(a) of this subtitle.

12 Defined terms: “Commission” § 14–101
13 “Commissioner” § 14–101

14 **15–104. ADDITIONAL REQUIREMENTS FOR APPOINTMENT OF MONTGOMERY**
15 **COUNTY COMMISSIONERS.**

16 **(A) SCOPE OF SECTION.**

17 **THIS SECTION APPLIES TO EACH COMMISSIONER APPOINTED BY THE**
18 **MONTGOMERY COUNTY COUNCIL UNDER §§ 15–102 AND 15–103 OF THIS**
19 **SUBTITLE.**

20 **(B) INTERVIEW REGARDING CONFLICTS OF INTEREST.**

21 **(1) THE MONTGOMERY COUNTY COUNCIL MAY REQUIRE AN**
22 **APPLICANT FOR APPOINTMENT AS A COMMISSIONER TO BE INTERVIEWED BY**
23 **THE COUNTY COUNCIL OR ITS DESIGNATED AGENT IN PRIVATE REGARDING**
24 **POSSIBLE OR POTENTIAL CONFLICTS OF INTEREST.**

25 **(2) BEFORE THE APPOINTMENT IS MADE, THE COUNTY COUNCIL**
26 **OR ITS DESIGNATED AGENT SHALL INTERVIEW IN PRIVATE AN APPLICANT WHO**
27 **IS SELECTED FOR APPOINTMENT REGARDING POSSIBLE OR POTENTIAL**
28 **CONFLICTS OF INTEREST.**

29 **(C) FINANCIAL DISCLOSURE STATEMENT AND INTERVIEW REQUIRED.**

30 **AN APPLICANT MAY NOT BE APPOINTED UNLESS THE APPLICANT:**

31 **(1) HAS FILED A FINANCIAL DISCLOSURE STATEMENT AS**
32 **REQUIRED BY § 15–820 OF THE STATE GOVERNMENT ARTICLE; AND**

1 **(2) HAS BEEN INTERVIEWED AS REQUIRED BY SUBSECTION (B) OF**
2 **THIS SECTION.**

3 **(D) INTERVIEW PROCEDURES.**

4 **(1) IN AN INTERVIEW UNDER THIS SECTION, THE APPLICANT**
5 **SHALL BE INTERVIEWED:**

6 **(I) UNDER OATH;**

7 **(II) IN A QUESTION AND ANSWER FORMAT; AND**

8 **(III) ABOUT INFORMATION AND INTERESTS INCLUDING ALL**
9 **SOURCES OF INCOME, PROPERTY HOLDINGS, BUSINESS INTERESTS, AND**
10 **FINANCIAL INTERESTS OF THE APPLICANT AND THE APPLICANT'S SPOUSE,**
11 **PARENT, CHILD, BROTHER, OR SISTER.**

12 **(2) THE COUNTY COUNCIL MAY REQUIRE THE APPLICANT TO**
13 **PRODUCE RELEVANT DOCUMENTS.**

14 **(E) TRANSCRIPT.**

15 **(1) A WRITTEN TRANSCRIPT SHALL BE MADE OF ALL QUESTIONS**
16 **AND ANSWERS IN AN INTERVIEW UNDER THIS SECTION.**

17 **(2) UNLESS THE EXAMINATION IS WAIVED BY THE APPLICANT:**

18 **(I) THE TRANSCRIPT SHALL BE SUBMITTED TO THE**
19 **APPLICANT FOR EXAMINATION;**

20 **(II) THE TRANSCRIBING OFFICER SHALL MAKE ANY**
21 **CHANGES IN THE TRANSCRIPT THAT THE APPLICANT DESIRES TO MAKE,**
22 **ACCOMPANIED BY A STATEMENT OF THE REASON GIVEN BY THE APPLICANT FOR**
23 **THE CHANGES; AND**

24 **(III) THE APPLICANT SHALL SIGN THE TRANSCRIPT.**

25 **(3) THE TRANSCRIBING OFFICER SHALL CERTIFY ON THE**
26 **TRANSCRIPT THAT:**

27 **(I) THE APPLICANT WAS SWORN BY THE OFFICER; AND**

1 **(II) THE TRANSCRIPT IS A TRUE RECORD OF THE**
2 **TESTIMONY GIVEN BY THE APPLICANT.**

3 **(4) THE COUNTY COUNCIL SHALL:**

4 **(I) PUBLICLY DISCLOSE THE COMPLETE TRANSCRIPT OF**
5 **AN APPOINTEE WITHIN 3 WEEKS AFTER THE DATE OF THE APPOINTMENT; AND**

6 **(II) WHEN THE APPOINTEE TAKES OFFICE, DESTROY**
7 **IMMEDIATELY THE COMPLETE TRANSCRIPT OF ANY OTHER APPLICANT**
8 **WITHOUT DISCLOSURE OF ANY INFORMATION CONTAINED IN THE TRANSCRIPT.**

9 **(F) ANNUAL UPDATE.**

10 **(1) ON OR BEFORE JUNE 1 OF EACH YEAR, AN APPOINTEE SHALL**
11 **DISCLOSE, IN WRITING, TO THE COUNTY COUNCIL ALL INFORMATION**
12 **AVAILABLE TO MAKE CURRENT THE PROPERTY HOLDINGS, BUSINESS**
13 **INTERESTS, AND FINANCIAL INTERESTS IN THE STATE AND THE GREATER**
14 **WASHINGTON METROPOLITAN AREA OF THE APPOINTEE AND THE APPOINTEE'S**
15 **SPOUSE, PARENT, CHILD, BROTHER, OR SISTER.**

16 **(2) THE COUNTY COUNCIL SHALL PUBLICLY DISCLOSE THE**
17 **INFORMATION RECEIVED FROM THE APPOINTEE.**

18 **(3) IF THE COUNTY COUNCIL DETERMINES IT NECESSARY, THE**
19 **COUNTY COUNCIL MAY REQUIRE SUBSTANTIATION AND ADDITIONAL**
20 **INFORMATION.**

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 28, § 2-114(a) and (c).

23 In subsection (a) of this section and in the introductory language to
24 subsection (c) of this section, the former references to a commissioner who
25 is "reappointed" are deleted for consistency with § 15-103 of this subtitle.
26 Similarly, in subsection (b)(1) of this section, the reference to
27 "reappointment" is deleted.

28 In subsection (a) of this section, the former reference to this section
29 applying to the "Maryland-National Capital Park and Planning
30 Commission" is deleted as unnecessary.

31 Subsection (b)(2) of this section is new language substituted for the
32 former phrase "and an applicant shall be so interviewed prior to being
33 appointed or reappointed" for clarity.

1 In subsection (d)(1)(iii) of this section, the phrase “about information and
2 interests including” is substituted for the former phrase “specifically on,
3 but not limited to” for clarity. Art. 1, § 30 provides that “including” means
4 “by way of illustration and not by way of limitation”.

5 In subsection (d)(2) of this section, the reference to requiring “the
6 applicant to produce relevant documents” is substituted for the former
7 reference to requiring “the production of any document it wishes the
8 applicant to produce” for clarity and brevity.

9 In the introductory language to subsection (e)(2) of this section, the
10 former references to the “submission” and “reading” of the transcript are
11 deleted as included in the reference to the “examination” of the
12 transcript.

13 In subsection (e)(2)(i) of this section, the former reference to “[w]hen the
14 testimony is fully transcribed” is deleted as implicit.

15 Also in subsection (e)(2)(i) of this section, the former requirement that the
16 transcript be “read to or by the applicant” is deleted as implicit.

17 In subsection (e)(3)(i) of this section, the former reference to being “duly”
18 sworn is deleted as surplusage.

19 In subsection (e)(4)(i) of this section, the reference to the complete
20 “transcript” is substituted for the former reference to the complete
21 “transcribed testimony” for consistency within this subsection.

22 Also in subsection (e)(4)(i) of this section, the former reference to the
23 “actual” appointee is deleted as surplusage.

24 Also in subsection (e)(4)(i) of this section, the former reference to
25 “appointees” is deleted in light of the reference to the “appointee” and Art.
26 1, § 8, which provides that the singular generally includes the plural.

27 In subsection (e)(4)(ii) of this section, the phrase “when the appointee
28 takes office,” is added for clarity. The Land Use Article Review
29 Committee brings this addition to the attention of the General Assembly.
30 No substantive change is intended.

31 Also in subsection (e)(4)(ii) of this section, the former reference to
32 disclosure “to anyone” is deleted as unnecessary.

33 In subsection (f)(1) of this section, the reference to June “1” is added for
34 clarity.

1 Also in subsection (f)(1) of this section, the former reference to
2 “updat[ing]” is deleted as redundant of the reference to “mak[ing]
3 current”.

4 In subsection (f)(2) of this section, the former reference to “complete”
5 public disclosure is deleted as surplusage.

6 The Land Use Article Review Committee notes, for consideration by the
7 General Assembly, that in subsections (d)(1)(iii) and (f)(1) of this section,
8 the lists of related individuals whose financial information must be
9 disclosed includes the appointee’s “spouse”, but not the appointee’s
10 “domestic partner”. The General Assembly may wish to consider whether
11 information from such an individual would be relevant to the
12 appointment process.

13 Defined terms: “Commissioner” § 14–101
14 “State” § 14–101

15 **15–105. REMOVAL.**

16 **(A) IN GENERAL.**

17 **(1) THE MONTGOMERY COUNTY COUNCIL MAY REMOVE ANY**
18 **COMMISSIONER APPOINTED FROM MONTGOMERY COUNTY BEFORE THE**
19 **EXPIRATION OF THE COMMISSIONER’S TERM.**

20 **(2) WITH THE APPROVAL OF A MAJORITY OF THE MEMBERS OF**
21 **THE COUNTY COUNCIL, THE COUNTY EXECUTIVE OF PRINCE GEORGE’S**
22 **COUNTY MAY REMOVE ANY COMMISSIONER APPOINTED FROM PRINCE**
23 **GEORGE’S COUNTY BEFORE THE EXPIRATION OF THE COMMISSIONER’S TERM.**

24 **(B) PUBLIC HEARING.**

25 **(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
26 **SUBSECTION, BEFORE A COMMISSIONER MAY BE REMOVED UNDER SUBSECTION**
27 **(A) OF THIS SECTION:**

28 **(I) THE CAUSE FOR REMOVAL SHALL BE STATED IN**
29 **WRITING; AND**

30 **(II) A PUBLIC HEARING SHALL BE HELD ON THE REMOVAL.**

31 **(2) IN PRINCE GEORGE’S COUNTY, THE COMMISSIONER SOUGHT**
32 **TO BE REMOVED MAY WAIVE IN WRITING THE PUBLIC HEARING HELD BY THE**
33 **COUNTY COUNCIL.**

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from the first through fifth sentences of former Art. 28, § 2–103.

3 In subsection (a) of this section, the references to “the commissioner’s
4 term” are substituted for the former references to “the term for which
5 they were appointed” for brevity and clarity.

6 In subsection (a)(2) of this section, the former phrase “at his pleasure” is
7 deleted as surplusage.

8 In the introductory language to subsection (b)(1) of this section, the
9 phrase “before a commissioner may be removed under subsection (a) of
10 this section” is substituted for the former phrase “[i]n each case” for
11 clarity.

12 The Land Use Article Review Committee notes, for consideration by the
13 General Assembly, that although subsection (b)(1)(i) of this section
14 requires that the cause for removal be stated in writing, this section
15 provides no criteria for removal. It is unclear whether a commissioner
16 serves at the will of the appointing body, or if there are some implicit
17 criteria for the appointing body to consider when removing a
18 commissioner, such as malfeasance, lack of attendance, or similar causes.
19 The General Assembly may wish to compare the various grounds for
20 removing appointed commissioners and members of similar bodies
21 elsewhere in this article in order to harmonize removal criteria. *See, e.g.,*
22 Revisor’s Notes to §§ 2–102, 4–302, and 10–404 of this article.

23 The Land Use Article Review Committee also notes, for consideration by
24 the General Assembly, that in subsection (b)(2) of this section, it is
25 unclear whether the commissioner being removed has a right to a public
26 hearing, which the commissioner may waive, or whether the County
27 Council may choose to hold a public hearing despite the commissioner’s
28 having waived the hearing. The General Assembly may wish to consider
29 recasting this subsection to confer on the commissioner an affirmative
30 right to a public hearing, which the commissioner may waive, and to
31 clarify whether the County Council may conduct a hearing on its own
32 motion even after such a waiver.

33 The sixth sentence of former Art. 28, § 2–103, which provided that “this
34 provision does not apply to any Prince George’s member of the
35 Commission in office on June 1, 1975 for the member’s current term of
36 office”, is deleted as obsolete.

37 Defined term: “Commissioner” § 14–101

38 **15–106. CHAIR AND VICE CHAIR.**

1 **(A) DESIGNATION OF CANDIDATES.**

2 **THE COUNTY EXECUTIVE OF PRINCE GEORGE'S COUNTY, WITH THE**
3 **APPROVAL OF A MAJORITY OF THE MEMBERS OF THE COUNTY COUNCIL, AND**
4 **THE MONTGOMERY COUNTY COUNCIL, WITH THE APPROVAL OF THE COUNTY**
5 **EXECUTIVE IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION, SHALL**
6 **EACH DESIGNATE A COMMISSIONER FOR THE POSITION OF CHAIR OR VICE**
7 **CHAIR.**

8 **(B) DESIGNATION PROCEDURE IN MONTGOMERY COUNTY.**

9 **(1) WITHIN 3 DAYS AFTER MAKING A DESIGNATION, THE**
10 **MONTGOMERY COUNTY COUNCIL SHALL SUBMIT THE NAME OF THE DESIGNEE**
11 **TO THE COUNTY EXECUTIVE.**

12 **(2) WITHIN 30 DAYS AFTER THE DESIGNATION IS SUBMITTED,**
13 **THE COUNTY EXECUTIVE SHALL APPROVE OR DISAPPROVE THE DESIGNATION.**

14 **(3) IF THE COUNTY EXECUTIVE DISAPPROVES A DESIGNEE, THE**
15 **COUNTY EXECUTIVE SHALL RETURN THE NAME OF THE DESIGNEE TO THE**
16 **COUNTY COUNCIL WITH THE REASONS FOR THE DISAPPROVAL STATED IN**
17 **WRITING.**

18 **(4) BY THE AFFIRMATIVE VOTE OF SIX OF ITS MEMBERS, THE**
19 **COUNTY COUNCIL MAY DESIGNATE A COMMISSIONER FOR THE POSITION OF**
20 **CHAIR OR VICE CHAIR OVER THE DISAPPROVAL OF THE COUNTY EXECUTIVE.**

21 **(5) A DESIGNATION THAT HAS NOT BEEN DISAPPROVED BY THE**
22 **COUNTY EXECUTIVE IN ACCORDANCE WITH THIS SUBSECTION IS DEEMED TO BE**
23 **APPROVED.**

24 **(C) ELECTION.**

25 **THE COMMISSION SHALL ELECT A CHAIR AND VICE CHAIR FROM THE**
26 **COMMISSIONERS DESIGNATED IN ACCORDANCE WITH SUBSECTIONS (A) AND (B)**
27 **OF THIS SECTION.**

28 **(D) DUTIES.**

29 **(1) THE CHAIR SHALL:**

30 **(I) PRESIDE AT MEETINGS OF THE COMMISSION; AND**

1 (II) PERFORM THE OTHER CUSTOMARY DUTIES OF THE
2 OFFICE.

3 (2) THE VICE CHAIR SHALL PRESIDE IN THE ABSENCE OF THE
4 CHAIR.

5 (3) THE CHAIR AND VICE CHAIR OF THE COMMISSION ALSO
6 SERVE AS CHAIRS OF THEIR RESPECTIVE COUNTY PLANNING BOARDS.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 28, § 2-105.

9 Throughout this section, the references to the "chair" and "vice chair" are
10 substituted for the former references to the "chairman" and
11 "vice-chairman", respectively, because SG § 2-1238 requires the use of
12 terms that are neutral as to gender to the extent practicable. See General
13 Revisor's Note to article.

14 In subsection (a) of this section, the reference to "subsection (b) of this
15 section" is substituted for the former overbroad reference to "this title".

16 In subsection (b)(1) of this section, the reference to the "Montgomery
17 County Council" submitting the name of the designee is added for clarity.

18 In subsection (b)(5) of this section, the phrase "in accordance with this
19 subsection" is substituted for the former phrase "in this manner" for
20 clarity.

21 Also in subsection (b)(5) of this section, the reference to a designation
22 being "approved" is substituted for the former reference to a designation
23 being "confirmed" for consistency within this section.

24 In subsection (c) of this section, the phrase "in accordance with
25 subsections (a) and (b) of this section" is substituted for the former phrase
26 "as above" for clarity.

27 In subsection (d)(3) of this section, the former phrase "as constituted in
28 this article" is deleted as surplusage.

29 Defined terms: "Commission" § 14-101
30 "Commissioner" § 14-101
31 "County planning board" § 14-101

32 **15-107. DESIGNATION OF FULL-TIME COMMISSIONERS.**

1 **(A) MONTGOMERY COUNTY.**

2 **THE MONTGOMERY COUNTY COUNCIL MAY DESIGNATE A COMMISSIONER**
3 **FROM THAT COUNTY TO SERVE ON A FULL-TIME BASIS AS THE CHAIR OR VICE**
4 **CHAIR OF THE COMMISSION.**

5 **(B) PRINCE GEORGE'S COUNTY.**

6 **WITH THE APPROVAL OF A MAJORITY OF THE MEMBERS OF THE COUNTY**
7 **COUNCIL, THE COUNTY EXECUTIVE OF PRINCE GEORGE'S COUNTY MAY**
8 **DESIGNATE A COMMISSIONER FROM THAT COUNTY TO SERVE ON A FULL-TIME**
9 **BASIS AS THE CHAIR OR VICE CHAIR OF THE COMMISSION.**

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from the first and second sentences of former Art. 28, § 2-104(b).

12 Throughout this section, the references to the "chair" and "vice chair" are
13 substituted for the former references to the "chairman" and
14 "vice-chairman", respectively, because SG § 2-1238 requires the use of
15 terms that are neutral as to gender to the extent practicable. See General
16 Revisor's Note to article.

17 Defined terms: "Commission" § 14-101
18 "Commissioner" § 14-101

19 **15-108. COMPENSATION.**

20 **(A) SALARY AND EXPENSE ALLOWANCE.**

21 **(1) (I) EACH COMMISSIONER OTHER THAN THE CHAIR IS**
22 **ENTITLED TO AN ANNUAL SALARY OF \$5,600.**

23 **(II) THE CHAIR OF THE COMMISSION IS ENTITLED TO AN**
24 **ANNUAL SALARY OF \$6,100.**

25 **(2) ALL SALARIES SHALL BE PAID MONTHLY FROM THE**
26 **ADMINISTRATIVE TAX COLLECTED BY THE COMMISSION UNDER § 18-307 OF**
27 **THIS ARTICLE.**

28 **(3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,**
29 **EACH COMMISSIONER IS ENTITLED TO AN ANNUAL EXPENSE ALLOWANCE NOT**
30 **EXCEEDING \$2,400, IN ACCORDANCE WITH RULES AND REGULATIONS THE**
31 **COMMISSION ADOPTS.**

1 **(II) A COMMISSIONER SHALL SUBMIT A VOUCHER SHOWING**
 2 **THE EXPENSES.**

3 **(B) SUPPLEMENTARY SALARY.**

4 **(1) (I) WITH THE APPROVAL OF THE COUNTY EXECUTIVE OF**
 5 **MONTGOMERY COUNTY, THE COUNTY COUNCIL MAY AUTHORIZE AN**
 6 **APPROPRIATE SUPPLEMENTARY SALARY FOR THE COMMISSIONER DESIGNATED**
 7 **BY MONTGOMERY COUNTY TO SERVE ON A FULL-TIME BASIS.**

8 **(II) IF THE COUNTY EXECUTIVE FAILS TO APPROVE A**
 9 **SUPPLEMENTARY SALARY AUTHORIZATION BY THE COUNTY COUNCIL WITHIN**
 10 **30 DAYS AFTER THE AUTHORIZATION IS SUBMITTED, THE COUNTY COUNCIL, BY**
 11 **AN AFFIRMATIVE VOTE OF SIX OF ITS MEMBERS, MAY AUTHORIZE THE**
 12 **SUPPLEMENTARY SALARY WITHOUT THE APPROVAL OF THE COUNTY**
 13 **EXECUTIVE.**

14 **(2) ON THE RECOMMENDATION OF THE COUNTY EXECUTIVE OF**
 15 **PRINCE GEORGE'S COUNTY, THE COUNTY COUNCIL MAY AUTHORIZE AN**
 16 **APPROPRIATE SUPPLEMENTARY SALARY FOR THE COMMISSIONER DESIGNATED**
 17 **BY PRINCE GEORGE'S COUNTY TO SERVE ON A FULL-TIME BASIS.**

18 **(3) ANY SUPPLEMENTARY SALARY AUTHORIZED UNDER THIS**
 19 **SUBSECTION SHALL BE PAID FROM THE ADMINISTRATIVE TAX COLLECTED BY**
 20 **THE COMMISSION UNDER § 18-307 OF THIS ARTICLE.**

21 REVISOR'S NOTE: This section is new language derived without substantive
 22 change from former Art. 28, § 2-104(a) and the third through sixth
 23 sentences of (b).

24 In subsection (a)(1)(i) of this section, the reference to each commissioner
 25 "other than the chair" is added for clarity.

26 Also in subsection (a)(1)(i) of this section, the reference to the "chair" is
 27 substituted for the former reference to the "chairman" because SG §
 28 2-1238 requires the use of terms that are neutral as to gender to the
 29 extent practicable. *See* General Revisor's Note to article.

30 In subsections (a)(2) and (b)(3) of this section, the references to the
 31 administrative tax collected by the Commission "under § 18-307 of this
 32 article" are added for clarity.

33 In subsection (a)(3)(ii) of this section, the reference to a "commissioner"
 34 submitting a voucher is added for clarity.

1 In subsection (b)(1)(i) of this section, the reference to “an appropriate
2 supplementary salary” is substituted for the former reference to
3 “whatever supplementary salary as may be appropriate” for brevity.
4 Correspondingly, in subsection (b)(2) of this section, the reference to “an
5 appropriate supplementary salary” is substituted for the former reference
6 to “whatever supplementary salary as may be deemed appropriate”.

7 In subsection (b)(1)(ii) of this section, the reference to 30 days “after the
8 authorization is submitted” is added for clarity.

9 Also in subsection (b)(1)(ii) of this section, the reference to authorizing
10 the supplementary salary “without the approval” of the County Executive
11 is substituted for the former reference to “notwithstanding the lack of
12 approval” for brevity.

13 In subsection (b)(3) of this section, the reference to “this subsection” is
14 substituted for the former overbroad reference to “this title”.

15 Defined terms: “Commission” § 14–101
16 “Commissioner” § 14–101

17 **15–109. EXECUTIVE DIRECTOR, SECRETARY–TREASURER, AND GENERAL**
18 **COUNSEL.**

19 **(A) APPOINTMENT; TENURE; COMPENSATION.**

20 **(1) THE COMMISSION SHALL APPOINT AN EXECUTIVE DIRECTOR,**
21 **A SECRETARY–TREASURER, AND A GENERAL COUNSEL.**

22 **(2) THE EXECUTIVE DIRECTOR, SECRETARY–TREASURER, AND**
23 **GENERAL COUNSEL SERVE AT THE PLEASURE OF THE COMMISSION.**

24 **(3) THE COMMISSION SHALL SET THE COMPENSATION OF THE**
25 **EXECUTIVE DIRECTOR, SECRETARY–TREASURER, AND GENERAL COUNSEL.**

26 **(B) BOND REQUIREMENT.**

27 **THE EXECUTIVE DIRECTOR AND THE SECRETARY–TREASURER SHALL BE**
28 **BONDED.**

29 **(C) RESIDENCY RESTRICTION.**

30 **OF THE THREE OFFICERS APPOINTED UNDER THIS SECTION, NOT MORE**
31 **THAN TWO SHALL BE RESIDENTS OF THE SAME COUNTY.**

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 28, § 2–106.

3 In subsection (a)(3) of this section, the former phrase “from time to time”
4 is deleted as surplusage.

5 In subsection (c) of this section, the reference to the officers “appointed
6 under this section” is substituted for the former reference to “these”
7 officers for clarity.

8 Defined terms: “Commission” § 14–101
9 “County” § 14–101

10 **15–110. EMPLOYEES AND CONTRACTORS.**

11 **THE COMMISSION MAY:**

12 **(1) APPOINT OR CONTRACT FOR THE SERVICES OF PLANNING,**
13 **ENGINEERING, LEGAL, ADMINISTRATIVE, AUDITING, CLERICAL, STAFF, OR**
14 **OTHER EMPLOYEES NECESSARY TO ADMINISTER THIS DIVISION ON A REGIONAL**
15 **BASIS; AND**

16 **(2) SET THE COMPENSATION OF EMPLOYEES AND CONTRACTORS.**

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 28, § 2–107.

19 In item (1) of this section, the reference to services of “legal” and other
20 employees is added for clarity.

21 Also in item (1) of this section, the explicit reference to “staff” is added for
22 clarity.

23 Defined term: “Commission” § 14–101

24 **15–111. BONDS OF OFFICERS AND EMPLOYEES.**

25 **THE COMMISSION MAY REQUIRE ANY OFFICER OR EMPLOYEE TO POST**
26 **SECURITY IN A FORM AND AMOUNT THE COMMISSION APPROVES.**

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 28, § 2–108.

29 The reference to “post[ing] security in a form ... the Commission
30 approves” is substituted for the former reference to “giv[ing] bond with
31 surety approved ... by the Commission” for clarity.

1 Defined term: "Commission" § 14-101

2 **15-112. OFFICES.**

3 **THE COMMISSION MAY:**

4 (1) MAINTAIN OFFICES IN MONTGOMERY COUNTY AND PRINCE
5 GEORGE'S COUNTY; AND

6 (2) HOLD MEETINGS, CONDUCT HEARINGS, AND PERFORM ANY OF
7 ITS DUTIES UNDER THIS DIVISION AT THE OFFICE THAT, IN THE COMMISSION'S
8 JUDGMENT, BEST SUITS THE CONVENIENCE OF THE PUBLIC.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 28, § 2-109.

11 In item (2) of this section, the reference to "its duties under this division"
12 is substituted for the former reference to "the duties vested in it by this
13 article" for brevity.

14 Also in item (2) of this section, the former reference to "all" of the duties
15 is deleted as included in the reference to "any" of the duties.

16 Defined term: "Commission" § 14-101

17 **15-113. POWERS AND DUTIES — IN GENERAL.**

18 (A) IN GENERAL.

19 **THE COMMISSION MAY:**

20 (1) EXERCISE THE POWERS, DUTIES, AND FUNCTIONS PROVIDED
21 IN THIS DIVISION;

22 (2) USE A COMMON SEAL;

23 (3) SUE AND BE SUED; AND

24 (4) DO ANY OTHER CORPORATE ACT NECESSARY TO CARRY OUT
25 THIS DIVISION.

26 (B) GOVERNMENTAL IMMUNITY.

1 **THE COMMISSION MAY RAISE THE DEFENSE OF PARTIAL GOVERNMENTAL**
 2 **IMMUNITY DESCRIBED UNDER § 5-512 OF THE COURTS ARTICLE.**

3 REVISOR'S NOTE: This section is new language derived without substantive
 4 change from former Art. 28, §§ 2-110 and 2-111(f) and, as it related to
 5 the powers, duties, and functions of the Commission, the first sentence of
 6 § 1-101.

7 In subsection (a)(1) of this section, the former reference to "hav[ing]"
 8 powers, duties, and functions is deleted as implicit in the reference to
 9 "exercis[ing]" powers, duties, and functions.

10 In subsection (a)(4) of this section, the former reference to "all" other
 11 corporate acts is deleted as included in the reference to "any" other
 12 corporate act.

13 Defined term: "Commission" § 14-101

14 **15-114. POWERS AND DUTIES — INSURANCE.**

15 **(A) COMPREHENSIVE INSURANCE PROGRAM.**

16 **THE COMMISSION SHALL ESTABLISH AN ADEQUATE COMPREHENSIVE**
 17 **INSURANCE PROGRAM.**

18 **(B) REQUIRED COVERAGE.**

19 **(1) THE COMPREHENSIVE INSURANCE PROGRAM SHALL**
 20 **PROVIDE:**

21 **(I) COMPENSATION FOR PERSONAL INJURY OR DEATH OR**
 22 **PROPERTY DAMAGE RESULTING FROM NEGLIGENCE, MALPRACTICE, OR ANY**
 23 **OTHER CIVIL OR TORTIOUS ACT OR OMISSION OF THE COMMISSION, OR OF ITS**
 24 **COMMISSIONERS, EMPLOYEES, AND AGENTS ACTING WITHIN THE SCOPE OF**
 25 **THEIR DUTIES AND WITHOUT MALICE OR GROSS NEGLIGENCE; AND**

26 **(II) PROTECTION FOR PROPERTY OF THE COMMISSION AND**
 27 **FOR OFFICIALS AND EMPLOYEES ACTING WITHIN THE SCOPE OF THEIR DUTIES,**
 28 **INCLUDING A COMPREHENSIVE WORKERS' COMPENSATION PROGRAM.**

29 **(2) THE COMMISSION MAY PURCHASE ANY OTHER LIABILITY**
 30 **INSURANCE THE COMMISSION CONSIDERS NECESSARY.**

31 **(C) GROUP HEALTH, LIFE, HOSPITALIZATION, AND DISABILITY**
 32 **INSURANCE.**

1 **THE COMMISSION MAY ESTABLISH A PROGRAM OF GROUP HEALTH, LIFE,**
2 **HOSPITALIZATION, AND DISABILITY INSURANCE BY PURCHASING INSURANCE**
3 **COVERAGE FROM INSURANCE COMPANIES AUTHORIZED TO DO BUSINESS IN THE**
4 **STATE AND, EXCEPT FOR DISABILITY INSURANCE, NOT BY SELF-INSURANCE.**

5 **(D) METHODS OF PROVIDING COVERAGE.**

6 **(1) THE INSURANCE REQUIRED UNDER SUBSECTION (B) OF THIS**
7 **SECTION AND THE DISABILITY INSURANCE AUTHORIZED UNDER SUBSECTION**
8 **(C) OF THIS SECTION MAY BE PROVIDED BY:**

9 **(I) PURCHASING INSURANCE COVERAGE FROM INSURANCE**
10 **COMPANIES AUTHORIZED TO DO BUSINESS IN THE STATE;**

11 **(II) A SELF-INSURANCE PROGRAM; OR**

12 **(III) A COMBINATION OF PURCHASED INSURANCE COVERAGE**
13 **AND SELF-INSURANCE.**

14 **(2) IF A SELF-INSURANCE PROGRAM IS ESTABLISHED AND**
15 **FUNDED TO COVER ALL OR PART OF THE INSURANCE REQUIRED UNDER**
16 **SUBSECTION (B) OF THIS SECTION:**

17 **(I) THE COMMISSION SHALL ADOPT RULES AND**
18 **REGULATIONS FOR THE ADMINISTRATION OF THE PROGRAM; AND**

19 **(II) FUNDING FOR THE PROGRAM SHALL BE INCLUDED IN**
20 **THE ANNUAL OPERATING BUDGET.**

21 **(3) THE INSURANCE PROGRAM ESTABLISHED BY THE**
22 **COMMISSION SHALL PROVIDE FOR:**

23 **(I) DEFENSE OF CLAIMS; AND**

24 **(II) COMPENSATION FOR DAMAGES.**

25 **(4) WITHIN THE LIMITS OF APPROPRIATIONS FOR THE**
26 **INSURANCE PROGRAM, THE COMMISSION MAY:**

27 **(I) ENGAGE NECESSARY CLAIMS INVESTIGATORS AND**
28 **ADJUSTORS; AND**

1 **(II) PROVIDE FOR THE DEFENSE AND SETTLEMENT OF**
2 **CLAIMS AND PAYMENT OF JUDGMENTS.**

3 **(E) AGREEMENTS WITH LOCAL GOVERNMENTS.**

4 **(1) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE**
5 **COMMISSION MAY COOPERATE WITH AND ENTER INTO AGREEMENTS TO OBTAIN**
6 **AND PROVIDE INSURANCE COVERAGE IN THE MOST ECONOMICAL MANNER**
7 **WITH:**

8 **(I) MONTGOMERY COUNTY;**

9 **(II) PRINCE GEORGE'S COUNTY;**

10 **(III) BOTH MONTGOMERY COUNTY AND PRINCE GEORGE'S**
11 **COUNTY; OR**

12 **(IV) SUBJECT TO THE APPROVAL OF THE COUNTY**
13 **GOVERNMENT OF A COUNTY AFFECTED BY THE AGREEMENT, OTHER UNITS OF**
14 **GOVERNMENT.**

15 **(2) AN AGREEMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION**
16 **MAY PROVIDE FOR ANY TYPE OF INSURANCE PROTECTION, INCLUDING:**

17 **(I) PUBLIC LIABILITY;**

18 **(II) GROUP HEALTH, LIFE, HOSPITALIZATION, AND**
19 **DISABILITY;**

20 **(III) REAL AND PERSONAL PROPERTY; AND**

21 **(IV) WORKERS' COMPENSATION.**

22 **(3) THIS SUBSECTION DOES NOT AUTHORIZE THE COMMISSION**
23 **TO ESTABLISH A SELF-INSURANCE PROGRAM FOR GROUP HEALTH, LIFE, AND**
24 **HOSPITALIZATION INSURANCE.**

25 **(F) WORKERS' COMPENSATION.**

26 **(1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION,**
27 **A PAYMENT MADE TO A POLICE OFFICER EMPLOYED BY THE COMMISSION FOR**
28 **AN ILLNESS OR INJURY RECEIVED IN THE LINE OF DUTY IN ACCORDANCE WITH**
29 **ANY DISABILITY PROGRAM OR DISABILITY INSURANCE PROGRAM AUTHORIZED**

1 UNDER THIS SECTION IS CONSIDERED IN THE NATURE OF WORKERS'
2 COMPENSATION.

3 (2) A PAYMENT DESCRIBED IN THIS SUBSECTION IS
4 INDEPENDENT OF ANY PAYMENT MADE UNDER THE MARYLAND WORKERS'
5 COMPENSATION ACT.

6 (3) THIS SUBSECTION DOES NOT AFFECT:

7 (I) THE OFFSET PROVISION UNDER § 9-610 OF THE LABOR
8 AND EMPLOYMENT ARTICLE; OR

9 (II) THE PRESUMPTION OF A POLICE OFFICER'S
10 ENTITLEMENT TO BENEFITS UNDER § 9-503 OF THE LABOR AND EMPLOYMENT
11 ARTICLE.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 28, § 2-111(a) through (e).

14 In subsection (b)(1)(i) of this section, the reference to "personal injury or
15 death or property damage" is substituted for the former reference to
16 "injury to or death of persons or damage to property" for brevity.

17 Also in subsection (b)(1)(i) of this section, the reference to an "act or
18 omission" is substituted for the former reference to an "action" for clarity.

19 Also in subsection (b)(1)(i) of this section, the former reference to any
20 other "type of" civil or tortious action is deleted as surplusage.

21 Also in subsection (b)(1)(i) of this section, the former reference to "staff" is
22 deleted as included in the reference to "employees".

23 In subsection (c) of this section, the phrase "except for disability
24 insurance," is added for clarity.

25 In the introductory language to subsection (d)(2) of this section, the
26 reference to the insurance required "under subsection (b) of this section"
27 is substituted for the former reference to the insurance required "for the
28 comprehensive program" for clarity and consistency within this
29 subsection.

30 In subsection (d)(2)(i) of this section, the reference to "rules" is added for
31 clarity.

1 In subsection (d)(2)(ii) of this section, the requirement that funding be
2 “included in the annual operating budget” is substituted for the former
3 requirement that funding be “a budget item” for clarity.

4 In the introductory language to subsection (d)(3) of this section, the
5 reference to the “insurance program established by the Commission” is
6 substituted for the former reference to “[w]hatever insurance program is
7 established” for clarity.

8 In subsection (d)(4)(ii) of this section, the former reference to “lawful”
9 judgments is deleted as surplusage.

10 In the introductory language to subsection (e)(2) of this section, the
11 former phrase “but not limited to” is deleted as unnecessary in light of
12 Art. 1, § 30, which provides that the term “including” is used “by way of
13 illustration and not by way of limitation”.

14 In subsection (f)(3)(i) of this section, the reference to the “offset” provision
15 under LE § 9–610 is substituted for the former erroneous reference to the
16 “set-off” provision at that location.

17 Defined terms: “Commission” § 14–101

18 “Commissioner” § 14–101

19 “State” § 14–101

20 **15–115. POWERS AND DUTIES — FINANCIAL REPORTS.**

21 **(A) ANNUAL FINANCIAL REPORT.**

22 **(1) THE COMMISSION SHALL PREPARE AN ANNUAL FINANCIAL**
23 **REPORT.**

24 **(2) THE ANNUAL FINANCIAL REPORT SHALL:**

25 **(I) INCLUDE THE FINANCIAL STATEMENTS OF THE**
26 **COMMISSION; AND**

27 **(II) BE CERTIFIED BY AN INDEPENDENT CERTIFIED PUBLIC**
28 **ACCOUNTANT.**

29 **(3) THE COMMISSION SHALL MAKE THE CERTIFIED ANNUAL**
30 **FINANCIAL REPORT AVAILABLE FOR DISTRIBUTION TO THE PUBLIC.**

31 **(B) SUMMARY FINANCIAL REPORT.**

1 **(1) AFTER THE AUDIT IS COMPLETED, THE COMMISSION SHALL**
 2 **PUBLISH A SUMMARY FINANCIAL REPORT CONSISTING OF A COMBINED**
 3 **STATEMENT OF REVENUES AND EXPENDITURES FOR ALL FUNDS:**

4 **(I) IN AT LEAST ONE NEWSPAPER OF GENERAL**
 5 **CIRCULATION PUBLISHED IN MONTGOMERY COUNTY; AND**

6 **(II) 1. IN THE NEWSPAPERS OFFICIALLY DESIGNATED BY**
 7 **THE PRINCE GEORGE’S COUNTY GOVERNMENT AS NEWSPAPERS OF RECORD;**
 8 **OR**

9 **2. IN THE ABSENCE OF A DESIGNATION OF A**
 10 **NEWSPAPER OF RECORD, IN AT LEAST ONE NEWSPAPER OF GENERAL**
 11 **CIRCULATION PUBLISHED IN PRINCE GEORGE’S COUNTY.**

12 **(2) THE PUBLICATION OF THE SUMMARY FINANCIAL REPORT**
 13 **SHALL CARRY APPROPRIATE REFERENCES TO THE COMMISSION’S CERTIFIED**
 14 **ANNUAL FINANCIAL REPORT.**

15 REVISOR’S NOTE: This section is new language derived without substantive
 16 change from former Art. 28, § 2–113.

17 The Land Use Article Review Committee notes, for consideration by the
 18 General Assembly, that the requirement that the Commission’s annual
 19 financial report be “certified” under subsection (a)(2)(ii) of this section is
 20 not consistent with, and is a lesser standard, than the “audit” to which
 21 subsection (b)(1) refers. If the General Assembly wishes to require an
 22 audit of the Commission’s annual report, the references to “certifi[cation]”
 23 in subsections (a)(2)(ii) and (b)(2) of this section should be altered
 24 accordingly; if “certification” suffices, the reference to an “audit” in
 25 subsection (b)(1) of this section should be changed to “certification”.

26 Defined term: “Commission” § 14–101

27 **15–116. POWERS AND DUTIES — PUBLICATIONS OF COMMISSION.**

28 **(A) ANNUAL REPORT REQUIRED.**

29 **(1) THE COMMISSION SHALL PUBLISH EACH YEAR A REPORT**
 30 **DESCRIBING THE WORK OF THE COMMISSION FOR THE PREVIOUS YEAR, IN THE**
 31 **DETAIL THAT THE COMMISSION CONSIDERS APPROPRIATE.**

32 **(2) THE REPORT REQUIRED UNDER THIS SUBSECTION SHALL**
 33 **INCLUDE:**

- 1 **(I) LAND ACQUISITIONS;**
2 **(II) FINANCIAL TRANSACTIONS;**
3 **(III) PERSONNEL MATTERS; AND**
4 **(IV) LITIGATION AND DISPOSITION OF VIOLATIONS.**

5 **(B) PUBLICATION OF PAMPHLETS AUTHORIZED.**

6 **THE COMMISSION MAY PUBLISH PAMPHLETS DESCRIBING:**

- 7 **(1) THE LAW ADMINISTERED BY THE COMMISSION; AND**
8 **(2) SUBDIVISION, ZONING, AND OTHER REGULATIONS ADOPTED**
9 **OR ENACTED BY THE COMMISSION OR THE DISTRICT COUNCILS.**

10 **(C) FEES FOR PUBLICATIONS AUTHORIZED.**

11 **THE COMMISSION MAY CHARGE A FEE FOR A PUBLICATION ISSUED**
12 **UNDER THIS SECTION TO COVER ANY OF THE COST OF THE PUBLICATION.**

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 28, § 7–107.

15 In subsection (a)(1) of this section, the reference to the “previous” year is
16 added for clarity.

17 Also in subsection (a)(1) of this section, the reference to “describing” the
18 work is substituted for the former reference to “setting forth” the work for
19 clarity. Similarly, in the introductory language to subsection (b) of this
20 section, the reference to “describing” the law is substituted for the former
21 reference to “setting forth” the law.

22 In subsection (a)(2) of this section, the reference to “other data and
23 information” is deleted as surplusage.

24 In subsection (b) of this section, the former reference to “annotations and
25 maps the Commission deems appropriate” is deleted as surplusage.

26 In the introductory language to subsection (b) of this section, the former
27 reference to “prepar[ing]” pamphlets is deleted as implicit in the
28 authorization to “publish” pamphlets.

1 Also in the introductory language to subsection (b) of this section, the
2 former reference to “one or more” pamphlets is deleted as unnecessary in
3 light of Art. 1, § 8, which provides that the singular generally includes
4 the plural, and vice versa.

5 In subsection (b)(2) of this section, the Land Use Article Review
6 Committee notes, for consideration by the General Assembly, that the
7 Commission does not “enact” regulations, but only “adopt[s]” them.

8 In subsection (c) of this section, the reference to a publication “issued
9 under this section” is added for clarity.

10 Also in subsection (c) of this section, the reference to “any of the cost of
11 the publication” is substituted for the former reference to “sufficient to
12 cover in whole or in part the cost thereof” for brevity.

13 Defined terms: “Commission” § 14–101

14 “District council” § 14–101

15 “Subdivision” § 14–101

16 **15–117. POWERS AND DUTIES — MINUTE OR RECORD BOOKS.**

17 **(A) REQUIRED.**

18 **THE COMMISSION SHALL:**

19 **(1) MAINTAIN A MINUTE OR RECORD BOOK; AND**

20 **(2) RECORD ITS ACTIONS IN THE MINUTE OR RECORD BOOK IN**
21 **USUAL CORPORATE FORM.**

22 **(B) RECORDED VOTES.**

23 **(1) THE VOTES OF THE COMMISSIONERS SHALL BE SEPARATELY**
24 **TAKEN AND RECORDED BY YEAS, NAYS, AND ABSTENTIONS, AND THE REASONS**
25 **FOR EACH ABSTENTION SHALL BE RECORDED, WITH RESPECT TO ANY:**

26 **(I) ACTION AUTHORIZING, MODIFYING, OR RESCINDING**
27 **THE ADOPTION OF A MASTER PLAN;**

28 **(II) APPROVAL OF PLATS OF SUBDIVISION;**

29 **(III) APPROVAL OF SUBDIVISION OR OTHER REGULATIONS;**

30 **(IV) RECOMMENDATIONS ON ZONING MAP AMENDMENTS; OR**

1 **(V) ZONING TEXT AMENDMENTS.**

2 **(2) THE NAMES OF THE COMMISSIONERS VOTING OR ABSTAINING**
3 **SHALL BE INCLUDED IN THE MINUTE ENTRY FOLLOWING A BRIEF SUMMARY OF**
4 **THE MATTER ON WHICH THE VOTE WAS TAKEN.**

5 **(c) PUBLIC INSPECTION AND COPYING.**

6 **THE MINUTE OR RECORD BOOK SHALL BE KEPT AVAILABLE AND OPEN TO**
7 **PUBLIC INSPECTION AND COPYING DURING BUSINESS HOURS IN THE**
8 **COMMISSION'S PRINCIPAL OFFICES.**

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 28, § 2-114(b).

11 Defined terms: "Commission" § 14-101
12 "Commissioner" § 14-101
13 "Subdivision" § 14-101

14 **15-118. POWERS AND DUTIES — ENTRY INTO BUILDINGS AND PRIVATE**
15 **PREMISES.**

16 **IN THE PERFORMANCE OF THE FUNCTIONS AND DUTIES OF THE**
17 **COMMISSION, ANY COMMISSIONER OR EMPLOYEE OR AGENT OF THE**
18 **COMMISSION MAY ENTER AT ALL REASONABLE HOURS ANY BUILDING OR**
19 **PRIVATE PREMISES IN THE METROPOLITAN DISTRICT OR IN THE REGIONAL**
20 **DISTRICT TO MAKE EXAMINATIONS AND SURVEYS AND TO PLACE AND MAINTAIN**
21 **NECESSARY MONUMENTS AND MARKS ON THE BUILDING OR PREMISES.**

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from the first sentence of former Art. 28, § 2-116.

24 The Land Use Article Review Committee notes, for consideration by the
25 General Assembly, that the right of entry granted by this section is
26 subject to constitutional requirements and limitations under both federal
27 and State constitutions.

28 Defined terms: "Commission" § 14-101
29 "Commissioner" § 14-101
30 "Metropolitan district" § 14-101
31 "Regional district" § 14-101

32 **15-119. POWERS AND DUTIES — DEFENSE ACTIVITIES.**

1 **COMMISSIONERS AND EMPLOYEES OF THE COMMISSION MAY ENGAGE IN**
2 **CIVILIAN DEFENSE OR OTHER DEFENSE ACTIVITIES UNDER THE DIRECTION OF,**
3 **OR IN COOPERATION WITH, FEDERAL, STATE, OR COUNTY UNITS IN CHARGE OF**
4 **THE DEFENSE ACTIVITIES.**

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 28, § 2-117.

7 The reference to "employees" is substituted for the former reference to
8 "staff" for consistency within this subtitle.

9 The reference to "units" is substituted for the former reference to
10 "agencies" for consistency with other revised articles of the Code. See
11 General Revisor's Note to article.

12 Defined terms: "Commission" § 14-101
13 "Commissioner" § 14-101
14 "County" § 14-101
15 "State" § 14-101

16 **15-120. PROHIBITED ACTS — CONFLICTS OF INTEREST.**

17 **(A) CONSTRUCTION OF SECTION.**

18 **THIS SECTION DOES NOT PROHIBIT A COMMISSIONER FROM:**

19 **(1) APPEARING IN THE PURSUIT OF THE COMMISSIONER'S**
20 **PRIVATE INTERESTS AS A CITIZEN;**

21 **(2) ACCEPTING OR RECEIVING ANY BENEFIT BY OPERATION OF**
22 **LAW; OR**

23 **(3) PROSECUTING OR PURSUING ANY CLAIM, RIGHT, PRIVILEGE,**
24 **OR REMEDY THAT ACCRUES TO THE COMMISSIONER BY OPERATION OF LAW.**

25 **(B) RESTRICTIONS ON PARTICIPATION.**

26 **(1) (i) THIS SUBSECTION DOES NOT PROHIBIT A**
27 **COMMISSIONER FROM HAVING OR HOLDING A PRIVATE INVESTMENT, BUSINESS,**
28 **OR PROFESSIONAL INTEREST, UNLESS THE INTEREST IS OR REASONABLY MAY**
29 **BE IN CONFLICT WITH THE PROPER PERFORMANCE OF THE COMMISSIONER'S**
30 **DUTY.**

31 **(ii) A PRIVATE INVESTMENT, BUSINESS, OR PROFESSIONAL**
32 **INTEREST IS PRESUMED TO BE IN CONFLICT WITH THE PROPER PERFORMANCE**

1 OF THE COMMISSIONER'S DUTY IF THE COMMISSIONER OR THE
2 COMMISSIONER'S SPOUSE, PARENT, CHILD, BROTHER, OR SISTER:

3 1. JOINTLY OR SEVERALLY OWNS MORE THAN 3% OF
4 THE INVESTED CAPITAL OR CAPITAL STOCK OF ANY ENTITY INVOLVED IN THE
5 DECISION BEING MADE BY THE COMMISSIONER, COMMISSION, OR COUNTY
6 PLANNING BOARD ON WHICH THE COMMISSIONER SERVES; OR

7 2. RECEIVES A TOTAL COMBINED COMPENSATION OF
8 MORE THAN \$5,000 A YEAR FROM ANY PERSON INVOLVED IN THE DECISION
9 BEING MADE BY THE COMMISSIONER, COMMISSION, OR COUNTY PLANNING
10 BOARD ON WHICH THE COMMISSIONER SERVES.

11 (2) THIS SUBSECTION DOES NOT APPLY TO OR INCLUDE:

12 (I) AN INTEREST OR INVESTMENT IN LAND
13 GEOGRAPHICALLY REMOTE FROM THE LAND INVOLVED IN THE DECISION;

14 (II) THE OWNERSHIP OF A RECORDED SINGLE-FAMILY LOT
15 ON WHICH THE COMMISSIONER ACTUALLY RESIDES; OR

16 (III) A POSSIBILITY OF REVERTER, A MORTGAGE, OR OTHER
17 SECURITY INTEREST IN REAL PROPERTY NOT OTHERWISE DESCRIBED IN THIS
18 SUBSECTION.

19 (3) A COMMISSIONER MAY NOT:

20 (I) DECIDE, OR PARTICIPATE IN, A DECISION IN WHICH THE
21 COMMISSIONER HAS A FINANCIAL INTEREST, WHETHER AS AN OWNER, MEMBER,
22 PARTNER, OFFICER, EMPLOYEE, STOCKHOLDER, OR OTHER PARTICIPANT OF OR
23 IN ANY PRIVATE BUSINESS OR PROFESSIONAL ENTERPRISE, THAT WILL BE
24 AFFECTED BY THE DECISION; OR

25 (II) KNOWINGLY PARTICIPATE IN A DECISION AFFECTING
26 THE FINANCIAL INTEREST, JOINTLY OR SEVERALLY, OF A PERSON RELATED TO
27 THE COMMISSIONER OR THE COMMISSIONER'S SPOUSE, PARENT, CHILD,
28 BROTHER, OR SISTER.

29 (C) RESTRICTIONS ON EMPLOYMENT OR REPRESENTATION.

30 A COMMISSIONER MAY NOT:

31 (1) ACT AS A BROKER, AGENT, ATTORNEY, REPRESENTATIVE, OR
32 EMPLOYEE OF ANY PERSON IN THE PERSON'S BUSINESS DEALINGS WITH:

- 1 (I) MONTGOMERY COUNTY;
- 2 (II) PRINCE GEORGE'S COUNTY;
- 3 (III) THE WASHINGTON SUBURBAN SANITARY COMMISSION;
- 4 OR

- 5 (IV) THE COMMISSION;

6 (2) DECIDE, OR PARTICIPATE IN, A DECISION ON ANY MATTER IN
7 WHICH A CLOSE BUSINESS OR PROFESSIONAL ASSOCIATE HAS ACTED AS A
8 BROKER, AGENT, ATTORNEY, REPRESENTATIVE, OR EMPLOYEE OF ANY PERSON
9 OR REPRESENTED PRIVATE INTERESTS BEFORE:

- 10 (I) MONTGOMERY COUNTY;
- 11 (II) PRINCE GEORGE'S COUNTY;
- 12 (III) THE WASHINGTON SUBURBAN SANITARY COMMISSION;
- 13 OR

- 14 (IV) THE COMMISSION; OR

15 (3) REPRESENT A PRIVATE INTEREST OR APPEAR IN A POSITION
16 OF ADVOCACY, OTHER THAN IN THE PERFORMANCE OF THE COMMISSIONER'S
17 OFFICIAL DUTIES, EITHER IN PERSON OR THROUGH AN ASSOCIATE, IN ANY
18 MATTER OR PROCEEDING PENDING BEFORE:

- 19 (I) THE MONTGOMERY COUNTY COUNCIL;
- 20 (II) THE PRINCE GEORGE'S COUNTY COUNCIL;
- 21 (III) THE WASHINGTON SUBURBAN SANITARY COMMISSION;
- 22 (IV) THE COMMISSION;
- 23 (V) THE MONTGOMERY COUNTY BOARD OF APPEALS; OR
- 24 (VI) THE PRINCE GEORGE'S COUNTY BOARD OF APPEALS.

- 25 (D) SOLICITATION OR ACCEPTANCE OF GIFTS.

1 A COMMISSIONER MAY NOT SOLICIT OR ACCEPT ANY GIFT, FAVOR, LOAN,
2 SERVICE, PROMISE, EMPLOYMENT, OR THING THAT MIGHT INFLUENCE OR TEND
3 TO INFLUENCE THE PROPER PERFORMANCE OF THE COMMISSIONER'S DUTY.

4 **(E) DISCLOSURE OR USE OF CONFIDENTIAL INFORMATION.**

5 A COMMISSIONER MAY NOT:

6 **(1) DISCLOSE CONFIDENTIAL INFORMATION CONCERNING THE**
7 **PROPERTY, MANAGEMENT, OR AFFAIRS OF:**

8 **(I) MONTGOMERY COUNTY;**

9 **(II) PRINCE GEORGE'S COUNTY;**

10 **(III) THE WASHINGTON SUBURBAN SANITARY COMMISSION;**
11 **OR**

12 **(IV) THE COMMISSION; OR**

13 **(2) USE ANY INFORMATION DESCRIBED IN ITEM (1) OF THIS**
14 **SUBSECTION TO ADVANCE THE FINANCIAL OR OTHER PRIVATE INTERESTS OF**
15 **THE COMMISSIONER OR OTHER PERSONS.**

16 **(F) IMPROPER INFLUENCE OF OTHER OFFICIALS.**

17 A COMMISSIONER MAY NOT ATTEMPT TO INFLUENCE FOR A PURPOSE
18 CONTRARY TO THIS SECTION ANY OTHER COUNTY OR STATE OFFICIAL IN THE
19 CONDUCT OF THE OTHER OFFICIAL'S DUTIES.

20 **(G) DISCLOSURE AND NONPARTICIPATION REQUIRED.**

21 **(1) IF A COMMISSIONER HAS ANY INTEREST DESCRIBED IN THIS**
22 **SECTION THAT IS OR REASONABLY MAY BE INCOMPATIBLE WITH OR IN**
23 **CONFLICT WITH ANY OF THE COMMISSIONER'S OFFICIAL DUTIES OR ACTS, THE**
24 **COMMISSIONER:**

25 **(I) SHALL DISCLOSE THE INTEREST IN A REGULAR PUBLIC**
26 **MEETING OF THE COMMISSION OR THE COUNTY PLANNING BOARDS; AND**

27 **(II) IS DISQUALIFIED AND MAY NOT PARTICIPATE IN THE**
28 **DECISION OR ACT AFFECTED BY THE INTEREST.**

1 **(2) A DISCLOSURE MADE UNDER PARAGRAPH (1) OF THIS**
2 **SUBSECTION SHALL APPEAR IN THE MINUTES OF THE MEETING.**

3 **(H) PENALTIES.**

4 **A COMMISSIONER WHO VIOLATES ANY PROVISION OF SUBSECTIONS (B)**
5 **THROUGH (F) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON**
6 **CONVICTION IS SUBJECT TO:**

7 **(1) IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT**
8 **EXCEEDING \$1,000 OR BOTH;**

9 **(2) SUSPENSION FROM THE COMMISSION OR EMPLOYMENT NOT**
10 **EXCEEDING 6 MONTHS;**

11 **(3) FORFEITURE AND REMOVAL FROM OFFICE; OR**

12 **(4) ANY COMBINATION OF THE PENALTIES DESCRIBED IN ITEMS**
13 **(1) THROUGH (3) OF THIS SUBSECTION.**

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 28, § 2-115(a) through (d).

16 In the introductory language to subsection (a) of this section, the former
17 reference to a "part of" this section is deleted as surplusage.

18 In subsection (b)(1)(i) of this section, the word "unless" is substituted for
19 the former phrase "but shall be construed to apply when" for brevity.

20 In subsection (b)(1)(ii)1 of this subsection, the reference to any "entity" is
21 substituted for the former reference to any "groups, firms, corporations,
22 or associations" for brevity.

23 In the introductory language to subsection (b)(2) of this section, the
24 reference to "[t]his subsection" is substituted for the former reference to
25 "[t]he prohibition" for clarity and consistency.

26 In subsection (b)(2)(iii) of this section, the phrase "in real property not
27 otherwise described in this subsection" is substituted for the former
28 phrase "in which the real property in interest is not as other defined in
29 this [subsection]" for brevity and clarity.

30 In subsection (g)(2) of this section, the reference to the minutes "of the
31 meeting" is added for clarity.

1 In subsection (h) of this section, the former phrase “as in the discretion of
2 the court is fit and proper” is deleted as implicit in the establishment of
3 maximum penalties.

4 In subsection (h)(3) of this section, the former reference to “outright”
5 forfeiture is deleted as surplusage.

6 The Land Use Article Review Committee notes, for consideration by the
7 General Assembly, that there is considerable overlap between this section
8 and the State Ethics Law provisions of SG Title 15, Subtitle 5, and the
9 specific bicounty commission ethics provisions of SG Title 15, Subtitle 8,
10 Part III. This section is derived from material that preceded the
11 enactment of the relevant provisions of SG Title 15. The committee
12 advises that the General Assembly may wish to compare the enforcement
13 mechanisms for these provisions as compared with those in SG Title 15,
14 and perhaps to reconcile the matters where they overlap. The committee
15 also notes, however, that SG Title 15 does not appear to have criminal
16 sanctions such as those found in this section except for lobbyists who
17 violate ethics laws. In addition, it may be helpful to consolidate the ethics
18 provisions relating to the Commission in one statute, either in this
19 subtitle or in SG Title 15. The General Assembly may wish to weigh these
20 substantive issues as it reviews the ethics provisions related to the
21 Commission.

22 The Land Use Article Review Committee also notes, for consideration by
23 the General Assembly, that the exclusion from the limitation on
24 ownership and required disclosure of “the ownership of a recorded
25 single-family lot on which the commissioner actually resides” under
26 subsection (b)(2)(ii) of this section does not apply to a commissioner who
27 resides in a townhouse, regardless of the form of ownership, or in
28 property subject to a condominium regime. The General Assembly may
29 wish to consider altering the exclusion to reflect “real property on which
30 the commissioner maintains a primary residence” or a similar phrase.

31 Former Art. 28, § 2–115(e), which provided that “[t]he provisions of this
32 section are severable and are as provided in Article 1, § 23 of the Code”, is
33 deleted as unnecessary in light of the general severability provision in
34 Art. 1, § 23.

35 Defined terms: “Commission” § 14–101
36 “Commissioner” § 14–101
37 “County” § 14–101
38 “County planning board” § 14–101
39 “Person” § 14–101
40 “State” § 14–101

41 **SUBTITLE 2. MINORITY BUSINESS ENTERPRISE UTILIZATION PROGRAM.**

1 **15-201. DEFINITIONS.**

2 (A) **IN GENERAL.**

3 **IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
4 **INDICATED.**

5 REVISOR'S NOTE: This subsection is new language added as the standard
6 introductory language to a definition section.

7 (B) **CERTIFIED MINORITY BUSINESS ENTERPRISE.**

8 **"CERTIFIED MINORITY BUSINESS ENTERPRISE" MEANS A MINORITY**
9 **BUSINESS ENTERPRISE THAT MEETS THE REQUIREMENTS ESTABLISHED BY**
10 **REGULATION UNDER § 15-203 OF THIS SUBTITLE.**

11 REVISOR'S NOTE: This subsection is new language added for clarity.

12 Defined term: "Minority" § 15-201

13 (C) **MINORITY.**

14 **"MINORITY" MEANS A GROUP THAT THE COMMISSION FINDS TO BE**
15 **SOCIALLY OR ECONOMICALLY DISADVANTAGED IN ACCORDANCE WITH §**
16 **15-202(A) OF THIS SUBTITLE.**

17 REVISOR'S NOTE: This subsection is new language derived without
18 substantive change from former Art. 28, § 2-301, as it related to a group
19 found to be a "minority".

20 Defined term: "Commission" § 14-101

21 (D) **PROGRAM.**

22 **"PROGRAM" MEANS THE MINORITY BUSINESS ENTERPRISE UTILIZATION**
23 **PROGRAM.**

24 REVISOR'S NOTE: This subsection is new language added for clarity and to
25 avoid repetition of the full title "Minority Business Enterprise Utilization
26 Program".

27 **15-202. STUDY; ESTABLISHMENT.**

28 (A) **STUDY AND FINDING.**

1 **THE COMMISSION MAY STUDY AND MAKE A FINDING AS TO WHETHER A**
2 **GROUP IS SOCIALLY OR ECONOMICALLY DISADVANTAGED AS A RESULT OF**
3 **DISCRIMINATION IN THE PUBLIC OR PRIVATE SECTOR THAT AFFECTS THE**
4 **GROUP’S UTILIZATION AND PARTICIPATION IN CONTRACTING OR**
5 **PROCUREMENT WITH THE COMMISSION.**

6 **(B) ESTABLISHMENT.**

7 **IF THE COMMISSION FINDS THAT A PROGRAM IS NECESSARY TO REMEDY**
8 **DISCRIMINATION AGAINST A MINORITY, THE COMMISSION SHALL ESTABLISH A**
9 **MINORITY BUSINESS ENTERPRISE UTILIZATION PROGRAM TO FACILITATE**
10 **PARTICIPATION OF RESPONSIBLE CERTIFIED MINORITY BUSINESS**
11 **ENTERPRISES IN CONTRACTS AWARDED BY THE COMMISSION FOR GOODS,**
12 **SERVICES, AND CONSTRUCTION.**

13 REVISOR’S NOTE: This section is new language derived without substantive
14 change from former Art. 28, §§ 2–302 and, as it related to the
15 Commission’s study and findings, 2–301.

16 Subsection (a) of this section is revised to distinguish between the
17 substantive authorization to study and determine whether a group is a
18 “minority” that should benefit from a Program under this subtitle rather
19 than the definition of “minority” for clarity.

20 In subsection (b) of this section, the reference to discrimination against “a
21 minority” is substituted for the former reference to discrimination against
22 “minority business enterprises in contracting or procurement with the
23 Commission” for brevity and because the phrase is implicit in the
24 definition of “minority” under § 15–201(c) of this subtitle.

25 Defined terms: “Certified minority business enterprise” § 15–201
26 “Commission” § 14–101
27 “Minority” § 15–201

28 **15–203. REGULATIONS.**

29 **(A) ADOPTION.**

30 **THE COMMISSION SHALL ADOPT REGULATIONS FOR THE OPERATION OF**
31 **THE PROGRAM.**

32 **(B) CONTENT.**

33 **THE REGULATIONS SHALL PROVIDE FOR:**

1 **(1) ACCEPTANCE OF THE CERTIFICATION OF A MINORITY**
2 **BUSINESS ENTERPRISE THAT HAS BEEN CERTIFIED BY THE STATE**
3 **CERTIFICATION AGENCY DESIGNATED UNDER § 14-303 OF THE STATE FINANCE**
4 **AND PROCUREMENT ARTICLE;**

5 **(2) WAIVER OF ALL OR PART OF THE PROGRAM PROVISIONS FOR**
6 **A SPECIFIC CONTRACT IF THE COMMISSION DETERMINES THAT:**

7 **(I) A MINORITY BUSINESS ENTERPRISE IS UNAVAILABLE;**
8 **OR**

9 **(II) APPLICATION OF THE PROGRAM TO THE CONTRACT**
10 **CONFLICTS WITH THE OVERALL OBJECTIVES AND RESPONSIBILITIES OF THE**
11 **COMMISSION;**

12 **(3) GRADUATION OF A CERTIFIED MINORITY BUSINESS**
13 **ENTERPRISE FROM THE PROGRAM IF THE COMMISSION DETERMINES THAT A**
14 **MINORITY BUSINESS ENTERPRISE NO LONGER REQUIRES THE ASSISTANCE OR**
15 **BENEFITS OFFERED BY THE PROGRAM;**

16 **(4) TERMINATION OF THE PROGRAM WHEN THE PROGRAM IS NO**
17 **LONGER NECESSARY TO REMEDY THE EFFECTS OF PAST DISCRIMINATION;**

18 **(5) ACCEPTANCE OF THE DECISIONS OF ANY OTHER**
19 **CERTIFICATION PROGRAM THAT, IN THE JUDGMENT OF THE COMMISSION,**
20 **ASSURES THAT A CERTIFIED MINORITY BUSINESS ENTERPRISE IS LEGITIMATE;**

21 **(6) MINORITY PARTICIPATION IN SUBCONTRACTING AND DIRECT**
22 **CONTRACTING; AND**

23 **(7) APPLICATION OF REASONABLE PREFERENCES TO A**
24 **CERTIFIED MINORITY BUSINESS ENTERPRISE IN EVALUATING COMPETITIVE**
25 **BIDS OR PROPOSALS.**

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 28, § 2-303.

28 Defined terms: "Certified minority business enterprise" § 15-201

29 "Commission" § 14-101

30 "Program" § 15-201

31 "State" § 14-101

32 **15-204. ANNUAL REPORT.**

1 **ON OR BEFORE OCTOBER 31 OF EACH YEAR, THE COMMISSION SHALL**
2 **ISSUE A REPORT TO THE MONTGOMERY COUNTY AND PRINCE GEORGE’S**
3 **COUNTY DELEGATIONS TO THE HOUSE OF DELEGATES AND SENATE OF**
4 **MARYLAND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT**
5 **ARTICLE, THAT:**

6 **(1) EVALUATES THE RESULTS OF THE PROGRAM THROUGH JUNE**
7 **30 OF THAT YEAR; AND**

8 **(2) MAKES APPROPRIATE RECOMMENDATIONS.**

9 REVISOR’S NOTE: This section is new language derived without substantive
10 change from former Art. 28, § 2–304.

11 In the introductory language to this section, the phrase “in accordance
12 with § 2–1246 of the State Government Article” is added as the standard
13 statutory language for reports that are to be submitted to the Maryland
14 General Assembly.

15 Defined terms: “Commission” § 14–101
16 “Program” § 15–201

17 **GENERAL REVISOR’S NOTE TO SUBTITLE**

18 Former Art. 28, Title 2, Subtitle 3, which authorized the Commission’s Minority
19 Business Enterprise Utilization Program, was subject to termination on
20 September 30, 2013. *See* § 1 of Ch. 100, Acts of 2008. Accordingly, the legislation
21 that enacts this article provides for the termination of this subtitle if and when
22 that termination provision takes effect. *See* § 25 of Ch. ___, Acts of 2012.

23 **SUBTITLE 3. INTERGOVERNMENTAL COOPERATION.**

24 **15–301. DEFINITIONS.**

25 **(A) IN GENERAL.**

26 **IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
27 **INDICATED.**

28 REVISOR’S NOTE: This subsection is new language added as the standard
29 introductory language to a definition section.

30 **(B) CONTRACT.**

1 **“CONTRACT” MEANS AN AGREEMENT, COMMITMENT, OR ARRANGEMENT**
2 **MADE BETWEEN THE COMMISSION AND A GOVERNMENTAL UNIT TO FURTHER**
3 **THE PURPOSES STATED IN § 15–302 OF THIS SUBTITLE.**

4 REVISOR’S NOTE: This subsection is new language added to clarify the use of
5 the word “contract” throughout this subtitle.

6 Defined terms: “Commission” § 14–101
7 “Governmental unit” § 15–301

8 **(C) GOVERNMENTAL UNIT.**

9 **“GOVERNMENTAL UNIT” MEANS:**

10 **(1) THE NATIONAL CAPITAL PLANNING COMMISSION;**

11 **(2) THE UNITED STATES GOVERNMENT;**

12 **(3) THE DISTRICT OF COLUMBIA;**

13 **(4) THE STATE, INCLUDING THE WASHINGTON SUBURBAN**
14 **SANITARY COMMISSION;**

15 **(5) VIRGINIA;**

16 **(6) MONTGOMERY COUNTY OR PRINCE GEORGE’S COUNTY;**

17 **(7) ANY MUNICIPAL CORPORATION, LOCAL SUBDIVISION, OR**
18 **CORPORATION WITHIN THE STATE, VIRGINIA, MONTGOMERY COUNTY, OR**
19 **PRINCE GEORGE’S COUNTY; OR**

20 **(8) ANY OTHER GOVERNMENTAL AGENCY THE COMMISSION**
21 **DETERMINES TO BE APPROPRIATE TO FURTHER THE PURPOSES STATED IN §**
22 **15–302 OF THIS SUBTITLE.**

23 REVISOR’S NOTE: This subsection is new language added to avoid repetition
24 throughout this subtitle and to clarify that the provisions of this subtitle
25 apply to all of the named forms of government.

26 Defined terms: “Commission” § 14–101
27 “State” § 14–101

28 **15–302. COMMISSION AS REPRESENTATIVE OF STATE.**

1 **THE COMMISSION IS THE REPRESENTATIVE OF THE STATE FOR**
 2 **PURPOSES OF:**

3 **(1) ACQUIRING AND DEVELOPING LAND OR OTHER PROPERTY**
 4 **UNDER THIS DIVISION;**

5 **(2) EXERCISING THE DUTIES OF THE STATE UNDER THIS**
 6 **DIVISION;**

7 **(3) COMPLYING WITH § 1(A) AND (B) OF THE CAPPER–CRAMTON**
 8 **ACT, PUBLIC LAW 71–284, 46 STAT. 482, FOR ACQUIRING PARKLANDS IN THE**
 9 **METROPOLITAN DISTRICT; OR**

10 **(4) SECURING FUNDS AUTHORIZED BY THE ACT OR BY ANY**
 11 **OTHER FEDERAL, STATE, OR LOCAL LAW.**

12 REVISOR'S NOTE: This section is new language derived without substantive
 13 change from the second sentence and, except as it related to cooperating
 14 with other governmental units, the first sentence of former Art. 28, § 4–
 15 101.

16 In the introductory language to this section, the former reference to the
 17 Commission being “designated as” the representative of the State is
 18 deleted as surplusage.

19 In item (3) of this section, the word “or” is substituted for the former
 20 phrase “and/or” to clarify that the Commission may fulfill a single
 21 purpose and need not fulfill all of the purposes listed.

22 Also in item (3) of this section, the reference to “§ 1(a) and (b) of the
 23 Capper–Cramton Act ... in the metropolitan district” is substituted for
 24 the former reference to “subsections (a) and (b) of § 1 of an Act ... as
 25 amended” for brevity.

26 In item (4) of this section, the former phrase “now or hereafter enacted” is
 27 deleted as surplusage.

28 Defined terms: “Commission” § 14–101

29 “Local law” § 14–101

30 “Metropolitan district” § 14–101

31 “Park” § 14–101

32 “State” § 14–101

33 **15–303. AUTHORIZATION.**

1 **(A) IN GENERAL.**

2 **FOR THE PURPOSES OF § 15-302 OF THIS SUBTITLE, THE COMMISSION**
3 **MAY:**

4 **(1) ACT IN CONJUNCTION AND COOPERATION WITH OTHER**
5 **GOVERNMENTAL UNITS; AND**

6 **(2) ENTER INTO CONTRACTS WITH GOVERNMENTAL UNITS.**

7 **(B) LIMITATION ON EXPENDITURES.**

8 **THE COMMISSION MAY NOT OBLIGATE ITSELF OR THE METROPOLITAN**
9 **DISTRICT FOR EXPENDITURES ABOVE THE AMOUNT OF MONEY THE**
10 **COMMISSION HAS OR SHALL RECEIVE FROM BONDS, TAXES, DONATIONS,**
11 **CONTRIBUTIONS, OR APPROPRIATIONS UNDER THIS DIVISION.**

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 28, § 4-104, the first and second sentences of §
14 4-102, and, as it related to cooperating with other governmental units,
15 the first sentence of § 4-101.

16 Defined terms: "Commission" § 14-101
17 "Contract" § 15-301
18 "Governmental unit" § 15-301
19 "Metropolitan district" § 14-101

20 **15-304. RESOURCES.**

21 **(A) PUBLIC OFFICIALS.**

22 **WITHIN A REASONABLE TIME AFTER THE COMMISSION MAKES A**
23 **REQUEST, PUBLIC OFFICIALS OF THE STATE, MONTGOMERY COUNTY, AND**
24 **PRINCE GEORGE'S COUNTY SHALL FURNISH THE COMMISSION WITH**
25 **AVAILABLE INFORMATION REQUIRED FOR COMMISSION WORK.**

26 **(B) WASHINGTON SUBURBAN SANITARY COMMISSION.**

27 **THE WASHINGTON SUBURBAN SANITARY COMMISSION SHALL:**

28 **(1) MAKE AVAILABLE FOR COMMISSION USE THE MAPS, SURVEYS,**
29 **ENGINEERING INFORMATION, AND OTHER RECORDS OF THE WASHINGTON**
30 **SUBURBAN SANITARY COMMISSION; AND**

1 **(2) WHEN REQUESTED BY THE COMMISSION, FURNISH**
2 **ENGINEERING SERVICES AND ADVICE AT COST.**

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 28, § 4-103 and the third sentence of § 4-102.

5 In subsection (a) of this section, the former reference to "data" is deleted
6 as included in the comprehensive reference to "information".

7 In subsection (b)(1) of this section, the former phrase "from time to time"
8 is deleted as surplusage.

9 Defined terms: "Commission" § 14-101
10 "State" § 14-101

11 **15-305. CONTRACT REQUIREMENTS.**

12 **(A) SCOPE OF SECTION.**

13 **THE CONDITIONS AND LIMITATIONS ESTABLISHED IN THIS SECTION**
14 **APPLY TO CONTRACTS OR AMENDMENTS TO CONTRACTS ENTERED INTO UNDER**
15 **THIS SUBTITLE TO ACQUIRE PARKLAND IN THE METROPOLITAN DISTRICT IN**
16 **ACCORDANCE WITH § 1(A) AND (B) OF THE CAPPER-CRAMTON ACT, PUBLIC**
17 **LAW 71-284, 46 STAT. 482.**

18 **(B) AMENDMENTS.**

19 **(1) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION,**
20 **THE COMMISSION MAY AMEND A CONTRACT.**

21 **(2) AN AMENDMENT TO A CONTRACT SHALL BE RATIFIED BY THE**
22 **APPROPRIATE COUNTY COUNCIL BEFORE THE AMENDMENT BECOMES BINDING**
23 **ON THE STATE, THE COMMISSION, OR THE COUNTY.**

24 **(C) NEW CONTRACTS.**

25 **(1) THE COMMISSION MAY ENTER INTO A CONTRACT WITH A**
26 **GOVERNMENTAL UNIT TO:**

27 **(I) ADOPT A GENERAL OR REVISED PLAN FOR THE**
28 **ACQUISITION OF PARKLANDS IN THE METROPOLITAN DISTRICT; AND**

29 **(II) SPECIFY THE METHOD TO FINANCE THE ACQUISITION.**

1 **(2) THE APPROPRIATE COUNTY COUNCIL SHALL RATIFY A**
2 **CONTRACT BEFORE THE CONTRACT BECOMES BINDING ON THE STATE, THE**
3 **COMMISSION, OR THE COUNTY.**

4 **(D) SUPPLEMENTAL AGREEMENTS.**

5 **(1) THE COMMISSION MAY ENTER INTO A SUPPLEMENTAL**
6 **AGREEMENT TO A CONTRACT OR AMENDMENT TO A CONTRACT WITH A**
7 **GOVERNMENTAL UNIT IN ACCORDANCE WITH THIS SUBSECTION.**

8 **(2) A SUPPLEMENTAL AGREEMENT SHALL:**

9 **(I) BE FOR THE ACQUISITION OF SPECIFIC UNITS OF LAND**
10 **IN THE METROPOLITAN DISTRICT THAT COMPRISE PORTIONS OF THE GENERAL**
11 **PARK PLAN ADOPTED IN THE CONTRACT OR AMENDMENT TO THE CONTRACT;**
12 **AND**

13 **(II) SPECIFY THE FINANCING FOR THE ACQUISITION.**

14 **(3) A SUPPLEMENTAL AGREEMENT FOR A SPECIFIC UNIT OF**
15 **LAND LOCATED IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY**
16 **SHALL BE SUBMITTED TO THE APPROPRIATE COUNTY COUNCIL FOR**
17 **RATIFICATION.**

18 **(4) THE APPROPRIATE COUNTY COUNCIL SHALL RATIFY A**
19 **SUPPLEMENTAL AGREEMENT IF THE COUNTY FINDS THAT:**

20 **(I) THE BOUNDARIES OF THE UNIT OF LAND TO BE**
21 **ACQUIRED UNDER THE SUPPLEMENTAL AGREEMENT ARE IN THE GENERAL**
22 **PARK PLAN ADOPTED BY THE CONTRACT OR AMENDMENT THAT THE**
23 **AGREEMENT SUPPLEMENTS; AND**

24 **(II) THE PROCEEDS FROM THE TAXES AUTHORIZED UNDER**
25 **THE SUPPLEMENTAL AGREEMENT WILL ALLOW THE COMMISSION TO SATISFY**
26 **THE OBLIGATIONS OF THE SUPPLEMENTAL AGREEMENT, INCLUDING ANY**
27 **INTEREST.**

28 **(5) IN DETERMINING WHETHER THE COMMISSION WILL BE ABLE**
29 **TO MEET AN OBLIGATION WITH THE PROCEEDS OF THE TAXES AUTHORIZED**
30 **UNDER THE SUPPLEMENTAL AGREEMENT, THE APPROPRIATE COUNTY COUNCIL**
31 **SHALL:**

1 **(I) COMPUTE THE PROCEEDS ON THE ASSESSABLE BASIS**
2 **OF THE PARTS OF THE METROPOLITAN DISTRICT LYING IN THE COUNTY FOR**
3 **THE FISCAL YEAR IN WHICH APPROVAL IS SOUGHT; AND**

4 **(II) ASSUME THAT THE ENTIRE TAX IMPOSED WILL BE**
5 **COLLECTED SO LONG AS THERE IS AN OUTSTANDING AND UNPAID OBLIGATION.**

6 **(E) COUNTY APPROVAL.**

7 **(1) THE APPROPRIATE COUNTY COUNCIL MAY RATIFY THE**
8 **SUPPLEMENTAL AGREEMENT BY SIMPLE RESOLUTION AUTHORIZING THE CHAIR**
9 **OF THE COUNTY COUNCIL TO:**

10 **(I) ENDORSE THE SUPPLEMENTAL AGREEMENT; AND**

11 **(II) EXECUTE A GUARANTEE IN ACCORDANCE WITH THIS**
12 **SUBTITLE.**

13 **(2) RATIFICATION BY THE MONTGOMERY COUNTY COUNCIL IS**
14 **NOT NECESSARY TO APPROVE:**

15 **(I) CONTRACTS OR AMENDMENTS THAT ARE NOT RELATED**
16 **TO THE ACQUISITION OF A SPECIFIC UNIT OF PARKLAND; OR**

17 **(II) SUPPLEMENTAL AGREEMENTS TO CONTRACTS RELATED**
18 **ONLY TO THE ACQUISITION OF SPECIFIC UNITS OF PARKLAND.**

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 28, § 4–105(a) and (c) through (h).

21 Throughout this section, the references to the “appropriate county
22 council” are substituted for the former references to the “County Council
23 of Montgomery County and the County Commissioners of Prince George’s
24 County” for brevity and accuracy.

25 Also throughout this section, the word “ratif[ied]” is substituted for the
26 former words “approv[ed]”, “approval”, or “ratified and approved” for
27 consistency throughout this section.

28 In subsection (a) of this section, the reference to a contract entered into
29 “under this subtitle” is substituted for the former reference to a contract
30 entered into “by the Commission ... pursuant to the authority of this
31 title” for brevity.

1 Also in subsection (a) of this section, the reference to “§ 1(a) and (b) of the
2 Capper–Cramton Act, Public Law 71–284, 46 Stat. 482” is substituted for
3 the former reference to “subparagraphs (a) and (b) of § 1 ... as amended”
4 for brevity.

5 In subsections (b) and (d) of this section, the references to an
6 “amendment” to a contract are added for consistency throughout this
7 section.

8 In subsection (b) of this section, the former phrase “with respect to the
9 acquisition of park lands within the metropolitan district” is deleted as
10 unnecessary in light of subsection (a), which provides the scope of this
11 section.

12 In subsection (b)(1) of this section, the phrase “[e]xcept as provided in
13 subsection (d) of this section” is substituted for the former phrase “(other
14 than supplementary agreements ... Prince George’s County)” for brevity.

15 In subsection (d)(1) of this section, the phrase “[t]he Commission may
16 enter into ... in accordance with this subsection” is substituted for the
17 former phrases “[a]greements supplementary to any contract ... hereafter
18 entered into by the Commission” and “may be entered into by the
19 Commission ... hereinafter in this section set forth” for clarity and
20 brevity.

21 In subsection (d)(4)(ii) of this section, the phrase “the proceeds from the
22 taxes ... including any interest” is substituted for the former phrase “the
23 Commission will be able to meet the obligations ... within Prince George’s
24 County” for brevity and to avoid repetition.

25 In subsection (e)(1) of this section, the reference to the “chair” of the
26 county council is substituted for the former obsolete reference to the
27 “president” of the council, formerly the board of county commissioners.

28 In the introductory language to subsection (e)(2) of this section, the word
29 “[r]atification” is substituted for the former reference to “legislative
30 action” for consistency throughout this section.

31 Former Art. 28, § 4–105(b), which provided for the continuity of certain
32 contracts entered into before 1947, is not retained in the Code because it
33 is apparently obsolete. It is transferred to the Session Laws to avoid any
34 inadvertent substantive effect its repeal might have. See § 7 of Ch. __,
35 Acts of 2012.

36 Defined terms: “Commission” § 14–101

37 “Contract” § 15–301

38 “County” § 14–101

1 “Governmental unit” § 15–301
2 “Metropolitan district” § 14–101
3 “Park” § 14–101
4 “State” § 14–101

5 **TITLE 16. EMPLOYMENT.**

6 **SUBTITLE 1. MERIT SYSTEM.**

7 **16–101. “BOARD” DEFINED.**

8 **IN THIS SUBTITLE, “BOARD” MEANS THE MERIT SYSTEM BOARD OF THE**
9 **COMMISSION.**

10 REVISOR’S NOTE: This section is new language added to avoid repetition of
11 the full title “merit system board”.

12 Defined term: “Commission” § 14–101

13 **16–102. MERIT SYSTEM — IN GENERAL.**

14 **(A) IMPLEMENTATION.**

15 **THE COMMISSION SHALL IMPLEMENT A MERIT SYSTEM ADOPTED UNDER**
16 **THIS SUBTITLE.**

17 **(B) COVERED EMPLOYEES.**

18 **THE MERIT SYSTEM INCLUDES EACH EMPLOYEE OF THE COMMISSION,**
19 **EXCEPT:**

20 **(1) THE COMMISSIONERS;**

21 **(2) THE EXECUTIVE DIRECTOR, SECRETARY–TREASURER, AND**
22 **GENERAL COUNSEL APPOINTED BY THE COMMISSION UNDER § 15–109 OF THIS**
23 **ARTICLE;**

24 **(3) A PART–TIME OR TEMPORARY EMPLOYEE UNDER SUBTITLE 2**
25 **OR SUBTITLE 5 OF THIS TITLE;**

26 **(4) IN MONTGOMERY COUNTY, EACH POSITION EXCLUDED**
27 **UNDER § 20–204(B) OF THIS ARTICLE; AND**

28 **(5) IN PRINCE GEORGE’S COUNTY:**

1 **(I) THE DEPUTY CHIEF OF PARK POLICE AS PROVIDED IN §**
2 **17-305 OF THIS ARTICLE; AND**

3 **(II) EACH DIRECTOR AND DEPUTY DIRECTOR AS PROVIDED**
4 **IN § 20-204(C) OF THIS ARTICLE.**

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 28, § 2-112(a).

7 In subsection (a) of this section, the reference to the requirement that the
8 commission "implement" a merit system is substituted for the former
9 reference to "put into effect" a merit system for brevity.

10 In subsection (b)(2) of this section, the reference to "the executive
11 director, secretary-treasurer, and general counsel appointed by the
12 Commission" is substituted for the former reference to "[a]ll appointed
13 officials" for clarity.

14 In subsection (b)(3) of this section, the reference to exclusion of "a part-
15 time or temporary employee [that the Commission excludes] under
16 Subtitle 2 ... of this title" is added for clarity. The Land Use Article
17 Review Committee brings this addition to the attention of the General
18 Assembly. No substantive change is intended.

19 In subsection (b)(5)(ii) of this section, the reference to each director "and"
20 deputy director is substituted for the former reference to each director
21 "or" deputy director for clarity.

22 For the authority of the Commission to hire and establish the
23 compensation of employees generally, *see* § 15-110 of this article.

24 Defined terms: "Commission" § 14-101
25 "Commissioners" § 14-101

26 **16-103. MERIT SYSTEM BOARD.**

27 **(A) ESTABLISHED.**

28 **THERE IS A MERIT SYSTEM BOARD OF THE COMMISSION.**

29 **(B) MEMBERS; APPOINTMENT.**

30 **(1) THE BOARD CONSISTS OF THREE MEMBERS APPOINTED BY**
31 **THE COMMISSION.**

1 **(2) NOTHING CONTAINED IN THIS SUBTITLE REQUIRES THAT AN**
2 **APPOINTMENT BE MADE FOR THE PURPOSE OF ROTATING MAJORITY**
3 **MEMBERSHIP ON THE BOARD BETWEEN RESIDENTS OF MONTGOMERY COUNTY**
4 **AND PRINCE GEORGE’S COUNTY.**

5 **(3) THE COMMISSION MAY REAPPOINT A MEMBER OF THE**
6 **BOARD.**

7 **(C) QUALIFICATIONS.**

8 **(1) EACH MEMBER OF THE BOARD:**

9 **(I) SHALL BE A RESIDENT OF THE REGIONAL DISTRICT;**

10 **(II) SHALL BE KNOWLEDGEABLE AND EXPERIENCED IN**
11 **PERSONNEL MATTERS; AND**

12 **(III) MAY NOT BE A MEMBER OR EMPLOYEE OF THE**
13 **COMMISSION OR THE EXECUTIVE DIRECTOR, SECRETARY–TREASURER, OR**
14 **GENERAL COUNSEL APPOINTED BY THE COMMISSION UNDER § 15–109 OF THIS**
15 **ARTICLE.**

16 **(2) NOT MORE THAN TWO MEMBERS OF THE BOARD MAY RESIDE**
17 **IN THE SAME COUNTY.**

18 **(D) TENURE.**

19 **EACH MEMBER OF THE BOARD SHALL BE APPOINTED FOR A TERM OF 4**
20 **YEARS AND CONTINUE TO SERVE UNTIL THE MEMBER’S SUCCESSOR IS**
21 **APPOINTED.**

22 **(E) VACANCY.**

23 **THE COMMISSION SHALL FILL EACH VACANCY ON THE BOARD IN THE**
24 **SAME MANNER AS AN ORIGINAL APPOINTMENT.**

25 **(F) CHAIR.**

26 **THE COMMISSION SHALL DESIGNATE ONE MEMBER OF THE BOARD TO**
27 **SERVE AS THE CHAIR AT THE PLEASURE OF THE COMMISSION.**

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 28, § 2–112(b).

3 In subsection (a) of this section, the former phrase “[f]or the purpose of
4 making and adopting the rules and regulations necessary to carry out the
5 provisions of this section,” is deleted as surplusage.

6 In subsection (c)(1)(iii) of this section, the reference to the “executive
7 director, secretary–treasurer, or general counsel appointed by the
8 Commission under § 15–109 of this article” is substituted for the former
9 reference to an “appointed official” of the Commission for clarity and
10 consistency with § 16–102(b)(2) of this subtitle.

11 In subsection (c)(2) of this section, the reference to “the same” county is
12 substituted for the former reference to “any one” county for brevity.

13 In subsection (f) of this section, the reference to the “chair” is substituted
14 for the former reference to the “chairman” because SG § 2–1238
15 requires the use of words that are neutral as to gender to the extent
16 practicable.

17 The Land Use Article Review Committee notes, for consideration by the
18 General Assembly, that the effect of subsection (b)(2) of this section,
19 which appears to be a rule of construction stating that this subtitle does
20 not require rotation of board chairmanship between the two counties, is
21 confusing and possibly ineffective. If the General Assembly intends to
22 state flatly that this subtitle does not require rotation, then the provision
23 should state so clearly; if on the other hand the provision is intended to
24 prohibit or require automatic rotation outright, it should state the
25 prohibition or requirement clearly. Otherwise, the provision may be
26 safely repealed.

27 Defined terms: “Board” § 16–101
28 “Commission” § 14–101
29 “County” § 14–101
30 “Regional district” § 14–101

31 **16–104. COMPENSATION.**

32 **THE COMMISSION SHALL SET THE COMPENSATION OF THE MEMBERS OF**
33 **THE BOARD AS AUTHORIZED BY THE COMMISSION’S BUDGET FOR EACH FISCAL**
34 **YEAR.**

35 REVISOR'S NOTE: This section is new language derived without substantive
36 change from former Art. 28, § 2–112(e).

1 Defined terms: "Board" § 16-101
2 "Commission" § 14-101

3 **16-105. REMOVAL OF BOARD MEMBER.**

4 **AFTER PROPER NOTICE AND DUE CONSIDERATION, THE COMMISSION**
5 **MAY REMOVE A MEMBER OF THE BOARD FOR MISFEASANCE, MALFEASANCE, OR**
6 **NONFEASANCE IN OFFICE.**

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 28, § 2-112(f).

9 The Land Use Article Review Committee notes, for consideration by the
10 General Assembly, that the standard for removal of a member of the
11 board under this section is not consistent with the standards for removal
12 of members of other boards under this article. The General Assembly may
13 wish to consider the tasks of the several types of board and commission
14 established or authorized under this article and to harmonize the
15 removal provisions applicable to them to the extent it may consider
16 desirable. *Cf.* §§ 2-102(d), 4-302(d), and 10-403(b)(4) of this article.

17 Defined terms: "Board" § 16-101
18 "Commission" § 14-101

19 **16-106. PLANS AND REGULATIONS.**

20 **(A) PREPARATION AND RECOMMENDATIONS.**

21 **THE BOARD SHALL:**

22 **(1) PREPARE AND RECOMMEND A COMPENSATION PLAN, A**
23 **CLASSIFICATION PLAN, AND COMPREHENSIVE REGULATIONS GOVERNING**
24 **OPERATION OF THE MERIT SYSTEM; AND**

25 **(2) SUBMIT ITS RECOMMENDATIONS TO THE COMMISSION FOR**
26 **ADOPTION.**

27 **(B) ADOPTION, DISAPPROVAL, OR MODIFICATION.**

28 **(1) THE COMMISSION MAY ADOPT, DISAPPROVE, OR MODIFY A**
29 **RECOMMENDATION OF THE BOARD.**

30 **(2) IF THE COMMISSION DOES NOT ACT ON A RECOMMENDATION**
31 **OF THE BOARD WITHIN 90 DAYS AFTER THE DATE OF FILING OF THE**

1 RECOMMENDATION WITH THE COMMISSION, THE RECOMMENDATION IS
2 DEEMED APPROVED.

3 (C) AMENDMENT.

4 A RECOMMENDATION BY THE BOARD FOR AN AMENDMENT TO AN
5 ADOPTED COMPENSATION PLAN, CLASSIFICATION PLAN, OR REGULATION IS
6 SUBJECT TO SUBSECTION (B) OF THIS SECTION.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 28, § 2-112(c).

9 In subsections (a)(1) and (c) of this section, the former references to
10 "rules" are deleted for brevity and consistency with other similar
11 provisions of the Code.

12 In subsection (a)(1) of this section, the former reference to the merit
13 system "for Commission employees" is deleted for brevity in light of the
14 reference in § 16-102(b) of this subtitle that the "merit system includes
15 each employee of the Commission".

16 In subsection (b)(2) of this section, the phrase "is deemed approved" is
17 substituted for the former phrase "shall be considered approved" for
18 clarity.

19 Also in subsection (b)(2) of this section, the former reference to "calendar"
20 days is deleted in light of Art. 1, § 36, which provides that any period
21 exceeding 7 days is assumed to mean calendar days, not business days.

22 In subsection (c) of this section, the former reference to previously
23 adopted plans or regulations "continu[ing] in existence and remain[ing] in
24 full force and effect unless and until they are modified or amended" is
25 deleted as implicit.

26 Defined terms: "Board" § 16-101
27 "Commission" § 14-101

28 **16-107. ASSISTANCE TO BOARD FROM COMMISSION.**

29 **THE COMMISSION MAY MAKE AVAILABLE TO THE BOARD ITS RECORDS,**
30 **FACILITIES, AND STAFF AND CONSULTANTS NECESSARY TO CARRY OUT THE**
31 **DUTIES OF THE BOARD.**

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 28, § 2-112(d).

1 The reference to “staff and consultants” is substituted for the former
2 reference to “employees and those experts, assistants, and clerks” for
3 clarity and consistency within this division.

4 Defined terms: “Board” § 16–101
5 “Commission” § 14–101

6 **16–108. SUBPOENA FOR HEARINGS.**

7 **(A) ISSUANCE.**

8 **IF THE BOARD DETERMINES THAT THE TESTIMONY OF A WITNESS IS**
9 **ESSENTIAL FOR THE PROPER CONSIDERATION OF A CASE BEFORE THE BOARD,**
10 **THE BOARD MAY ISSUE A SUBPOENA TO THE WITNESS TO APPEAR AT A**
11 **PROCEEDING THE BOARD CONDUCTS IN ACCORDANCE WITH THIS SUBTITLE.**

12 **(B) FAILURE TO COMPLY.**

13 **IF A PERSON FAILS TO COMPLY WITH A SUBPOENA ISSUED UNDER THIS**
14 **SECTION, THE BOARD MAY PETITION A COURT OF COMPETENT JURISDICTION TO**
15 **COMPEL COMPLIANCE WITH THE SUBPOENA.**

16 REVISOR’S NOTE: This section is new language derived without substantive
17 change from former Art. 28, § 2–112(g).

18 The Land Use Article Review Committee notes, for consideration by the
19 General Assembly, that in subsection (a) of this section, the standard
20 under which the board may issue a subpoena, that the testimony of the
21 witness be “essential for the proper consideration of a case”, seems to
22 require clairvoyance on the part of the board. The General Assembly may
23 wish to revisit the standard that the board should apply in determining
24 whether to issue a subpoena under this section.

25 Defined terms: “Board” § 16–101
26 “Person” § 14–101

27 **SUBTITLE 2. COLLECTIVE BARGAINING — IN GENERAL.**

28 **16–201. APPLICABILITY OF RIGHTS AND DESIGNATION OF BARGAINING UNITS.**

29 **(A) APPLICABILITY OF RIGHTS.**

30 **(1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE**
31 **THE MEANINGS INDICATED.**

1 **(II) “CONFIDENTIAL EMPLOYEE” MEANS AN EMPLOYEE**
2 **WHO ACTS IN A CONFIDENTIAL CAPACITY WITH RESPECT TO AN INDIVIDUAL**
3 **WHO FORMULATES, DETERMINES, OR IMPLEMENTS MANAGEMENT POLICIES IN**
4 **THE FIELD OF LABOR–MANAGEMENT RELATIONS.**

5 **(III) “PROBATIONARY EMPLOYEE” MEANS A MERIT SYSTEM**
6 **EMPLOYEE DURING THE EMPLOYEE’S INITIAL PROBATIONARY PERIOD**
7 **FOLLOWING EMPLOYMENT.**

8 **(2) THE RIGHTS GRANTED TO COMMISSION MERIT SYSTEM**
9 **EMPLOYEES UNDER THIS SUBTITLE DO NOT APPLY TO:**

10 **(I) ATTORNEYS IN THE GENERAL COUNSEL’S OFFICE;**

11 **(II) CONFIDENTIAL EMPLOYEES;**

12 **(III) EMPLOYEES WHO ARE AT GRADE J OR ABOVE;**

13 **(IV) PARK POLICE OFFICERS;**

14 **(V) PROBATIONARY EMPLOYEES; OR**

15 **(VI) SUPERVISORS, AS DEFINED IN § 2(11) OF THE**
16 **NATIONAL LABOR RELATIONS ACT, 29 U.S.C. § 152(11).**

17 **(B) BARGAINING UNITS.**

18 **(1) COMMISSION EMPLOYEES ARE DIVIDED INTO FOUR**
19 **BARGAINING UNITS CONSISTING OF:**

20 **(I) THE OFFICE UNIT THAT INCLUDES OFFICE**
21 **CLASSIFICATION TITLES IN WHICH EMPLOYEES ARE RESPONSIBLE FOR**
22 **INTERNAL AND EXTERNAL COMMUNICATIONS, RECORDING AND RETRIEVING**
23 **INFORMATION, AND PAPERWORK REQUIRED IN AN OFFICE;**

24 **(II) THE PROFESSIONAL/TECHNICAL UNIT THAT INCLUDES:**

25 **1. PROFESSIONAL CLASSIFICATION TITLES IN WHICH**
26 **EMPLOYEES HAVE SPECIAL OR THEORETICAL KNOWLEDGE THAT USUALLY IS**
27 **ACQUIRED THROUGH COLLEGE TRAINING, OTHER TRAINING THAT PROVIDES**
28 **COMPARABLE KNOWLEDGE, OR WORK EXPERIENCE;**

1 **2. PARAPROFESSIONAL CLASSIFICATION TITLES IN**
2 **WHICH EMPLOYEES PERFORM, IN A SUPPORTIVE ROLE, SOME OF THE DUTIES OF**
3 **A PROFESSIONAL OR TECHNICIAN BUT THAT USUALLY REQUIRE LESS FORMAL**
4 **TRAINING OR EXPERIENCE THAN THOSE DUTIES PERFORMED BY THOSE WITH**
5 **PROFESSIONAL OR TECHNICAL STATUS; AND**

6 **3. TECHNICAL CLASSIFICATION TITLES IN WHICH**
7 **EMPLOYEES HAVE A COMBINATION OF BASIC SCIENTIFIC OR TECHNICAL**
8 **KNOWLEDGE AND MANUAL SKILL THAT USUALLY ARE ACQUIRED THROUGH**
9 **SPECIALIZED POSTSECONDARY SCHOOL EDUCATION OR THROUGH EQUIVALENT**
10 **ON-THE-JOB TRAINING;**

11 **(III) THE SERVICE/LABOR UNIT THAT INCLUDES**
12 **CLASSIFICATION TITLES IN WHICH EMPLOYEES PERFORM SERVICE AND**
13 **MAINTENANCE, MAY OPERATE SPECIALIZED MACHINERY OR HEAVY**
14 **EQUIPMENT, AND WHOSE DUTIES CONTRIBUTE TO THE COMFORT AND**
15 **CONVENIENCE OF THE PUBLIC OR TO THE UPKEEP AND CARE OF COMMISSION**
16 **BUILDINGS, FACILITIES, OR GROUNDS; AND**

17 **(IV) THE TRADE UNIT THAT INCLUDES CLASSIFICATION**
18 **TITLES IN WHICH EMPLOYEES ARE REQUIRED TO HAVE A SPECIAL MANUAL**
19 **SKILL AND A THOROUGH KNOWLEDGE OF PROCESSES THAT ARE ACQUIRED**
20 **THROUGH ON-THE-JOB TRAINING, EXPERIENCE, APPRENTICESHIP, OR OTHER**
21 **FORMAL TRAINING PROGRAMS.**

22 **(2) A BARGAINING UNIT MAY NOT BE DEFINED BY COUNTY**
23 **BOUNDARIES.**

24 **(3) IF AN EMPLOYEE ORGANIZATION IS CERTIFIED TO**
25 **REPRESENT MORE THAN ONE BARGAINING UNIT, THE COMMISSION SHALL**
26 **NEGOTIATE A SINGLE CONTRACT WITH THAT ORGANIZATION COVERING ALL**
27 **EMPLOYEES THE ORGANIZATION REPRESENTS.**

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 28, § 2-112.1(a) through (c).

30 In subsection (a)(1)(i) of this section, the reference to this "subsection" is
31 substituted for the former reference to this "section" because the terms
32 are used only in this subsection.

33 In subsection (a)(1)(ii) of this section, the reference to an individual who
34 "implements" management policies is substituted for the former reference
35 to an individual who "effectuates" management policies for clarity.

1 In subsection (a)(1)(iii) of this section, the former reference to “the
2 pendency of” the employee’s initial probationary period is deleted as
3 surplusage.

4 Also in subsection (a)(1)(iii) of this section, the former reference to a
5 “career” merit system employee is deleted as surplusage.

6 In subsection (a)(2)(iii) of this section, the reference to employees at
7 “grade J” or above is substituted for the former reference to employees at
8 “grade 20” or above to reflect the current organizational structure of the
9 Commission.

10 In subsection (a)(2)(vi) of this section, the reference to “29 U.S.C. §
11 152(11)” is added for clarity.

12 Defined terms: “Commission” § 14–101
13 “County” § 14–101

14 **16–202. EMPLOYEE ORGANIZATION AS EXCLUSIVE REPRESENTATIVE OF**
15 **BARGAINING UNIT.**

16 **(A) IN GENERAL.**

17 **THE COMMISSION SHALL RECOGNIZE THE RIGHT OF AN EMPLOYEE**
18 **ORGANIZATION, CERTIFIED UNDER THIS SUBTITLE AS THE EXCLUSIVE**
19 **REPRESENTATIVE OF A BARGAINING UNIT, TO REPRESENT THE EMPLOYEES IN**
20 **THE BARGAINING UNIT IN COLLECTIVE BARGAINING AND IN THE SETTLEMENT**
21 **OF GRIEVANCES.**

22 **(B) PURPOSE OF EMPLOYEE ORGANIZATION.**

23 **AN EMPLOYEE ORGANIZATION CERTIFIED AS THE EXCLUSIVE**
24 **REPRESENTATIVE OF A BARGAINING UNIT SHALL:**

25 **(1) SERVE AS THE SOLE BARGAINING AGENT FOR THE UNIT IN**
26 **COLLECTIVE BARGAINING; AND**

27 **(2) REPRESENT ALL EMPLOYEES IN THE BARGAINING UNIT**
28 **FAIRLY, WITHOUT DISCRIMINATION, AND WITHOUT REGARD TO WHETHER AN**
29 **EMPLOYEE IS A MEMBER OF THE EMPLOYEE ORGANIZATION.**

30 **(C) REQUIREMENTS.**

31 **AN EMPLOYEE ORGANIZATION MEETS THE REQUIREMENTS OF**
32 **SUBSECTION (B)(2) OF THIS SECTION IF THE EMPLOYEE ORGANIZATION’S**

1 ACTIONS WITH RESPECT TO EMPLOYEES WHO ARE MEMBERS OF THE EMPLOYEE
2 ORGANIZATION AND EMPLOYEES WHO ARE NOT MEMBERS OF THE EMPLOYEE
3 ORGANIZATION ARE NOT ARBITRARY, DISCRIMINATORY, OR IN BAD FAITH.

4 REVISOR'S NOTE: This section formerly was Art. 28, § 2-112.1(d).

5 The only changes are in style.

6 Defined term: "Commission" § 14-101

7 **16-203. LABOR RELATIONS ADMINISTRATOR.**

8 **(A) INITIAL APPOINTMENT.**

9 AFTER A PUBLIC HEARING ON THE APPOINTMENT, THE COMMISSION
10 SHALL APPOINT AN EXPERIENCED NEUTRAL THIRD PARTY TO SERVE AS LABOR
11 RELATIONS ADMINISTRATOR FOR AN INITIAL TERM OF 1 YEAR.

12 **(B) SECOND APPOINTMENT.**

13 AFTER THE TERM OF THE LABOR RELATIONS ADMINISTRATOR
14 APPOINTED UNDER SUBSECTION (A) OF THIS SECTION EXPIRES, THE EXCLUSIVE
15 REPRESENTATIVE AND THE COMMISSION SHALL APPOINT A LABOR RELATIONS
16 ADMINISTRATOR FOR A 2-YEAR TERM FROM A LIST OF FIVE NOMINEES ON
17 WHOM THEY HAVE AGREED.

18 **(C) SUBSEQUENT APPOINTMENT.**

19 AFTER THE TERM OF THE LABOR RELATIONS ADMINISTRATOR
20 APPOINTED UNDER SUBSECTION (A) OF THIS SECTION EXPIRES AND AFTER A
21 PUBLIC HEARING ON THE APPOINTMENT, IF NO EXCLUSIVE REPRESENTATIVE
22 HAS BEEN CERTIFIED UNDER THIS SECTION, THE COMMISSION SHALL APPOINT
23 THE NEXT LABOR RELATIONS ADMINISTRATOR FOR A TERM NOT EXCEEDING 1
24 YEAR.

25 **(D) REAPPOINTMENT.**

26 A LABOR RELATIONS ADMINISTRATOR IS ELIGIBLE FOR REAPPOINTMENT.

27 REVISOR'S NOTE: This section formerly was Art. 28, § 2-112.1(e).

28 In subsections (b) and (c) of this section, the references to the "labor
29 relations administrator" are substituted for the former references to the
30 "neutral third party" for clarity.

1 The only other changes are in style.

2 Defined term: "Commission" § 14-101

3 **16-204. CONSTITUTION AND BYLAWS OF EMPLOYEE ORGANIZATION.**

4 **(A) SUBMISSION TO LABOR RELATIONS ADMINISTRATOR.**

5 **AN EMPLOYEE ORGANIZATION THAT IS CERTIFIED OR THAT SEEKS**
6 **CERTIFICATION AS AN EXCLUSIVE REPRESENTATIVE UNDER THIS SUBTITLE**
7 **SHALL SUBMIT TO THE LABOR RELATIONS ADMINISTRATOR:**

8 **(1) A COPY OF THE EMPLOYEE ORGANIZATION'S CONSTITUTION**
9 **AND BYLAWS; AND**

10 **(2) ANY CHANGE IN THE CONSTITUTION OR BYLAWS.**

11 **(B) CONTENTS.**

12 **THE CONSTITUTION OR BYLAWS SHALL INCLUDE:**

13 **(1) A PLEDGE THAT THE EMPLOYEE ORGANIZATION ACCEPTS**
14 **MEMBERS WITHOUT REGARD TO AGE, MARITAL STATUS, NATIONAL ORIGIN,**
15 **RACE, RELIGION, DISABILITY, SEXUAL ORIENTATION, OR GENDER;**

16 **(2) THE RIGHT OF MEMBERS TO PARTICIPATE IN THE AFFAIRS OF**
17 **THE EMPLOYEE ORGANIZATION;**

18 **(3) PROCEDURES FOR PERIODIC ELECTIONS OF OFFICERS BY**
19 **SECRET BALLOT;**

20 **(4) FAIR PROCEDURES GOVERNING DISCIPLINARY ACTIONS;**

21 **(5) PROCEDURES FOR THE ACCURATE ACCOUNTING OF INCOME**
22 **AND EXPENDITURES;**

23 **(6) A REQUIREMENT THAT A CERTIFIED ANNUAL FINANCIAL**
24 **REPORT BE PRODUCED; AND**

25 **(7) THE RIGHT OF MEMBERS TO INSPECT THE ORGANIZATION'S**
26 **ACCOUNTS.**

27 REVISOR'S NOTE: This section formerly was Art. 28, § 2-112.1(f).

1 The only changes are in style.

2 The Land Use Article Review Committee notes, for consideration by the
3 General Assembly, that it may be helpful to compare the
4 nondiscrimination standards in subsection (b)(1) of this section with
5 similar nondiscrimination standards required under other State laws in
6 order to harmonize them. *See also* Revisor's Note to § 16-304 of this title.

7 **16-205. ELECTION OF EXCLUSIVE REPRESENTATIVE.**

8 **(A) IN GENERAL.**

9 **THE LABOR RELATIONS ADMINISTRATOR SHALL CONDUCT AN ELECTION**
10 **FOR AN EXCLUSIVE REPRESENTATIVE AFTER:**

11 **(1) AN EMPLOYEE ORGANIZATION DEMONSTRATES, BY PETITION,**
12 **THAT AT LEAST 30% OF THE ELIGIBLE EMPLOYEES IN A BARGAINING UNIT**
13 **SUPPORT REPRESENTATION BY AN EXCLUSIVE REPRESENTATIVE FOR**
14 **COLLECTIVE BARGAINING; OR**

15 **(2) AN EMPLOYEE OR AN EMPLOYEE ORGANIZATION**
16 **DEMONSTRATES, BY PETITION, THAT AT LEAST 30% OF THE ELIGIBLE**
17 **EMPLOYEES IN A BARGAINING UNIT NO LONGER SUPPORT THE CURRENT**
18 **EXCLUSIVE REPRESENTATIVE.**

19 **(B) VOTING LIST.**

20 **(1) AT LEAST 30 DAYS BEFORE AN ELECTION UNDER SUBSECTION**
21 **(A) OF THIS SECTION, THE LABOR RELATIONS ADMINISTRATOR SHALL OBTAIN**
22 **FROM THE COMMISSION AND PROVIDE TO THE EMPLOYEE ORGANIZATION A**
23 **LIST OF THE NAMES, ADDRESSES, AND TELEPHONE NUMBERS OF EVERY**
24 **EMPLOYEE IN THE BARGAINING UNIT.**

25 **(2) THE PROVISION OF A LIST UNDER THIS SUBSECTION BY THE**
26 **COMMISSION, THE LABOR RELATIONS ADMINISTRATOR, OR A COMMISSION**
27 **OFFICIAL, EMPLOYEE, OR OTHER AGENT DOES NOT CONSTITUTE A VIOLATION**
28 **OF § 10-617(E) OF THE STATE GOVERNMENT ARTICLE OR ANY STATE OR LOCAL**
29 **LAW.**

30 **(C) BALLOT.**

31 **ELECTIONS SHALL BE CONDUCTED BY SECRET BALLOT CONTAINING:**

1 **(1) THE NAME OF EACH EMPLOYEE ORGANIZATION THAT SUBMITS**
2 **A VALID PETITION REQUIRING AN ELECTION;**

3 **(2) THE NAME OF ANY OTHER EMPLOYEE ORGANIZATION**
4 **SUPPORTED BY A PETITION SIGNED BY AT LEAST 10% OF THE ELIGIBLE**
5 **EMPLOYEES IN THE BARGAINING UNIT; AND**

6 **(3) AN OPTION FOR NO REPRESENTATION.**

7 **(D) ELECTION BETWEEN CURRENT EXCLUSIVE REPRESENTATIVE AND**
8 **OTHER EMPLOYEE ORGANIZATION.**

9 **(1) IF A PETITION DESCRIBED IN SUBSECTION (A)(1) OF THIS**
10 **SECTION IS SUBMITTED AT THE SAME TIME THAT A PETITION DESCRIBED IN**
11 **SUBSECTION (A)(2) OF THIS SECTION IS SUBMITTED, ONE ELECTION SHALL BE**
12 **HELD TO DETERMINE WHICH EMPLOYEE ORGANIZATION, IF ANY, SHALL BE THE**
13 **EXCLUSIVE REPRESENTATIVE.**

14 **(2) THE BALLOT SHALL CONTAIN:**

15 **(I) THE NAME OF THE CURRENT CERTIFIED EMPLOYEE**
16 **ORGANIZATION;**

17 **(II) THE NAME OF THE PETITIONING EMPLOYEE**
18 **ORGANIZATION; AND**

19 **(III) AN OPTION FOR NO REPRESENTATION.**

20 **(E) RUNOFF ELECTION.**

21 **(1) IF NONE OF THE CHOICES ON THE BALLOT RECEIVES A**
22 **MAJORITY OF THE VOTES CAST, THE LABOR RELATIONS ADMINISTRATOR SHALL**
23 **HOLD A RUNOFF ELECTION.**

24 **(2) IN THE RUNOFF ELECTION, THE BALLOT SHALL CONTAIN THE**
25 **TWO CHOICES THAT RECEIVED THE HIGHEST NUMBER OF VOTES CAST IN THE**
26 **INITIAL ELECTION.**

27 **(F) CERTIFICATION AS EXCLUSIVE REPRESENTATIVE.**

28 **AFTER THE ELECTION, THE LABOR RELATIONS ADMINISTRATOR SHALL**
29 **CERTIFY THE EMPLOYEE ORGANIZATION THAT RECEIVED A MAJORITY OF THE**
30 **VOTES CAST AS THE EXCLUSIVE REPRESENTATIVE.**

1 **(G) EMPLOYEE ORGANIZATION TREATED AS SUCCESSOR IN INTEREST.**

2 **IF THE PETITIONING EMPLOYEE ORGANIZATION IS CERTIFIED AS THE**
 3 **RESULT OF AN ELECTION HELD UNDER SUBSECTION (D) OF THIS SECTION, THAT**
 4 **EMPLOYEE ORGANIZATION SHALL BE TREATED AS A SUCCESSOR IN INTEREST**
 5 **AND PARTY TO ANY COLLECTIVE BARGAINING AGREEMENT TO WHICH THE**
 6 **PREVIOUS EMPLOYEE ORGANIZATION WAS A PARTY.**

7 **(H) COSTS.**

8 **THE COMMISSION AND THE EMPLOYEE ORGANIZATION SHALL SHARE**
 9 **EQUALLY THE COSTS OF THE ELECTION PROCEDURES.**

10 **(I) WHEN ELECTIONS MAY NOT BE CONDUCTED.**

11 **(1) ELECTIONS MAY NOT BE CONDUCTED:**

12 **(i) WITHIN 1 YEAR AFTER THE DATE OF A VALID ELECTION**
 13 **UNDER THIS SECTION; OR**

14 **(ii) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
 15 **SUBSECTION, DURING THE TERM OF A COLLECTIVE BARGAINING AGREEMENT.**

16 **(2) DURING THE TERM OF A COLLECTIVE BARGAINING**
 17 **AGREEMENT, A PETITION FOR AN ELECTION MAY BE FILED ONLY DURING**
 18 **NOVEMBER OF THE FISCAL YEAR IN WHICH THE AGREEMENT EXPIRES.**

19 REVISOR'S NOTE: This section is new language derived without substantive
 20 change from former Art. 28, § 2-112.1(g) and (h).

21 In subsection (b)(2) of this section, the former reference to a "statute,
 22 regulation, or ordinance" is deleted as included in the comprehensive
 23 reference to State or local "law".

24 In subsection (f) of this section, the reference to the "employee
 25 organization that received a majority of the votes cast" is substituted for
 26 the former reference to the "appropriate employee organization" for
 27 clarity.

28 Defined terms: "Commission" § 14-101

29 "Local law" § 14-101

30 "State" § 14-101

31 **16-206. DISPUTE OVER ELIGIBILITY OF EMPLOYEE IN BARGAINING UNIT.**

1 **(A) IN GENERAL.**

2 **IF THE COMMISSION AND AN EMPLOYEE ORGANIZATION DISPUTE THE**
3 **ELIGIBILITY OF AN EMPLOYEE IN A BARGAINING UNIT, THE DISPUTE SHALL BE**
4 **SUBMITTED TO THE LABOR RELATIONS ADMINISTRATOR.**

5 **(B) EVIDENTIARY HEARINGS.**

6 **THE LABOR RELATIONS ADMINISTRATOR SHALL HOLD EVIDENTIARY**
7 **HEARINGS AT WHICH THE COMMISSION AND INTERESTED EMPLOYEE**
8 **ORGANIZATIONS SHALL HAVE THE OPPORTUNITY TO PRESENT TESTIMONY,**
9 **DOCUMENTARY AND OTHER EVIDENCE, AND ARGUMENTS.**

10 **(C) FINAL DECISION.**

11 **THE DECISION OF THE LABOR RELATIONS ADMINISTRATOR IS FINAL.**

12 **(D) COSTS.**

13 **THE COMMISSION AND THE EMPLOYEE ORGANIZATION SHALL SHARE**
14 **EQUALLY THE COSTS OF THE HEARINGS.**

15 REVISOR'S NOTE: This section formerly was Art. 28, § 2-112.1(i).

16 No changes are made.

17 Defined term: "Commission" § 14-101

18 **16-207. COLLECTIVE BARGAINING REQUIREMENTS.**

19 **(A) IN GENERAL.**

20 **THE COMMISSION AND AN EMPLOYEE ORGANIZATION CERTIFIED AS**
21 **EXCLUSIVE REPRESENTATIVE SHALL MEET AND ENGAGE IN COLLECTIVE**
22 **BARGAINING IN GOOD FAITH REGARDING:**

23 **(1) SALARY AND WAGES, INCLUDING THE PERCENTAGE OF THE**
24 **INCREASE IN THE SALARY AND WAGES BUDGET THAT WILL BE DEVOTED TO**
25 **MERIT INCREMENTS AND CASH AWARDS, PROVIDED THAT SALARIES AND WAGES**
26 **SHALL BE UNIFORM FOR ALL EMPLOYEES IN THE SAME CLASSIFICATION;**

27 **(2) PENSION AND OTHER RETIREMENT BENEFITS FOR ACTIVE**
28 **EMPLOYEES;**

1 **(3) EMPLOYEE BENEFITS SUCH AS INSURANCE, LEAVE, HOLIDAYS,**
2 **AND VACATIONS;**

3 **(4) HOURS AND WORKING CONDITIONS;**

4 **(5) ORDERLY PROCESSING AND SETTLEMENT OF GRIEVANCES**
5 **CONCERNING THE INTERPRETATION AND IMPLEMENTATION OF A COLLECTIVE**
6 **BARGAINING AGREEMENT THAT MAY INCLUDE:**

7 **(I) BINDING THIRD PARTY ARBITRATION, UNDER WHICH**
8 **THE ARBITRATOR MAY NOT AMEND, ADD TO, OR SUBTRACT FROM THE**
9 **PROVISIONS OF THE COLLECTIVE BARGAINING AGREEMENT; AND**

10 **(II) PROVISIONS FOR THE EXCLUSIVITY OF FORUM;**

11 **(6) MATTERS AFFECTING THE HEALTH AND SAFETY OF**
12 **EMPLOYEES; AND**

13 **(7) THE EFFECT ON EMPLOYEES OF THE EXERCISE OF THE**
14 **COMMISSION'S RIGHTS AND RESPONSIBILITIES UNDER § 16-213 OF THIS**
15 **SUBTITLE.**

16 **(B) AGREEMENT NOT REQUIRED.**

17 **THIS SECTION DOES NOT REQUIRE THE COMMISSION OR THE EMPLOYEE**
18 **ORGANIZATION TO AGREE TO ANY PROPOSAL OR TO MAKE ANY CONCESSION.**

19 **(C) TIME FOR COLLECTIVE BARGAINING.**

20 **(1) (I) COLLECTIVE BARGAINING MAY NOT BEGIN LATER THAN**
21 **SEPTEMBER 1 BEFORE THE BEGINNING OF A FISCAL YEAR FOR WHICH AN**
22 **AGREEMENT HAS NOT BEEN REACHED BETWEEN THE COMMISSION AND THE**
23 **EXCLUSIVE REPRESENTATIVE.**

24 **(II) COLLECTIVE BARGAINING SHALL CONCLUDE ON OR**
25 **BEFORE THE FOLLOWING FEBRUARY 1.**

26 **(2) DURING THE PERIOD BETWEEN THE DATES SET IN**
27 **PARAGRAPH (1)(I) AND (II) OF THIS SUBSECTION, THE PARTIES SHALL**
28 **NEGOTIATE IN GOOD FAITH.**

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 28, § 2-112.1(j).

3 In subsection (a)(2) of this section, the former phrase "[o]n or after June
4 1, 1994," is deleted as obsolete.

5 In subsection (c)(1)(i) of this section, the reference to the "exclusive"
6 representative is substituted for the former reference to the "certified"
7 representative for consistency throughout this subtitle.

8 Defined term: "Commission" § 14-101

9 **16-208. NEGOTIABILITY DISPUTES.**

10 **(A) IN GENERAL.**

11 **IF A PARTY TO THE COLLECTIVE BARGAINING CONSIDERS A BARGAINING**
12 **PROPOSAL TO VIOLATE THE RIGHTS AND RESPONSIBILITIES OF THE**
13 **COMMISSION UNDER § 16-213 OF THIS SUBTITLE OR THE RIGHTS OF**
14 **COMMISSION EMPLOYEES UNDER § 16-216 OF THIS SUBTITLE OR OTHERWISE**
15 **TO VIOLATE THIS SUBTITLE, THE PARTY MAY PETITION THE LABOR RELATIONS**
16 **ADMINISTRATOR FOR A DETERMINATION OF WHETHER THE BARGAINING**
17 **PROPOSAL CONSTITUTES A NEGOTIABILITY DISPUTE THAT VIOLATES THIS**
18 **SUBTITLE.**

19 **(B) PROCEDURE FOR RESOLVING NEGOTIABILITY DISPUTE.**

20 **(1) THE PROCEDURE FOR RESOLVING A NEGOTIABILITY DISPUTE**
21 **SHALL FOLLOW THE PROCESS FOR REVIEWING UNFAIR LABOR PRACTICE**
22 **CHARGES.**

23 **(2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION,**
24 **THE LABOR RELATIONS ADMINISTRATOR MAY SHORTEN THE TIME PERIODS OR**
25 **ORDER ANY APPROPRIATE EXPEDITED PROCEDURE.**

26 **(C) ORDER TO WITHDRAW BARGAINING PROPOSAL.**

27 **THE LABOR RELATIONS ADMINISTRATOR MAY ORDER A PARTY TO**
28 **WITHDRAW ALL OR PART OF A BARGAINING PROPOSAL THAT VIOLATES THIS**
29 **SUBTITLE.**

30 **(D) DECISION AND ORDER FINAL.**

1 **UNLESS PETITIONED TO JUDICIAL REVIEW ON THE BASIS THAT THE**
2 **DECISION OR ORDER IS ARBITRARY, IS CAPRICIOUS, OR EXCEEDS THE**
3 **AUTHORITY OF A PARTY, ANY DECISION REACHED AND ORDER ISSUED UNDER**
4 **THIS SUBTITLE IS FINAL.**

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 28, § 2-112.1(k).

7 In subsection (a) of this section, the reference to a party "to the collective
8 bargaining" is added for clarity.

9 Also in subsection (a) of this section, the statement that a party "may"
10 petition the labor relations administrator is substituted for the former
11 requirement that the party "shall" petition the labor relations
12 administrator for accuracy.

13 In subsection (d) of this section, the reference to a decision or order being
14 "petitioned to judicial review" is substituted for the former reference to a
15 decision or order being "appealed" for accuracy.

16 Defined term: "Commission" § 14-101

17 **16-209. MEDIATION-ARBITRATION.**

18 **(A) APPOINTMENT OF MEDIATOR-ARBITRATOR.**

19 **(1) IF THE PARTIES HAVE NOT REACHED AN AGREEMENT ON OR**
20 **BEFORE DECEMBER 1 ON A COLLECTIVE BARGAINING AGREEMENT THAT**
21 **WOULD BECOME EFFECTIVE THE FOLLOWING JULY 1, THE PARTIES JOINTLY**
22 **SHALL APPOINT A MEDIATOR-ARBITRATOR.**

23 **(2) IF THE PARTIES ARE UNABLE TO AGREE ON A**
24 **MEDIATOR-ARBITRATOR, THE LABOR RELATIONS ADMINISTRATOR SHALL**
25 **APPOINT THE MEDIATOR-ARBITRATOR ON OR BEFORE DECEMBER 7.**

26 **(3) NOTWITHSTANDING APPOINTMENT OF THE**
27 **MEDIATOR-ARBITRATOR, THIS SECTION DOES NOT REQUIRE**
28 **MEDIATION-ARBITRATION TO BEGIN BEFORE THE DATE SET FORTH IN**
29 **SUBSECTION (C) OF THIS SECTION.**

30 **(B) WHEN SERVICES MAY BE REQUESTED.**

31 **DURING THE COURSE OF THE COLLECTIVE BARGAINING:**

1 **(1) EITHER PARTY MAY DECLARE AN IMPASSE AND REQUEST THE**
2 **SERVICES OF THE MEDIATOR–ARBITRATOR; OR**

3 **(2) THE PARTIES JOINTLY MAY REQUEST THE SERVICES OF A**
4 **MEDIATOR–ARBITRATOR BEFORE AN IMPASSE IS DECLARED.**

5 **(C) MEMORANDUM REQUIRED.**

6 **IF THE MEDIATOR–ARBITRATOR FINDS IN THE MEDIATOR–ARBITRATOR’S**
7 **SOLE DISCRETION THAT THE PARTIES ARE AT A BONA FIDE IMPASSE OR ON**
8 **FEBRUARY 1, WHICHEVER OCCURS EARLIER, THE MEDIATOR–ARBITRATOR**
9 **SHALL DIRECT THE PARTIES TO SUBMIT:**

10 **(1) A JOINT MEMORANDUM LISTING ALL ITEMS TO WHICH THE**
11 **PARTIES PREVIOUSLY AGREED; AND**

12 **(2) A SEPARATE MEMORANDUM OF EACH PARTY’S LAST FINAL**
13 **OFFER PRESENTED IN NEGOTIATIONS ON ALL ITEMS TO WHICH THE PARTIES**
14 **PREVIOUSLY DID NOT AGREE.**

15 **(D) CLOSED HEARING.**

16 **(1) ON OR BEFORE FEBRUARY 10, THE MEDIATOR–ARBITRATOR**
17 **SHALL HOLD A CLOSED HEARING ON THE PARTIES’ PROPOSALS AT A TIME,**
18 **DATE, AND PLACE SELECTED BY THE MEDIATOR–ARBITRATOR.**

19 **(2) EACH PARTY SHALL SUBMIT EVIDENCE OR MAKE ORAL AND**
20 **WRITTEN ARGUMENTS IN SUPPORT OF THE PARTY’S LAST FINAL OFFER.**

21 **(3) THE MEDIATOR–ARBITRATOR MAY NOT OPEN THE HEARING**
22 **TO A PERSON THAT IS NOT A PARTY TO THE MEDIATION–ARBITRATION.**

23 **(E) REPORT.**

24 **(1) ON OR BEFORE FEBRUARY 15, THE MEDIATOR–ARBITRATOR**
25 **SHALL ISSUE A REPORT SELECTING THE FINAL OFFER SUBMITTED BY THE**
26 **PARTY THAT THE MEDIATOR–ARBITRATOR DETERMINES TO BE MORE**
27 **REASONABLE WHEN VIEWED AS A WHOLE.**

28 **(2) IN DETERMINING WHICH OFFER IS MORE REASONABLE, THE**
29 **MEDIATOR–ARBITRATOR:**

30 **(I) MAY CONSIDER ONLY:**

1 1. PAST COLLECTIVE BARGAINING AGREEMENTS
2 BETWEEN THE PARTIES, INCLUDING THE PAST BARGAINING HISTORY THAT LED
3 TO THE AGREEMENT OR THE PRECOLLECTIVE BARGAINING HISTORY OF
4 EMPLOYEE WAGES, HOURS, BENEFITS, AND OTHER WORKING CONDITIONS;

5 2. A COMPARISON OF WAGES, HOURS, BENEFITS,
6 AND CONDITIONS OF EMPLOYMENT OF SIMILAR EMPLOYEES OF OTHER PUBLIC
7 EMPLOYERS IN THE WASHINGTON METROPOLITAN AREA AND THE STATE;

8 3. A COMPARISON OF WAGES, HOURS, BENEFITS,
9 AND CONDITIONS OF EMPLOYMENT OF SIMILAR EMPLOYEES OF PRIVATE
10 EMPLOYERS IN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY;

11 4. THE PUBLIC INTEREST AND WELFARE;

12 5. THE ABILITY OF THE COMMISSION TO FINANCE
13 ANY ECONOMIC ADJUSTMENTS REQUIRED UNDER THE PROPOSED AGREEMENT;

14 6. THE EFFECTS OF ANY ECONOMIC ADJUSTMENTS
15 ON THE STANDARD OF PUBLIC SERVICES NORMALLY PROVIDED BY THE
16 COMMISSION; AND

17 7. THE ANNUAL INCREASE OR DECREASE IN
18 CONSUMER PRICES FOR ALL ITEMS AS REFLECTED IN THE MOST RECENT
19 CONSUMER PRICE INDEX – URBAN WAGE EARNERS AND CLERICAL WORKERS
20 (“CPI-W”) FOR THE WASHINGTON-BALTIMORE METROPOLITAN AREA; AND

21 (II) SHALL CONSIDER ALL ITEMS ON WHICH THE PARTIES
22 AGREED BEFORE THE MEDIATION-ARBITRATION BEGAN TO BE INTEGRATED
23 INTO EACH OFFER.

24 (3) (I) THE MEDIATOR-ARBITRATOR MAY NOT RECEIVE OR
25 CONSIDER THE HISTORY OF COLLECTIVE BARGAINING RELATING TO THE
26 IMMEDIATE DISPUTE, INCLUDING ANY OFFERS OF SETTLEMENT NOT
27 CONTAINED IN THE OFFER SUBMITTED TO THE MEDIATOR-ARBITRATOR.

28 (II) THE MEDIATOR-ARBITRATOR MAY NOT COMPROMISE
29 OR ALTER THE FINAL OFFER THAT THE MEDIATOR-ARBITRATOR SELECTS.

30 (F) FINAL AGREEMENT.

1 **(1) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,**
2 **THE OFFER SELECTED BY THE MEDIATOR–ARBITRATOR, AS INTEGRATED WITH**
3 **THE ITEMS ON WHICH THE PARTIES PREVIOUSLY AGREED, SHALL BE THE FINAL**
4 **AGREEMENT BETWEEN THE COMMISSION AND THE EXCLUSIVE**
5 **REPRESENTATIVE WITHOUT RATIFICATION BY THE PARTIES.**

6 **(II) THE ECONOMIC PROVISIONS OF THE FINAL AGREEMENT**
7 **ARE SUBJECT TO FUNDING BY THE MONTGOMERY COUNTY COUNCIL AND**
8 **PRINCE GEORGE’S COUNTY COUNCIL.**

9 **(III) THE COMMISSION SHALL REQUEST FUNDS IN THE**
10 **COMMISSION’S FINAL BUDGET FROM THE COUNTY COUNCILS FOR ALL**
11 **ECONOMIC PROVISIONS OF THE FINAL AGREEMENT.**

12 **(2) THE PARTIES SHALL EXECUTE AN AGREEMENT**
13 **INCORPORATING THE FINAL AGREEMENT, INCLUDING ARBITRATION AWARDS**
14 **AND ALL ISSUES AGREED TO UNDER THIS SUBTITLE.**

15 **(G) COSTS.**

16 **THE COMMISSION AND THE EMPLOYEE ORGANIZATION SHALL SHARE**
17 **EQUALLY THE COSTS OF THE MEDIATOR–ARBITRATOR’S SERVICES.**

18 REVISOR’S NOTE: This section is new language derived without substantive
19 change from former Art. 28, § 2–112.1(l).

20 In subsection (a)(2) of this section, the reference to “appoint[ing]” a
21 mediator–arbitrator is substituted for the former reference to “nam[ing]”
22 a mediator–arbitrator for consistency within this subsection.

23 In subsection (c)(2) of this section, the reference to “each” party’s last
24 final offer is substituted for the former reference to “the” party’s last final
25 offer for clarity.

26 In subsection (d)(1) of this section, the reference to a “closed” hearing is
27 substituted for the former reference to “nonpublic” hearing for clarity and
28 to conform to the terminology used in other revised articles of the Code.

29 In subsection (e)(2)(i)1 of this section, the reference to “agreements” is
30 substituted for the former reference to “contracts” for consistency
31 throughout this subtitle.

32 In subsection (e)(2)(i)5 and 6 of this section, the references to the
33 “Commission” are substituted for the former references to the “employer”
34 for clarity.

1 In subsection (e)(2)(i)7 of this section, the reference to the Consumer
2 Price Index – “Urban” Wage Earners and Clerical Workers is added for
3 accuracy.

4 In subsection (g) of this section, the former reference to the Commission
5 and the employee organization sharing equally “in paying” the costs is
6 deleted to conform to other similar provisions in this subtitle.

7 Defined terms: “Commission” § 14–101

8 “Person” § 14–101

9 “State” § 14–101

10 **16–210. MEDIATION.**

11 **(A) IN GENERAL.**

12 **A MEDIATOR MAY BE USED IN THE COLLECTIVE BARGAINING PROCESS**
13 **WHENEVER:**

14 **(1) THE COMMISSION AND THE EMPLOYEE ORGANIZATION AGREE**
15 **TO MEDIATION; OR**

16 **(2) AN IMPASSE RESULTS, AND THE COMMISSION OR THE**
17 **EMPLOYEE ORGANIZATION REQUESTS MEDIATION.**

18 **(B) SELECTION OF MEDIATOR.**

19 **(1) THE MEDIATOR SHALL BE SELECTED JOINTLY BY THE**
20 **COMMISSION AND THE EMPLOYEE ORGANIZATION FROM A LIST SUPPLIED BY**
21 **THE AMERICAN ARBITRATION ASSOCIATION OR THE FEDERAL MEDIATION AND**
22 **CONCILIATION SERVICE.**

23 **(2) IF THE COMMISSION AND THE EMPLOYEE ORGANIZATION ARE**
24 **UNABLE TO AGREE ON THE SELECTION OF A MEDIATOR, THE LABOR RELATIONS**
25 **ADMINISTRATOR SHALL SELECT THE MEDIATOR.**

26 **(C) COSTS.**

27 **THE COMMISSION AND THE EMPLOYEE ORGANIZATION SHALL SHARE**
28 **EQUALLY THE COSTS OF MEDIATION.**

29 **REVISOR’S NOTE:** This section formerly was Art. 28, § 2–112.1(m).

30 The only changes are in style.

1 Defined term: "Commission" § 14-101

2 **16-211. COLLECTIVE BARGAINING AGREEMENT.**

3 **(A) IN GENERAL.**

4 **THE COMMISSION AND AN EMPLOYEE ORGANIZATION CERTIFIED AS**
5 **EXCLUSIVE REPRESENTATIVE OF A BARGAINING UNIT SHALL EXECUTE A**
6 **COLLECTIVE BARGAINING AGREEMENT INCORPORATING ALL MATTERS**
7 **AGREED.**

8 **(B) GRIEVANCE PROCEDURE.**

9 **IF A COLLECTIVE BARGAINING AGREEMENT PROVIDES FOR A GRIEVANCE**
10 **PROCEDURE, THAT GRIEVANCE PROCEDURE SHALL BE THE SOLE PROCEDURE**
11 **FOR EMPLOYEES IN THE BARGAINING UNIT.**

12 **(C) UNION SECURITY PROVISION ALLOWED.**

13 **THE COLLECTIVE BARGAINING AGREEMENT MAY INCLUDE AN AGENCY**
14 **SHOP OR OTHER UNION SECURITY PROVISION.**

15 **(D) CONFLICTS BETWEEN AGREEMENT AND REGULATION OR**
16 **ADMINISTRATIVE POLICY.**

17 **THE COLLECTIVE BARGAINING AGREEMENT SUPERSEDES ANY**
18 **CONFLICTING REGULATION OR ADMINISTRATIVE POLICY OF THE COMMISSION.**

19 **(E) EXPIRATION OF AGREEMENT.**

20 **A SINGLE-YEAR OR MULTIPLE-YEAR COLLECTIVE BARGAINING**
21 **AGREEMENT SHALL EXPIRE AT THE CLOSE OF THE APPROPRIATE FISCAL YEAR.**

22 **(F) WHEN AGREEMENT TAKES EFFECT.**

23 **(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
24 **SUBSECTION, A COLLECTIVE BARGAINING AGREEMENT SHALL BE EFFECTIVE ON**
25 **THE APPROVAL OF THE COMMISSION AND THE MEMBERSHIP OF THE EMPLOYEE**
26 **ORGANIZATION REPRESENTING THE BARGAINING UNIT.**

27 **(2) THE ECONOMIC REQUIREMENTS OF A COLLECTIVE**
28 **BARGAINING AGREEMENT SHALL BE EFFECTIVE ON APPROVAL BY THE**
29 **MONTGOMERY COUNTY COUNCIL AND PRINCE GEORGE'S COUNTY COUNCIL.**

1 REVISOR'S NOTE: This section formerly was Art. 28, § 2-112.1(n).

2 In subsection (a) of this section, the reference to "all matters agreed" is
3 substituted for the former reference to "all matters of agreement on
4 wages, hours, and other terms and conditions of employment" for brevity.

5 In subsection (f)(1) of this section, the reference to the "employee
6 organization" is substituted for the former reference to the "union" for
7 consistency within this subtitle.

8 The only other changes are in style.

9 Defined term: "Commission" § 14-101

10 **16-212. FUNDING OF COLLECTIVE BARGAINING AGREEMENTS.**

11 **(A) IN GENERAL.**

12 **THE COMMISSION SHALL INCLUDE IN ITS ANNUAL PROPOSED OPERATING**
13 **BUDGET SUBMITTED TO THE COUNTY EXECUTIVES OF MONTGOMERY COUNTY**
14 **AND PRINCE GEORGE'S COUNTY ADEQUATE FUNDING TO CARRY OUT A**
15 **COLLECTIVE BARGAINING AGREEMENT.**

16 **(B) REOPENING OF AGREEMENT.**

17 **UNLESS THE MONTGOMERY COUNTY COUNCIL AND PRINCE GEORGE'S**
18 **COUNTY COUNCIL APPROVE THE COMMISSION'S BUDGET SO AS TO APPROVE**
19 **THE TERMS OF THE COLLECTIVE BARGAINING AGREEMENT, THE COMMISSION**
20 **AND THE EMPLOYEE ORGANIZATION, WITHIN 5 DAYS AFTER THE ANNUAL JOINT**
21 **COUNTY COUNCIL BUDGET MEETING UNDER § 18-106 OF THIS ARTICLE, SHALL**
22 **REOPEN THE NEGOTIATED AGREEMENT AND BARGAIN WITH RESPECT TO THE**
23 **PROVISIONS OF THE AGREEMENT NOT APPROVED BY THE COUNTY COUNCILS.**

24 **(C) WHEN PROVISION OF AGREEMENT IS INVALIDATED OR NOT**
25 **FUNDED.**

26 **IF A PROVISION OF A COLLECTIVE BARGAINING AGREEMENT IS RULED**
27 **INVALID OR IS NOT FUNDED BY MONTGOMERY COUNTY OR PRINCE GEORGE'S**
28 **COUNTY, THE REMAINDER OF THE AGREEMENT REMAINS IN EFFECT UNLESS**
29 **REOPENED UNDER SUBSECTION (B) OF THIS SECTION.**

30 REVISOR'S NOTE: This section formerly was Art. 28, § 2-112.1(o) and (p).

1 In subsection (b) of this section, the references to the “annual” joint
2 county council “budget” meeting “under § 18–106 of this article” are
3 added for clarity.

4 The only other changes are in style.

5 Defined term: “Commission” § 14–101

6 **16–213. IMPAIRMENT OF RIGHTS AND RESPONSIBILITIES OF COMMISSION.**

7 **(A) PROHIBITED.**

8 **THIS SUBTITLE AND ANY AGREEMENT MADE UNDER IT MAY NOT IMPAIR**
9 **THE RIGHTS AND RESPONSIBILITIES OF THE COMMISSION TO:**

10 **(1) DETERMINE THE OVERALL BUDGET AND MISSION OF THE**
11 **COMMISSION;**

12 **(2) MAINTAIN AND IMPROVE THE EFFICIENCY AND**
13 **EFFECTIVENESS OF OPERATIONS;**

14 **(3) DETERMINE THE SERVICES TO BE RENDERED AND THE**
15 **OPERATIONS TO BE PERFORMED;**

16 **(4) DETERMINE THE LOCATION OF FACILITIES AND THE OVERALL**
17 **ORGANIZATIONAL STRUCTURE, METHODS, PROCESSES, MEANS, JOB**
18 **CLASSIFICATIONS, AND PERSONNEL BY WHICH OPERATIONS ARE TO BE**
19 **CONDUCTED;**

20 **(5) DIRECT AND SUPERVISE EMPLOYEES;**

21 **(6) HIRE, SELECT, AND ESTABLISH THE STANDARDS GOVERNING**
22 **PROMOTION OF EMPLOYEES AND CLASSIFY POSITIONS;**

23 **(7) RELIEVE EMPLOYEES FROM DUTIES BECAUSE OF LACK OF**
24 **WORK OR FUNDS OR WHEN THE COMMISSION DETERMINES CONTINUED WORK**
25 **WOULD BE INEFFICIENT OR NONPRODUCTIVE;**

26 **(8) TAKE ACTIONS TO CARRY OUT THE MISSIONS OF**
27 **GOVERNMENT IN EMERGENCY SITUATIONS;**

28 **(9) TRANSFER AND SCHEDULE EMPLOYEES;**

1 **(10) DETERMINE THE SIZE, GRADES, AND COMPOSITION OF THE**
2 **WORKFORCE;**

3 **(11) SET THE STANDARDS OF PRODUCTIVITY AND TECHNOLOGY;**

4 **(12) ESTABLISH EMPLOYEE PERFORMANCE STANDARDS AND**
5 **EVALUATE AND ASSIGN EMPLOYEES, EXCEPT THAT EVALUATION AND**
6 **ASSIGNMENT PROCEDURES SHALL BE A SUBJECT FOR BARGAINING;**

7 **(13) ESTABLISH AND IMPLEMENT SYSTEMS FOR AWARDING**
8 **OUTSTANDING SERVICE INCREMENTS, EXTRAORDINARY PERFORMANCE**
9 **AWARDS, AND OTHER MERIT AWARDS;**

10 **(14) INTRODUCE NEW OR IMPROVED TECHNOLOGY, RESEARCH,**
11 **DEVELOPMENT, AND SERVICES;**

12 **(15) CONTROL AND REGULATE THE USE OF MACHINERY,**
13 **EQUIPMENT, AND OTHER PROPERTY AND FACILITIES OF THE COMMISSION,**
14 **SUBJECT TO § 16-207(A)(6) OF THIS SUBTITLE;**

15 **(16) MAINTAIN INTERNAL SECURITY STANDARDS;**

16 **(17) CREATE, ALTER, COMBINE, CONTRACT OUT, OR ABOLISH ANY**
17 **JOB CLASSIFICATION, OPERATION, DEPARTMENT, UNIT, OR OTHER DIVISION OR**
18 **SERVICE;**

19 **(18) SUSPEND, DISCHARGE, OR OTHERWISE DISCIPLINE**
20 **EMPLOYEES FOR CAUSE, SUBJECT TO THE GRIEVANCE PROCEDURE SET FORTH**
21 **IN A COLLECTIVE BARGAINING AGREEMENT; AND**

22 **(19) ADOPT AND ENFORCE POLICIES AND REGULATIONS**
23 **NECESSARY TO CARRY OUT THIS SECTION AND ALL OTHER MANAGERIAL**
24 **FUNCTIONS THAT ARE NOT INCONSISTENT WITH FEDERAL OR STATE LAW OR**
25 **THE TERMS OF A COLLECTIVE BARGAINING AGREEMENT.**

26 **(B) LIMITATION ON OUTSOURCING WORK.**

27 **THE COMMISSION MAY NOT SIGN A CONTRACT THAT WILL DISPLACE**
28 **EMPLOYEES UNLESS THE COMMISSION GIVES WRITTEN NOTICE TO THE**
29 **CERTIFIED REPRESENTATIVE AT LEAST 90 DAYS BEFORE SIGNING THE**
30 **CONTRACT OR WITHIN A DIFFERENT PERIOD OF TIME AGREED TO BY THE**
31 **PARTIES.**

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 28, § 2-112.1(q)(1).

3 In subsection (a)(19) of this section, the word "adopt" is substituted for
4 the former word "[i]ssue" to conform to the terminology used throughout
5 this article.

6 Also in subsection (a)(19) of this section, the former reference to "this
7 article" is deleted as included in the reference to "State law".

8 Defined terms: "Commission" § 14-101
9 "State" § 14-101

10 **16-214. PROHIBITED ACTIVITIES OF COMMISSION.**

11 **(A) IN GENERAL.**

12 **THE COMMISSION MAY NOT:**

13 **(1) INTERFERE WITH, COERCE, OR RESTRAIN AN EMPLOYEE IN**
14 **THE EXERCISE OF THE EMPLOYEE'S RIGHTS UNDER THIS SUBTITLE;**

15 **(2) DOMINATE, INTERFERE WITH, OR ASSIST IN THE FORMATION,**
16 **ADMINISTRATION, OR EXISTENCE OF AN EMPLOYEE ORGANIZATION OR**
17 **CONTRIBUTE FINANCIAL ASSISTANCE OR OTHER SUPPORT TO AN EMPLOYEE**
18 **ORGANIZATION;**

19 **(3) ENCOURAGE OR DISCOURAGE MEMBERSHIP IN AN EMPLOYEE**
20 **ORGANIZATION BY DISCRIMINATING AGAINST THE EMPLOYEE THROUGH**
21 **HIRING, TENURE, PROMOTION OR DEMOTION, OR OTHER CONDITIONS OF**
22 **EMPLOYMENT;**

23 **(4) DISCHARGE OR DISCRIMINATE AGAINST AN EMPLOYEE**
24 **BECAUSE THE EMPLOYEE HAS SIGNED OR FILED AN AFFIDAVIT, PETITION, OR**
25 **COMPLAINT OR GIVEN ANY INFORMATION OR TESTIMONY UNDER THIS**
26 **SUBTITLE; OR**

27 **(5) REFUSE TO BARGAIN IN GOOD FAITH WITH AN EMPLOYEE**
28 **ORGANIZATION THAT IS CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE OF A**
29 **BARGAINING UNIT OVER ANY SUBJECT OF BARGAINING OR REFUSE TO**
30 **PARTICIPATE IN GOOD FAITH IN THE MEDIATION, FACT-FINDING, OR**
31 **GRIEVANCE PROCEDURE UNDER THIS SUBTITLE.**

32 **(B) NEGOTIATION DURING WORK HOURS NOT PROHIBITED.**

1 **SUBSECTION (A)(2) OF THIS SECTION DOES NOT PROHIBIT THE**
2 **COMMISSION FROM ALLOWING EMPLOYEES TO NEGOTIATE OR TO CONFER WITH**
3 **THE COMMISSION OVER LABOR MATTERS DURING WORK HOURS WITHOUT THE**
4 **LOSS OF PAY OR TIME.**

5 REVISOR'S NOTE: This section formerly was Art. 28, § 2–112.1(q)(2) and (3).

6 In subsection (a)(1) of this section, the reference to “the employee’s” rights
7 is added for clarity and consistency with § 16–215(a)(1) of this subtitle.

8 In subsection (a)(3) of this section, the reference to promotion “or
9 demotion” is added for clarity.

10 The only other changes are in style.

11 Defined term: “Commission” § 14–101

12 **16–215. PROHIBITED ACTIVITIES OF EMPLOYEE ORGANIZATION.**

13 **(A) IN GENERAL.**

14 **AN EMPLOYEE ORGANIZATION MAY NOT:**

15 **(1) INTERFERE WITH, COERCE, OR RESTRAIN AN EMPLOYEE IN**
16 **THE EXERCISE OF THE EMPLOYEE’S RIGHTS UNDER THIS SUBTITLE;**

17 **(2) CAUSE OR ATTEMPT TO CAUSE THE COMMISSION TO**
18 **DISCRIMINATE AGAINST AN EMPLOYEE IN THE EXERCISE OF THE EMPLOYEE’S**
19 **RIGHTS UNDER THIS SUBTITLE;**

20 **(3) COERCE, DISCIPLINE, FINE, OR ATTEMPT TO COERCE A**
21 **MEMBER OF AN EMPLOYEE ORGANIZATION AS PUNISHMENT OR REPRISAL;**

22 **(4) COERCE, DISCIPLINE, FINE, OR ATTEMPT TO COERCE A**
23 **MEMBER OF AN EMPLOYEE ORGANIZATION FOR THE PURPOSE OF IMPEDING**
24 **THE MEMBER’S WORK PERFORMANCE;**

25 **(5) REFUSE TO NEGOTIATE IN GOOD FAITH WITH THE**
26 **COMMISSION AS REQUIRED BY THIS SUBTITLE; OR**

27 **(6) FAIL OR REFUSE TO COOPERATE IN IMPASSE PROCEDURES**
28 **AND IMPASSE DECISIONS AS REQUIRED BY THIS SUBTITLE.**

1 **(B) UNFAIR LABOR CHARGE.**

2 **ONLY AN ELIGIBLE EMPLOYEE MAY FILE AN UNFAIR LABOR CHARGE**
3 **AGAINST AN EMPLOYEE ORGANIZATION FOR A VIOLATION OF SUBSECTION**
4 **(A)(3) OR (4) OF THIS SECTION.**

5 REVISOR'S NOTE: This section formerly was Art. 28, § 2-112.1(r).

6 The only changes are in style.

7 Defined term: "Commission" § 14-101

8 **16-216. RIGHTS OF COMMISSION EMPLOYEES.**

9 **(A) IN GENERAL.**

10 **EMPLOYEES OF THE COMMISSION SHALL RETAIN THE RIGHT TO:**

11 **(1) FORM, JOIN, OR ASSIST AN EMPLOYEE ORGANIZATION;**

12 **(2) BARGAIN COLLECTIVELY THROUGH A REPRESENTATIVE THAT**
13 **THE EMPLOYEES HAVE CHOSEN;**

14 **(3) ENGAGE IN OTHER LAWFUL CONCERTED ACTIVITIES FOR THE**
15 **PURPOSE OF COLLECTIVE BARGAINING; OR**

16 **(4) REFRAIN FROM AN ACTIVITY DESCRIBED IN THIS**
17 **SUBSECTION.**

18 **(B) GRIEVANCES ONLY THROUGH EXCLUSIVE REPRESENTATIVE.**

19 **AN EMPLOYEE MAY ONLY PRESENT A GRIEVANCE ARISING UNDER A**
20 **COLLECTIVE BARGAINING AGREEMENT TO THE COMMISSION THROUGH THE**
21 **EMPLOYEE ORGANIZATION CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE**
22 **FOR THE BARGAINING UNIT.**

23 REVISOR'S NOTE: This section formerly was Art. 28, § 2-112.1(s).

24 The only changes are in style.

25 Defined term: "Commission" § 14-101

26 **16-217. STRIKES.**

1 **(A) "STRIKE" DEFINED.**

2 **IN THIS SECTION, "STRIKE" MEANS THE ACTION OF AN EMPLOYEE, IN**
3 **CONCERT WITH OTHERS, TO:**

4 **(1) REFUSE TO REPORT TO WORK;**

5 **(2) STOP OR SLOW DOWN WORK; OR**

6 **(3) ABSTAIN WHOLLY OR PARTLY FROM THE FULL, FAITHFUL,**
7 **AND PROPER PERFORMANCE OF DUTIES WHEN THE OBJECT IS TO INDUCE,**
8 **INFLUENCE, OR COERCE A CHANGE IN THE TERMS, CONDITIONS, RIGHTS, OR**
9 **PRIVILEGES OF EMPLOYMENT.**

10 **(B) ENGAGING, INDUCING, OR RATIFYING OF STRIKE BY EMPLOYEE OR**
11 **EMPLOYEE ORGANIZATION PROHIBITED.**

12 **A COMMISSION EMPLOYEE, A GROUP OF COMMISSION EMPLOYEES, OR AN**
13 **EMPLOYEE ORGANIZATION MAY NOT ENGAGE IN, INDUCE, INITIATE, OR RATIFY**
14 **A STRIKE BY COMMISSION EMPLOYEES.**

15 **(C) ENJOINING OF STRIKE.**

16 **IF A STRIKE OCCURS, A COURT OF COMPETENT JURISDICTION MAY**
17 **ENJOIN THE STRIKE ON REQUEST OF THE COMMISSION.**

18 **(D) COMPENSATION DURING STRIKE PROHIBITED.**

19 **AN EMPLOYEE MAY NOT RECEIVE COMPENSATION FROM THE**
20 **COMMISSION WHILE THE EMPLOYEE IS ENGAGED IN A STRIKE.**

21 **(E) DISCIPLINARY ACTION.**

22 **(1) IF AN EMPLOYEE ENGAGES IN, INDUCES, INITIATES, OR**
23 **RATIFIES A STRIKE, THE COMMISSION MAY TAKE APPROPRIATE DISCIPLINARY**
24 **ACTION AGAINST THE EMPLOYEE, INCLUDING SUSPENSION OR DISCHARGE.**

25 **(2) IF DISCIPLINARY ACTION IS TAKEN AND APPEALED, THE**
26 **LABOR RELATIONS ADMINISTRATOR SHALL HOLD A HEARING ON THE**
27 **DISCIPLINARY ACTION AT WHICH THE COMMISSION, THE EMPLOYEE, AND ANY**
28 **INTERESTED EMPLOYEE ORGANIZATION MAY PRESENT EVIDENCE AND**
29 **ARGUMENT.**

1 **(F) DECERTIFICATION.**

2 **(1) IF AFTER A HEARING AN EMPLOYEE ORGANIZATION**
3 **CERTIFIED AS AN EXCLUSIVE REPRESENTATIVE IS FOUND BY THE LABOR**
4 **RELATIONS ADMINISTRATOR TO HAVE ASSISTED, AUTHORIZED, OR INITIATED A**
5 **STRIKE INVOLVING THE REFUSAL OF COMMISSION EMPLOYEES TO REPORT FOR**
6 **WORK, THE LABOR RELATIONS ADMINISTRATOR SHALL REVOKE THE**
7 **CERTIFICATION OF THE EMPLOYEE ORGANIZATION FOR 1 YEAR AFTER THE END**
8 **OF THE STRIKE.**

9 **(2) IF AFTER A HEARING AN EMPLOYEE ORGANIZATION**
10 **CERTIFIED AS AN EXCLUSIVE REPRESENTATIVE IS FOUND BY THE LABOR**
11 **RELATIONS ADMINISTRATOR TO HAVE ASSISTED, AUTHORIZED, OR INITIATED**
12 **ANY OTHER TYPE OF STRIKE, THE LABOR RELATIONS ADMINISTRATOR MAY**
13 **REVOKE THE CERTIFICATION OF THE EMPLOYEE ORGANIZATION FOR UP TO 1**
14 **YEAR AFTER THE END OF THE STRIKE.**

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 28, § 2-112.1(t).

17 In subsection (e)(2) of this section, the phrase "[i]f disciplinary action is
18 taken and appealed" is added for clarity.

19 The Land Use Article Review Committee notes, for consideration by the
20 General Assembly, that in subsection (d) of this section, the prohibition
21 against receiving "compensation" from the Commission during a strike
22 may be ambiguous. It is unclear whether the word "compensation" in this
23 context applies solely to "wages" or other direct monetary payment, or
24 also to "benefits". The General Assembly may wish to specify whether
25 this provision cuts off only wage payments or also benefits such as
26 eligibility for health insurance and pension accrual.

27 Defined term: "Commission" § 14-101

28 **16-218. UNFAIR LABOR PRACTICES.**

29 **(A) IN GENERAL.**

30 **IT IS AN UNFAIR LABOR PRACTICE FOR THE COMMISSION OR AN**
31 **EMPLOYEE ORGANIZATION CERTIFIED AS AN EXCLUSIVE REPRESENTATIVE OF A**
32 **BARGAINING UNIT TO VIOLATE THE RIGHTS OF A COMMISSION EMPLOYEE**
33 **UNDER THIS SUBTITLE.**

34 **(B) WRITTEN CHARGE.**

1 **WITHIN 30 BUSINESS DAYS AFTER THE ALLEGED VIOLATION, THE PARTY**
2 **CHARGING AN UNFAIR LABOR PRACTICE SHALL SUBMIT THE CHARGE IN**
3 **WRITING TO THE PARTY ALLEGED TO HAVE COMMITTED THE UNFAIR LABOR**
4 **PRACTICE.**

5 **(C) HEARING.**

6 **WITHIN 15 DAYS AFTER AN UNFAIR LABOR PRACTICE CHARGE IS**
7 **SUBMITTED, THE COMMISSION AND THE EMPLOYEE ORGANIZATION SHALL**
8 **REQUEST THE LABOR RELATIONS ADMINISTRATOR TO HOLD A HEARING AND**
9 **DETERMINE WHETHER AN UNFAIR LABOR PRACTICE HAS OCCURRED.**

10 **(D) ROLE OF LABOR RELATIONS ADMINISTRATOR.**

11 **THE LABOR RELATIONS ADMINISTRATOR SHALL:**

12 **(1) ISSUE A FINDING OF FACTS AND CONCLUSION OF LAW;**

13 **(2) ORDER THE PARTY FOUND TO HAVE COMMITTED THE UNFAIR**
14 **LABOR PRACTICE TO CEASE AND DESIST FROM THE PROHIBITED PRACTICE; AND**

15 **(3) ORDER ALL RELIEF NECESSARY TO REMEDY THE VIOLATION**
16 **OF THIS SUBTITLE AND TO OTHERWISE MAKE WHOLE ANY INJURED EMPLOYEE**
17 **OR EMPLOYEE ORGANIZATION OR THE COMMISSION, IF INJURED, INCLUDING**
18 **REINSTATEMENT, RESTITUTION, BACK PAY, OR OTHER REMEDY AS NECESSARY**
19 **TO RESTORE THE EMPLOYEE, THE EMPLOYEE ORGANIZATION, OR THE**
20 **COMMISSION TO THE POSITION OR CONDITION IT WOULD HAVE BEEN IN BUT**
21 **FOR THE VIOLATION.**

22 **(E) PROHIBITED DAMAGES.**

23 **THE LABOR RELATIONS ADMINISTRATOR MAY NOT ORDER PUNITIVE**
24 **DAMAGES, CONSEQUENTIAL DAMAGES, DAMAGES FOR EMOTIONAL DISTRESS,**
25 **PAIN, AND SUFFERING, OR ATTORNEY'S FEES FOR PURPOSES OF SATISFYING**
26 **SUBSECTION (D)(3) OF THIS SECTION.**

27 **(F) DISMISSAL OF CHARGES.**

28 **IF THE LABOR RELATIONS ADMINISTRATOR FINDS THAT THE PARTY**
29 **CHARGED HAS NOT COMMITTED AN UNFAIR LABOR PRACTICE, THE LABOR**
30 **RELATIONS ADMINISTRATOR SHALL ISSUE AN ORDER DISMISSING THE**
31 **CHARGES.**

1 **(G) JUDICIAL REVIEW OF ADMINISTRATOR’S DECISION.**

2 **(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**
3 **DECISION OF THE LABOR RELATIONS ADMINISTRATOR IS FINAL.**

4 **(2) A PARTY MAY SEEK JUDICIAL REVIEW OF THE DECISION ON**
5 **THE BASIS THAT THE DECISION IS ARBITRARY, CAPRICIOUS, OR EXCEEDS THE**
6 **AUTHORITY OF THE LABOR RELATIONS ADMINISTRATOR.**

7 **(H) COSTS.**

8 **THE COMMISSION AND THE EMPLOYEE ORGANIZATION SHALL SHARE**
9 **EQUALLY THE COSTS OF ANY UNFAIR LABOR PRACTICE PROCEEDING.**

10 **(I) COURT ORDER.**

11 **IF THE PARTY FOUND TO HAVE COMMITTED THE UNFAIR LABOR**
12 **PRACTICE FAILS OR REFUSES TO COMPLY WITH THE DECISION OF THE LABOR**
13 **RELATIONS ADMINISTRATOR WHOLLY OR PARTLY, THE CHARGING PARTY MAY**
14 **FILE AN ACTION TO ENFORCE THE ORDER WITH THE CIRCUIT COURT OF THE**
15 **COUNTY IN WHICH ANY OF THE INVOLVED EMPLOYEES WORK.**

16 REVISOR’S NOTE: This section is new language derived without substantive
17 change from former Art. 28, § 2–112.1(u).

18 In subsection (d)(2) of this section, the reference to the party “found to
19 have committed” is substituted for the former reference to the party
20 “charged with” for accuracy.

21 In subsection (d)(3) of this section, the reference to “other remedy” is
22 substituted for the former reference to “injunctions” because a labor
23 relations administrator may not issue an injunction; only a judge may
24 issue an injunction.

25 In subsection (f) of this section, the reference to the party charged “has
26 not committed an unfair labor practice” is substituted for the former
27 reference to the party charged “with the unfair labor practice has not
28 committed any prohibited practice” for brevity.

29 In subsection (g)(2) of this section, the reference to the authority of the
30 “labor relations administrator” is added for clarity.

31 Also in subsection (g)(2) of this section, the reference to “seek[ing] judicial
32 review” is substituted for the former reference to “appealed” for accuracy.

1 The Land Use Article Review Committee notes, for consideration by the
2 General Assembly, that any further judicial review of an unfair labor
3 practice in the State courts, such as review by the Court of Special
4 Appeals, would require specific statutory authorization. The General
5 Assembly may wish to consider adding specific language to this section
6 authorizing such a path for additional judicial review.

7 Defined terms: "Commission" § 14-101
8 "County" § 14-101

9 **16-219. EXPRESSION OF PERSONAL VIEW, ARGUMENT, OPINION, OR**
10 **STATEMENT.**

11 **(A) APPLICABILITY OF SECTION.**

12 **THIS SECTION APPLIES TO THE EXPRESSION OF ANY PERSONAL VIEW,**
13 **ARGUMENT, OR OPINION OR THE MAKING OF ANY PERSONAL STATEMENT THAT:**

14 **(1) (I) PUBLICIZES THE FACT OF A REPRESENTATIONAL**
15 **ELECTION AND ENCOURAGES EMPLOYEES TO EXERCISE THEIR RIGHT TO VOTE**
16 **IN THE ELECTION;**

17 **(II) CORRECTS THE RECORD WITH RESPECT TO ANY FALSE**
18 **OR MISLEADING STATEMENT MADE BY ANY PERSON; OR**

19 **(III) INFORMS EMPLOYEES OF THE COMMISSION'S POLICY**
20 **RELATING TO LABOR-MANAGEMENT RELATIONS AND REPRESENTATION;**

21 **(2) DOES NOT CONTAIN A THREAT OF REPRISAL OR FORCE, OR A**
22 **PROMISE OF BENEFIT; AND**

23 **(3) WAS NOT COERCED.**

24 **(B) EFFECT.**

25 **THE EXPRESSION OF ANY PERSONAL VIEW, ARGUMENT, OPINION, OR**
26 **STATEMENT DESCRIBED IN SUBSECTION (A) OF THIS SECTION DOES NOT**
27 **CONSTITUTE:**

28 **(1) AN UNFAIR LABOR PRACTICE UNDER THIS SUBTITLE; OR**

29 **(2) GROUNDS FOR SETTING ASIDE ANY ELECTION CONDUCTED**
30 **UNDER THIS SUBTITLE.**

1 REVISOR'S NOTE: This section formerly was Art. 28, § 2–112.1(v).

2 The only changes are in style.

3 Defined terms: “Commission” § 14–101

4 “Person” § 14–101

5 **SUBTITLE 3. COLLECTIVE BARGAINING — POLICE OFFICERS.**

6 **16–301. DEFINITIONS.**

7 **(A) IN GENERAL.**

8 **IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
9 **INDICATED.**

10 REVISOR'S NOTE: This subsection formerly was Art. 28, § 5–114.1(a)(1).

11 The only change is in style.

12 **(B) ARBITRATION.**

13 **“ARBITRATION” MEANS A PROCEDURE BY WHICH THE PARTIES INVOLVED**
14 **IN A GRIEVANCE SUBMIT THEIR DIFFERENCES TO AN IMPARTIAL THIRD PARTY**
15 **FOR A FINAL AND BINDING DECISION.**

16 REVISOR'S NOTE: This subsection formerly was Art. 28, § 5–114.1(a)(4).

17 The former reference to a grievance “dispute” is deleted as redundant in
18 light of the use of the defined term “grievance”.

19 The only other changes are in style.

20 Defined term: “Grievance” § 16–301

21 **(C) BARGAINING UNIT.**

22 **“BARGAINING UNIT” MEANS ALL EMPLOYEES EXCEPT A CONFIDENTIAL**
23 **EMPLOYEE.**

24 REVISOR'S NOTE: This subsection formerly was Art. 28, § 5–114.1(a)(5).

25 The former reference to employees “who are ranked as sergeant or below
26 the rank of sergeant” is deleted as redundant in light of the use of the
27 defined term “employee[s]”.

1 The only other changes are in style.

2 Defined terms: “Confidential employee” § 16–301
3 “Employee” § 16–301

4 **(D) COLLECTIVE BARGAINING.**

5 **“COLLECTIVE BARGAINING” MEANS THE PERFORMANCE BY THE**
6 **EXCLUSIVE REPRESENTATIVE OF THE BARGAINING UNIT AND THE COMMISSION**
7 **OF THEIR MUTUAL OBLIGATIONS TO NEGOTIATE IN GOOD FAITH WITH RESPECT**
8 **TO WAGES, HOURS, AND OTHER TERMS AND CONDITIONS OF EMPLOYMENT.**

9 REVISOR’S NOTE: This subsection is new language derived without
10 substantive change from former Art. 28, § 5–114.1(a)(6).

11 The reference to the performance by the “exclusive representative of the
12 bargaining unit” of certain obligations is substituted for the former
13 reference to the performance by the “certified employee organization
14 through its designated representative” of certain obligations for clarity.

15 Defined terms: “Bargaining unit” § 16–301
16 “Commission” § 14–101
17 “Exclusive representative” § 16–301

18 **(E) COLLECTIVE BARGAINING AGREEMENT.**

19 **“COLLECTIVE BARGAINING AGREEMENT” MEANS A WRITTEN CONTRACT**
20 **BETWEEN THE COMMISSION AND AN EMPLOYEE ORGANIZATION IMPLEMENTING**
21 **COLLECTIVE BARGAINING.**

22 REVISOR’S NOTE: This subsection formerly was Art. 28, § 5–114.1(a)(3).

23 The phrase “implementing collective bargaining” is added for clarity.

24 The only other changes are in style.

25 Defined terms: “Collective bargaining” § 16–301
26 “Commission” § 14–101
27 “Employee organization” § 16–301

28 **(F) CONFIDENTIAL EMPLOYEE.**

29 **“CONFIDENTIAL EMPLOYEE” MEANS AN EMPLOYEE WHO:**

1 **(1) ACTS IN A CONFIDENTIAL CAPACITY AND FORMULATES AND**
 2 **EFFECTUATES COMMISSION POLICIES THAT RELATE TO COLLECTIVE**
 3 **BARGAINING WITH EMPLOYEES; OR**

4 **(2) HAS ACCESS TO CONFIDENTIAL INFORMATION NOT**
 5 **GENERALLY AVAILABLE TO EMPLOYEES REGARDING THE FORMULATION AND**
 6 **EFFECTUATION OF COMMISSION POLICIES THAT RELATE TO COLLECTIVE**
 7 **BARGAINING.**

8 REVISOR'S NOTE: This subsection is new language derived without
 9 substantive change from former Art. 28, § 5-114.1(a)(8).

10 Defined terms: "Collective bargaining" § 16-301

11 "Commission" § 14-101

12 "Employee" § 16-301

13 **(G) EMPLOYEE.**

14 **"EMPLOYEE" MEANS A POLICE OFFICER WHO IS RANKED AS A SERGEANT**
 15 **OR BELOW EMPLOYED BY THE COMMISSION.**

16 REVISOR'S NOTE: This subsection is new language derived without
 17 substantive change from former Art. 28, § 5-114.1(a)(9).

18 Defined term: "Commission" § 14-101

19 **(H) EMPLOYEE ORGANIZATION.**

20 **"EMPLOYEE ORGANIZATION" MEANS AN ORGANIZATION THAT HAS AS ONE**
 21 **OF ITS PRIMARY PURPOSES REPRESENTING EMPLOYEES IN COLLECTIVE**
 22 **BARGAINING.**

23 REVISOR'S NOTE: This subsection is new language derived without
 24 substantive change from former Art. 28, § 5-114.1(a)(10).

25 The former reference to "law enforcement" employees is deleted as
 26 included in the definition of "employee".

27 Defined terms: "Collective bargaining" § 16-301

28 "Employee" § 16-301

29 **(I) EXCLUSIVE REPRESENTATIVE.**

1 **“EXCLUSIVE REPRESENTATIVE” MEANS AN EMPLOYEE ORGANIZATION**
2 **THAT HAS BEEN CERTIFIED BY THE LABOR COMMISSIONER AS REPRESENTING**
3 **THE EMPLOYEES IN THE BARGAINING UNIT.**

4 REVISOR’S NOTE: This subsection formerly was Art. 28, § 5–114.1(a)(11).

5 The only changes are in style.

6 Defined terms: “Bargaining unit agreement” § 16–301

7 “Employee” § 16–301

8 “Employee organization” § 16–301

9 “Labor Commissioner” § 16–301

10 **(J) GRIEVANCE.**

11 **“GRIEVANCE” MEANS A DISPUTE CONCERNING THE APPLICATION OR**
12 **INTERPRETATION OF THE TERMS OF A COLLECTIVE BARGAINING AGREEMENT**
13 **OR THE REGULATIONS OF THE COMMISSION THAT RELATE TO TERMS AND**
14 **CONDITIONS OF EMPLOYMENT.**

15 REVISOR’S NOTE: This subsection formerly was Art. 28, § 5–114.1(a)(12).

16 The reference to regulations “that relate to terms and conditions of
17 employment” is added for clarity.

18 As to the deletion of the former reference to “rules”, *see* General Revisor’s
19 Note to article.

20 The only other changes are in style.

21 Defined terms: “Collective bargaining agreement” § 16–301

22 “Commission” § 14–101

23 **(K) IMPASSE.**

24 **“IMPASSE” MEANS FAILURE OF THE COMMISSION AND AN EXCLUSIVE**
25 **REPRESENTATIVE TO ENTER INTO A COLLECTIVE BARGAINING AGREEMENT AT**
26 **LEAST 30 DAYS BEFORE THE DAY ON WHICH THE COMMISSION’S BUDGET IS DUE**
27 **FOR SUBMISSION TO THE MONTGOMERY COUNTY COUNCIL AND THE PRINCE**
28 **GEORGE’S COUNTY COUNCIL.**

29 REVISOR’S NOTE: This subsection is new language derived without
30 substantive change from former Art. 28, § 5–114.1(a)(13).

1 The reference to “enter[ing] into a collective bargaining agreement” is
2 substituted for the former reference to “achiev[ing] agreement” for clarity.

3 Defined terms: “Collective bargaining agreement” § 16–301

4 “Commission” § 14–101

5 “Exclusive representative” § 16–301

6 **(L) LABOR COMMISSIONER.**

7 **“LABOR COMMISSIONER” MEANS THE COMMISSIONER OF LABOR AND**
8 **INDUSTRY OR THE COMMISSIONER’S DESIGNEE.**

9 REVISOR’S NOTE: This subsection is new language derived without
10 substantive change from former Art. 28, § 5–114.1(a)(7).

11 The defined term “Labor Commissioner” is substituted for the former
12 defined term “Commissioner” to avoid conflict with the term
13 “commissioner” as defined for this division. *See* § 14–101 of this article.

14 The former reference to the “State” Commissioner of Labor and Industry
15 is deleted to use the proper name of the position.

16 **(M) MEDIATION.**

17 **“MEDIATION” MEANS ASSISTANCE BY AN IMPARTIAL THIRD PARTY TO**
18 **RECONCILE A DISPUTE ARISING OUT OF COLLECTIVE BARGAINING THROUGH**
19 **INTERPRETATION, SUGGESTION, AND ADVICE.**

20 REVISOR’S NOTE: This subsection formerly was Art. 28, § 5–114.1(a)(15).

21 The only change is in style.

22 Defined term: “Collective bargaining” § 16–301

23 **(N) STRIKE.**

24 **“STRIKE” MEANS THE ACTION:**

25 **(1) OF AN EMPLOYEE, IN CONCERT WITH OTHERS, TO:**

26 **(I) REFUSE TO REPORT TO WORK;**

27 **(II) BE WILLFULLY ABSENT FROM THE EMPLOYEE’S**
28 **POSITION;**

1 **(III) STOP OR SLOW DOWN WORK; OR**

2 **(IV) ABSTAIN WHOLLY OR PARTIALLY FROM THE PROPER**
 3 **PERFORMANCE OF DUTIES; AND**

4 **(2) TAKEN FOR THE PURPOSE OF INDUCING, INFLUENCING, OR**
 5 **COERCING A CHANGE IN WAGES, HOURS, OR OTHER TERMS AND CONDITIONS OF**
 6 **EMPLOYMENT.**

7 REVISOR'S NOTE: This subsection is new language derived without
 8 substantive change from former Art. 28, § 5-114.1(a)(16).

9 In paragraph (1)(i) of this subsection, the reference to "slow[ing] down"
 10 work is added for clarity.

11 Defined term: "Employee" § 16-301

12 REVISOR'S NOTE TO SECTION:

13 Former Art. 28, § 5-114.1(a)(2), which defined "MNCPPC" to mean the
 14 Maryland-National Capital Park and Planning Commission, is revised in
 15 § 14-101 of this article.

16 Former Art. 28, § 5-114.1(a)(17), which defined "[s]upervisory employee"
 17 to mean an employee who serves at a certain rank, is deleted because the
 18 term is not used in this subtitle.

19 **16-302. EMPLOYEE ORGANIZATION AS EXCLUSIVE REPRESENTATIVE OF**
 20 **BARGAINING UNIT.**

21 **(A) IN GENERAL.**

22 **THE COMMISSION SHALL RECOGNIZE THE RIGHT OF AN EMPLOYEE**
 23 **ORGANIZATION, CERTIFIED UNDER THIS SUBTITLE AS THE EXCLUSIVE**
 24 **REPRESENTATIVE OF THE BARGAINING UNIT, TO REPRESENT THE EMPLOYEES**
 25 **IN THE BARGAINING UNIT IN COLLECTIVE BARGAINING AND IN THE**
 26 **SETTLEMENT OF GRIEVANCES.**

27 **(B) PURPOSE OF EMPLOYEE ORGANIZATION.**

28 **AN EMPLOYEE ORGANIZATION CERTIFIED AS THE EXCLUSIVE**
 29 **REPRESENTATIVE OF A BARGAINING UNIT SHALL:**

30 **(1) SERVE AS THE SOLE BARGAINING AGENT FOR THE**
 31 **BARGAINING UNIT IN COLLECTIVE BARGAINING; AND**

1 **(2) REPRESENT ALL EMPLOYEES IN THE BARGAINING UNIT**
 2 **FAIRLY, WITHOUT DISCRIMINATION, AND WITHOUT REGARD TO WHETHER AN**
 3 **EMPLOYEE IS A MEMBER OF THE EMPLOYEE ORGANIZATION.**

4 REVISOR'S NOTE: This section is new language derived without substantive
 5 change from former Art. 28, § 5-114.1(d)(1) and (2).

6 In subsection (a) of this section, the references to an employee
 7 organization certified "under this subtitle" as the exclusive representative
 8 "of the bargaining unit" to represent the employees "in the bargaining
 9 unit" are added for clarity.

10 Also in subsection (a) of this section, the references to the Commission
 11 "recogniz[ing]" the right "of" an employee organization to represent
 12 employees are substituted for the former references to the Commission
 13 "extend[ing]" the right "to" the employee organization for clarity.

14 In the introductory language to subsection (b) of this section, the
 15 reference to the exclusive representative "of a bargaining unit" is added
 16 for clarity. Similarly, in subsection (b)(2) of this section, the reference to
 17 employees "in the bargaining unit" is added for clarity.

18 In subsection (b)(1) of this section, the references to serving as the "sole"
 19 bargaining agent for the bargaining unit "in collective bargaining" are
 20 added for clarity.

21 In subsection (b)(2) of this section, the former reference to "public"
 22 employees is deleted for accuracy and consistency within this subtitle.

23 Defined terms: "Bargaining unit" § 16-301

24 "Collective bargaining" § 16-301

25 "Commission" § 14-101

26 "Employee" § 16-301

27 "Employee organization" § 16-301

28 "Exclusive representative" § 16-301

29 "Grievance" § 16-301

30 **16-303. LABOR RELATIONS ADMINISTRATOR.**

31 **(A) INITIAL APPOINTMENT.**

32 **(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**
 33 **COMMISSION AND THE EXCLUSIVE REPRESENTATIVE JOINTLY SHALL APPOINT**
 34 **AN EXPERIENCED NEUTRAL PARTY, FROM A LIST OF FIVE NOMINEES ON WHOM**

1 THEY HAVE AGREED, TO SERVE AS LABOR RELATIONS ADMINISTRATOR FOR A
2 2-YEAR TERM.

3 (2) IF AN EXCLUSIVE REPRESENTATIVE HAS NOT BEEN
4 CERTIFIED TO REPRESENT EMPLOYEES OF THE BARGAINING UNIT, THE
5 COMMISSION SHALL APPOINT THE LABOR RELATIONS ADMINISTRATOR FOR A
6 TERM NOT EXCEEDING 1 YEAR.

7 (B) REAPPOINTMENT.

8 A LABOR RELATIONS ADMINISTRATOR:

9 (1) IS ELIGIBLE FOR REAPPOINTMENT; AND

10 (2) MAY BE THE SAME INDIVIDUAL AS THE LABOR RELATIONS
11 ADMINISTRATOR APPOINTED UNDER § 16-203 OF THIS TITLE.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 28, § 5-114.1(a)(14) and (b)(1).

14 Subsection (a)(1) of this section is revised to incorporate the substance of
15 the definition of "labor relations administrator" contained in former Art.
16 28, § 5-114.1(a)(14) since the former law stated a qualification for
17 appointment as a labor relations administrator rather than a definition of
18 the term.

19 In subsection (a)(1) of this section, the phrase "[s]ubject to paragraph (2)
20 of this subsection" is added to reflect that a condition to the appointment
21 of a labor relations administrator as provided in subsection (a)(1) of this
22 section is stated in subsection (a)(2).

23 Also in subsection (a)(1) of this section, the requirement to "jointly"
24 appoint an experienced neutral party is added for clarity.

25 In subsection (b)(2) of this section, the reference to an "individual" is
26 substituted for the former reference to a "person" because only a human
27 being, and not the other entities included in the defined term "person",
28 can serve as a labor relations administrator.

29 The Land Use Article Review Committee notes, for consideration by the
30 General Assembly, that in subsection (a)(1) of this section, there does not
31 seem to be a procedure for appointment of a neutral party as labor
32 relations administrator if the Commission and the exclusive
33 representative are unable to agree. The General Assembly may wish to
34 consider adopting such a procedure.

1 Defined terms: "Bargaining unit" § 16-301

2 "Commission" § 14-101

3 "Employee" § 16-301

4 "Exclusive representative" § 16-301

5 **16-304. CONSTITUTION, BYLAWS, AND ANNUAL REPORT OF EMPLOYEE**
6 **ORGANIZATION.**

7 **(A) DUTY TO FILE CONSTITUTION AND BYLAWS.**

8 AN EMPLOYEE ORGANIZATION THAT IS CERTIFIED OR THAT SEEKS
9 CERTIFICATION AS AN EXCLUSIVE REPRESENTATIVE UNDER THIS SUBTITLE
10 SHALL:

11 **(1) FILE WITH THE COMMISSION AND THE LABOR**
12 **COMMISSIONER A COPY OF THE EMPLOYEE ORGANIZATION'S CONSTITUTION**
13 **AND BYLAWS; AND**

14 **(2) REPORT PROMPTLY ANY CHANGE IN THE CONSTITUTION OR**
15 **BYLAWS.**

16 **(B) CONTENTS OF CONSTITUTION AND BYLAWS.**

17 **THE CONSTITUTION OR BYLAWS SHALL INCLUDE:**

18 **(1) A PLEDGE THAT THE EMPLOYEE ORGANIZATION ACCEPTS**
19 **MEMBERS WITHOUT REGARD TO AGE, RACE, GENDER, RELIGION, MARITAL**
20 **STATUS, OR NATIONAL ORIGIN;**

21 **(2) THE RIGHT OF MEMBERS TO PARTICIPATE IN THE AFFAIRS OF**
22 **THE EMPLOYEE ORGANIZATION;**

23 **(3) PROCEDURES FOR PERIODIC ELECTIONS OF OFFICERS BY**
24 **SECRET BALLOT;**

25 **(4) FAIR PROCEDURES GOVERNING DISCIPLINARY ACTIONS;**

26 **(5) PROCEDURES FOR THE ACCURATE ACCOUNTING OF INCOME**
27 **AND EXPENDITURES;**

28 **(6) A REQUIREMENT THAT AN ANNUAL FINANCIAL REPORT BE**
29 **PRODUCED; AND**

1 **(7) THE RIGHT OF MEMBERS TO INSPECT THE EMPLOYEE**
2 **ORGANIZATION'S ACCOUNTS.**

3 **(C) DUTY TO FILE ANNUAL REPORT.**

4 **AN EMPLOYEE ORGANIZATION SHALL FILE AN ANNUAL REPORT WITH THE**
5 **COMMISSION AND THE LABOR COMMISSIONER.**

6 **(D) CONTENTS OF ANNUAL REPORT.**

7 **THE ANNUAL REPORT SHALL INCLUDE A FINANCIAL REPORT THAT:**

8 **(1) IS SIGNED BY THE PRESIDENT AND TREASURER OR**
9 **CORRESPONDING PRINCIPAL OFFICERS OF THE EMPLOYEE ORGANIZATION; AND**

10 **(2) CONTAINS INFORMATION IN DETAIL SUFFICIENT TO**
11 **ACCURATELY DISCLOSE THE FINANCIAL CONDITION AND OPERATIONS OF THE**
12 **EMPLOYEE ORGANIZATION.**

13 **(E) FAILURE TO FILE.**

14 **AN EMPLOYEE ORGANIZATION THAT HAS NOT FILED AN ANNUAL REPORT**
15 **OR THE CONSTITUTION AND BYLAWS OF WHICH DO NOT CONFORM TO THE**
16 **REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION MAY NOT BE OR REMAIN**
17 **CERTIFIED AS AN EXCLUSIVE REPRESENTATIVE UNDER THIS SUBTITLE.**

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 28, § 5-114.1(d)(3) through (6).

20 In the introductory language to subsection (a) of this section, the
21 reference to certification as an exclusive representative "under this
22 subtitle" is added for clarity.

23 Subsection (a)(2) is revised in the active voice to clarify that it is the duty
24 of an employee organization to report any change in the constitution or
25 bylaws.

26 In subsection (a)(2) of this section, the former reference to any
27 "amendments" is deleted as included in the reference to any "change".

28 In the introductory language to subsection (b) of this section, the former
29 reference to the constitution or bylaws "of every employee organization" is
30 deleted as implicit.

1 In subsection (b)(1) of this section, the word “gender” is substituted for
2 the former word “sex” for clarity.

3 In subsection (b)(2) of this section, the former reference to “individual”
4 members is deleted as implicit.

5 In subsection (b)(3) of this section, the reference to “procedures for”
6 periodic elections is added for clarity and accuracy.

7 Also in subsection (b)(3) of this section, the reference to elections “of
8 officers” is added for clarity.

9 In subsection (b)(4) of this section, the reference to procedures
10 “governing” disciplinary actions is substituted for the former reference to
11 procedures “in” disciplinary actions for clarity.

12 Also in subsection (b)(4) of this section, the former reference to
13 “equitable” procedures is deleted as unnecessary in light of the reference
14 to “fair” procedures.

15 In subsection (b)(5) of this section, the reference to “procedures for the
16 accurate accounting” of income and expenditures is substituted for the
17 former reference to “[a]ccurate accounts” of income and expenditures to
18 clarify that “procedures” and not “accounts” must be included in an
19 employee organization’s constitution or bylaws.

20 In subsection (b)(6) of this section, the references to “a requirement that”
21 an annual financial report “be produced” are added for clarity and
22 accuracy.

23 Subsection (b)(7) of this section is revised as a requirement that an
24 employee organization’s constitution or bylaws include the “right of
25 members to inspect the employee organization’s accounts” for consistency
26 within subsection (b).

27 In subsection (e) of this section, the reference to being or remaining
28 certified “as an exclusive representative under this subtitle” is
29 substituted for the former reference to being or remaining certified “for
30 the purpose of negotiating with the MNCPPC” for clarity and consistency
31 within this subtitle. *See, e.g.,* § 16–302 of this subtitle.

32 The Land Use Article Review Committee notes, for consideration by the
33 General Assembly, that it may be helpful to compare the
34 nondiscrimination standards in subsection (b)(1) of this section with
35 similar nondiscrimination standards required under other State laws in
36 order to harmonize them. *See also* Revisor’s Note to § 16–204 of this title.

1 Defined terms: "Commission" § 14-101
2 "Employee organization" § 16-301
3 "Exclusive representative" § 16-301
4 "Labor Commissioner" § 16-301

5 **16-305. ELECTION OF EXCLUSIVE REPRESENTATIVE.**

6 **(A) SUBMISSION OF PETITION.**

7 **(1) A PETITION FOR AN ELECTION OF AN EXCLUSIVE**
8 **REPRESENTATIVE MAY BE SUBMITTED TO THE LABOR COMMISSIONER BY:**

9 **(I) AN EMPLOYEE ORGANIZATION THAT DEMONSTRATES**
10 **THAT AT LEAST 30% OF THE ELIGIBLE EMPLOYEES IN THE BARGAINING UNIT**
11 **SUPPORT REPRESENTATION BY AN EXCLUSIVE REPRESENTATIVE FOR**
12 **COLLECTIVE BARGAINING;**

13 **(II) AN EMPLOYEE, A GROUP OF EMPLOYEES, OR AN**
14 **EMPLOYEE ORGANIZATION THAT DEMONSTRATES THAT AT LEAST 35% OF THE**
15 **ELIGIBLE EMPLOYEES IN THE BARGAINING UNIT CERTIFY THAT A MAJORITY OF**
16 **THE ELIGIBLE EMPLOYEES IN THE BARGAINING UNIT NO LONGER SUPPORT THE**
17 **CURRENT EXCLUSIVE REPRESENTATIVE; OR**

18 **(III) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**
19 **COMMISSION, DEMONSTRATING THAT ONE OR MORE EMPLOYEE**
20 **ORGANIZATIONS HAVE PRESENTED TO IT A CLAIM, SUPPORTED BY**
21 **SUBSTANTIAL PROOF, TO BE CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE.**

22 **(2) THE LABOR COMMISSIONER MAY ACCEPT A PETITION FROM**
23 **THE COMMISSION ONLY IF THE LABOR COMMISSIONER FINDS, ON**
24 **INVESTIGATION OF THE PETITION, THAT A VALID QUESTION OF**
25 **REPRESENTATION EXISTS.**

26 **(B) CONDUCT OF ELECTIONS.**

27 **ELECTIONS SHALL BE CONDUCTED BY:**

28 **(1) THE LABOR COMMISSIONER; AND**

29 **(2) SECRET BALLOT.**

30 **(C) CONTENTS OF BALLOT.**

31 **EACH BALLOT SHALL CONTAIN:**

1 **(1) THE NAME OF EACH EMPLOYEE ORGANIZATION THAT SUBMITS**
2 **A VALID PETITION;**

3 **(2) THE NAME OF ANY OTHER EMPLOYEE ORGANIZATION**
4 **SUPPORTED BY A VALID PETITION SIGNED BY MORE THAN 10% OF THE**
5 **ELIGIBLE EMPLOYEES IN THE BARGAINING UNIT; AND**

6 **(3) AN OPTION FOR NO REPRESENTATION.**

7 **(D) RUNOFF ELECTION.**

8 **(1) IF NONE OF THE CHOICES ON THE BALLOT RECEIVES A**
9 **MAJORITY OF THE VOTES CAST, THE LABOR COMMISSIONER SHALL CONDUCT A**
10 **RUNOFF ELECTION.**

11 **(2) IN THE RUNOFF ELECTION, THE BALLOT SHALL CONTAIN THE**
12 **TWO CHOICES RECEIVING THE HIGHEST NUMBER OF VOTES CAST IN THE**
13 **INITIAL ELECTION.**

14 **(E) CERTIFICATION AS EXCLUSIVE REPRESENTATIVE.**

15 **(1) AFTER THE ELECTION, THE LABOR COMMISSIONER SHALL**
16 **CERTIFY THE EMPLOYEE ORGANIZATION THAT RECEIVED A MAJORITY OF THE**
17 **VOTES CAST AS THE EXCLUSIVE REPRESENTATIVE.**

18 **(2) AN EMPLOYEE ORGANIZATION MAY NOT BE CERTIFIED AS AN**
19 **EXCLUSIVE REPRESENTATIVE EXCEPT AS PROVIDED IN THIS SUBTITLE.**

20 **(F) WHEN ELECTIONS MAY NOT BE CONDUCTED.**

21 **ELECTIONS MAY NOT BE CONDUCTED WITHIN 2 YEARS AFTER A VALID**
22 **ELECTION HELD UNDER THIS SECTION.**

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 28, § 5-114.1(c)(2) through (6).

25 In the introductory language to subsection (a) of this section, the
26 reference to an election "of an exclusive representative" is added for
27 clarity.

28 Also in the introductory language to subsection (a) of this section, the
29 reference to submitting a petition "to the Labor Commissioner" is added
30 for clarity.

1 In subsection (a)(1)(i) and (ii) of this section, the references to “at least” a
2 certain percentage of employees are added to clarify that a minimum, and
3 not an exact, percentage of employees is required.

4 Also in subsection (a)(1)(i) and (ii) of this section, the references to
5 “eligible” employees are added to clarify that only employees who meet
6 certain criteria may be considered for the purposes of subsection (a)(1).

7 In subsection (a)(1)(i) of this section, the defined term “employee[s]” is
8 substituted for the former reference to “police officers” for consistency
9 within this subtitle.

10 Also in subsection (a)(1)(i) of this section, the references to “support[ing]
11 representation” is substituted for the former reference to “wish[ing] to be
12 represented” for clarity.

13 In subsection (a)(1)(ii) of this section, the references to the employees “in
14 the bargaining unit” are added for clarity.

15 Also in subsection (a)(1)(ii) of this section, the reference to a majority of
16 employees no longer “support[ing]” the exclusive representative is
17 substituted for the former reference to the exclusive representative no
18 longer “[being] ... the representative of” a majority of employees for
19 consistency within this subsection.

20 Also in subsection (a)(1)(ii) of this section, the reference to the “current”
21 exclusive representative is substituted for the former reference to the
22 “designated” exclusive representative for clarity.

23 In subsection (c)(2) of this section, the reference to 10% of “the eligible
24 employees in” the bargaining unit is added for clarity and accuracy.

25 Also in subsection (c)(2) of this section, the reference to an employee
26 organization “supported by” a valid petition is substituted for the former
27 reference to an employee organization “designated on” a valid petition for
28 consistency with subsection (a) of this section.

29 Also in subsection (c)(2) of this section, the former reference to
30 “organizations” is deleted in light of the reference to an “organization”
31 and Art. 1, § 8, which provides that the singular generally includes the
32 plural.

33 Subsection (d)(1) of this section is revised in the active voice to clarify
34 that it is the duty of the Labor Commissioner to conduct a runoff election.
35 This revision is consistent with subsection (b)(1) of this section, which
36 requires all elections to be conducted by the Labor Commissioner.

1 In subsection (d)(2) of this section, the reference to the “initial” election is
2 added for clarity.

3 Also in subsection (d)(2) of this section, the requirement that the ballot
4 “contain” two choices is substituted for the former reference to the ballot
5 “providing for a selection between” two choices for brevity.

6 Also in subsection (d)(2) of this section, the reference to “votes” cast is
7 substituted for the former reference to “ballots” cast for consistency with
8 subsections (d)(1) and (e)(1) of this section.

9 In subsection (e)(1) of this section, the phrase “[a]fter the election” is
10 added for clarity. Correspondingly, the former reference to votes cast “in
11 an election” is deleted as surplusage.

12 Also in subsection (e)(1) of this section, the former reference to the
13 exclusive representative “for collective bargaining purposes” is deleted as
14 implicit.

15 In subsection (f) of this section, the prohibition on elections being
16 conducted “within 2 years after a valid election held under this section” is
17 substituted for the former prohibition on elections being conducted “if a
18 valid election has been held within the preceding 2 years” for clarity.

19 Former Art. 28, § 5–114.1(c)(1), which required that an election for an
20 exclusive representative be conducted by the Commissioner of Labor and
21 Industry after July 1, 1986, is deleted as obsolete. This election was
22 conducted by the Labor Commissioner on July 31, 1986.

23 Defined terms: “Bargaining unit” § 16–301

24 “Collective bargaining” § 16–301

25 “Commission” § 14–101

26 “Employee” § 16–301

27 “Employee organization” § 16–301

28 “Exclusive representative” § 16–301

29 “Labor Commissioner” § 16–301

30 **16–306. DISPUTE OVER ELIGIBILITY OF EMPLOYEE IN BARGAINING UNIT.**

31 **ANY DISPUTE ABOUT THE ELIGIBILITY OF AN EMPLOYEE IN THE**
32 **BARGAINING UNIT SHALL BE SUBMITTED TO THE LABOR RELATIONS**
33 **ADMINISTRATOR FOR FINAL AND BINDING ARBITRATION.**

34 REVISOR’S NOTE: This section is new language derived without substantive
35 change from former Art. 28, § 5–114.1(b)(2).

1 Defined terms: "Arbitration" § 16-301
2 "Bargaining unit" § 16-301
3 "Employee" § 16-301

4 **16-307. REQUIREMENTS AND PROCEDURES FOR COLLECTIVE BARGAINING.**

5 **(A) IN GENERAL.**

6 **THE COMMISSION AND THE EXCLUSIVE REPRESENTATIVE OF THE**
7 **BARGAINING UNIT SHALL ENGAGE IN COLLECTIVE BARGAINING.**

8 **(B) AGREEMENT NOT REQUIRED.**

9 **SUBSECTION (A) OF THIS SECTION DOES NOT REQUIRE THE COMMISSION**
10 **OR THE EXCLUSIVE REPRESENTATIVE TO AGREE TO ANY PROPOSAL OR TO MAKE**
11 **ANY CONCESSION.**

12 **(C) SUBJECTS OF COLLECTIVE BARGAINING.**

13 **COLLECTIVE BARGAINING MAY INCLUDE NEGOTIATIONS ABOUT THE**
14 **TERMS OF EMPLOYEE RETIREMENT SYSTEMS BUT NOT ABOUT THE HIRING**
15 **PRACTICES OF THE COMMISSION.**

16 **(D) TIME FOR COLLECTIVE BARGAINING.**

17 **(1) (I) COLLECTIVE BARGAINING MAY NOT BEGIN LATER THAN**
18 **SEPTEMBER 1 BEFORE THE BEGINNING OF A FISCAL YEAR FOR WHICH A**
19 **COLLECTIVE BARGAINING AGREEMENT HAS NOT BEEN REACHED BETWEEN THE**
20 **COMMISSION AND THE EXCLUSIVE REPRESENTATIVE.**

21 **(II) COLLECTIVE BARGAINING SHALL CONCLUDE ON OR**
22 **BEFORE THE FOLLOWING FEBRUARY 4 OR ANY LATER DATE DETERMINED BY**
23 **MUTUAL AGREEMENT OF THE PARTIES.**

24 **(2) DURING THE PERIOD BETWEEN THE DATES SET IN**
25 **PARAGRAPH (1)(I) AND (II) OF THIS SUBSECTION, THE PARTIES SHALL**
26 **NEGOTIATE IN GOOD FAITH.**

27 **(E) NEGOTIABILITY DISPUTES.**

28 **(1) IF A PARTY TO THE COLLECTIVE BARGAINING CONSIDERS A**
29 **BARGAINING PROPOSAL TO VIOLATE THE RESPONSIBILITIES OF THE**
30 **COMMISSION UNDER § 16-311(A) OF THIS SUBTITLE OR THE RIGHTS OF**

1 EMPLOYEES UNDER § 16-314 OF THIS SUBTITLE OR TO OTHERWISE VIOLATE
2 THIS SUBTITLE, THE PARTY MAY PETITION THE LABOR RELATIONS
3 ADMINISTRATOR FOR A DETERMINATION OF WHETHER THE BARGAINING
4 PROPOSAL CONSTITUTES A NEGOTIABILITY DISPUTE THAT VIOLATES THIS
5 SUBTITLE.

6 (2) THE LABOR RELATIONS ADMINISTRATOR SHALL RESOLVE A
7 NEGOTIABILITY DISPUTE IN ACCORDANCE WITH THE PROCEDURES FOR
8 RESOLVING AN UNFAIR LABOR PRACTICE CHARGE, EXCEPT THAT THE LABOR
9 RELATIONS ADMINISTRATOR MAY SHORTEN THE TIME PERIODS OR ORDER ANY
10 APPROPRIATE EXPEDITED PROCEDURES.

11 (3) THE LABOR RELATIONS ADMINISTRATOR MAY ORDER A
12 PARTY TO WITHDRAW ALL OR PART OF A BARGAINING PROPOSAL THAT
13 VIOLATES THIS SUBTITLE.

14 (4) UNLESS PETITIONED TO JUDICIAL REVIEW ON THE BASIS
15 THAT THE DECISION OR ORDER IS ARBITRARY, IS CAPRICIOUS, OR EXCEEDS THE
16 AUTHORITY OF A PARTY, ANY DECISION MADE OR ORDER ISSUED UNDER THIS
17 SECTION IS FINAL.

18 (F) MEDIATION.

19 (1) A MEDIATOR MAY BE USED DURING COLLECTIVE
20 BARGAINING:

21 (I) ON REQUEST OF BOTH PARTIES; OR

22 (II) IF AN IMPASSE EXISTS, ON REQUEST OF EITHER PARTY.

23 (2) THE MEDIATOR SHALL BE SELECTED BY THE PARTIES FROM A
24 LIST SUPPLIED BY THE AMERICAN ARBITRATION ASSOCIATION OR THE
25 FEDERAL MEDIATION AND CONCILIATION SERVICE.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 28, § 5-114.1(e)(1) through (4) and (f)(3).

28 In subsections (a) and (d)(1)(i) of this section, the defined term "exclusive
29 representative" is substituted for the former references to the "certified
30 employee organization" for consistency within this subtitle.

31 In subsection (a) of this section, the reference to the exclusive
32 representative "of the bargaining unit" is added for clarity.

1 In subsection (b) of this section, the reference to “[s]ubsection (a) of this
2 section” is substituted for the former reference to “[t]his obligation” for
3 clarity.

4 Also in subsection (b) of this section, the reference to “the Commission or
5 the exclusive representative” is substituted for the former reference to
6 “either party” for clarity.

7 Also in subsection (b) of this section, the former reference to the
8 Commission or the exclusive representative making a concession “to the
9 other” is deleted as implicit.

10 In subsection (c) of this section, the reference to “negotiations” is
11 substituted for the former reference to “discussion” for clarity.

12 In subsection (d)(1)(i) of this section, the former reference to the
13 beginning of an “entire” fiscal year is deleted as implicit.

14 In subsection (e)(1) of this section, the reference to a party “to the
15 collective bargaining” is added for clarity.

16 Also in subsection (e)(1) of this section, the former reference to employees
17 “of the MNCPPC” is deleted as unnecessary in light of the defined term
18 “employee”.

19 Subsection (e)(2) of this section is revised in the active voice to clarify
20 that it is the duty of the labor relations administrator to resolve a
21 negotiability dispute.

22 In subsection (e)(2) of this section, the reference to the procedures for
23 “resolving” an unfair labor practice charge is substituted for the former
24 reference to “reviewing” an unfair labor practice charge for consistency
25 with § 16–317 of this subtitle.

26 In subsection (e)(4) of this section, the references to any decision “made”
27 or order “issued” are substituted for the former reference to any decision
28 or order “reached” for clarity and accuracy.

29 Also in subsection (e)(4) of this section, the reference to a decision or
30 order being “petitioned to judicial review” is substituted for the former
31 reference to a decision or order being “appealed” for accuracy.

32 Defined terms: “Bargaining unit” § 16–301
33 “Collective bargaining” § 16–301
34 “Collective bargaining agreement” § 16–301
35 “Commission” § 14–101
36 “Employee” § 16–301

1 "Exclusive representative" § 16-301
2 "Impasse" § 16-301
3 "Mediation" § 16-301

4 **16-308. ARBITRATION.**

5 **(A) DECLARATION OF IMPASSE AND APPOINTMENT OF ARBITRATOR.**

6 **(1) IF THE PARTIES TO COLLECTIVE BARGAINING HAVE NOT**
7 **REACHED AN AGREEMENT ON OR BEFORE DECEMBER 1 OR ANY LATER DATE**
8 **DETERMINED BY MUTUAL AGREEMENT OF THE PARTIES ON A COLLECTIVE**
9 **BARGAINING AGREEMENT THAT WOULD SUCCEED THE EXISTING COLLECTIVE**
10 **BARGAINING AGREEMENT:**

11 **(I) EITHER PARTY MAY DECLARE A BARGAINING IMPASSE;**
12 **AND**

13 **(II) THE PARTIES JOINTLY SHALL APPOINT AN ARBITRATOR.**

14 **(2) IF THE PARTIES ARE UNABLE TO AGREE ON AN ARBITRATOR,**
15 **THE LABOR RELATIONS ADMINISTRATOR SHALL APPOINT THE ARBITRATOR ON**
16 **OR BEFORE DECEMBER 7 OR ANY LATER DATE DETERMINED BY MUTUAL**
17 **AGREEMENT OF THE PARTIES.**

18 **(3) NOTWITHSTANDING APPOINTMENT OF THE ARBITRATOR,**
19 **THIS SUBTITLE DOES NOT REQUIRE ARBITRATION TO BEGIN BEFORE FEBRUARY**
20 **1 OR ANY LATER DATE DETERMINED BY MUTUAL AGREEMENT OF THE PARTIES.**

21 **(B) MEMORANDUM REQUIRED.**

22 **ON OR BEFORE FEBRUARY 1 OR ANY LATER DATE DETERMINED BY**
23 **MUTUAL AGREEMENT OF THE PARTIES, THE ARBITRATOR SHALL DIRECT THE**
24 **PARTIES TO SUBMIT:**

25 **(1) A JOINT MEMORANDUM LISTING ALL ITEMS TO WHICH THE**
26 **PARTIES PREVIOUSLY AGREED; AND**

27 **(2) A SEPARATE MEMORANDUM OF EACH PARTY'S LAST FINAL**
28 **OFFER PRESENTED IN NEGOTIATIONS ON ALL ITEMS TO WHICH THE PARTIES**
29 **PREVIOUSLY DID NOT AGREE.**

30 **(C) CLOSED HEARING.**

1 **(1) ON OR BEFORE FEBRUARY 10 OR ANY LATER DATE**
2 **DETERMINED BY MUTUAL AGREEMENT OF THE PARTIES, THE ARBITRATOR**
3 **SHALL HOLD A CLOSED HEARING ON THE PARTIES' PROPOSALS AT A TIME,**
4 **DATE, AND PLACE SELECTED BY THE ARBITRATOR.**

5 **(2) EACH PARTY SHALL SUBMIT EVIDENCE OR MAKE ORAL AND**
6 **WRITTEN ARGUMENTS IN SUPPORT OF THE PARTY'S LAST FINAL OFFER.**

7 **(3) THE ARBITRATOR MAY NOT OPEN THE HEARING TO A PERSON**
8 **THAT IS NOT A PARTY TO THE ARBITRATION.**

9 **(D) REPORT.**

10 **(1) ON OR BEFORE FEBRUARY 15 OR ANY LATER DATE**
11 **DETERMINED BY MUTUAL AGREEMENT OF THE PARTIES, THE ARBITRATOR**
12 **SHALL ISSUE A REPORT SELECTING THE LAST FINAL OFFER SUBMITTED BY THE**
13 **PARTIES THAT THE ARBITRATOR DETERMINES TO BE MORE REASONABLE WHEN**
14 **VIEWED AS A WHOLE.**

15 **(2) IN DETERMINING WHICH LAST FINAL OFFER IS MORE**
16 **REASONABLE, THE ARBITRATOR MAY CONSIDER ONLY:**

17 **(I) PAST COLLECTIVE BARGAINING AGREEMENTS BETWEEN**
18 **THE PARTIES, INCLUDING THE PAST BARGAINING HISTORY THAT LED TO THE**
19 **COLLECTIVE BARGAINING AGREEMENT OR THE PRECOLLECTIVE BARGAINING**
20 **HISTORY OF EMPLOYEE WAGES, HOURS, BENEFITS, AND OTHER WORKING**
21 **CONDITIONS;**

22 **(II) A COMPARISON OF WAGES, HOURS, BENEFITS, AND**
23 **OTHER CONDITIONS OF EMPLOYMENT OF POLICE OFFICERS IN MONTGOMERY**
24 **COUNTY AND PRINCE GEORGE'S COUNTY;**

25 **(III) THE PUBLIC INTEREST AND WELFARE;**

26 **(IV) THE ABILITY OF THE COMMISSION TO FINANCE ANY**
27 **ECONOMIC ADJUSTMENTS REQUIRED UNDER THE PROPOSED COLLECTIVE**
28 **BARGAINING AGREEMENT; AND**

29 **(V) THE EFFECTS OF ANY ECONOMIC ADJUSTMENTS ON THE**
30 **STANDARD OF PUBLIC SERVICES NORMALLY PROVIDED BY THE COMMISSION.**

31 **(3) IN DETERMINING WHICH LAST FINAL OFFER IS MORE**
32 **REASONABLE, THE ARBITRATOR SHALL CONSIDER ALL ITEMS ON WHICH THE**

1 PARTIES AGREED BEFORE THE ARBITRATION BEGAN TO BE INTEGRATED INTO
2 EACH OFFER.

3 (4) THE ARBITRATOR MAY NOT:

4 (I) RECEIVE OR CONSIDER THE HISTORY OF COLLECTIVE
5 BARGAINING RELATING TO THE IMMEDIATE DISPUTE, INCLUDING ANY OFFERS
6 OF SETTLEMENT NOT CONTAINED IN THE LAST FINAL OFFER SUBMITTED TO
7 THE ARBITRATOR; OR

8 (II) COMPROMISE OR ALTER THE LAST FINAL OFFER THAT
9 THE ARBITRATOR SELECTS.

10 (E) FINAL AGREEMENT.

11 (1) SUBJECT TO § 16-310(A) OF THIS SUBTITLE, THE LAST FINAL
12 OFFER SELECTED BY THE ARBITRATOR, AS INTEGRATED WITH THE ITEMS ON
13 WHICH THE PARTIES PREVIOUSLY AGREED, SHALL BE THE FINAL AGREEMENT
14 BETWEEN THE COMMISSION AND THE EXCLUSIVE REPRESENTATIVE WITHOUT
15 RATIFICATION BY THE PARTIES.

16 (2) THE PARTIES SHALL EXECUTE A COLLECTIVE BARGAINING
17 AGREEMENT INCORPORATING THE FINAL AGREEMENT, INCLUDING
18 ARBITRATION AWARDS AND ALL ISSUES AGREED TO UNDER THIS SECTION.

19 (F) COSTS.

20 THE COMMISSION AND THE EXCLUSIVE REPRESENTATIVE SHALL SHARE
21 EQUALLY THE COSTS OF THE ARBITRATOR'S SERVICES.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 28, § 5-114.1(e)(5).

24 In the introductory language to subsection (a)(1) of this section, the
25 reference to the parties "to collective bargaining" is added for clarity.

26 In subsection (a)(2) of this section, the requirement to "appoint" the
27 arbitrator is substituted for the former requirement to "name" the
28 arbitrator for clarity and consistency within subsection (a) of this section.

29 In subsection (b)(2) of this section, the reference to "each" party's last
30 final offer is substituted for the former reference to "the" party's last final
31 offer for clarity.

1 In subsection (c)(1) of this section, the reference to a “closed” hearing is
 2 substituted for the former reference to a “nonpublic” hearing for clarity
 3 and to conform to the terminology used in other revised articles of the
 4 Code.

5 In subsection (d)(1) and (4)(ii) of this section, the references to the “last”
 6 final offer are added for consistency within this section. Similarly, in
 7 subsections (d)(2), (3), and (4)(i) and (e)(1) of this section, the references
 8 to the “last final” offer are added.

9 In subsection (d)(2)(i) of this section, the reference to collective bargaining
 10 “agreements” is substituted for the former reference to collective
 11 bargaining “contracts” for consistency within this subtitle.

12 In subsection (d)(2)(iv) and (v) of this section, the defined term
 13 “Commission” is substituted for the former references to the “employer”
 14 for clarity.

15 In subsection (f) of this section, the defined term “exclusive
 16 representative” is substituted for the former reference to the “employee
 17 organization” for accuracy and consistency with subsection (e) of this
 18 section.

19 Also in subsection (f) of this section, the former reference to the
 20 Commission and the exclusive representative sharing equally “in paying”
 21 certain costs is deleted as surplusage.

22 The Land Use Article Review Committee notes, for consideration by the
 23 General Assembly, that in subsection (a)(1) of this section, the ability of
 24 either party to declare an “impasse” on or after December 1 may conflict
 25 with the definition of “impasse” in § 16–301(k) of this subtitle, which
 26 provides that the impasse occurs 30 days before the deadline for budget
 27 submission. The General Assembly may wish to alter or eliminate the
 28 definition of “impasse”, or otherwise harmonize the definition with the
 29 substantive provision of subsection (a) of this section.

30 Defined terms: “Arbitration” § 16–301
 31 “Collective bargaining” § 16–301
 32 “Collective bargaining agreement” § 16–301
 33 “Commission” § 14–101
 34 “Exclusive representative” § 16–301
 35 “Impasse” § 16–301
 36 “Person” § 14–101

37 **16–309. PROVISIONS OF COLLECTIVE BARGAINING AGREEMENT.**

38 **(A) IN GENERAL.**

1 **THE COMMISSION AND THE EXCLUSIVE REPRESENTATIVE SHALL**
2 **EXECUTE A COLLECTIVE BARGAINING AGREEMENT INCORPORATING ALL**
3 **MATTERS AGREED.**

4 **(B) PROVISIONS ALLOWED.**

5 **A COLLECTIVE BARGAINING AGREEMENT MAY INCLUDE A PROVISION**
6 **FOR:**

7 **(1) DUES AND MAINTENANCE OR SERVICE FEES PAID BY PAYROLL**
8 **DEDUCTION; AND**

9 **(2) THE ARBITRATION OF GRIEVANCES ARISING UNDER THE**
10 **COLLECTIVE BARGAINING AGREEMENT.**

11 **(C) CONFLICTS BETWEEN AGREEMENT AND REGULATION OR**
12 **ADMINISTRATIVE POLICY.**

13 **THE COLLECTIVE BARGAINING AGREEMENT SUPERSEDES ANY**
14 **CONFLICTING RULE, REGULATION, OR ADMINISTRATIVE POLICY OF THE**
15 **COMMISSION.**

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 28, § 5–114.1(f)(1), (2), and (4).

18 In subsection (a) of this section, the reference to “all matters agreed” is
19 substituted for the former reference to “any matters of agreement
20 reached on wages, hours, and other terms and conditions of employment”
21 for brevity and consistency with the corresponding provision of §
22 16–211(a) of this title.

23 In subsection (b)(1) of this section, the reference to dues and fees “paid
24 by” payroll deduction is substituted for the former reference to dues and
25 fees “taken from” payroll deduction for accuracy.

26 In subsection (c) of this section, the former reference to the “terms of the”
27 collective bargaining agreement is deleted as surplusage.

28 Defined terms: “Arbitration” § 16–301

29 “Collective bargaining agreement” § 16–301

30 “Commission” § 14–101

31 “Exclusive representative” § 16–301

32 “Grievance” § 16–301

1 **16-310. FUNDING OF COLLECTIVE BARGAINING AGREEMENTS.**

2 **(A) REQUEST FOR FUNDS.**

3 **(1) THE ECONOMIC PROVISIONS OF A FINAL COLLECTIVE**
4 **BARGAINING AGREEMENT ARE SUBJECT TO FUNDING BY THE COUNTY**
5 **COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.**

6 **(2) THE COMMISSION SHALL REQUEST FUNDS IN THE**
7 **COMMISSION'S FINAL BUDGET FROM THE COUNTY COUNCILS OF MONTGOMERY**
8 **COUNTY AND PRINCE GEORGE'S COUNTY FOR ALL ECONOMIC PROVISIONS OF A**
9 **FINAL COLLECTIVE BARGAINING AGREEMENT.**

10 **(B) REOPENING OF AGREEMENT.**

11 **IF THE REQUEST FOR FUNDS NECESSARY TO IMPLEMENT THE**
12 **COLLECTIVE BARGAINING AGREEMENT IS REDUCED, MODIFIED, OR REJECTED**
13 **BY THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S**
14 **COUNTY, THE COMMISSION OR THE EXCLUSIVE REPRESENTATIVE, WITHIN 5**
15 **DAYS AFTER FINAL BUDGET ACTION BY THE COUNTY COUNCILS, SHALL REOPEN**
16 **THE NEGOTIATED COLLECTIVE BARGAINING AGREEMENT AND BARGAIN WITH**
17 **RESPECT TO THE PROVISIONS OF THE COLLECTIVE BARGAINING AGREEMENT**
18 **NOT APPROVED BY THE COUNTY COUNCILS.**

19 **(C) WHEN PROVISION OF AGREEMENT IS INVALIDATED OR NOT**
20 **FUNDED.**

21 **IF A PROVISION OF A COLLECTIVE BARGAINING AGREEMENT IS RULED**
22 **INVALID OR IS NOT FUNDED BY MONTGOMERY COUNTY AND PRINCE GEORGE'S**
23 **COUNTY, THE REMAINDER OF THE COLLECTIVE BARGAINING AGREEMENT**
24 **REMAINS IN EFFECT UNLESS REOPENED UNDER SUBSECTION (B) OF THIS**
25 **SECTION.**

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 28, § 5-114.1(f)(5), (6), and (7).

28 In subsection (b) of this section, the references to "county councils" are
29 substituted for the former references to "governing bodies" for clarity and
30 consistency within this section.

31 Also in subsection (b) of this section, the reference to "the Commission or
32 the exclusive representative" is substituted for the former reference to
33 "either party to the agreement" for clarity.

1 Defined terms: "Collective bargaining agreement" § 16-301

2 "Commission" § 14-101

3 "Exclusive representative" § 16-301

4 **16-311. IMPAIRMENT OF RIGHTS AND RESPONSIBILITIES OF COMMISSION.**

5 **(A) PROHIBITED.**

6 **THIS SUBTITLE AND ANY COLLECTIVE BARGAINING AGREEMENT MADE**
7 **UNDER IT MAY NOT IMPAIR THE RIGHTS AND RESPONSIBILITIES OF THE**
8 **COMMISSION TO:**

9 **(1) DETERMINE THE OVERALL BUDGET AND MISSION OF THE**
10 **COMMISSION;**

11 **(2) MAINTAIN AND IMPROVE THE EFFICIENCY AND**
12 **EFFECTIVENESS OF OPERATIONS;**

13 **(3) DETERMINE THE SERVICES TO BE RENDERED AND THE**
14 **OPERATIONS TO BE PERFORMED;**

15 **(4) DETERMINE THE LOCATION OF FACILITIES AND THE OVERALL**
16 **ORGANIZATIONAL STRUCTURE, METHODS, PROCESSES, MEANS, JOB**
17 **CLASSIFICATIONS, AND PERSONNEL BY WHICH OPERATIONS ARE TO BE**
18 **PERFORMED;**

19 **(5) DIRECT AND SUPERVISE EMPLOYEES;**

20 **(6) HIRE, SELECT, AND ESTABLISH THE STANDARDS GOVERNING**
21 **PROMOTION OF EMPLOYEES AND CLASSIFY POSITIONS;**

22 **(7) RELIEVE EMPLOYEES FROM DUTIES BECAUSE OF LACK OF**
23 **WORK OR FUNDS OR WHEN THE COMMISSION DETERMINES CONTINUED WORK**
24 **WOULD BE INEFFICIENT OR NONPRODUCTIVE;**

25 **(8) TRANSFER AND SCHEDULE EMPLOYEES;**

26 **(9) DETERMINE THE SIZE, GRADES, AND COMPOSITION OF THE**
27 **WORKFORCE;**

28 **(10) SET THE STANDARDS OF PRODUCTIVITY AND TECHNOLOGY;**

29 **(11) ESTABLISH EMPLOYEE PERFORMANCE STANDARDS AND**
30 **EVALUATE AND ASSIGN EMPLOYEES, EXCEPT THAT EVALUATION AND**

1 ASSIGNMENT PROCEDURES SHALL BE A SUBJECT FOR COLLECTIVE
2 BARGAINING;

3 (12) ESTABLISH AND IMPLEMENT SYSTEMS FOR AWARDING
4 OUTSTANDING SERVICE INCREMENTS, EXTRAORDINARY PERFORMANCE
5 AWARDS, AND OTHER MERIT AWARDS;

6 (13) INTRODUCE NEW OR IMPROVED TECHNOLOGY, RESEARCH
7 DEVELOPMENT, AND SERVICES;

8 (14) CONTROL AND REGULATE THE USE OF MACHINERY,
9 EQUIPMENT, AND OTHER PROPERTY AND FACILITIES OF THE COMMISSION,
10 SUBJECT TO NEGOTIATION RELATED TO MATTERS AFFECTING THE HEALTH AND
11 SAFETY OF EMPLOYEES;

12 (15) MAINTAIN INTERNAL SECURITY STANDARDS;

13 (16) CREATE, ALTER, COMBINE, CONTRACT OUT, OR ABOLISH ANY
14 JOB CLASSIFICATION, OPERATION, DEPARTMENT, UNIT, OR OTHER DIVISION OR
15 SERVICE, SUBJECT TO SUBSECTION (B) OF THIS SECTION;

16 (17) SUSPEND, DISCHARGE, OR OTHERWISE DISCIPLINE
17 EMPLOYEES FOR CAUSE, SUBJECT TO THE GRIEVANCE PROCEDURE SET FORTH
18 IN A COLLECTIVE BARGAINING AGREEMENT; AND

19 (18) ADOPT AND ENFORCE REGULATIONS AND POLICIES
20 NECESSARY TO CARRY OUT THIS SECTION AND ALL OTHER MANAGERIAL
21 FUNCTIONS THAT ARE NOT INCONSISTENT WITH FEDERAL OR STATE LAW OR
22 THE TERMS OF A COLLECTIVE BARGAINING AGREEMENT.

23 (B) LIMITATION ON OUTSOURCING WORK.

24 THE COMMISSION MAY NOT SIGN A CONTRACT THAT WILL DISPLACE
25 EMPLOYEES IN THE BARGAINING UNIT UNLESS THE COMMISSION GIVES
26 WRITTEN NOTICE TO THE EXCLUSIVE REPRESENTATIVE OF THE BARGAINING
27 UNIT AT LEAST 90 DAYS BEFORE SIGNING THE CONTRACT OR WITHIN A
28 DIFFERENT PERIOD OF TIME AGREED TO BY THE PARTIES.

29 (C) EFFECT OF SECTION.

30 THIS SECTION MAY NOT PRECLUDE OR IMPAIR COLLECTIVE BARGAINING
31 AS TO ANY SUBJECT MATTER INCLUDED IN ANY WRITTEN COLLECTIVE
32 BARGAINING AGREEMENT MADE BETWEEN THE COMMISSION AND THE

1 **EXCLUSIVE REPRESENTATIVE OF THE BARGAINING UNIT ON OR BEFORE**
 2 **DECEMBER 31, 2001.**

3 REVISOR'S NOTE: This section is new language derived without substantive
 4 change from former Art. 28, § 5-114.1(g).

5 In the introductory language to subsection (a) of this section, the former
 6 phrase "[s]ubject to the applicable laws and regulations" is deleted as
 7 unnecessary in light of standard rules of statutory construction.

8 In subsection (a)(18) of this section, the reference to "adopt[ing]"
 9 regulations and policies is substituted for the former reference to
 10 "[i]ssu[ing]" regulations and policies for accuracy and consistency within
 11 this article and with other revised articles of the Code.

12 Also in subsection (a)(18) of this section, the former reference to "this
 13 article" is deleted as included in the reference to "State law".

14 In subsection (b) of this section, the reference to employees "in the
 15 bargaining unit" is added for clarity. Correspondingly, in subsections (b)
 16 and (c) of this section, the reference to the exclusive representative "of the
 17 bargaining unit" is added.

18 Also in subsection (b) of this section, the prohibition against "sign[ing] a
 19 contract" is substituted for the former prohibition against "contracting of
 20 work ... [being] undertaken" for clarity.

21 Also in subsection (b) of this section, the defined term "exclusive
 22 representative" is substituted for the former reference to the "certified
 23 representative" for clarity and consistency within this subtitle.

24 In subsection (c) of this section, the former reference to "negotiability" is
 25 deleted as implicit in the defined term "collective bargaining".

26 As to the deletion of the former reference to "rules" in subsection (a)(18)
 27 of this section, *see* General Revisor's Note to article.

28 Defined terms: "Bargaining unit" § 16-301
 29 "Collective bargaining" § 16-301
 30 "Collective bargaining agreement" § 16-301
 31 "Commission" § 14-101
 32 "Employee" § 16-301
 33 "Exclusive representative" § 16-301
 34 "Grievance" § 16-301
 35 "State" § 14-101

1 **16-312. PROHIBITED ACTIVITIES OF COMMISSION.**

2 **(A) IN GENERAL.**

3 **THE COMMISSION, ITS AGENTS, OR ITS REPRESENTATIVES MAY NOT:**

4 **(1) INTERFERE WITH, INTIMIDATE, RESTRAIN, COERCE, OR**
5 **DISCRIMINATE AGAINST AN EMPLOYEE IN THE EXERCISE OF THE EMPLOYEE'S**
6 **RIGHTS UNDER THIS SUBTITLE;**

7 **(2) DOMINATE, INTERFERE WITH, OR ASSIST IN THE FORMATION,**
8 **ADMINISTRATION, OR EXISTENCE OF AN EMPLOYEE ORGANIZATION OR**
9 **CONTRIBUTE FINANCIAL OR OTHER SUPPORT TO AN EMPLOYEE ORGANIZATION;**

10 **(3) ENCOURAGE OR DISCOURAGE MEMBERSHIP IN AN EMPLOYEE**
11 **ORGANIZATION BY DISCRIMINATING AGAINST THE EMPLOYEE THROUGH**
12 **HIRING, TENURE, PROMOTION OR DEMOTION, OR ANY TERM OR CONDITION OF**
13 **EMPLOYMENT;**

14 **(4) DISCHARGE OR OTHERWISE DISCRIMINATE AGAINST AN**
15 **EMPLOYEE BECAUSE THE EMPLOYEE HAS SIGNED OR FILED AN AFFIDAVIT,**
16 **PETITION, OR COMPLAINT OR GIVEN ANY INFORMATION OR TESTIMONY UNDER**
17 **THIS SUBTITLE;**

18 **(5) REFUSE TO ENGAGE IN COLLECTIVE BARGAINING IN GOOD**
19 **FAITH WITH THE EXCLUSIVE REPRESENTATIVE OF THE BARGAINING UNIT AS**
20 **REQUIRED BY § 16-307(D)(2) OF THIS SUBTITLE; OR**

21 **(6) FAIL TO COMPLY WITH ANY PROVISION OF THIS SUBTITLE.**

22 **(B) NEGOTIATION DURING WORK HOURS NOT PROHIBITED.**

23 **SUBSECTION (A)(2) OF THIS SECTION DOES NOT PROHIBIT THE**
24 **COMMISSION FROM ALLOWING EMPLOYEES TO NEGOTIATE OR CONFER WITH AN**
25 **EMPLOYEE ORGANIZATION DURING WORK HOURS WITHOUT LOSS OF PAY OR**
26 **TIME.**

27 **REVISOR'S NOTE:** This section is new language derived without substantive
28 change from former Art. 28, § 5-114.1(i)(1).

29 In subsection (a)(1) and (3) of this section, the former references to
30 "public" employees are deleted for consistency within this subtitle.

1 In subsection (a)(1) of this section, the reference to taking certain actions
 2 against an employee “in” the exercise of certain rights is substituted for
 3 the former reference to taking certain actions against an employee
 4 “because of” the exercise of certain rights for consistency with § 16–313(1)
 5 of this subtitle.

6 In subsections (a)(2) and (3) and (b) of this section, the defined term
 7 “employee organization” is substituted for the former references to a
 8 “labor organization” for consistency within this subtitle.

9 In subsection (a)(3) of this section, the reference to “promotion or
 10 demotion” is added for consistency with the corresponding provision of §
 11 16–214(a)(3) of this title.

12 In subsection (a)(5) of this section, the reference to the exclusive
 13 representative “of the bargaining unit” is added for clarity.

14 Also in subsection (a)(5) of this section, the defined term “exclusive
 15 representative” is substituted for the former reference to a “certified
 16 employee organization” for clarity and consistency within this subtitle.

17 In subsection (a)(6) of this section, the former reference to “[r]efus[ing]” to
 18 comply with any provision of this subtitle is deleted as included in the
 19 reference to “fail[ing]” to comply with any provision of this subtitle.

20 Defined terms: “Bargaining unit” § 16–301
 21 “Collective bargaining” § 16–301
 22 “Commission” § 14–101
 23 “Employee” § 16–301
 24 “Employee organization” § 16–301
 25 “Exclusive representative” § 16–301

26 **16–313. PROHIBITED ACTIVITIES OF COMMISSION EMPLOYEES OR EMPLOYEE**
 27 **ORGANIZATION.**

28 **AN EMPLOYEE OR AN EMPLOYEE ORGANIZATION OR ITS AGENTS OR**
 29 **REPRESENTATIVES MAY NOT:**

30 **(1) INTERFERE WITH, INTIMIDATE, RESTRAIN, COERCE, OR**
 31 **DISCRIMINATE AGAINST AN EMPLOYEE IN THE EXERCISE OF THE EMPLOYEE’S**
 32 **RIGHTS UNDER THIS SUBTITLE;**

33 **(2) CAUSE OR ATTEMPT TO CAUSE THE COMMISSION TO**
 34 **DISCRIMINATE AGAINST AN EMPLOYEE IN VIOLATION OF § 16–312(A)(3) OF THIS**
 35 **SUBTITLE;**

1 **(3) REFUSE TO ENGAGE IN COLLECTIVE BARGAINING IN GOOD**
 2 **FAITH WITH THE COMMISSION AS REQUIRED BY § 16–307(D)(2) OF THIS**
 3 **SUBTITLE IF THE EMPLOYEE ORGANIZATION HAS BEEN CERTIFIED AS THE**
 4 **EXCLUSIVE REPRESENTATIVE OF EMPLOYEES IN THE BARGAINING UNIT IN**
 5 **ACCORDANCE WITH § 16–305 OF THIS SUBTITLE;**

6 **(4) ENGAGE IN A STRIKE IN VIOLATION OF § 16–315(A) OF THIS**
 7 **SUBTITLE; OR**

8 **(5) FAIL TO COMPLY WITH ANY PROVISION OF THIS SUBTITLE.**

9 REVISOR’S NOTE: This section is new language derived without substantive
 10 change from former Art. 28, § 5–114.1(i)(2).

11 In the introductory language to and in item (3) of this section, the defined
 12 term “employee organization” is substituted for the former references to a
 13 “labor organization” for consistency within this subtitle.

14 In item (2) of this section, the former reference to a “public” employee is
 15 deleted for consistency within this subtitle.

16 In item (3) of this section, the reference to the “bargaining” unit is added
 17 for clarity.

18 Also in item (3) of this section, the reference to an employee organization
 19 “certified” as the exclusive representative is substituted for the former
 20 reference to an employee organization “designated” as the exclusive
 21 representative for accuracy and consistency with § 16–305 of this subtitle.

22 In item (5) of this section, the former reference to “[r]efus[ing]” to comply
 23 with any provision of this subtitle is deleted as included in the reference
 24 to “fail[ing]” to comply with any provision of this subtitle.

25 The Land Use Article Review Committee notes, for consideration by the
 26 General Assembly, that in item (5) of this section, an employee
 27 organization and its agents and representatives are prohibited from
 28 engaging in a “strike”. However, the term “strike” is defined in § 16–301
 29 as actions taken – or not taken – by an “employee”. It does not appear
 30 from the definition that any person other than an employee can engage in
 31 a strike, although an employee organization could induce, initiate, or
 32 ratify a strike by Commission employees, as is prohibited for employees
 33 other than police under § 16–217(b) of this title, or assist or authorize a
 34 strike, for which penalties are provided under § 16–217(f)(1) of this title.
 35 This issue also arises in § 16–315(d) of this subtitle which provides
 36 penalties for an “employee organization” that engages in a “strike”. The
 37 General Assembly may wish to consider and address the nature of

1 activities relating to strikes that employee organizations and their agents
2 and representatives may or may not engage in, and harmonize them in
3 this subtitle and in the corresponding provisions of Subtitle 2 of this title.

4 Defined terms: "Bargaining unit" § 16-301

5 "Collective bargaining" § 16-301

6 "Commission" § 14-101

7 "Employee" § 16-301

8 "Employee organization" § 16-301

9 "Exclusive representative" § 16-301

10 "Strike" § 16-301

11 **16-314. RIGHTS OF EMPLOYEES.**

12 **(A) IN GENERAL.**

13 **EMPLOYEES MAY:**

14 **(1) FORM, JOIN, OR ASSIST AN EMPLOYEE ORGANIZATION;**

15 **(2) BARGAIN COLLECTIVELY THROUGH A REPRESENTATIVE THAT**
16 **THE EMPLOYEES HAVE CHOSEN;**

17 **(3) ENGAGE IN OTHER LAWFUL CONCERTED ACTIVITIES FOR THE**
18 **PURPOSE OF COLLECTIVE BARGAINING; AND**

19 **(4) REFRAIN FROM ANY OF THE ACTIVITIES DESCRIBED IN THIS**
20 **SUBSECTION.**

21 **(B) GRIEVANCES.**

22 **(1) AN EMPLOYEE OR GROUP OF EMPLOYEES IN THE BARGAINING**
23 **UNIT MAY:**

24 **(I) PRESENT TO THE COMMISSION AT ANY TIME A**
25 **GRIEVANCE ARISING UNDER A COLLECTIVE BARGAINING AGREEMENT; AND**

26 **(II) HAVE THE GRIEVANCE ADJUSTED WITHOUT THE**
27 **INTERVENTION OF THE EXCLUSIVE REPRESENTATIVE OF THE BARGAINING**
28 **UNIT.**

29 **(2) THE COMMISSION SHALL HEAR THE GRIEVANCE AND**
30 **PARTICIPATE IN ITS ADJUSTMENT.**

1 **(3) AN ADJUSTMENT MAY NOT BE INCONSISTENT WITH THE**
2 **COLLECTIVE BARGAINING AGREEMENT.**

3 **(4) THE COMMISSION SHALL GIVE PROMPT NOTICE OF ALL**
4 **ADJUSTMENTS TO THE EXCLUSIVE REPRESENTATIVE.**

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 28, § 5–114.1(h)(1) and (2).

7 In subsection (a)(4) of this section, the reference to activities “described in
8 this subsection” is substituted for the former reference to “these”
9 activities for clarity.

10 Also in subsection (a)(4) of this section, the former reference to “all”
11 activities is deleted as unnecessary in light of the reference to “any”
12 activities.

13 In the introductory language to subsection (b)(1) of this section, the
14 reference to an employee or group of employees “in the bargaining unit” is
15 added for clarity. Similarly, in subsection (b)(1)(ii) of this section, the
16 reference to the exclusive representative “of the bargaining unit” is
17 added.

18 In subsection (b)(1)(i) and (3) of this section, the former references to “the
19 terms of” a collective bargaining agreement are deleted as surplusage.

20 In subsection (b)(1)(i) of this section, the reference to a “collective
21 bargaining” agreement is added for clarity and consistency with
22 subsection (b)(3) of this section.

23 In subsection (b)(3) of this section, the former reference to the collective
24 bargaining agreement “then in effect” is deleted as implicit.

25 Former Art. 28, § 5–114.1(h)(3), which prohibited the Commission and an
26 employee organization from taking certain actions against an employee in
27 the exercise of the employee’s rights under former Art. 28, § 5–114.1(h)(1)
28 and (2), is deleted as unnecessary in light of §§ 16–312(1) and
29 16–313(1) of this subtitle, which prohibit the same actions relating to the
30 exercise of an employee’s rights under this subtitle.

31 Defined terms: “Bargaining unit” § 16–301
32 “Collective bargaining” § 16–301
33 “Collective bargaining agreement” § 16–301
34 “Commission” § 14–101
35 “Employee” § 16–301
36 “Employee organization” § 16–301

1 “Exclusive representative” § 16–301

2 “Grievance” § 16–301

3 **16–315. STRIKES.**

4 **(A) PROHIBITED.**

5 **EMPLOYEES MAY NOT ENGAGE IN A STRIKE.**

6 **(B) ENJOINING OF STRIKE.**

7 **IF A STRIKE OCCURS, A COURT OF COMPETENT JURISDICTION MAY**
8 **ENJOIN THE STRIKE ON REQUEST OF THE COMMISSION.**

9 **(C) COMPENSATION DURING STRIKE PROHIBITED.**

10 **AN EMPLOYEE MAY NOT RECEIVE COMPENSATION FROM THE**
11 **COMMISSION WHILE THE EMPLOYEE IS ENGAGED IN A STRIKE.**

12 **(D) DECERTIFICATION.**

13 **(1) IF AN EMPLOYEE ORGANIZATION CERTIFIED AS AN**
14 **EXCLUSIVE REPRESENTATIVE ENGAGES IN A STRIKE, THE LABOR**
15 **COMMISSIONER SHALL REVOKE ITS CERTIFICATION.**

16 **(2) AN EMPLOYEE ORGANIZATION THAT IS DECERTIFIED UNDER**
17 **PARAGRAPH (1) OF THIS SUBSECTION OR ANY OTHER EMPLOYEE**
18 **ORGANIZATION THAT ENGAGES IN A STRIKE IS INELIGIBLE TO BE CERTIFIED AS**
19 **AN EXCLUSIVE REPRESENTATIVE FOR 1 YEAR AFTER THE END OF THE STRIKE.**

20 **REVISOR’S NOTE:** This section is new language derived without substantive
21 change from former Art. 28, § 5–114.1(e)(6) through (9).

22 In subsection (b) of this section, the former reference to a strike “of
23 employees” is deleted as unnecessary in light of the defined term “strike”.

24 In subsection (c) of this section, the prohibition against receiving
25 compensation “while” an employee is engaged in a strike is substituted
26 for the former prohibition against receiving compensation “for any period
27 during which” an employee is engaged in a strike for brevity.

28 Also in subsection (c) of this section, the former reference to “pay” is
29 deleted as included in the reference to “compensation”.

1 In subsection (d)(1) of this section, the former reference to the Labor
2 Commissioner revoking an employee organization's certification "as
3 exclusive representative" is deleted as implicit.

4 In subsection (d)(2) of this section, the reference to an employee
5 organization "that is decertified under paragraph (1) of this subsection" is
6 substituted for the former reference to "that" employee organization for
7 clarity.

8 Defined terms: "Commission" § 14-101
9 "Employee" § 16-301
10 "Employee organization" § 16-301
11 "Exclusive representative" § 16-301
12 "Labor Commissioner" § 16-301
13 "Strike" § 16-301

14 **16-316. SERVICE FEES.**

15 **(A) AUTHORIZED AS CONDITION OF EMPLOYMENT.**

16 **THIS SUBTITLE DOES NOT PRECLUDE THE COMMISSION FROM ENTERING**
17 **INTO A COLLECTIVE BARGAINING AGREEMENT WITH AN EXCLUSIVE**
18 **REPRESENTATIVE THAT REQUIRES AN EMPLOYEE, AS A CONDITION OF**
19 **EMPLOYMENT, TO PAY A MAINTENANCE OR SERVICE FEE AS A CONTRIBUTION**
20 **TOWARDS THE COST OF THE NEGOTIATION AND ADMINISTRATION OF THE**
21 **COLLECTIVE BARGAINING AGREEMENT.**

22 **(B) AMOUNT OF FEE.**

23 **A MAINTENANCE OR SERVICE FEE UNDER SUBSECTION (A) OF THIS**
24 **SECTION MAY NOT EXCEED THE ANNUAL DUES PAID TO THE EXCLUSIVE**
25 **REPRESENTATIVE.**

26 **(C) DISCHARGE OF EMPLOYEE.**

27 **BEFORE THE COMMISSION DISCHARGES AN EMPLOYEE WHO FAILS TO**
28 **PAY A MAINTENANCE OR SERVICE FEE, IT SHALL GIVE THE EMPLOYEE:**

29 **(1) WRITTEN NOTICE OF THE DELINQUENT PAYMENT; AND**

30 **(2) ADEQUATE TIME TO CORRECT THE DELINQUENCY.**

31 **(D) DISPUTES ABOUT FEE.**

1 **IF THE COMMISSION AND AN EMPLOYEE ARE UNABLE TO RESOLVE ANY**
2 **ISSUE RELATING TO THE PAYMENT OF A MAINTENANCE OR SERVICE FEE, THE**
3 **ISSUE SHALL BE SUBMITTED TO AN UMPIRE IN ACCORDANCE WITH § 16-317 OF**
4 **THIS SUBTITLE.**

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 28, § 5-114.1(j).

7 In subsection (a) of this section, the reference to the Commission
8 "entering into" a collective bargaining agreement is substituted for the
9 former reference to the Commission "making" a collective bargaining
10 agreement for clarity.

11 In subsection (b) of this section, the former reference to "regular" annual
12 dues is deleted as unnecessary because there is only one type of annual
13 dues payable to an exclusive representative.

14 In subsection (d) of this section, the reference to "any issue relating to the
15 payment of a maintenance or service fee" is substituted for the former
16 reference to "the fee issue" for clarity.

17 Defined terms: "Commission" § 14-101
18 "Collective bargaining agreement" § 16-301
19 "Employee" § 16-301
20 "Exclusive representative" § 16-301

21 **16-317. UNFAIR LABOR PRACTICES.**

22 **(A) REQUIREMENTS FOR CHARGE.**

23 **ANY CHARGE THAT THE COMMISSION, AN EMPLOYEE, OR AN EMPLOYEE**
24 **ORGANIZATION HAS ENGAGED IN AN UNFAIR LABOR PRACTICE SHALL:**

25 **(1) BE IN WRITING;**

26 **(2) STATE CONCISELY AND SIMPLY THE FACTS THAT ARE**
27 **ASSERTED OR, IF THE FACTS CANNOT BE STATED IN DETAIL, THE ISSUES THAT**
28 **ARE INVOLVED; AND**

29 **(3) BE SERVED PERSONALLY ON THE PARTY ALLEGED TO HAVE**
30 **ENGAGED IN THE UNFAIR LABOR PRACTICE WITHIN 180 DAYS AFTER THE**
31 **ALLEGED UNFAIR LABOR PRACTICE OCCURRED.**

32 **(B) SUBMISSION OF CHARGE TO UMPIRE.**

1 IF THE PARTY CHARGING AN UNFAIR LABOR PRACTICE AND THE PARTY
2 CHARGED ARE UNABLE TO RESOLVE THE MATTER, THE CHARGE SHALL BE
3 SUBMITTED TO AN UMPIRE.

4 (C) APPOINTMENT AND TERM OF UMPIRE.

5 (1) THE COMMISSION SHALL APPOINT THE UMPIRE FROM A LIST
6 OF FIVE NOMINEES AGREED ON BY THE EXCLUSIVE REPRESENTATIVE AND THE
7 EXECUTIVE DIRECTOR OF THE COMMISSION.

8 (2) THE UMPIRE SHALL SERVE FOR A 2-YEAR TERM AND IS
9 ELIGIBLE FOR REAPPOINTMENT.

10 (D) EMPLOYMENT OF UMPIRE BY COMMISSION OR EXCLUSIVE
11 REPRESENTATIVE.

12 THE UMPIRE MAY NOT BE OTHERWISE EMPLOYED BY THE COMMISSION
13 OR THE EXCLUSIVE REPRESENTATIVE.

14 (E) POWER OF UMPIRE.

15 THE POWER OF THE UMPIRE IS EXCLUSIVE.

16 (F) RULES OF EVIDENCE.

17 THE TECHNICAL RULES OF EVIDENCE DO NOT APPLY.

18 (G) DUTIES OF UMPIRE.

19 THE UMPIRE:

20 (1) SHALL INVESTIGATE AND ATTEMPT TO RESOLVE, AS
21 PROVIDED IN THIS SUBTITLE, A CHARGE OF ENGAGING IN AN UNFAIR LABOR
22 PRACTICE;

23 (2) SHALL DEFER TO ANY VALID GRIEVANCE PROCEDURE
24 ADOPTED BY THE COMMISSION AND THE EXCLUSIVE REPRESENTATIVE FOR THE
25 RESOLUTION OF DISPUTES SUBJECT TO THE GRIEVANCE PROCEDURE, UNLESS
26 THE DEFERRAL WOULD RESULT IN A VIOLATION OF THE PURPOSES OF THIS
27 SUBTITLE;

28 (3) SHALL DEFER TO THE LAW ENFORCEMENT OFFICERS' BILL
29 OF RIGHTS FOR THE RESOLUTION OF DISPUTES SUBJECT TO THAT LAW;

1 (4) SHALL RECOGNIZE FUNDAMENTAL DISTINCTIONS BETWEEN
2 PRIVATE AND PUBLIC EMPLOYMENT; AND

3 (5) MAY NOT REGARD STATE OR FEDERAL LAW THAT IS
4 APPLICABLE TO PRIVATE EMPLOYMENT AS CONTROLLING PRECEDENT.

5 (H) WRITTEN FINDINGS AND ORDER.

6 (1) BASED ON THE PREPONDERANCE OF THE EVIDENCE, THE
7 UMPIRE SHALL SUBMIT WRITTEN FINDINGS OF FACT AND CONCLUSIONS OF LAW
8 TO THE PARTIES WITHIN 40 DAYS AFTER THE DAY ON WHICH THE UMPIRE IS
9 APPOINTED.

10 (2) IF THE UMPIRE DETERMINES THAT A PARTY NAMED IN THE
11 CHARGES HAS ENGAGED OR IS ENGAGING IN AN UNFAIR LABOR PRACTICE, THE
12 UMPIRE SHALL ISSUE AN ORDER REQUIRING THE PARTY TO CEASE THE
13 PRACTICE.

14 (3) AN ORDER MAY:

15 (I) INCLUDE ANY REMEDY, INCLUDING REINSTATEMENT OF
16 AN EMPLOYEE WITH OR WITHOUT BACK PAY;

17 (II) REQUIRE PERIODIC REPORTS ON THE EXTENT TO
18 WHICH THE PARTY FOUND TO HAVE ENGAGED IN AN UNFAIR LABOR PRACTICE
19 HAS COMPLIED WITH THE ORDER; AND

20 (III) BE DESIGNED TO PREVENT FUTURE UNFAIR LABOR
21 PRACTICES.

22 (I) JUDICIAL REVIEW OF UMPIRE'S DECISION.

23 (1) WITHIN 30 DAYS AFTER THE ISSUANCE OF A FINAL ORDER, A
24 PARTY WHO IS AGGRIEVED BY A FINAL DECISION OF AN UMPIRE MAY FILE A
25 PETITION FOR JUDICIAL REVIEW OF THE DECISION WITH THE CIRCUIT COURT
26 FOR MONTGOMERY COUNTY OR THE CIRCUIT COURT FOR PRINCE GEORGE'S
27 COUNTY.

28 (2) THE CIRCUIT COURT MAY NOT CONSIDER EVIDENCE THAT
29 WAS NOT OFFERED IN THE PROCEEDING BEFORE THE UMPIRE UNLESS THE
30 COURT DETERMINES THAT THE FAILURE TO OFFER THE EVIDENCE SHOULD BE
31 EXCUSED BECAUSE OF EXTRAORDINARY CIRCUMSTANCES.

1 **(3) THE CIRCUIT COURT MAY NOT OVERTURN THE UMPIRE’S**
2 **DECISION UNLESS THE COURT FINDS THAT THE UMPIRE’S DECISION IS NOT**
3 **SUPPORTED BY SUBSTANTIAL EVIDENCE.**

4 **(J) COSTS.**

5 **UNLESS OTHERWISE PROVIDED BY WRITTEN AGREEMENT, THE PARTIES**
6 **SHALL SHARE EQUALLY THE COSTS OF THE UMPIRE’S SERVICES.**

7 **(K) COURT ORDER.**

8 **(1) A PARTY CHARGING AN UNFAIR LABOR PRACTICE MAY**
9 **PETITION THE CIRCUIT COURT FOR MONTGOMERY COUNTY OR THE CIRCUIT**
10 **COURT FOR PRINCE GEORGE’S COUNTY FOR ENFORCEMENT OF AN ORDER OF**
11 **AN UMPIRE.**

12 **(2) UNLESS A PETITION FOR JUDICIAL REVIEW HAS BEEN FILED**
13 **IN ACCORDANCE WITH SUBSECTION (I) OF THIS SECTION, A PETITION FOR**
14 **ENFORCEMENT OF AN ORDER OF AN UMPIRE MAY NOT BE USED TO OBTAIN**
15 **JUDICIAL REVIEW OF THE FINAL DECISION OF THE UMPIRE.**

16 REVISOR’S NOTE: This section is new language derived without substantive
17 change from former Art. 28, § 5–114.1(k).

18 In the introductory language to subsection (a) and in subsection (h)(3)(i)
19 of this section, the former references to a “public” employee are deleted
20 for consistency within this subtitle.

21 In the introductory language to subsection (a) of this section, the defined
22 term “employee organization” is substituted for the former reference to a
23 “labor organization” for consistency within this subtitle.

24 In subsection (a)(3) of this section, the references to an “unfair labor
25 practice” are substituted for the former references to a “violation” for
26 clarity and consistency within this subsection.

27 In subsections (b) and (k)(1) of this section, the references to the “party
28 charging an unfair labor practice” are substituted for the former
29 references to the “charging party” for clarity.

30 In subsection (b) of this section, the former reference to an umpire
31 “selected according to the following rules” is deleted as unnecessary and
32 misleading. Of the “rules” for selection listed in former Art. 28,
33 § 5–114.1(k)(2)(i) through (iv), only one (revised in subsection (c)(1) of this

1 section) relates to the selection of the umpire, while the remaining source
2 law (revised in subsections (c)(2), (d), and (j) of this section) governed the
3 term, restrictions on employment, and payment of the costs of the
4 umpire.

5 In subsection (g)(1) of this section, the reference to engaging in “an unfair
6 labor practice” is substituted for the former reference to engaging in
7 “prohibited practices” for clarity and consistency within this section.

8 Also in subsection (g)(1) of this section, the former reference to
9 attempting to “settle” an unfair labor practice is deleted as unnecessary
10 in light of the reference to attempting to “resolve” an unfair labor
11 practice.

12 In subsection (g)(3) of this section, the reference to that “law” is
13 substituted for the former reference to that “subtitle” for clarity since
14 there is no prior reference to a subtitle in subsection (g)(3).

15 Also in subsection (g)(3) of this section, the former reference to the
16 “Maryland” Law Enforcement Officers’ Bill of Rights is deleted for
17 accuracy.

18 In subsection (k)(2) of this section, the reference to “obtain[ing] judicial
19 review” of the final decision of the umpire is substituted for the former
20 reference to “appeal[ing]” the final decision for accuracy.

21 Defined terms: “Commission” § 14–101
22 “Employee” § 16–301
23 “Employee organization” § 16–301
24 “Exclusive representative” § 16–301
25 “Grievance” § 16–301
26 “State” § 14–101

27 **16–318. EXPRESSION OF VIEWPOINT, ARGUMENT, OR OPINION.**

28 **IF THE EXPRESSION DOES NOT CONTAIN A THREAT OF REPRISAL OR**
29 **FORCE, A PROMISE OF BENEFIT, OR A MISREPRESENTATION OF FACT, AN**
30 **EXPRESSION OF ANY VIEW, ARGUMENT, OR OPINION, WHETHER ORAL OR IN**
31 **WRITTEN, PRINTED, GRAPHIC, OR VISUAL FORM, DOES NOT CONSTITUTE AN**
32 **UNFAIR LABOR PRACTICE UNDER THIS SUBTITLE.**

33 REVISOR’S NOTE: This section is new language derived without substantive
34 change from former Art. 28, § 5–114.1(i)(3).

1 The former reference to certain expressions not “be[ing] evidence of” an
2 unfair labor practice is deleted as unnecessary in light of the reference to
3 the expressions not “constitut[ing]” an unfair labor practice.

4 **SUBTITLE 4. SERVICE CONTRACTS.**

5 **16-401. DEFINITIONS.**

6 **(A) IN GENERAL.**

7 **IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
8 **INDICATED.**

9 **REVISOR’S NOTE:** This subsection formerly was Art. 28, § 2-112.2(a)(1).

10 The only change is in style.

11 **(B) ADVERSELY AFFECT.**

12 **(1) “ADVERSELY AFFECT” MEANS TO:**

13 **(I) ELIMINATE MORE THAN TWO EMPLOYEE POSITIONS**
14 **ASSIGNED TO PERFORM BARGAINING UNIT WORK IF THE POSITIONS ARE:**

15 **1. AUTHORIZED;**

16 **2. FULLY FUNDED; AND**

17 **3. A. VACANT FOR LESS THAN 90 DAYS; OR**

18 **B. OCCUPIED AT THE TIME THE COMMISSION**
19 **SOLICITS A SERVICE CONTRACT; OR**

20 **(II) PERMANENTLY AND INVOLUNTARILY REDUCE:**

21 **1. BELOW THE NUMBER OF HOURS FOR REGULAR**
22 **FULL-TIME EMPLOYMENT FOR MORE THAN FIVE EMPLOYEES CURRENTLY**
23 **ASSIGNED TO A REGULAR FULL-TIME WORK SCHEDULE TO PERFORM**
24 **BARGAINING UNIT WORK WHEN THE COMMISSION SOLICITS A SERVICE**
25 **CONTRACT;**

26 **2. THE PAY GRADE FOR MORE THAN FIVE**
27 **EMPLOYEES CURRENTLY ASSIGNED TO A REGULAR FULL-TIME WORK**

1 SCHEDULE TO PERFORM BARGAINING UNIT WORK WHEN THE COMMISSION
2 SOLICITS A SERVICE CONTRACT; OR

3 **3. THE BASE PAY OR FRINGE BENEFITS OTHERWISE**
4 **APPLICABLE TO A JOB CLASSIFICATION COVERING MORE THAN FIVE**
5 **EMPLOYEES CURRENTLY ASSIGNED ON A FULL-TIME BASIS TO PERFORM**
6 **BARGAINING UNIT WORK WHEN THE COMMISSION SOLICITS A SERVICE**
7 **CONTRACT.**

8 **(2) “ADVERSELY AFFECT” DOES NOT INCLUDE AN ACTION THE**
9 **COMMISSION TAKES IN ACCORDANCE WITH:**

10 **(I) A BONA FIDE DISCIPLINARY PROCEEDING;**

11 **(II) AN APPLICABLE COLLECTIVE BARGAINING AGREEMENT**
12 **IN ACCORDANCE WITH SUBTITLE 2 OF THIS TITLE; OR**

13 **(III) A REALLOCATION OR REASSIGNMENT TO ANOTHER**
14 **BARGAINING UNIT WORK OR OTHER DUTIES THAT DOES NOT RESULT IN A**
15 **CHANGE IN JOB CLASSIFICATION OR GRADE.**

16 REVISOR’S NOTE: This subsection is new language derived without
17 substantive change from former Art. 28, § 2–112.2(a)(2).

18 In paragraph (1)(i)3A of this subsection and throughout this subtitle, the
19 former references to “calendar” days are deleted in light of Art. 1, § 36,
20 which provides that any period exceeding 7 days is assumed to mean
21 calendar days, not business days.

22 Defined terms: “Bargaining unit work” § 16–401

23 “Commission” § 14–101

24 “Service contract” § 16–401

25 **(C) BARGAINING UNIT WORK.**

26 **“BARGAINING UNIT WORK” MEANS WORK DUTIES ASSIGNED OR**
27 **ALLOCATED TO A POSITION OCCUPIED WITHIN THE PRECEDING 90 DAYS BY AN**
28 **EMPLOYEE WHO IS REPRESENTED BY A CERTIFIED REPRESENTATIVE.**

29 REVISOR’S NOTE: This subsection is new language derived without
30 substantive change from former Art. 28, § 2–112.2(a)(3).

31 Defined term: “Certified representative” § 16–401

1 **(D) CERTIFIED REPRESENTATIVE.**

2 **“CERTIFIED REPRESENTATIVE” MEANS AN EMPLOYEE ORGANIZATION**
3 **CERTIFIED AS AN EXCLUSIVE REPRESENTATIVE IN ACCORDANCE WITH**
4 **SUBTITLE 2 OF THIS TITLE.**

5 REVISOR’S NOTE: This subsection is new language derived without
6 substantive change from former Art. 28, § 2–112.2(a)(4).

7 The reference to an employee organization certified as “an exclusive
8 representative” is substituted for the former reference to an employee
9 organization certified as “the collective bargaining representative of
10 Commission employees” for consistency with Subtitle 2 of this title and
11 for brevity.

12 **(E) SECRETARY–TREASURER.**

13 **“SECRETARY–TREASURER” MEANS THE SECRETARY–TREASURER OF THE**
14 **COMMISSION.**

15 REVISOR’S NOTE: This subsection formerly was Art. 28, § 2–112.2(a)(5).

16 The only changes are in style.

17 Defined term: “Commission” § 14–101

18 **(F) SERVICE CONTRACT.**

19 **“SERVICE CONTRACT” MEANS A PROCUREMENT CONTRACT FOR SERVICES**
20 **THAT WILL BE PROVIDED TO THE COMMISSION.**

21 REVISOR’S NOTE: This subsection formerly was Art. 28, § 2–112.2(a)(6).

22 No changes are made.

23 Defined term: “Commission” § 14–101

24 **16–402. APPLICATION OF SUBTITLE.**

25 **(A) IN GENERAL.**

26 **THIS SUBTITLE APPLIES TO A SERVICE CONTRACT THAT:**

1 **(1) THE COMMISSION SOLICITS AS A MANAGEMENT PLAN**
2 **INTENDED TO ADVERSELY AFFECT EMPLOYEES OF THE COMMISSION**
3 **REPRESENTED BY A CERTIFIED REPRESENTATIVE; AND**

4 **(2) A PROCUREMENT OFFICER OF THE COMMISSION ESTIMATES**
5 **WILL EXCEED A YEARLY COST OF \$75,000 AS CALCULATED UNDER SUBSECTION**
6 **(B) OF THIS SECTION.**

7 **(B) ADJUSTMENT OF ESTIMATE OF COST OF SERVICE CONTRACT.**

8 **THE COMMISSION SHALL ADJUST THE ESTIMATE OF THE YEARLY COST**
9 **DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION TO THE NEAREST \$100**
10 **EVERY 2 YEARS TO REFLECT ANY AGGREGATE INCREASE IN THE CONSUMER**
11 **PRICE INDEX FOR ALL URBAN CONSUMERS, FOR THE**
12 **WASHINGTON-BALTIMORE METROPOLITAN AREA, OR ANY SUCCESSOR INDEX,**
13 **FOR THE PREVIOUS 2 YEARS.**

14 **(C) EXCLUSIONS.**

15 **THIS SUBTITLE DOES NOT APPLY TO:**

16 **(1) SOLICITATION OF A SERVICE CONTRACT AS PART OF A**
17 **MANAGEMENT PLAN OR PROGRAM INTENDED TO AUGMENT BARGAINING UNIT**
18 **WORK AND NOT FOR A PRESENT OR EVENTUAL PURPOSE OF ADVERSELY**
19 **AFFECTING EMPLOYEES OF THE COMMISSION REPRESENTED BY A CERTIFIED**
20 **REPRESENTATIVE;**

21 **(2) SOLICITATION OF A SERVICE CONTRACT FOR WHICH THE**
22 **PRIMARY PURPOSE IS TO OBTAIN GOODS OR CONSTRUCTION SERVICES;**

23 **(3) SOLICITATION OF A SERVICE CONTRACT THAT THE**
24 **COMMISSION'S PURCHASING OFFICIALS REASONABLY BELIEVE AND EXPRESS IN**
25 **WRITING MAY NEGATIVELY AFFECT THE POTENTIAL FOR PARTICIPATION BY A**
26 **MINORITY BUSINESS ENTERPRISE ACCORDING TO A MINORITY BUSINESS**
27 **ENTERPRISE UTILIZATION PROGRAM AUTHORIZED UNDER TITLE 15, SUBTITLE**
28 **2 OF THIS ARTICLE;**

29 **(4) SOLICITATION OF A SERVICE CONTRACT FOR A SERVICE**
30 **PROVIDED BY A CONSULTANT;**

31 **(5) SOLICITATION OF A SERVICE CONTRACT FOR A**
32 **PROFESSIONAL SERVICE, UNLESS THE SCOPE OF SERVICE IS PROVIDED BY**

1 EMPLOYEES OF A BARGAINING UNIT WHEN THE SERVICE CONTRACT IS
2 SOLICITED;

3 (6) SOLICITATION OF A SERVICE CONTRACT THAT THE
4 COMMISSION REASONABLY BELIEVES IS:

5 (I) NECESSARY TO MEET AN EMERGENT OR IMMINENT
6 THREAT TO PUBLIC HEALTH, WELFARE, OR SAFETY;

7 (II) REQUIRED TO COMPLY WITH THE REQUIREMENTS OF A
8 GRANT RELATED TO THE FUNDING OF THE SERVICE CONTRACT; OR

9 (III) RELATED TO THE SETTLEMENT OF AN INSURANCE
10 CLAIM;

11 (7) SOLICITATION OF A SERVICE CONTRACT THAT IS IN THE BEST
12 INTEREST OF AN EMPLOYEE BASED ON A NEED FOR SPECIALIZED SAFETY
13 EXPERIENCE OR EXPERTISE;

14 (8) SOLICITATION OF A SERVICE CONTRACT FOR A SERVICE
15 PROVIDED BY A PUBLIC ENTITY OR PROVIDED TO THE COMMISSION IN
16 ACCORDANCE WITH A PUBLIC-PRIVATE PARTNERSHIP WITH A PRIVATE ENTITY;

17 (9) SOLICITATION OF A SERVICE CONTRACT TO BE AWARDED ON A
18 NONCOMPETITIVE BASIS IN ACCORDANCE WITH APPLICABLE LAWS REGARDING
19 SERVICE CONTRACTS AWARDED ON A NONCOMPETITIVE BASIS;

20 (10) A SERVICE CONTRACT ENTERED INTO BEFORE OCTOBER 31,
21 2007;

22 (11) THE RENEWAL OR REBIDDING OF A SERVICE CONTRACT
23 ENTERED INTO BEFORE OCTOBER 31, 2007, IF THE RENEWAL OR REBIDDING OF
24 THE SERVICE CONTRACT DOES NOT RESULT IN A GREATER ADVERSE EFFECT ON
25 EMPLOYEES OF A BARGAINING UNIT THAN EXISTED BEFORE ITS RENEWAL OR
26 REBIDDING;

27 (12) SOLICITATION OF A SERVICE CONTRACT FOR A CAPITAL
28 IMPROVEMENT PROJECT OR ASSET MANAGEMENT PROJECT;

29 (13) SOLICITATION OF A CLASS, TYPE, CATEGORY, OR PARTICULAR
30 SERVICE CONTRACT THAT THE COMMISSION REASONABLY BELIEVES SHOULD
31 BE PERFORMED BY AN INDEPENDENT CONTRACTOR TO ELIMINATE A CONFLICT

1 OF INTEREST OTHERWISE APPARENT IF THE SERVICES ARE PERFORMED BY AN
2 EMPLOYEE OF A BARGAINING UNIT;

3 (14) SOLICITATION OF A CLASS, TYPE, CATEGORY, OR PARTICULAR
4 SERVICE CONTRACT WHEN THE NEED FOR THE SERVICE OR ACTIVITY IS SUCH
5 THAT THE TIME NECESSARY FOR THE ANALYSIS REQUIRED UNDER § 16-404 OF
6 THIS SUBTITLE WOULD:

7 (I) RESULT IN DAMAGE TO PROPERTY OF THE
8 COMMISSION;

9 (II) RESULT IN INJURY TO AN INDIVIDUAL; OR

10 (III) SUBSTANTIALLY HINDER THE OBJECTIVE OF
11 CONSTRUCTING OR MAINTAINING SAFE AND SANITARY PROPERTIES AND
12 FACILITIES; OR

13 (15) A SERVICE CONTRACT THAT THE MONTGOMERY COUNTY
14 COUNCIL OR THE PRINCE GEORGE'S COUNTY COUNCIL AUTHORIZES OR
15 REQUIRES TO BE PROVIDED BY AN INDEPENDENT CONTRACTOR.

16 (D) CONSTRUCTION OF SUBTITLE.

17 THIS SUBTITLE DOES NOT APPLY TO OR LIMIT THE AUTHORITY OF THE
18 COMMISSION TO ABOLISH A BARGAINING UNIT POSITION OR CONDUCT A
19 REDUCTION IN FORCE.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 28, § 2-112.2(b).

22 In subsection (b) of this section, the former reference to an adjustment of
23 an estimate of annual costs "beginning on October 1, 2007" is deleted as
24 obsolete.

25 In subsection (c)(9) of this section, the reference to "laws" regarding a
26 service contract awarded on a noncompetitive basis is substituted for the
27 former reference to "laws, rules, and regulations" for brevity.

28 Defined terms: "Adversely affect" § 16-401

29 "Bargaining unit work" § 16-401

30 "Certified representative" § 16-401

31 "Commission" § 14-101

32 "Service contract" § 16-401

33 16-403. CERTIFICATION OF COMPLIANCE BY SECRETARY-TREASURER.

1 **BEFORE THE COMMISSION SOLICITS A SERVICE CONTRACT UNDER THIS**
2 **SUBTITLE, THE SECRETARY-TREASURER SHALL CERTIFY THAT THE**
3 **COMMISSION HAS COMPLIED WITH §§ 16-404 AND 16-405 OF THIS SUBTITLE.**

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 28, § 2-112.2(c).

6 Defined terms: "Commission" § 14-101
7 "Secretary-treasurer" § 16-401
8 "Service contract" § 16-401

9 **16-404. ANALYSIS AND ESTIMATES BY COMMISSION.**

10 **(A) DUTIES OF COMMISSION.**

11 **THE SECRETARY-TREASURER MAY NOT CERTIFY THAT THE COMMISSION**
12 **COMPLIED WITH THE REQUIREMENTS OF THIS SUBTITLE UNLESS THE**
13 **COMMISSION:**

14 **(1) HAS TAKEN STEPS TO CONSIDER ALTERNATIVES TO THE**
15 **SERVICE CONTRACT, INCLUDING REORGANIZATION, REEVALUATION OF**
16 **SERVICE, AND REEVALUATION OF PERFORMANCE;**

17 **(2) HAS CONSULTED WITH THE CERTIFIED REPRESENTATIVE OF**
18 **ALL EMPLOYEES OF THE COMMISSION WHO WILL BE ADVERSELY AFFECTED IF**
19 **THE COMMISSION ENTERS INTO THE SERVICE CONTRACT; AND**

20 **(3) HAS DEMONSTRATED, BASED ON A COST COMPARISON**
21 **ANALYSIS AND GOOD FAITH ESTIMATES, THAT BY ENTERING INTO THE SERVICE**
22 **CONTRACT THE COMMISSION WILL SAVE AT LEAST AN AMOUNT EQUAL TO THE**
23 **LESSER OF \$200,000 OR 20% OF THE ESTIMATED NET PRESENT VALUE OF THE**
24 **COST OF THE SERVICE CONTRACT.**

25 **(B) CONTENTS OF COST COMPARISON ANALYSIS.**

26 **THE COMMISSION SHALL ESTIMATE AND COMPARE AT LEAST THE**
27 **FOLLOWING IN THE COST COMPARISON ANALYSIS:**

28 **(1) DIRECT COSTS, INCLUDING FRINGE BENEFITS AND THE**
29 **ASSUMPTION THAT THE CONTRACTOR WILL PAY EMPLOYEES WHO PERFORM**
30 **WORK UNDER THE SERVICE CONTRACT AT THE LESSER OF THE LABOR RATE**
31 **ESTABLISHED AS THE COUNTY LIVING WAGE RATE FOR MONTGOMERY COUNTY**
32 **OR PRINCE GEORGE'S COUNTY;**

1 **(2) INDIRECT OVERHEAD COSTS PROPERLY ALLOCABLE TO THE**
2 **BARGAINING UNIT WORK OR SERVICE CONTRACT ACCORDING TO GENERALLY**
3 **ACCEPTED ACCOUNTING PRINCIPLES; AND**

4 **(3) COSTS ASSOCIATED WITH UNEMPLOYMENT COMPENSATION**
5 **OR OUTPLACEMENT ASSISTANCE FOR DISPLACED EMPLOYEES.**

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 28, § 2-112.2(d).

8 Defined terms: "Adversely affect" § 16-401

9 "Bargaining unit work" § 16-401

10 "Certified representative" § 16-401

11 "Commission" § 14-101

12 "County" § 14-101

13 "Secretary-treasurer" § 16-401

14 "Service contract" § 16-401

15 **16-405. PLAN OF OUTPLACEMENT ASSISTANCE.**

16 **(A) DUTIES OF COMMISSION.**

17 **THE COMMISSION SHALL PROVIDE AT LEAST 60 DAYS' ADVANCE NOTICE,**
18 **AND MAINTAIN AT ALL TIMES A FORMAL PLAN OF OUTPLACEMENT ASSISTANCE,**
19 **FOR EACH EMPLOYEE OF THE COMMISSION WHO IS REPRESENTED BY A**
20 **CERTIFIED REPRESENTATIVE AND WILL BE ADVERSELY AFFECTED BY A**
21 **SERVICE CONTRACT THAT IS SUBJECT TO THIS SUBTITLE.**

22 **(B) CONTENTS OF PLAN.**

23 **A PLAN DESCRIBED IN SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:**

24 **(1) EFFORTS TO TRANSFER OR PLACE EACH ADVERSELY**
25 **AFFECTED EMPLOYEE OF THE COMMISSION IN A VACANT POSITION OF THE**
26 **COMMISSION THAT THE EMPLOYEE IS QUALIFIED TO PERFORM;**

27 **(2) INCLUSION OF A REQUIREMENT IN THE SERVICE CONTRACT**
28 **THAT THE CONTRACTOR SHALL:**

29 **(I) NOTIFY THE COMMISSION OF EACH VACANT POSITION**
30 **FOR WHICH DISPLACED EMPLOYEES OF THE COMMISSION MAY APPLY; AND**

1 **(II) CONSIDER AND GIVE PREFERENCE TO HIRING**
 2 **DISPLACED EMPLOYEES OF THE COMMISSION; AND**

3 **(3) WRITTEN NOTIFICATION OF THE ANTICIPATED ADVERSE**
 4 **EFFECT ON ONE OR MORE JOB CLASSIFICATIONS TO THE CERTIFIED**
 5 **REPRESENTATIVE AT LEAST 90 DAYS BEFORE THE ANTICIPATED ADVERSE**
 6 **EFFECT WILL OCCUR.**

7 REVISOR'S NOTE: This section is new language derived without substantive
 8 change from former Art. 28, § 2-112.2(e).

9 Defined terms: "Adversely affect" § 16-401
 10 "Certified representative" § 16-401
 11 "Commission" § 14-101
 12 "Service contract" § 16-401

13 **16-406. PROPOSAL FOR SAVINGS BY CERTIFIED REPRESENTATIVE.**

14 **THE CERTIFIED REPRESENTATIVE OF AN ADVERSELY AFFECTED**
 15 **EMPLOYEE OF THE COMMISSION MAY SUBMIT A PROPOSAL FOR EXISTING**
 16 **BARGAINING UNIT EMPLOYEES TO CONTINUE PERFORMING THE SERVICES**
 17 **DESCRIBED IN A SOLICITATION WHILE ACHIEVING THE TARGETED SAVINGS.**

18 REVISOR'S NOTE: This section formerly was Art. 28, § 2-112.2(f).

19 The only changes are in style.

20 Defined terms: "Adversely affect" § 16-401
 21 "Certified representative" § 16-401
 22 "Commission" § 14-101

23 **16-407. FAILURE TO COMPLY WITH SUBTITLE.**

24 **(A) RIGHT OF EMPLOYEE TO ADMINISTRATIVE HEARING.**

25 **IF THE COMMISSION FAILS TO COMPLY WITH THIS SUBTITLE AND AN**
 26 **EMPLOYEE OF THE COMMISSION IS ADVERSELY AFFECTED, THE CERTIFIED**
 27 **REPRESENTATIVE OF THE EMPLOYEE MAY FILE AN APPEAL ON THE RECORD ON**
 28 **BEHALF OF THE EMPLOYEE BEFORE THE STATE OFFICE OF ADMINISTRATIVE**
 29 **HEARINGS IN ACCORDANCE WITH THE CONTESTED CASE PROVISIONS OF THE**
 30 **ADMINISTRATIVE PROCEDURE ACT, TITLE 10, SUBTITLE 2 OF THE STATE**
 31 **GOVERNMENT ARTICLE.**

32 **(B) AWARD OF ACTUAL DAMAGES.**

1 **(1) IF THE ADMINISTRATIVE LAW JUDGE FINDS THAT THE**
 2 **COMMISSION WAS ARBITRARY AND CAPRICIOUS IN SOLICITING OR ENTERING**
 3 **INTO A SERVICE CONTRACT THAT IS SUBJECT TO THIS SUBTITLE, AND THE**
 4 **EMPLOYEE OF THE COMMISSION HAS BEEN ADVERSELY AFFECTED, THE**
 5 **ADMINISTRATIVE LAW JUDGE MAY AWARD THE EMPLOYEE ACTUAL DAMAGES**
 6 **FOR BACK PAY AND FRONT PAY FOR A COMBINED PERIOD OF UP TO 2 YEARS**
 7 **BEGINNING ON THE DATE THE EMPLOYEE WAS FIRST ADVERSELY AFFECTED.**

8 **(2) THE EMPLOYEE IS OBLIGATED TO MITIGATE THE ACTUAL**
 9 **DAMAGES.**

10 **(3) AN AWARD OF ACTUAL DAMAGES AUTHORIZED UNDER THIS**
 11 **SUBSECTION SHALL BE THE SOLE AND EXCLUSIVE REMEDY FOR A VIOLATION OF**
 12 **THIS SUBTITLE THAT IS AVAILABLE TO THE EMPLOYEE, AND LIABILITY MAY NOT**
 13 **ACCRUE FOR PUNITIVE DAMAGES, CONSEQUENTIAL DAMAGES, OR DAMAGES**
 14 **FOR EMOTIONAL DISTRESS OR PAIN AND SUFFERING.**

15 **(C) EFFECT OF NONCOMPLIANCE ON AWARD OF CONTRACT OR**
 16 **PROPOSED CONTRACT.**

17 **NONCOMPLIANCE WITH THIS SUBTITLE MAY NOT INVALIDATE A**
 18 **CONTRACT AWARD OR PROPOSED CONTRACT AWARD THAT THE COMMISSION**
 19 **HAS OTHERWISE VALIDLY AWARDED OR ISSUED.**

20 REVISOR'S NOTE: This section is new language derived without substantive
 21 change from former Art. 28, § 2-112.2(g).

22 The Land Use Article Review Committee notes, for consideration by the
 23 General Assembly, that in subsection (b)(1) of this section, the standard
 24 that may be used to calculate a pay award is unclear. It is not clear
 25 whether the award is in nominal dollars, or should be calculated as
 26 future earnings and then reduced to present value. The General
 27 Assembly may wish to compare this provision to other pay provisions in
 28 the Code and adjust this provision accordingly.

29 Defined terms: "Adversely affect" § 16-401
 30 "Certified representative" § 16-401
 31 "Commission" § 14-101
 32 "Service contract" § 16-401

33 **SUBTITLE 5. PRINCE GEORGE'S COUNTY PARKS AND RECREATION**
 34 **EMPLOYEES.**

35 **16-501. "FULL-TIME PARK EMPLOYEE" DEFINED.**

1 **IN THIS SUBTITLE, “FULL-TIME PARK EMPLOYEE” MEANS AN INDIVIDUAL**
2 **EMPLOYED BY THE COUNTY PARKS AND RECREATION DEPARTMENT WHO:**

3 **(1) WORKS AT LEAST 37.5 HOURS EACH WEEK, EXCLUDING**
4 **COMMISSION HOLIDAYS; AND**

5 **(2) HAS BEEN EMPLOYED BY THE DEPARTMENT FOR MORE THAN**
6 **1 YEAR WITHOUT INTERRUPTION.**

7 REVISOR’S NOTE: This section is new language derived without substantive
8 change from former Art. 28, § 5–203(a).

9 In this section and throughout this subtitle, the references to an
10 “employee” are substituted for the former references to “personnel” for
11 clarity.

12 In the introductory language to this section, the reference to “an
13 individual” is substituted for the former reference to “any personnel”
14 because only an individual may be employed by and accrue benefits
15 under a merit system.

16 For substantive provisions relating to the Prince George’s County
17 Recreation Program, *see* Title 25, Subtitle 8 of this article.

18 Defined terms: “Commission” § 14–101
19 “Park” § 14–101

20 **16–502. SCOPE OF SUBTITLE.**

21 **THIS SUBTITLE APPLIES ONLY IN PRINCE GEORGE’S COUNTY.**

22 REVISOR’S NOTE: This section is new language added for clarity.

23 **16–503. COORDINATOR.**

24 **THE COUNTY PLANNING BOARD SHALL DESIGNATE A DIRECTOR TO**
25 **COORDINATE ITS COUNTY RECREATION PROGRAM WITH THE COMMISSION’S**
26 **PARK FUNCTIONS.**

27 REVISOR’S NOTE: This section is new language derived without substantive
28 change from former Art. 28, § 5–203(b)(1).

29 Defined terms: “Commission” § 14–101
30 “County planning board” § 14–101

1 “Park” § 14–101

2 **16–504. PERSONNEL — GENERALLY.**

3 **THE COUNTY PLANNING BOARD SHALL EMPLOY FULL–TIME PARK**
 4 **EMPLOYEES AND PART–TIME EMPLOYEES AS NECESSARY TO CARRY OUT THE**
 5 **FUNCTIONS AND PROGRAMS OF TITLE 25, SUBTITLE 8 OF THIS ARTICLE.**

6 REVISOR’S NOTE: This section is new language derived without substantive
 7 change from the first sentence of former Art. 28, § 5–203(b)(2).

8 The phrase “of Title 25, Subtitle 8 of this article” is substituted for the
 9 former phrase “provided herein” for clarity.

10 Defined terms: “County planning board” § 14–101
 11 “Full–time park employee” § 16–501
 12 “Park” § 14–101

13 **16–505. FULL–TIME PARK EMPLOYEES.**

14 **(A) IN GENERAL.**

15 **THE COUNTY PLANNING BOARD SHALL EMPLOY FULL–TIME PARK**
 16 **EMPLOYEES UNDER THE COMMISSION’S MERIT SYSTEM, AS PROVIDED IN**
 17 **SUBTITLE 1 OF THIS TITLE.**

18 **(B) REQUIRED BENEFITS.**

19 **FULL–TIME PARK EMPLOYEES SHALL RECEIVE THE SAME EMPLOYMENT**
 20 **BENEFITS THAT OTHER EMPLOYEES RECEIVE UNDER THE COMMISSION’S MERIT**
 21 **SYSTEM, INCLUDING:**

- 22 **(1) ANNUAL LEAVE;**
 23 **(2) SICK LEAVE;**
 24 **(3) HEALTH BENEFITS; AND**
 25 **(4) RETIREMENT BENEFITS.**

26 REVISOR’S NOTE: This section is new language derived without substantive
 27 change from former Art. 28, § 5–203(c) and the second sentence of (b)(2).

28 In subsection (a) of this section, the former phrase “according to and shall
 29 be placed” is deleted as surplusage.

1 Defined terms: "Commission" § 14-101
 2 "County planning board" § 14-101
 3 "Full-time park employee" § 16-501
 4 "Park" § 14-101

5 **16-506. PART-TIME AND TEMPORARY EMPLOYEES; VOLUNTEERS.**

6 **(A) PART-TIME OR TEMPORARY EMPLOYEES.**

7 **THE COUNTY PLANNING BOARD MAY EMPLOY PART-TIME OR TEMPORARY**
 8 **EMPLOYEES FOR A PERIOD OF TIME AND AT A SALARY AS THE COUNTY**
 9 **PLANNING BOARD MAY DETERMINE.**

10 **(B) VOLUNTEERS.**

11 **THE COUNTY PLANNING BOARD MAY ACCEPT THE SERVICES OF**
 12 **VOLUNTEERS WITHOUT COMPENSATION.**

13 REVISOR'S NOTE: This section is new language derived without substantive
 14 change from former Art. 28, § 5-203(b)(3).

15 In subsection (a) of this section, the reference to the county planning
 16 board "employ[ing]" employees is substituted for the former reference to
 17 personnel "appointed by" the board for consistency throughout this
 18 subtitle.

19 Defined terms: "County planning board" § 14-101
 20 "Full-time park employee" § 16-501

21 **16-507. EMPLOYEES EMPLOYED ON JULY 1, 1970.**

22 **(A) IN GENERAL.**

23 **EMPLOYEES EMPLOYED BY THE RECREATION DEPARTMENT ON JULY 1,**
 24 **1970, WHO ARE EMPLOYED UNDER THE COUNTY MERIT SYSTEM SHALL BE**
 25 **EMPLOYED BY THE COMMISSION:**

26 **(1) TO FURTHER THE FUNCTIONS AND PROGRAMS OF TITLE 25,**
 27 **SUBTITLE 8 OF THIS ARTICLE;**

28 **(2) IN A POSITION CLASSIFICATION THAT THE COUNTY PLANNING**
 29 **BOARD MAY ESTABLISH; AND**

1 **(3) AT A PAY GRADE NOT LESS THAN THAT HELD BY THE**
2 **EMPLOYEE UNDER THE COUNTY MERIT SYSTEM.**

3 **(B) EFFECT ON BENEFITS.**

4 **EMPLOYEES TRANSFERRED TO THE COMMISSION UNDER THIS SUBTITLE**
5 **SHALL BE GIVEN CREDIT FOR SICK AND ANNUAL LEAVE ACCRUED UNDER THE**
6 **COUNTY MERIT SYSTEM AND FOR ANY OTHER BENEFITS, PRIVILEGES, AND**
7 **RIGHTS ACCRUED WHILE EMPLOYED BY THE COUNTY.**

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 28, § 5–203(b)(4).

10 In subsection (b) of this section, the reference to leave “accrued” is
11 substituted for the former reference to leave “purposes for service” for
12 clarity and consistency within the subsection.

13 Defined terms: “Commission” § 14–101
14 “County” § 14–101
15 “County planning board” § 14–101

16 **16–508. REGULATIONS.**

17 **THE COUNTY PLANNING BOARD MAY ADOPT REGULATIONS TO CARRY OUT**
18 **THIS SUBTITLE.**

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 28, § 5–205.

21 The reference to the county planning board adopting “regulations to carry
22 out this subtitle” is substituted for the former reference to the board
23 adopting “whatever rules and regulations as it may deem necessary for
24 the conduct of the programs as authorized and prescribed for it under
25 this article” for clarity and brevity.

26 Defined term: “County planning board” § 14–101

27 **TITLE 17. POWERS AND PROPERTY.**

28 **SUBTITLE 1. PROPERTY ACQUISITION.**

29 **PART I. GENERAL PROVISIONS.**

30 **17–101. AUTHORIZED.**

1 **(A) IN GENERAL.**

2 **THE COMMISSION MAY ACQUIRE PROPERTY FOR THE PURPOSES STATED**
3 **IN SUBSECTION (B) OF THIS SECTION TO CARRY OUT THE COMMISSION'S**
4 **GENERAL PLAN FOR THE PHYSICAL DEVELOPMENT OF THE METROPOLITAN**
5 **DISTRICT.**

6 **(B) AUTHORIZED PURPOSES.**

7 **THE PURPOSES FOR ACQUISITION INCLUDE:**

8 **(1) IN THE METROPOLITAN DISTRICT:**

9 **(I) PARKS;**

10 **(II) FORESTS;**

11 **(III) ROADS; AND**

12 **(IV) OTHER PUBLIC WAYS, GROUNDS, AND SPACES; AND**

13 **(2) PUBLIC RECREATION, INCLUDING THE CONSTRUCTION OF**
14 **PUBLIC RECREATION CENTERS, COMMUNITY BUILDINGS, OR OTHER PUBLIC**
15 **BUILDINGS NECESSARY TO HOUSE A PUBLIC RECREATION PROGRAM.**

16 **(C) POWERS.**

17 **THE COMMISSION:**

18 **(1) MAY IMPROVE AND DEVELOP PROPERTY THAT IT ACQUIRES**
19 **UNDER THIS SECTION FOR THE PURPOSES STATED IN SUBSECTION (B) OF THIS**
20 **SECTION; AND**

21 **(2) CONTROLS THE MAINTENANCE AND OPERATION OF THE**
22 **PROPERTY.**

23 **(D) LIMITATION.**

24 **A GENERAL REGULATION GOVERNING PROPERTY ACQUIRED FOR A**
25 **PURPOSE UNDER SUBSECTION (B)(1) OF THIS SECTION IN EITHER COUNTY MAY**
26 **NOT TAKE EFFECT UNTIL THE REGULATION RECEIVES THE AFFIRMATIVE VOTE**
27 **OF AT LEAST THREE MEMBERS OF THE COMMISSION FROM THAT COUNTY.**

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 28, § 5–101(a) and (b).

3 In subsections (a) and (c)(1) of this section and throughout this subtitle,
4 the former references to “land or other” property are deleted as implicit in
5 the comprehensive reference to “property”.

6 In subsection (a) of this section, the former reference to acquisition of
7 property “by means of donations, purchases, or condemnation” is deleted
8 as surplusage. Even though the deletion of the reference to
9 “condemnation” might appear to be substantive, that power is specifically
10 authorized in Part II of this subtitle, *below*. No substantive change is
11 intended. The Land Use Article Review Committee brings this deletion to
12 the attention of the General Assembly.

13 In the introductory language to subsection (b) of this section, the former
14 reference to acquiring property “whether by purchase or condemnation” is
15 deleted as surplusage.

16 In subsection (b)(1) of this section, the former references to “parkways”,
17 “streets”, and “boulevards” are deleted as included in the defined term
18 “road”.

19 Defined terms: “Commission” § 14–101

20 “Metropolitan district” § 14–101

21 “Park” § 14–101

22 “Road” § 14–101

23 **17–102. CONSTRUCTION NEAR ROCK CREEK.**

24 **(A) PURPOSE OF SECTION.**

25 **THIS SECTION IS FOR THE PURPOSE OF PRESERVING AND ENHANCING**
26 **THE SCENIC BEAUTY OF ROCK CREEK.**

27 **(B) APPROVAL REQUIRED.**

28 **NOTWITHSTANDING ANY POWER OF THE COMMISSION TO ACQUIRE**
29 **PROPERTY, WITHOUT THE APPROVAL OF THE MAJORITY OF THE MEMBERS OF**
30 **THE MONTGOMERY COUNTY COUNCIL, ON OR AFTER JULY 1, 1969, THE**
31 **COMMISSION MAY NOT CONSTRUCT A NEW ROAD ADJACENT TO ROCK CREEK**
32 **WITHIN 1500 FEET FROM THE BANKS OF THE CREEK.**

33 **(C) LIMITATION.**

1 **THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT THE**
 2 **CONSTRUCTION OF A BRIDGE OR ROAD NECESSARY TO CROSS ROCK CREEK.**

3 REVISOR'S NOTE: This section is new language derived without substantive
 4 change from former Art. 28, § 5–101(c).

5 In subsections (b) and (c) of this section, the former references to any
 6 “parkway, boulevard, [or] street” are deleted as included in the defined
 7 term “road”.

8 In subsection (b) of this section, the reference to a new road “on or after
 9 July 1, 1969,” is added for clarity. *See* Ch. 304, Acts of 1969.

10 Defined terms: “Commission” § 14–101
 11 “Road” § 14–101

12 **17–103. CONTRIBUTIONS IN SUPPORT.**

13 **(A) IN GENERAL.**

14 **TO FINANCE WHOLLY OR PARTLY THE ACQUISITION OF PROPERTY UNDER**
 15 **§ 17–101(B) OF THIS SUBTITLE, THE COMMISSION MAY RECEIVE AND EXPEND**
 16 **ANY CONTRIBUTION OR APPROPRIATION BY THE UNITED STATES, THE**
 17 **DISTRICT OF COLUMBIA, THE STATE, ANY OTHER POLITICAL SUBDIVISION, OR**
 18 **ANY PERSON.**

19 **(B) PRINCE GEORGE'S COUNTY.**

20 **TO FINANCE WHOLLY OR PARTLY LAND ACQUISITION, DESIGN,**
 21 **DEVELOPMENT, REDEVELOPMENT, OR REVITALIZATION IN PRINCE GEORGE'S**
 22 **COUNTY, THE COMMISSION MAY RECEIVE AND EXPEND ANY CONTRIBUTION OR**
 23 **APPROPRIATION BY THE UNITED STATES, THE DISTRICT OF COLUMBIA, THE**
 24 **STATE, ANY OTHER POLITICAL SUBDIVISION, OR ANY PERSON.**

25 REVISOR'S NOTE: This section is new language derived without substantive
 26 change from former Art. 28, § 5–102.

27 In this section, the references to a political “subdivision” are substituted
 28 for the former references to a political “community” for consistency within
 29 this article.

30 Also in this section, the references to financing “wholly or partly” the
 31 acquisition are substituted for the former references to financing “or
 32 assisting in the financing” of the acquisition for clarity.

1 Also in this section, the former references to a “private” person are
2 deleted as implicit in the meaning of the defined term “person”. *See*
3 Revisor’s Note to § 14–101 of this article.

4 In subsection (a) of this section, the reference to property acquisition
5 “under § 17–101(b) of this subtitle” is substituted for the former reference
6 to acquisition “for parks, parkways, forests, streets, roads, boulevards, or
7 other public ways, grounds, or spaces within the metropolitan district, or
8 for the purposes of public recreation, or for its improvement or
9 development,” for clarity and brevity.

10 Defined terms: “Commission” § 14–101

11 “Person” § 14–101

12 “State” § 14–101

13 **17–104. PROPERTY TITLE AND CONTROL.**

14 **(A) PARKWAY PROPERTY.**

15 **TITLE TO LANDS ACQUIRED UNDER § 1(A) OF THE**
16 **CAPPER–CRAMTON ACT, PUBLIC LAW 71–284, 46 STAT. 482, SHALL VEST IN**
17 **THE UNITED STATES, AS PROVIDED IN THAT ACT.**

18 **(B) OTHER PROPERTY — TITLE AND CONTROL.**

19 **EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, WITHOUT**
20 **THE APPROVAL OF THE GENERAL ASSEMBLY:**

21 **(1) TITLE TO ANY OTHER PROPERTY ACQUIRED MAY NOT BE**
22 **PLACED IN OR GRANTED TO THE UNITED STATES OR ANY PERSON OR**
23 **POLITICAL SUBDIVISION OTHER THAN THE METROPOLITAN DISTRICT ITSELF OR**
24 **THE STATE; AND**

25 **(2) THE CONTROL, MAINTENANCE, OPERATION, OR POLICING OF**
26 **ANY OTHER PARK, FOREST, ROAD, OR OTHER PUBLIC WAY, GROUND, OR SPACE**
27 **IN THE METROPOLITAN DISTRICT MAY NOT BE PLACED IN OR GRANTED TO THE**
28 **UNITED STATES OR TO ANY OTHER PERSON OR POLITICAL SUBDIVISION OTHER**
29 **THAN THE COMMISSION ITSELF.**

30 **(C) OTHER PROPERTY — PRINCE GEORGE’S COUNTY.**

31 **IN PRINCE GEORGE’S COUNTY, THE TITLE, CONTROL, MAINTENANCE, OR**
32 **OPERATION OF PROPERTY ACQUIRED IN THE PRINCE GEORGE’S COUNTY**

1 **PORTION OF THE METROPOLITAN DISTRICT MAY BE TRANSFERRED BY COUNTY**
 2 **LOCAL LAW TO:**

3 **(1) THE REDEVELOPMENT AUTHORITY OF PRINCE GEORGE'S**
 4 **COUNTY; OR**

5 **(2) THE REVENUE AUTHORITY OF PRINCE GEORGE'S COUNTY.**

6 **REVISOR'S NOTE:** This section is new language derived without substantive
 7 change from former Art. 28, § 5–103.

8 In subsection (a) of this section, the reference to “§ 1(a) of the
 9 Capper–Cramton Act, Public Law 71–284, 46 Stat. 482” is substituted for
 10 the former reference to “subsection 1(a) of Public Law No. 284, 71st
 11 Congress, as amended” for consistency within this division.

12 In subsection (b) of this section, the references to a political “subdivision”
 13 are substituted for the former references to a political “community” for
 14 consistency within this article.

15 In subsection (b)(2) of this section, the former references to “parkways”,
 16 “street”, and “boulevard” are deleted as included in the defined term
 17 “road”.

18 Defined terms: “Commission” § 14–101

19 “Local law” § 14–101

20 “Metropolitan district” § 14–101

21 “Park” § 14–101

22 “Person” § 14–101

23 “Road” § 14–101

24 “State” § 14–101

25 **17–105. ACQUISITION OUTSIDE METROPOLITAN DISTRICT.**

26 **(A) AUTHORIZED.**

27 **THE COMMISSION MAY ACQUIRE LAND FOR THE PURPOSES STATED IN §**
 28 **17–213 OF THIS TITLE AND TITLE 18, SUBTITLE 2 OF THIS ARTICLE OUTSIDE**
 29 **THE METROPOLITAN DISTRICT BUT IN THE REGIONAL DISTRICT.**

30 **(B) REQUIRED FINDING.**

31 **THE COMMISSION MAY ACQUIRE LAND UNDER SUBSECTION (A) OF THIS**
 32 **SECTION IF THE COMMISSION FINDS THAT THE ACQUISITION IS NECESSARY TO**

1 PRESERVE ANY PORTION OF THE COMMISSION'S REGIONAL PARK PLAN FOR
2 THE METROPOLITAN DISTRICT.

3 (C) FUNDING.

4 (1) TO ACQUIRE LAND UNDER THIS SECTION, THE COMMISSION
5 MAY EXPEND ANY CURRENT FUNDS THAT MAY BE EXPENDED UNDER THIS
6 DIVISION FOR LAND ACQUISITION IN THE METROPOLITAN DISTRICT FOR THE
7 PURPOSES AUTHORIZED BY THIS SECTION.

8 (2) FUNDS USED FOR LAND ACQUISITION IN THE MONTGOMERY
9 COUNTY PORTION OF THE METROPOLITAN DISTRICT MAY INCLUDE THE
10 PROCEEDS OF BONDS THE COMMISSION ISSUES UNDER TITLE 18, SUBTITLE 2
11 OF THIS ARTICLE.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 28, § 5–104.

14 In subsection (b) of this section, the former reference to the plan for the
15 metropolitan district “in Montgomery County and Prince George’s
16 County, respectively” is deleted as surplusage.

17 Also in subsection (b) of this section, the former phrase “which plan is a
18 part of the Commission’s general plan for the physical development of the
19 Maryland–Washington Regional District” is deleted as surplusage.

20 In subsection (c)(1) of this section, the phrase “[t]o acquire land under
21 this section” is substituted for the former phrase “for the foregoing
22 purposes” for clarity.

23 Also in subsection (c)(1) of this section, the former reference to land
24 acquisition in “the respective counties within” the metropolitan district is
25 deleted as surplusage.

26 In subsection (c)(2) of this section, the reference to the “Montgomery
27 County portion of the metropolitan district” is substituted for the former
28 obsolete reference to “that portion of the Maryland–Washington Regional
29 District known as the Upper Montgomery County Metropolitan District”
30 for clarity in light of the incorporation of the former Upper Montgomery
31 County Metropolitan District into the rest of the Montgomery County
32 portion of the metropolitan district in 1965. *See* Revisor’s Note to Title 19
33 of this article; § 11 of Ch. ___, Acts of 2012; *cf.* Ch. 365, Acts of 1965.

34 Defined terms: “Commission” § 14–101
35 “Metropolitan district” § 14–101
36 “Park” § 14–101

1 “Regional district” § 14–101

2 **17–106. RESERVED.**

3 **17–107. RESERVED.**

4 **PART II. PURCHASE AND CONDEMNATION.**

5 **17–108. AUTHORIZED.**

6 **(A) FROM OWNER.**

7 **WHENEVER THE COMMISSION CONSIDERS IT NECESSARY TO ACQUIRE**
8 **ANY PROPERTY FOR A PURPOSE STATED IN § 17–101(B) OF THIS SUBTITLE, THE**
9 **COMMISSION MAY:**

10 **(1) PURCHASE THE PROPERTY FROM THE OWNER; OR**

11 **(2) IF THE COMMISSION FAILS TO AGREE WITH THE OWNER,**
12 **CONDEMN THE PROPERTY BY PROCEEDINGS IN THE CIRCUIT COURT FOR THE**
13 **COUNTY IN WHICH THE PROPERTY IS LOCATED.**

14 **(B) FROM TENANT OR OTHER PERSON.**

15 **AT THE SAME TIME, THE COMMISSION MAY ACQUIRE THE INTEREST OF**
16 **ANY TENANT, LESSEE, OR OTHER PERSON HAVING AN INTEREST IN THE**
17 **PROPERTY.**

18 **REVISOR’S NOTE:** This section is new language derived without substantive
19 change from the first and third sentences of former Art. 28, § 5–105.

20 In the introductory language to subsection (a) of this section, the former
21 reference to “tak[ing]” is deleted as included in the reference to
22 “acquir[ing]”.

23 Also in the introductory language to subsection (a) of this section, the
24 comprehensive reference to acquisition of “property” is substituted for the
25 former reference to acquisition of “lands, water rights, structures, or
26 buildings, either in fee or as an easement” for brevity and clarity.

27 Also in the introductory language to subsection (a) of this section, the
28 reference to acquisition for “a purpose stated in § 17–101(b) of this
29 subtitle,” is substituted for the former reference to acquisition for “parks,
30 parkways, forests, roads, streets, boulevards, or highways, ground or
31 spaces, or for the purposes of recreation,” for brevity and clarity.

1 In subsection (a)(1) of this section, the reference to “the property” is
2 substituted for the former word “them” for clarity.

3 In subsection (a)(2) of this section, the reference to the “property” is
4 substituted for the former reference to the “land, water rights, structures,
5 or buildings” for brevity and clarity.

6 Defined terms: “Commission” § 14–101
7 “County” § 14–101
8 “Person” § 14–101

9 **17–109. PROCEDURE.**

10 **THE COMMISSION SHALL CONDEMN PROPERTY USING THE PROCEDURES**
11 **FOR CONDEMNATION OF LAND BY A PUBLIC SERVICE COMPANY IN ACCORDANCE**
12 **WITH TITLE 12 OF THE REAL PROPERTY ARTICLE.**

13 REVISOR’S NOTE: This section is new language derived without substantive
14 change from the second sentence of former Art. 28, § 5–105.

15 Defined term: “Commission” § 14–101

16 **17–110. POSSESSION; APPEAL.**

17 **(A) ENTRY AND POSSESSION.**

18 **SUBJECT TO SUBSECTION (B) OF THIS SECTION, AT ANY TIME AFTER 10**
19 **DAYS AFTER THE RETURN AND RECORDATION OF THE VERDICT OR AWARD IN**
20 **THE PROCEEDINGS, THE COMMISSION MAY ENTER AND TAKE POSSESSION OF**
21 **THE CONDEMNED PROPERTY, NOTWITHSTANDING ANY APPEAL OR FURTHER**
22 **PROCEEDINGS ON THE PART OF THE DEFENDANT.**

23 **(B) APPEAL.**

24 **(1) BEFORE ENTERING THE PROPERTY, THE COMMISSION SHALL**
25 **PAY TO THE CLERK OF THE CIRCUIT COURT THE AMOUNT OF THE AWARD AND**
26 **ALL COSTS ASSESSED TO DATE.**

27 **(2) AT THE TIME OF PAYMENT, THE COMMISSION SHALL AGREE**
28 **TO ABIDE BY AND FULFILL ANY JUDGMENT FOLLOWING APPEAL, OR UNTIL THE**
29 **TIME TO REQUEST AN APPEAL EXPIRES.**

30 REVISOR’S NOTE: This section is new language derived without substantive
31 change from the fourth and fifth sentences of former Art. 28, § 5–105.

1 In subsection (b)(1) of this section, the reference to costs “assessed” is
2 substituted for the former reference to costs “taxed” for accuracy.

3 In subsection (b)(2) of this section, the reference to the Commission
4 “agree[ing]” to abide by a judgment is substituted for the former reference
5 to the Commission “giv[ing] its corporate undertaking” to abide by a
6 judgment for clarity.

7 The Land Use Article Review Committee notes, for consideration by the
8 General Assembly, that while the process for taking possession of
9 condemned property under this section is similar to that found in Title
10 12, Subtitle 2 of the Maryland Rules, it is not identical. The General
11 Assembly may wish to compare the provisions on condemnation under
12 this section and this part with those found in the Maryland Rules with an
13 intent to harmonize the two.

14 For general provisions on condemnation, entry, and appeals, *see*
15 Maryland Rule 12–210.

16 Defined term: “Commission” § 14–101

17 **17–111. RESERVED.**

18 **17–112. RESERVED.**

19 **PART III. RELOCATION EXPENSES.**

20 **17–113. DEFINITIONS.**

21 **(A) IN GENERAL.**

22 **IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

23 **REVISOR’S NOTE:** This subsection formerly was Art. 28, § 5–105.1(a)(1).

24 In this subsection and throughout this part, the references to this “part”
25 are substituted for the former references to this “section” to reflect the
26 reorganization of material derived from former Art. 28, § 5–105.1.

27 The only other changes are in style.

28 **(B) BUSINESS.**

29 **(1) “BUSINESS” MEANS A LAWFUL ACTIVITY CONDUCTED**
30 **PRIMARILY:**

1 **(I) FOR THE PURCHASE, SALE, LEASE, OR RENTAL OF**
 2 **PROPERTY;**

3 **(II) FOR THE MANUFACTURE, PROCESSING, OR MARKETING**
 4 **OF PRODUCTS OR OTHER PERSONAL PROPERTY;**

5 **(III) FOR THE SALE OF SERVICES TO THE PUBLIC; OR**

6 **(IV) BY A NOT-FOR-PROFIT ORGANIZATION.**

7 **(2) “BUSINESS” DOES NOT INCLUDE A FARM OPERATION.**

8 REVISOR’S NOTE: This subsection is new language derived without
 9 substantive change from former Art. 28, § 5–105.1(a)(5).

10 In paragraph (1)(ii) of this subsection, the reference to “commodities” is
 11 deleted as included in the reference to “products”.

12 Defined term: “Farm operation” § 17–113

13 **(C) DISPLACED.**

14 **“DISPLACED”, WITH RESPECT TO A PERSON, MEANS MOVING FROM REAL**
 15 **PROPERTY, OR MOVING THE PERSON’S PERSONAL PROPERTY FROM REAL**
 16 **PROPERTY:**

17 **(1) WHOLLY OR PARTLY AS A RESULT OF THE COMMISSION’S**
 18 **ACQUISITION OF THE REAL PROPERTY; OR**

19 **(2) AS THE RESULT OF A WRITTEN ORDER OF THE COMMISSION**
 20 **TO VACATE THE REAL PROPERTY FOR A PUBLIC WORKS PROGRAM OR PROJECT**
 21 **THE COMMISSION UNDERTAKES.**

22 REVISOR’S NOTE: This subsection is new language derived without
 23 substantive change from former Art. 28, § 5–105.1(a)(4).

24 In the introductory language to this subsection, the phrase “with respect
 25 to a person” is substituted for the former inclusion of the word “person” in
 26 the defined term “displaced person” because the source material did not
 27 consistently use the term as defined. *See, e.g.*, former Art. 28, §
 28 5–105.1(a)(2), which defined “relocation payment”, revised as subsection
 29 (e) of this section.

1 Also in the introductory language to this subsection, the former obsolete
2 reference to moving “after July 1, 1975,” is deleted because any moving
3 for which a relocation payment may be made under this part will have
4 taken place after that date.

5 In item (1) of this subsection, the reference to acquisition of the “real”
6 property is added for clarity.

7 Defined terms: “Commission” § 14–101

8 “Person” § 14–101

9 **(D) FARM OPERATION.**

10 **“FARM OPERATION” MEANS AN ACTIVITY THAT:**

11 **(1) IS CONDUCTED PRIMARILY FOR THE PRODUCTION OF ONE OR**
12 **MORE AGRICULTURAL PRODUCTS, INCLUDING TIMBER, FOR SALE OR HOME**
13 **USE; AND**

14 **(2) CUSTOMARILY PRODUCES THOSE PRODUCTS IN SUFFICIENT**
15 **QUANTITY TO BE ABLE TO CONTRIBUTE MATERIALLY TO THE OPERATOR’S**
16 **INCOME.**

17 REVISOR’S NOTE: This subsection is new language derived without
18 substantive change from former Art. 28, § 5–105.1(a)(6).

19 The former references to “commodities” are deleted as included in the
20 references to “products”.

21 In item (1) of this subsection, the reference to an activity conducted
22 “solely” is deleted as included in the reference to an activity conducted
23 “primarily” for the listed purposes.

24 In item (2) of this subsection, the reference to the operator’s “income” is
25 substituted for the former reference to the operator’s “support” for clarity.

26 **(E) RELOCATION PAYMENT.**

27 **“RELOCATION PAYMENT” MEANS A PAYMENT THE COMMISSION MAKES**
28 **TO A DISPLACED PERSON IN ACCORDANCE WITH THIS PART.**

29 REVISOR’S NOTE: This subsection is new language derived without
30 substantive change from former Art. 28, § 5–105.1(a)(2).

1 The defined term “person” is substituted for the former reference to an
2 “individual, family, business concern, farm operator, or nonprofit
3 organization” for brevity.

4 Defined terms: “Commission” § 14–101
5 “Displaced” § 17–113
6 “Person” § 14–101

7 REVISOR’S NOTE TO SECTION:

8 Former Art. 28, § 5–105.1(a)(3), which defined “person”, is deleted in light
9 of the same term defined in § 14–101 of this article.

10 Former Art. 28, § 5–105.1(a)(7), which defined “mortgage”, is deleted
11 because it merely repeats the dictionary definition.

12 For comparable provisions on relocation expenses in condemnation
13 proceedings, *see* RP, Title 12, Subtitle 2.

14 **17–114. RELOCATION PAYMENT — IN GENERAL.**

15 **(A) “AVERAGE ANNUAL NET EARNINGS” DEFINED.**

16 **IN THIS SECTION, “AVERAGE ANNUAL NET EARNINGS”:**

17 **(1) MEANS ONE–HALF OF ANY NET EARNINGS OF THE BUSINESS**
18 **OR FARM OPERATION, BEFORE FEDERAL, STATE, AND LOCAL INCOME TAXES,**
19 **DURING:**

20 **(I) THE 2 TAXABLE YEARS IMMEDIATELY PRECEDING THE**
21 **TAXABLE YEAR WHEN THE BUSINESS OR FARM OPERATION MOVES FROM THE**
22 **REAL PROPERTY ACQUIRED FOR THE PROJECT; OR**

23 **(II) A DIFFERENT PERIOD THE COMMISSION DETERMINES**
24 **TO BE MORE EQUITABLE FOR ESTABLISHING THE EARNINGS; AND**

25 **(2) INCLUDES ANY COMPENSATION PAID BY THE BUSINESS OR**
26 **FARM OPERATION TO THE OWNER OR THE OWNER’S SPOUSE OR DEPENDENTS**
27 **DURING THE PERIOD.**

28 **(B) APPLICATION FOR PAYMENT.**

29 **A PERSON WHO IS DISPLACED BY THE ACQUISITION OF REAL PROPERTY**
30 **FOR A PROGRAM OR PROJECT THE COMMISSION UNDERTAKES MAY APPLY TO**

1 THE APPROPRIATE COUNTY PLANNING BOARD FOR A RELOCATION PAYMENT
2 UNDER THIS SECTION.

3 (C) PAYMENT ON APPROVAL.

4 THE COMMISSION SHALL MAKE THE RELOCATION PAYMENT TO THE
5 DISPLACED PERSON AFTER THE COUNTY PLANNING BOARD APPROVES THE
6 APPLICATION.

7 (D) REQUIRED COMPENSATION.

8 (1) THE RELOCATION PAYMENT SHALL INCLUDE:

9 (I) ACTUAL REASONABLE EXPENSES TO MOVE THE PERSON
10 AND THE PERSON'S FAMILY, BUSINESS, FARM OPERATION, OR OTHER PERSONAL
11 PROPERTY;

12 (II) ACTUAL DIRECT LOSSES OF TANGIBLE PERSONAL
13 PROPERTY AS A RESULT OF MOVING OR DISCONTINUING A BUSINESS OR FARM
14 OPERATION; AND

15 (III) ACTUAL REASONABLE EXPENSES IN SEARCHING FOR A
16 REPLACEMENT BUSINESS OR FARM.

17 (2) THE LOSSES PAYABLE UNDER PARAGRAPH (1)(II) OF THIS
18 SUBSECTION MAY NOT EXCEED THE REASONABLE EXPENSES THAT WOULD HAVE
19 BEEN REQUIRED TO RELOCATE THE PROPERTY, AS DETERMINED BY THE
20 APPROPRIATE COUNTY PLANNING BOARD.

21 (E) ALTERNATE RELOCATION PAYMENT — DWELLING.

22 A DISPLACED PERSON ELIGIBLE FOR A RELOCATION PAYMENT UNDER
23 SUBSECTION (C) OF THIS SECTION WHO IS DISPLACED FROM A DWELLING AND
24 WHO CHOOSES TO ACCEPT A RELOCATION PAYMENT UNDER THIS SUBSECTION
25 INSTEAD OF A RELOCATION PAYMENT UNDER SUBSECTION (C) OF THIS SECTION
26 MAY RECEIVE:

27 (1) A MOVING EXPENSE ALLOWANCE DETERMINED ACCORDING
28 TO A SCHEDULE ESTABLISHED BY THE COMMISSION, NOT TO EXCEED \$300; AND

29 (2) A RELOCATION ALLOWANCE OF \$200.

1 **(F) ALTERNATE RELOCATION PAYMENT — BUSINESS OR FARM**
2 **OPERATION.**

3 **(1) SUBJECT TO SUBSECTION (G) OF THIS SECTION, A DISPLACED**
4 **PERSON ELIGIBLE FOR A RELOCATION PAYMENT UNDER SUBSECTION (C) OF**
5 **THIS SECTION WHO IS DISPLACED FROM THE PERSON’S PLACE OF BUSINESS OR**
6 **FARM OPERATION AND WHO CHOOSES TO ACCEPT A RELOCATION PAYMENT**
7 **UNDER THIS SUBSECTION INSTEAD OF A RELOCATION PAYMENT UNDER**
8 **SUBSECTION (C) OF THIS SECTION MAY RECEIVE A FIXED PAYMENT IN AN**
9 **AMOUNT EQUAL TO THE AVERAGE ANNUAL NET EARNINGS OF THE BUSINESS OR**
10 **FARM OPERATION.**

11 **(2) A RELOCATION PAYMENT UNDER THIS SUBSECTION SHALL BE**
12 **AT LEAST \$2,500 AND MAY NOT EXCEED \$10,000.**

13 **(G) LIMITATION — BUSINESS.**

14 **A BUSINESS IS NOT ELIGIBLE TO RECEIVE A RELOCATION PAYMENT**
15 **UNDER SUBSECTION (F) OF THIS SECTION UNLESS THE COMMISSION IS**
16 **SATISFIED THAT THE BUSINESS:**

17 **(1) CANNOT BE RELOCATED WITHOUT A SUBSTANTIAL LOSS OF**
18 **ITS EXISTING PATRONAGE; AND**

19 **(2) IS NOT A PART OF A COMMERCIAL ENTERPRISE THAT HAS AT**
20 **LEAST ONE OTHER LOCATION THAT:**

21 **(I) THE COMMISSION IS NOT ACQUIRING; AND**

22 **(II) IS ENGAGED IN THE SAME OR A SIMILAR BUSINESS.**

23 **REVISOR’S NOTE:** This section is new language derived without substantive
24 change from former Art. 28, § 5–105.1(d).

25 In this section and throughout this part, the defined term “relocation
26 payment” is substituted for the former word “payment[s]” for clarity.

27 In subsection (a)(1)(ii) of this section, the reference to “a different” period
28 is substituted for the former reference to “whatever other” period for
29 clarity.

30 In subsection (b) of this section, the former obsolete reference to
31 displacement of any person “on or after July 1, 1975,” is deleted as
32 surplusage.

1 In subsection (g)(2) of this section, the reference to a “location” is
2 substituted for the former reference to an “establishment” for clarity.

3 The Land Use Article Review Committee notes, for consideration by the
4 General Assembly, that in subsection (c) of this section, the references to
5 the “Commission” and the “county planning board” are substituted for
6 each other to reflect the proper roles of each unit and for clarity. To the
7 knowledge of the Commission and of this committee, no relocation
8 payment has ever actually been paid under this section. The committee
9 draws the substitution to the attention of the General Assembly.

10 The Land Use Article Review Committee also notes, for consideration by
11 the General Assembly, that in subsection (d)(1)(i) of this section, the
12 reference to expenses to move a person’s “family” may have implications
13 under the federal Fair Housing Act. The General Assembly may wish to
14 consider whether a reference to a person’s “household” or some other term
15 might better comport with the federal law.

16 Defined terms: “Business” § 17–113
17 “Commission” § 14–101
18 “County planning board” § 14–101
19 “Displaced” § 17–113
20 “Farm operation” § 17–113
21 “Person” § 14–101
22 “Relocation payment” § 17–113
23 “State” § 14–101

24 **17–115. ADDITIONAL RELOCATION PAYMENT — DWELLING.**

25 **(A) PAYMENT AUTHORIZED.**

26 **IN ADDITION TO ANY OTHER AUTHORIZED PAYMENT, THE COMMISSION**
27 **SHALL MAKE AN ADDITIONAL RELOCATION PAYMENT NOT TO EXCEED \$15,000**
28 **TO A PERSON WHO IS DISPLACED FROM A DWELLING THAT THE PERSON OWNS**
29 **AND HAS OCCUPIED FOR AT LEAST 180 DAYS IMMEDIATELY PRECEDING THE**
30 **START OF NEGOTIATIONS TO ACQUIRE THE PROPERTY.**

31 **(B) REQUIRED COMPENSATION.**

32 **THE ADDITIONAL RELOCATION PAYMENT SHALL INCLUDE:**

33 **(1) ANY ADDITIONAL AMOUNT THAT, ADDED TO THE ACQUISITION**
34 **COST OF THE DWELLING ACQUIRED BY THE COMMISSION, EQUALS THE**

1 REASONABLE COST OF A COMPARABLE REPLACEMENT DWELLING THAT IS A
2 HABITABLE DWELLING:

3 (I) ADEQUATE TO ACCOMMODATE THE DISPLACED PERSON;

4 (II) REASONABLY ACCESSIBLE TO PUBLIC SERVICES AND
5 PLACES OF EMPLOYMENT; AND

6 (III) AVAILABLE ON THE PRIVATE MARKET;

7 (2) SUBJECT TO SUBSECTION (C) OF THIS SECTION, ANY
8 ADDITIONAL AMOUNT THAT THE DISPLACED PERSON MUST PAY TO FINANCE
9 ACQUISITION OF A COMPARABLE REPLACEMENT DWELLING; AND

10 (3) REASONABLE EXPENSES THE DISPLACED PERSON INCURS FOR
11 TITLE INSURANCE, RECORDING AND TRANSFER FEES AND TAXES, AND OTHER
12 TAXES AND CLOSING COSTS INCIDENT TO THE PURCHASE OF THE
13 REPLACEMENT DWELLING, OTHER THAN PREPAID EXPENSES.

14 (C) LIMITATION — FINANCING.

15 (1) THE COMMISSION SHALL INCLUDE FINANCING UNDER
16 SUBSECTION (B)(2) OF THIS SECTION IN AN ADDITIONAL RELOCATION PAYMENT
17 ONLY IF THE DWELLING WAS ENCUMBERED BY A MORTGAGE THAT WAS A VALID
18 LIEN ON THE DWELLING FOR AT LEAST 180 DAYS IMMEDIATELY PRECEDING THE
19 START OF NEGOTIATIONS TO ACQUIRE THE DWELLING.

20 (2) THE AMOUNT PAYABLE UNDER SUBSECTION (B)(2) OF THIS
21 SECTION SHALL BE COMPUTED FOR THE PERIOD OF TIME REMAINING UNDER
22 THE MORTGAGE ON THE ACQUIRED DWELLING AS THE PRODUCT OF:

23 (I) THE NET PRESENT VALUE OF THE DIFFERENCE, IF ANY,
24 BETWEEN:

25 1. THE INTEREST AND OTHER DEBT SERVICE COSTS
26 TO BE INCURRED TO FINANCE THE REPLACEMENT DWELLING FOR THAT
27 PERIOD; AND

28 2. THOSE COSTS THAT WOULD HAVE BEEN
29 INCURRED FOR THAT PERIOD TO FINANCE THE ACQUIRED DWELLING; AND

30 (II) THE UNPAID PRINCIPAL BALANCE OF THE MORTGAGE
31 ON THE ACQUIRED DWELLING AT THE TIME OF ACQUISITION DIVIDED BY THE

1 PRINCIPAL AMOUNT OF THE PURCHASE MONEY MORTGAGE ON THE
2 REPLACEMENT DWELLING.

3 (3) THE DISCOUNT RATE SHALL BE THE PREVAILING INTEREST
4 RATE PAID ON SAVINGS DEPOSITS BY COMMERCIAL BANKS IN THE GENERAL
5 AREA WHERE THE REPLACEMENT DWELLING IS LOCATED.

6 (D) LIMITATION — TIME.

7 THE COMMISSION SHALL MAKE THE ADDITIONAL RELOCATION PAYMENT
8 ONLY TO A DISPLACED PERSON WHO PURCHASES AND OCCUPIES A HABITABLE
9 REPLACEMENT DWELLING BY THE LATER OF:

10 (1) 1 YEAR AFTER THE PERSON RECEIVES FROM THE
11 COMMISSION FINAL PAYMENT OF ALL COSTS OF THE ACQUIRED DWELLING; OR

12 (2) THE DATE WHEN THE PERSON MOVES FROM THE ACQUIRED
13 DWELLING.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 28, § 5–105.1(b) and (c).

16 In the introductory language to subsections (b)(1) and (d) of this section,
17 the references to a “habitable” dwelling are substituted for the former
18 references to a “decent, safe, and sanitary” dwelling for clarity.

19 In subsection (b)(2) of this section, the reference to the amount the
20 displaced person “must pay to finance” the acquisition is substituted for
21 the former reference to “any increased interest costs which he is required
22 to pay for financing” for brevity.

23 In subsection (b)(3) of this section, the reference to expenses for “title
24 insurance, recording and transfer fees and taxes, and other taxes and
25 closing costs” is substituted for the former reference to expenses for
26 “evidence of title, recording fees, and other closing costs” for clarity and to
27 bring the terminology of the statute closer to that found in current real
28 estate settlement practice. The Land Use Article Review Committee
29 draws the substitution to the attention of the General Assembly. No
30 substantive change is intended.

31 In subsection (c)(1) of this section, the phrase “[t]he Commission shall
32 include financing under subsection (b)(2) of this section in an additional
33 relocation payment” is substituted for the former phrase “[t]his amount
34 shall be paid” for clarity.

1 In subsection (c)(2) of this section, the reference to the amount being
2 “computed for the period of time remaining under the mortgage on the
3 acquired dwelling as the product of: (i) the net present value of the
4 difference, if any, between ... the interest and other debt service costs to
5 be incurred to finance the replacement dwelling for that period ... and ...
6 those costs that would have been incurred for that period to finance the
7 acquired dwelling; and (ii) the unpaid principal balance of the mortgage
8 on the acquired dwelling at the time of acquisition divided by the
9 principal amount of the purchase money mortgage on the replacement
10 dwelling” is substituted for the former reference to the amount being
11 “equal to the excess in the aggregate interest and other debt service costs
12 of that amount of the principal of the mortgage on the replacement
13 dwelling which is equal to the unpaid balance of the mortgage on the
14 acquired dwelling, over the remainder term of the mortgage on the
15 acquired dwelling, reduced to discounted present value” for clarity. The
16 Land Use Article Review Committee brings this substitution to the
17 attention of the General Assembly. No substantive change is intended.

18 Defined terms: “Commission” § 14–101

19 “Displaced” § 17–113

20 “Person” § 14–101

21 “Relocation payment” § 17–113

22 **17–116. REFERRAL TO RELOCATION ADVISORY SERVICES.**

23 **(A) REQUIRED REFERRAL.**

24 **WHENEVER THE ACQUISITION OF REAL PROPERTY FOR A PROGRAM OR**
25 **PROJECT THE COMMISSION UNDERTAKES WILL RESULT IN A PERSON BEING**
26 **DISPLACED, THE COMMISSION SHALL REFER EACH DISPLACED PERSON WHO**
27 **NEEDS RELOCATION ADVISORY SERVICES TO THE APPROPRIATE COUNTY**
28 **AGENCY THAT PROVIDES THOSE SERVICES IN ACCORDANCE WITH § 12–206 OF**
29 **THE REAL PROPERTY ARTICLE.**

30 **(B) REQUIRED SERVICES.**

31 **THE AGENCY SHALL PROVIDE RELOCATION ADVISORY SERVICES TO THE**
32 **DISPLACED PERSON THE COMMISSION REFERS TO THE AGENCY UNDER THE**
33 **AGENCY’S RELOCATION ADVISORY SERVICES PROGRAM.**

34 REVISOR’S NOTE: This section is new language derived without substantive
35 change from former Art. 28, § 5–105.1(e).

36 In subsection (a) of this section, the former obsolete reference to
37 displacement “on or after July 1, 1975” is deleted as surplusage.

1 Defined terms: "Commission" § 14-101
2 "County" § 14-101
3 "Displaced" § 17-113
4 "Person" § 14-101

5 **17-117. REGULATIONS AND PROCEDURES.**

6 **(A) IN GENERAL.**

7 **THE COMMISSION MAY ESTABLISH REGULATIONS AND PROCEDURES**
8 **NECESSARY TO ENSURE THAT:**

9 **(1) RELOCATION PAYMENTS AND ASSISTANCE ARE**
10 **ADMINISTERED IN A MANNER THAT IS FAIR AND REASONABLE AND IS AS**
11 **UNIFORM AS PRACTICABLE;**

12 **(2) A DISPLACED PERSON WHO MAKES PROPER APPLICATION FOR**
13 **A RELOCATION PAYMENT FOR THAT PERSON SHALL BE PAID PROMPTLY AFTER**
14 **A MOVE OR, IN CASE OF HARDSHIP, BE PAID IN ADVANCE; AND**

15 **(3) A PERSON AGGRIEVED BY A DETERMINATION AS TO**
16 **ELIGIBILITY FOR A RELOCATION PAYMENT, OR THE AMOUNT OF A RELOCATION**
17 **PAYMENT, MAY HAVE THE PERSON'S APPLICATION REVIEWED BY THE**
18 **APPROPRIATE COUNTY PLANNING BOARD.**

19 **(B) REQUIRED CONSULTATION.**

20 **IN ORDER TO PROMOTE UNIFORM AND EFFECTIVE ADMINISTRATION OF**
21 **RELOCATION ASSISTANCE AND LAND ACQUISITION, THE COMMISSION SHALL**
22 **CONSULT STATE AND LOCAL AGENCIES PROVIDING SIMILAR SERVICES ON THE**
23 **ESTABLISHMENT OF REGULATIONS AND PROCEDURES FOR THE**
24 **IMPLEMENTATION OF THE PROGRAMS.**

25 **REVISOR'S NOTE:** This section is new language derived without substantive
26 change from former Art. 28, § 5-105.1(f).

27 Defined terms: "Commission" § 14-101
28 "County planning board" § 14-101
29 "Displaced" § 17-113
30 "Person" § 14-101
31 "Relocation payment" § 17-113
32 "State" § 14-101

33 **17-118. TAX STATUS.**

1 **PAYMENT RECEIVED UNDER THIS PART MAY NOT BE CONSIDERED AS**
 2 **INCOME FOR THE PURPOSES OF TITLE 10 OF THE TAX – GENERAL ARTICLE.**

3 REVISOR’S NOTE: This section formerly was Art. 28, § 5–105.1(g).

4 The only change is in style.

5 **SUBTITLE 2. USE OF PROPERTY.**

6 **17–201. LAND HELD FOR GENERAL BENEFIT.**

7 **(A) IN GENERAL.**

8 **THE STATE OR THE COMMISSION, AS APPROPRIATE, SHALL HOLD ANY**
 9 **LAND ACQUIRED UNDER THIS DIVISION TO WHICH IT TAKES TITLE:**

10 **(1) FOR THE GENERAL BENEFIT OF THE RESIDENTS OF THE**
 11 **STATE; AND**

12 **(2) ESPECIALLY FOR THE BENEFIT OF THE RESIDENTS IN THE**
 13 **METROPOLITAN DISTRICT.**

14 **(B) RESTRICTIONS.**

15 **WITHOUT THE APPROVAL OF THE COMMISSION BY RESOLUTION:**

16 **(1) TITLE TO THE LAND MAY NOT BE CONVEYED BY THE STATE;**
 17 **OR**

18 **(2) PUBLIC USE MAY NOT BE TERMINATED.**

19 REVISOR’S NOTE: This section is new language derived without substantive
 20 change from former Art. 28, § 5–107.

21 In subsection (a) of this section, the former reference to “Montgomery and
 22 Prince George’s counties” is deleted as unnecessary because these are the
 23 only two counties within the metropolitan district.

24 In subsection (a)(1) of this section, the reference to “residents” of the
 25 State is substituted for the former reference to “citizens” of the State
 26 because the relationship between residency in the State and property
 27 held for the general benefit of the State is relatively clear, whereas the
 28 relationship between citizenship and the same benefit is uncertain.

1 Similarly, in subsection (a)(2) of this section, the former reference to
2 “citizens” is deleted for clarity.

3 In subsection (b)(2) of this section, the reference to “public” use is
4 substituted for the former reference to “such” use for clarity.

5 Defined terms: “Commission” § 14–101
6 “Metropolitan district” § 14–101
7 “State” § 14–101

8 **17–202. POLICE POWERS OF STATE, COUNTIES, AND MUNICIPAL**
9 **CORPORATIONS.**

10 **(A) IN GENERAL.**

11 **THIS DIVISION DOES NOT LIMIT THE POLICE POWER OF THE STATE,**
12 **EITHER COUNTY, OR ANY MUNICIPAL CORPORATION WHERE ANY PARK, ROAD,**
13 **OR PUBLIC SPACE IS LOCATED.**

14 **(B) MUNICIPAL POWERS.**

15 **THE CONCURRENT POLICE POWER OF A MUNICIPAL CORPORATION**
16 **EXTENDS ONLY TO AREAS LOCATED WITHIN ITS BOUNDARIES FOR PURPOSES OF**
17 **THIS DIVISION.**

18 REVISOR’S NOTE: This section is new language derived without substantive
19 change from former Art. 28, § 5–108.

20 In subsection (a) of this section, the reference to any “park, road, or public
21 space” is substituted for the former reference to any “park, parkway,
22 forest, street, road, boulevard, or other public way, ground, or space” for
23 brevity.

24 Also in subsection (a) of this section, the former reference to
25 “restrict[ing]” police power is deleted as included in the reference to
26 “limit[ing]” police power.

27 Defined terms: “Park” § 14–101
28 “Road” § 14–101
29 “State” § 14–101

30 **17–203. TAX EXEMPTION FOR PROPERTY ACQUIRED.**

31 **(A) IN GENERAL.**

1 **ALL PROPERTY ACQUIRED BY THE COMMISSION FOR ANY PURPOSE**
2 **SPECIFIED IN THIS SUBTITLE AND SUBTITLE 1 OF THIS TITLE IS EXEMPT FROM**
3 **STATE, COUNTY, AND MUNICIPAL TAXES.**

4 **(B) TAX EXEMPTION OF DEDICATED LAND.**

5 **ALL LAND DEDICATED TO THE COMMISSION IN ACCORDANCE WITH**
6 **COUNTY SUBDIVISION REGULATIONS IS PROPERTY ACQUIRED BY THE**
7 **COMMISSION WITHIN THE MEANING OF THIS SECTION.**

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 28, § 5–109.

10 In subsection (a) of this section, the reference to “this subtitle and
11 Subtitle 1 of this title” is substituted for the former word “hereinabove”
12 for clarity.

13 In subsection (b) of this section, the reference to “county subdivision
14 regulations” is substituted for the former obsolete reference to “§ 50–15 of
15 the Montgomery County Code (1984 Edition) or § 7–132 of the Code of
16 Public Local Laws of Prince George’s County (1987 Edition)” for clarity
17 and accuracy.

18 Defined terms: “Commission” § 14–101
19 “State” § 14–101

20 **17–204. LEASES, PERMITS, AND CONCESSIONS.**

21 **(A) LEASE AGREEMENTS.**

22 **(1) THE COMMISSION MAY LEASE TO ANY RESPONSIBLE PERSON**
23 **ANY LAND IN THE METROPOLITAN DISTRICT ACQUIRED FOR PARK PURPOSES**
24 **UNDER THIS DIVISION.**

25 **(2) (I) THE TERM OF A LEASE MAY NOT EXCEED 20 YEARS**
26 **WITHOUT THE PRIOR APPROVAL OF THE LEASE BY LEGISLATIVE ENACTMENT OF**
27 **THE COUNTY WHERE THE LEASE PROPERTY IS LOCATED.**

28 **(II) THE INITIAL TERM OF A LEASE MAY NOT EXCEED 40**
29 **YEARS.**

30 **(III) A LEASE MAY BE RENEWED FOR ADDITIONAL TERMS**
31 **NOT EXCEEDING 10 YEARS EACH.**

1 **(3) A LEASE AGREEMENT SHALL CONTAIN PROVISIONS FOR**
2 **REVERSION WITHOUT COST TO THE COMMISSION OF THE PROPERTY AND ITS**
3 **IMPROVEMENTS REGARDLESS OF WHETHER THE IMPROVEMENTS WERE ADDED**
4 **TO THE PROPERTY BY THE LESSEE DURING THE TERM OF THE LEASE OR ANY**
5 **EXTENSION OF THE LEASE.**

6 **(B) PRIVILEGES, PERMITS, AND CONCESSIONS.**

7 **(1) THE COMMISSION MAY GRANT PRIVILEGES, PERMITS, AND**
8 **CONCESSIONS, AND MAY ENTER INTO CONTRACTS RELATING TO THEM, WITH**
9 **ANY RESPONSIBLE PERSON TO ENGAGE IN ANY BUSINESS OR ENTERPRISE ON**
10 **LAND IN THE METROPOLITAN DISTRICT ACQUIRED FOR PARK PURPOSES UNDER**
11 **THIS DIVISION.**

12 **(2) ANY PRIVILEGE, PERMIT, OR CONCESSION GRANTED UNDER**
13 **THIS SUBSECTION SHALL BE ON TERMS AND CONDITIONS THE COMMISSION**
14 **CONSIDERS ADVANTAGEOUS TO THE DEVELOPMENT OF THE PARK SYSTEM AS A**
15 **PART OF THE PLAN FOR THE PHYSICAL DEVELOPMENT OF THE METROPOLITAN**
16 **DISTRICT AND THE PLAN OF THE REGIONAL DISTRICT WITHIN THE**
17 **METROPOLITAN DISTRICT.**

18 **(C) CONDITIONS.**

19 **(1) THE PURPOSE FOR WHICH PROPERTY IS LEASED, OR FOR**
20 **WHICH A PRIVILEGE, PERMIT, OR CONCESSION IS GRANTED, MAY NOT BE**
21 **INCONSISTENT WITH THE USE OF THE PROPERTY FOR PARK PURPOSES.**

22 **(2) ANY LEASE OR CONTRACT EXECUTED UNDER THIS SECTION**
23 **SHALL CONTAIN A CONDITION STATING SPECIFICALLY THE PURPOSES FOR**
24 **WHICH THE PROPERTY IS LEASED OR FOR WHICH THE PRIVILEGE, PERMIT, OR**
25 **CONCESSION IS GRANTED.**

26 **(3) AN AGREEMENT THE COMMISSION ENTERS INTO IN**
27 **ACCORDANCE WITH THIS DIVISION SHALL CONTAIN PROVISIONS PROHIBITING**
28 **THE ASSIGNMENT OF THE AGREEMENT WITHOUT THE CONSENT OF THE**
29 **COMMISSION.**

30 **(D) RESTRICTION ON CLOSING OF PARK IN MONTGOMERY COUNTY.**

31 **IN MONTGOMERY COUNTY, A LEASE, CONTRACT, OR AGREEMENT**
32 **ENTERED INTO UNDER THIS SECTION MAY NOT:**

1 **(1) AUTHORIZE A PERSON OTHER THAN THE COMMISSION TO**
2 **CLOSE A PARK OR PARK FACILITY; OR**

3 **(2) GRANT A PERSON OTHER THAN THE COMMISSION THE**
4 **AUTHORITY TO CLOSE OR REQUIRE THE CLOSING OF AN EXISTING PARK OR**
5 **PARK FACILITY UNDER THE JURISDICTION OF THE COMMISSION TO PREVENT**
6 **COMPETITION.**

7 **(E) EFFECT OF DIVISION.**

8 **THIS DIVISION DOES NOT LIMIT THE COMMISSION'S AUTHORITY TO**
9 **REQUIRE AN AGREEMENT TO CONTAIN MORE RESTRICTIVE PROVISIONS THE**
10 **COMMISSION CONSIDERS TO BE IN THE PUBLIC INTEREST.**

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 28, § 5-110(b) and the first through seventh
13 sentences of (a).

14 In subsection (a)(2)(i) of this section, the former reference to the county in
15 which the lease property is located "in whole or in part" is deleted as
16 implicit.

17 In subsection (a)(2)(ii) of this section, the reference to the "initial" term of
18 a lease is added for clarity.

19 In subsection (a)(2)(iii) of this section, the former phrase "from time to
20 time" is deleted as surplusage.

21 In subsection (d) of this section, the former phrase "[n]otwithstanding
22 subsection (a) of this section" is deleted as surplusage.

23 The Land Use Article Review Committee notes, for consideration by the
24 General Assembly, that subsection (d)(2) of this section, which prohibits
25 granting authority to require closing an existing park or park facility to
26 prevent competition, appears to be subsumed entirely within the
27 limitation stated in subsection (d)(1) of this section, which prohibits
28 authorizing a person other than the Commission to close a park or park
29 facility. The General Assembly may wish to consider clarifying subsection
30 (d)(2) of this section, if it is intended to be different than subsection (d)(1)
31 of this section, or eliminating it entirely.

32 The eighth and ninth sentences of former Art. 28, § 5-110(a), which
33 limited the validation and renegotiation of certain leases and agreements
34 executed before July 1, 1972, are not retained in the Code because they
35 are apparently obsolete. They are transferred to the Session Laws to

1 avoid any inadvertent substantive effect their repeal might have. *See* § 8
2 of Ch. __, Acts of 2012.

3 Defined terms: “Commission” § 14–101
4 “Metropolitan district” § 14–101
5 “Park” § 14–101
6 “Person” § 14–101
7 “Regional district” § 14–101

8 **17–205. POWER TO TRANSFER UNNEEDED PROPERTY.**

9 **THE COMMISSION MAY TRANSFER ANY LAND THAT IT HOLDS UNDER THIS**
10 **TITLE AND DETERMINES NOT TO BE NEEDED FOR PARK PURPOSES OR OTHER**
11 **PURPOSES AUTHORIZED UNDER THIS TITLE.**

12 REVISOR’S NOTE: This section is new language derived without substantive
13 change from former Art. 28, § 5–111.

14 The former words “sell”, “convey”, “lease”, and “exchange” are deleted as
15 included in the comprehensive word “transfer”.

16 The reference to other purposes “authorized under” this title is
17 substituted for the former reference to other purposes “of” this title for
18 clarity.

19 Defined terms: “Commission” § 14–101
20 “Park” § 14–101

21 **17–206. DISPOSAL OR EXCHANGE OF LAND AND RECREATIONAL FACILITIES.**

22 **(A) PLAYGROUNDS AND RECREATIONAL FACILITIES.**

23 **THE COMMISSION:**

24 **(1) MAY SELL OR OTHERWISE DISPOSE OF ANY PLAYGROUND OR**
25 **RECREATIONAL FACILITY NO LONGER NEEDED FOR PUBLIC USE; AND**

26 **(2) SHALL USE THE PROCEEDS OF THE SALE OR DISPOSITION FOR**
27 **THE CONSTRUCTION, ACQUISITION, OR IMPROVEMENT OF ANY OTHER**
28 **PLAYGROUND OR RECREATIONAL FACILITY IN THE METROPOLITAN DISTRICT.**

29 **(B) EXCHANGE OF LAND.**

30 **(1) EXCEPT FOR PARKLAND ACQUIRED UNDER AN AGREEMENT**
31 **WITH THE NATIONAL CAPITAL PLANNING COMMISSION, THE COMMISSION MAY**

1 EXCHANGE PLAYGROUND OR RECREATIONAL LAND HELD OR ACQUIRED BY THE
 2 COMMISSION IN ITS OWN NAME OR IN THE NAME OF THE STATE FOR ANY OTHER
 3 LAND HELD OR ACQUIRED BY THE UNITED STATES, THE STATE, OR ANY OTHER
 4 PUBLIC BODY OR AGENCY, WHICH THE COMMISSION DETERMINES TO BE MORE
 5 SUITABLE FOR PLAYGROUND AND RECREATIONAL PURPOSES.

6 (2) AN EXCHANGE UNDER THIS SUBSECTION:

7 (I) MAY BE ACCOMPANIED BY A PARTIAL CASH PAYMENT
 8 MOVING EITHER TO OR FROM THE COMMISSION; AND

9 (II) SHALL BE CONSIDERED AN ACQUISITION OF LAND FOR
 10 THE PUBLIC USES PROVIDED IN THIS TITLE.

11 REVISOR'S NOTE: This section is new language derived without substantive
 12 change from former Art. 28, § 5–112.

13 The Land Use Article Review Committee notes, for consideration by the
 14 General Assembly, that in subsection (a)(2) of this section, the word
 15 “shall” is substituted for the former word “may”, thus explicitly requiring
 16 proceeds from the sale or disposition of a playground or recreational
 17 facility to be applied to a similar use. The former law was ambiguous on
 18 this point. If the General Assembly instead meant to allow the
 19 Commission the discretion to apply the proceeds to any other use, the
 20 substitution should be undone. No substantive change is intended.

21 Defined terms: “Commission” § 14–101
 22 “Metropolitan district” § 14–101
 23 “Park” § 14–101
 24 “State” § 14–101

25 **17–207. REGULATIONS.**

26 (A) AUTHORITY TO ADOPT.

27 THE COMMISSION MAY ADOPT REGULATIONS FOR THE USE OF ANY
 28 PROPERTY UNDER ITS JURISDICTION.

29 (B) NOTICE.

30 (1) THE COMMISSION SHALL:

31 (I) POST THE REGULATIONS OUTSIDE EACH PARK
 32 HEADQUARTERS BUILDING, COMMUNITY CENTER, RECREATION CENTER, OR
 33 SIMILAR BUILDING IN A DEVELOPED PARK AREA; AND

1 **(II) AFTER POSTING THE REGULATIONS, PUBLISH THEM AT**
 2 **LEAST THREE TIMES WITHIN 60 DAYS IN ONE OR MORE NEWSPAPERS OF**
 3 **GENERAL CIRCULATION PUBLISHED IN THE METROPOLITAN DISTRICT.**

4 **(2) THE POSTING AND PUBLICATION OF THE REGULATIONS**
 5 **SHALL BE SUFFICIENT NOTICE TO ALL PERSONS.**

6 **(3) THE SWORN CERTIFICATE OF A COMMISSIONER AS TO THE**
 7 **POSTING AND PUBLICATION OF THE REGULATIONS IS PRIMA FACIE EVIDENCE**
 8 **OF POSTING AND PUBLICATION.**

9 REVISOR'S NOTE: This section is new language derived without substantive
 10 change from former Art. 28, § 5–113(a).

11 Throughout this section, the former references to “rules” are deleted as
 12 included in the comprehensive reference to “regulations”. *See* General
 13 Revisor’s Note to article.

14 In subsection (a) of this section, the reference to “any property” is
 15 substituted for the former reference to “all land or other property” for
 16 brevity.

17 Also in subsection (a) of this section, the former reference to the
 18 “government” of property is deleted as implicit in the reference to the
 19 “use” of property.

20 Also in subsection (a) of this section, the former reference to property
 21 “acquired by [the Commission]” is deleted as included in the reference to
 22 property “under [the Commission’s] jurisdiction”.

23 In subsection (b)(1)(ii) of this section, the reference to newspapers “of
 24 general circulation” is added for clarity.

25 Defined terms: “Commission” § 14–101

26 “Commissioner” § 14–101

27 “Metropolitan district” § 14–101

28 “Park” § 14–101

29 “Person” § 14–101

30 **17–208. COMMISSION INFRACTIONS.**

31 **(A) IN GENERAL.**

1 **(1) A VIOLATION OF A REGULATION UNDER § 17-207 OF THIS**
2 **SUBTITLE IS A COMMISSION INFRACTION UNLESS THE VIOLATION IS DECLARED**
3 **BY LAW TO BE A CRIME.**

4 **(2) (I) A COMMISSION INFRACTION IS A CIVIL OFFENSE.**

5 **(II) THE ADJUDICATION OF A COMMISSION INFRACTION:**

6 **1. IS NOT A CRIMINAL CONVICTION; AND**

7 **2. DOES NOT IMPOSE ANY OF THE CIVIL**
8 **DISABILITIES ORDINARILY IMPOSED BY A CRIMINAL CONVICTION.**

9 **(B) CITATIONS.**

10 **(1) A COMMISSION PARK POLICE OFFICER MAY DELIVER A**
11 **CITATION TO ANY PERSON CHARGED WITH A COMMISSION INFRACTION.**

12 **(2) THE COMMISSION SHALL:**

13 **(I) RETAIN A COPY OF THE CITATION; AND**

14 **(II) INCLUDE ON THE CITATION A CERTIFICATION**
15 **ATTESTING TO THE TRUTH OF THE MATTER SPECIFIED IN THE CITATION.**

16 **(3) THE CITATION SHALL ALSO CONTAIN:**

17 **(I) THE NAME AND ADDRESS OF THE PERSON CHARGED;**

18 **(II) THE NATURE OF THE INFRACTION;**

19 **(III) THE LOCATION AND TIME THAT THE INFRACTION**
20 **OCCURRED;**

21 **(IV) THE AMOUNT OF THE FINE ASSESSED FOR THE**
22 **INFRACTION;**

23 **(V) THE MANNER, LOCATION, AND TIME IN WHICH THE FINE**
24 **MAY BE PAID TO THE COMMISSION; AND**

25 **(VI) NOTICE OF THE PERSON'S RIGHT TO A TRIAL FOR THE**
26 **INFRACTION.**

1 **(C) PRESET FINES.**

2 **(1) THE COMMISSION MAY:**

3 **(I) ESTABLISH A SCHEDULE OF FINES FOR EACH**
4 **CONVICTION OF A COMMISSION INFRACTION;**

5 **(II) IMPOSE A FINE NOT TO EXCEED \$50 FOR EACH**
6 **CONVICTION OF A COMMISSION INFRACTION; AND**

7 **(III) IMPOSE A FINE NOT TO EXCEED \$100 FOR EACH REPEAT**
8 **VIOLATION.**

9 **(2) THE RECIPIENT OF A CITATION FOR A COMMISSION**
10 **INFRACTION SHALL PAY THE FINE TO THE COMMISSION WITHIN 20 DAYS AFTER**
11 **THE RECEIPT OF THE CITATION.**

12 **(D) FAILURE TO PAY FINE.**

13 **(1) IF A PERSON WHO RECEIVES A CITATION FOR A COMMISSION**
14 **INFRACTION FAILS TO PAY THE FINE BY THE PAYMENT DUE DATE SPECIFIED IN**
15 **THE CITATION AND FAILS TO FILE A NOTICE OF THE PERSON'S INTENT TO STAND**
16 **TRIAL FOR THE OFFENSE, THE COMMISSION SHALL SEND A NOTICE OF THE**
17 **INFRACTION TO THE PERSON'S LAST KNOWN ADDRESS.**

18 **(2) A PERSON WHO FAILS TO PAY THE FINE WITHIN 15 DAYS**
19 **AFTER THE DATE OF THE NOTICE IS LIABLE FOR AN ADDITIONAL FINE NOT TO**
20 **EXCEED TWICE THE ORIGINAL FINE.**

21 **(3) (I) IF THE FINE IS NOT PAID WITHIN 35 DAYS AFTER THE**
22 **DATE OF NOTICE, THE COMMISSION MAY REQUEST ADJUDICATION OF THE CASE**
23 **THROUGH THE DISTRICT COURT.**

24 **(II) THE DISTRICT COURT PROMPTLY SHALL SCHEDULE**
25 **THE CASE FOR TRIAL AND SUMMON THE DEFENDANT TO APPEAR.**

26 **(E) TRIAL.**

27 **(1) A PERSON WHO RECEIVES A CITATION FOR A COMMISSION**
28 **INFRACTION MAY ELECT TO STAND TRIAL BY FILING WITH THE COMMISSION A**
29 **NOTICE OF THE PERSON'S INTENT TO STAND TRIAL.**

1 **(2) THE NOTICE SHALL BE GIVEN AT LEAST 5 DAYS BEFORE THE**
2 **PAYMENT DUE DATE SPECIFIED IN THE CITATION.**

3 **(3) ON RECEIPT OF THE NOTICE OF INTENT TO STAND TRIAL, THE**
4 **COMMISSION SHALL FORWARD TO THE DISTRICT COURT HAVING VENUE A**
5 **COPY OF THE CITATION AND A COPY OF THE NOTICE OF INTENT TO STAND TRIAL**
6 **THAT WAS FILED BY THE PERSON WHO RECEIVED THE CITATION.**

7 **(4) ON RECEIPT OF THE CITATION AND THE NOTICE OF INTENT**
8 **TO STAND TRIAL, THE DISTRICT COURT SHALL SCHEDULE THE CASE FOR TRIAL**
9 **AND NOTIFY THE DEFENDANT AND THE COMMISSION OF THE TRIAL DATE.**

10 **(5) THE DISTRICT COURT SHALL REMIT TO THE COMMISSION**
11 **ALL FINES, PENALTIES, OR FORFEITURES THE DISTRICT COURT COLLECTS FOR**
12 **COMMISSION INFRACTIONS.**

13 **(F) DISTRICT COURT FINES.**

14 **A PERSON FOUND BY THE DISTRICT COURT TO HAVE COMMITTED A**
15 **COMMISSION INFRACTION SHALL PAY A FINE NOT TO EXCEED:**

16 **(1) \$50 FOR A FIRST VIOLATION; OR**

17 **(2) \$100 FOR A REPEAT VIOLATION.**

18 **(G) PROCEDURE FOR INFRACTIONS IN DISTRICT COURT.**

19 **IN A PROCEEDING FOR A COMMISSION INFRACTION BEFORE THE**
20 **DISTRICT COURT, THE VIOLATION SHALL BE PROSECUTED IN THE SAME**
21 **MANNER AND TO THE SAME EXTENT AS PROVIDED FOR MUNICIPAL**
22 **INFRACTIONS UNDER ARTICLE 23A, § 3(B) OF THE CODE.**

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 28, § 5–113(b)(1) through (4) and (6) through (8)
25 and the first through fourth sentences of (5).

26 In subsection (a)(1) of this section, the former reference to a “rule” is
27 deleted as included in the comprehensive reference to a “regulation” and
28 for consistency with § 17–207 of this subtitle. See General Revisor’s Note
29 to article.

30 In subsection (a)(2)(ii)1 of this section, the former phrase “for any
31 purpose” is deleted as surplusage.

1 In subsection (b)(1) of this section, the reference to any person “charged
2 with” committing a Commission infraction is substituted for the former
3 reference to any person “whom they adjudge to be” committing a
4 Commission infraction for brevity and to clarify that the police officer
5 cannot adjudge anyone to be committing an infraction.

6 In the introductory language to subsection (b)(2) of this section, the
7 reference to the “Commission” is substituted for the former reference to
8 the “issuing authority” for clarity.

9 In subsection (b)(2)(ii) of this section, the reference to the matter
10 “specified in the citation” is substituted for the former reference to the
11 matter “therein set forth” for clarity.

12 In subsection (b)(3)(vi) of this section, the reference to the citation
13 containing “notice of” a person’s right to stand trial is added for clarity.

14 Also in subsection (b)(3)(vi) of this section, the reference to a person’s
15 “right to a trial” is substituted for the former reference to a person’s
16 “right to elect to stand trial” for brevity.

17 In subsection (c) of this section, the former references to “pre-set” fines
18 are deleted as implicit in the comprehensive reference to a “schedule of
19 fines”.

20 In subsection (c)(1)(iii) of this section, the former reference to imposing a
21 fine on “[r]epeat offenders” is deleted as unnecessary in light of the
22 reference to imposing a fine for a “repeat violation”.

23 In subsection (c)(2) of this section, the former reference to “calendar” days
24 is deleted in light of Art. 1, § 36, which provides that any period
25 exceeding 7 days is assumed to mean calendar days, not business days.

26 In subsections (d)(1) and (e)(2) of this section, the references to the
27 “payment due date” are substituted for the former references to the “date
28 of payment” for clarity.

29 In subsection (d)(1) of this section, the requirement that the
30 “Commission” send a notice is added for clarity.

31 Also in subsection (d)(1) of this section, the reference to the “person’s” last
32 known address is substituted for the former reference to the “owner’s”
33 last known address for clarity.

34 Also in subsection (d)(1) of this section, the former reference to a “formal”
35 notice is deleted as surplusage.

1 Also in subsection (d)(1) of this section, the former reference to the fine
2 “for the infraction” is deleted as surplusage.

3 In subsection (d)(2) of this section, the reference to a person “fail[ing] to
4 pay the fine” is substituted for the former reference to a “citation ... not
5 be[ing] satisfied” to use more modern terminology. Similarly, in
6 subsection (d)(3)(i) of this section, the reference to a “fine [that] is not
7 paid” is substituted for the former reference to a “citation [that] has not
8 been satisfied”.

9 In subsection (d)(3)(i) of this section, the reference to 35 days after “the
10 date of notice” is added for clarity.

11 In subsection (e)(1) of this section, the reference to a person “filing” notice
12 is added for clarity.

13 Also in subsection (e)(1) of this section, the former reference to standing
14 trial “for the offense” is deleted as unnecessary.

15 In subsection (e)(3) of this section, the reference to a “copy of the” notice
16 of intent to stand trial is added to clarify that the original need not be
17 sent.

18 In subsection (e)(4) of this section, the reference to the receipt of the
19 “notice of intent to stand trial” is added for clarity.

20 Also in subsection (e)(4) of this section, the reference to notifying the
21 defendant “and the Commission” is added for clarity. No substantive
22 change is intended.

23 In subsection (f)(1) of this section, the reference to a \$50 fine “for a first
24 violation” is added for clarity.

25 The fifth sentence of former Art. 28, § 5–113(b)(5), which provided that
26 the failure to appear for a citation is contempt of court, is deleted as
27 violating the separation of powers. *See* Article 8 of the Maryland
28 Declaration of Rights and Article IV, § 1 of the Maryland Constitution.

29 The Land Use Article Review Committee notes, for consideration by the
30 General Assembly, that the reference to “penalties, or forfeitures” in
31 subsection (e)(5) of this section may be unnecessary. There is no
32 authorization elsewhere relating to any penalties or forfeitures that may
33 be imposed for a Commission infraction. The General Assembly may wish
34 to amend this provision.

35 Defined terms: “Commission” § 14–101
36 “Person” § 14–101

1 **17-209. HUNTING — IN GENERAL.**

2 **(A) DEFINITIONS.**

3 **(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
4 **MEANINGS INDICATED.**

5 **(2) “ANIMAL” MEANS ANY BIRD OR MAMMAL OR ANY PART, EGG,**
6 **OFFSPRING, OR DEAD BODY PART OF ANY BIRD OR MAMMAL.**

7 **(3) “HUNT” MEANS TO PURSUE, CAPTURE, KILL, GIG, TRAP,**
8 **SHOOT, OR ATTEMPT TO PURSUE, CAPTURE, KILL, GIG, TRAP, OR SHOOT, OR IN**
9 **ANY MANNER REDUCE ANY ANIMAL TO PERSONAL POSSESSION.**

10 **(B) PROHIBITED CONDUCT.**

11 **A PERSON MAY NOT HUNT AN ANIMAL ON PROPERTY OWNED BY,**
12 **OPERATED BY, OR LEASED BY THE COMMISSION WITHOUT PRIOR WRITTEN**
13 **AUTHORIZATION FROM THE COMMISSION.**

14 **(C) SEPARATE VIOLATIONS.**

15 **FOR THE PURPOSE OF THIS SECTION, EACH ANIMAL TAKEN ILLEGALLY BY**
16 **HUNTING, OFFERED FOR PURCHASE, SOLD, BARTERED, OR EXCHANGED IN**
17 **EXCESS OF THE BAG LIMIT OR POSSESSED ILLEGALLY CONSTITUTES A**
18 **SEPARATE VIOLATION.**

19 **(D) PENALTY.**

20 **(1) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A**
21 **MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:**

22 **(I) FOR A FIRST VIOLATION, A FINE NOT EXCEEDING**
23 **\$1,500, WITH COSTS IMPOSED AT THE DISCRETION OF THE COURT; AND**

24 **(II) FOR EACH SUBSEQUENT VIOLATION, IMPRISONMENT**
25 **NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$4,000 OR BOTH, WITH**
26 **COSTS IMPOSED AT THE DISCRETION OF THE COURT.**

27 **(2) FOR THE PURPOSE OF THIS SUBSECTION, A SUBSEQUENT**
28 **VIOLATION IS A VIOLATION WHICH:**

1 **(I) OCCURS WITHIN 2 YEARS AFTER ANY PRIOR VIOLATION**
2 **OF THIS SECTION; AND**

3 **(II) ARISES OUT OF A SEPARATE SET OF CIRCUMSTANCES.**

4 **(3) IN ADDITION TO THE PENALTIES IN PARAGRAPH (1)(II) OF**
5 **THIS SUBSECTION, THE COURT MAY ORDER THE LICENSE UNDER WHICH THE**
6 **PERSON OPERATED IN COMMITTING THE VIOLATION TO BE SUSPENDED FOR 12**
7 **MONTHS FROM THE DATE OF THE SUBSEQUENT CONVICTION.**

8 **(E) REGULATIONS.**

9 **(1) THE COMMISSION MAY ADOPT REGULATIONS NECESSARY TO**
10 **ADMINISTER AND ENFORCE THIS SECTION.**

11 **(2) VIOLATION OF ANY REGULATION ADOPTED BY THE**
12 **COMMISSION UNDER THIS SUBSECTION IS A MISDEMEANOR AND IS PUNISHABLE**
13 **AS PROVIDED IN SUBSECTION (D) OF THIS SECTION.**

14 **(F) PREPAYMENT OF FINES.**

15 **(1) THE CHIEF JUDGE OF THE DISTRICT COURT MAY ESTABLISH,**
16 **BY ADMINISTRATIVE REGULATION UNDER § 1-605 OF THE COURTS ARTICLE, A**
17 **SCHEDULE OF PREPAYABLE FINES FOR A FIRST OFFENSE MISDEMEANOR**
18 **VIOLATION OF THIS SECTION AND REGULATIONS ADOPTED UNDER THIS**
19 **SECTION.**

20 **(2) THE AMOUNT OF A PREPAYABLE FINE MAY BE NOT MORE**
21 **THAN THE MAXIMUM AND NOT LESS THAN THE MINIMUM CRIMINAL PENALTY**
22 **ESTABLISHED IN THIS SECTION.**

23 **(3) BY PAYING A FINE SET UNDER THIS SECTION INSTEAD OF**
24 **APPEARING FOR TRIAL IN DISTRICT COURT, A PERSON IS VOLUNTARILY**
25 **ACCEPTING A CONVICTION FOR THE VIOLATION CHARGED.**

26 **(G) FINES REMITTED TO COMMISSION.**

27 **IF THE DISTRICT COURT OR CIRCUIT COURT IMPOSES A FINE FOR A**
28 **VIOLATION OF THIS SECTION, THE COURT SHALL COLLECT THE FINE AND REMIT**
29 **IT TO THE COMMISSION.**

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 28, § 5-113.1.

1 In subsection (e)(1) of this section, the former reference to “rules” is
2 deleted as included in the comprehensive reference to “regulations”. See
3 General Revisor’s Note to article.

4 Defined terms: “Commission” § 14–101
5 “Person” § 14–101

6 **17–210. HUNTING — CITATION.**

7 **(A) ISSUANCE.**

8 **IF A PARK POLICE OFFICER APPREHENDS A PERSON FOR VIOLATING ANY**
9 **LAW PUNISHABLE AS A MISDEMEANOR UNDER § 17–209 OF THIS SUBTITLE, THE**
10 **OFFICER MAY PREPARE AND SIGN A WRITTEN CITATION.**

11 **(B) CONTENTS.**

12 **A CITATION ISSUED UNDER SUBSECTION (A) OF THIS SECTION SHALL**
13 **INCLUDE:**

14 **(1) A NOTICE TO APPEAR IN COURT;**

15 **(2) THE NAME AND ADDRESS OF THE PERSON CHARGED;**

16 **(3) APPROPRIATE LICENSE NUMBERS, IF ANY;**

17 **(4) THE VIOLATION CHARGED;**

18 **(5) THE TIME AND PLACE THE PERSON SHALL APPEAR IN COURT;**

19 **AND**

20 **(6) OTHER PERTINENT INFORMATION THE COMMISSION**
21 **REQUIRES.**

22 **(C) WRITTEN PROMISE TO APPEAR.**

23 **(1) A PERSON CHARGED UNDER SUBSECTION (A) OF THIS**
24 **SECTION MAY GIVE A WRITTEN PROMISE TO APPEAR IN COURT BY SIGNING THE**
25 **CITATION PREPARED BY THE OFFICER.**

26 **(2) AN OFFICER SHALL ARREST A PERSON CHARGED UNDER**
27 **SUBSECTION (A) OF THIS SECTION IF:**

1 **(I) THE PERSON DOES NOT FURNISH SATISFACTORY**
2 **IDENTIFICATION;**

3 **(II) THE OFFICER HAS REASONABLE GROUNDS TO BELIEVE**
4 **THE PERSON WILL DISREGARD A WRITTEN PROMISE TO APPEAR; OR**

5 **(III) THE PERSON REFUSES TO SIGN A WRITTEN PROMISE TO**
6 **APPEAR.**

7 **(D) WHEN APPEARANCE NOT REQUIRED.**

8 **A PERSON SHALL COMPLY WITH THE WRITTEN PROMISE TO APPEAR IN**
9 **COURT UNLESS THE PERSON:**

10 **(1) POSTS SUFFICIENT COLLATERAL FOR THE VIOLATION;**

11 **(2) PAYS THE FINE IN ADVANCE OF TRIAL; OR**

12 **(3) IS REPRESENTED BY COUNSEL IN COURT.**

13 **(E) PENALTY FOR FAILURE TO APPEAR.**

14 **(1) IF A PERSON FAILS TO COMPLY WITH THE NOTICE TO APPEAR**
15 **IN A CITATION ISSUED UNDER THIS SECTION, THE COURT MAY:**

16 **(I) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS**
17 **SUBSECTION, ISSUE A WARRANT FOR THE PERSON'S ARREST; OR**

18 **(II) AFTER 5 DAYS, NOTIFY THE COURT CLERK OF THE**
19 **PERSON'S NONCOMPLIANCE.**

20 **(2) ON RECEIPT OF NOTICE OF NONCOMPLIANCE FROM THE**
21 **COURT, THE CLERK SHALL NOTIFY THE PERSON BY MAIL AT THE ADDRESS**
22 **INDICATED ON THE CITATION THAT THE COURT MAY ISSUE A WARRANT FOR THE**
23 **PERSON'S ARREST UNLESS, WITHIN 15 DAYS AFTER THE NOTICE IS MAILED, THE**
24 **PERSON:**

25 **(I) PAYS THE FINE ON THE CHARGE AS PROVIDED FOR IN**
26 **THE ORIGINAL CITATION AND AN ADDITIONAL FINE OF \$100 FOR FAILING TO**
27 **APPEAR; OR**

28 **(II) POSTS BOND OR A PENALTY DEPOSIT AND REQUESTS A**
29 **NEW TRIAL DATE.**

1 **(3) IF A PERSON FAILS TO PAY THE FINES OR POST THE BOND OR**
2 **PENALTY DEPOSIT UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE COURT**
3 **MAY ISSUE A WARRANT FOR THE PERSON’S ARREST.**

4 **(4) IF THE ORIGINAL VIOLATION IS NOT PUNISHABLE BY**
5 **IMPRISONMENT, THE COURT MAY NOT ISSUE A WARRANT FOR THE PERSON’S**
6 **ARREST UNDER THIS SUBSECTION FOR AT LEAST 20 DAYS AFTER THE ORIGINAL**
7 **TRIAL DATE.**

8 REVISOR’S NOTE: This section is new language derived without substantive
9 change from former Art. 28, § 2–120.1.

10 In subsections (b)(4), (d)(1), and (e)(4) of this section, the references to a
11 “violation” are substituted for the former references to an “offense” for
12 consistency with the Criminal Law Article and other recently revised
13 articles.

14 Subsection (c)(2) of this section is revised for clarity and to state
15 affirmatively what a police officer is required to do under specified
16 circumstances, rather than what the officer is not required to do except
17 under specified circumstances.

18 In the introductory language to subsection (c)(2) of this section, the
19 reference to “arrest[ing] a person charged under subsection (a) of this
20 section” is substituted for the former reference to “tak[ing] the person
21 into physical custody for the violation” for clarity.

22 In subsection (e)(2)(i) of this section, the former reference to the fine on
23 the “original” charge is deleted as redundant of the reference to the
24 charge “as provided for in the original citation”.

25 In subsection (e)(3) of this section, the reference to a warrant “for the
26 person’s arrest” is added for clarity.

27 Defined terms: “Commission” § 14–101

28 “Person” § 14–101

29 **17–211. HOUSING OF CARETAKERS.**

30 **THE COMMISSION MAY ASSIGN LIVING QUARTERS IN A HOUSE OR**
31 **BUILDING IN ITS JURISDICTION TO A PERSON:**

32 **(1) CONNECTED WITH THE COMMISSION; AND**

1 **(2) HAVING THE DUTIES OF CARETAKER OR SUPERVISORY**
2 **ATTENTION OVER THE HOUSE OR BUILDING.**

3 REVISOR'S NOTE: This section formerly was Art. 28, § 5-115.

4 The only changes are in style.

5 Defined terms: "Commission" § 14-101

6 "Person" § 14-101

7 **17-212. STREET NAMES AND HOUSE NUMBERS.**

8 **(A) COMMISSION AUTHORITY.**

9 **THE COMMISSION MAY:**

10 **(1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,**
11 **NAME AND RENAME ANY STREET OR HIGHWAY AND NUMBER AND RENUMBER**
12 **THE HOUSES IN THE METROPOLITAN DISTRICT IF EACH NEW NUMBER OR**
13 **CHANGE OF NUMBER IS REPORTED TO THE OWNER OR OCCUPANT OF THE**
14 **BUILDING FOR THE PURPOSE OF:**

15 **(I) CORRECTING MISTAKES;**

16 **(II) REMOVING CONFUSION BECAUSE OF A DUPLICATION OF**
17 **STREET NAMES; AND**

18 **(III) SECURING A UNIFORMITY OF STREET NAMES AND**
19 **NUMBERING OF HOUSES;**

20 **(2) PLACE OR HAVE PLACED NEW NUMBERS ON THE BUILDINGS**
21 **OR PREMISES AND PROPER SIGNS INDICATING THE NAMES OF STREETS AND**
22 **HIGHWAYS; AND**

23 **(3) APPROPRIATE AND EXPEND AS MUCH OF ANY SURPLUS FROM**
24 **FEEES FOR BUILDING PERMITS ISSUED IN EACH COUNTY AS IS NECESSARY TO**
25 **PAY FOR THE EXPENSES IN CARRYING OUT THIS SECTION.**

26 **(B) REGULATIONS.**

27 **(1) THE COMMISSION MAY ADOPT REASONABLE REGULATIONS**
28 **FOR CARRYING OUT ANY CHANGES IN STREET OR HIGHWAY NAMES OR THE**
29 **NUMBERING OF HOUSES.**

1 **(2) A VIOLATION OF A REGULATION ADOPTED UNDER THIS**
2 **SUBSECTION IS A MISDEMEANOR PUNISHABLE UNDER THE GENERAL PENALTY**
3 **PROVISIONS OF THIS DIVISION.**

4 **(C) PRINCE GEORGE’S COUNTY.**

5 **(1) THE COMMISSION MAY NOT RENAME ANY STREET OR**
6 **RENUMBER ANY HOUSE LOCATED IN A MUNICIPAL CORPORATION IN PRINCE**
7 **GEORGE’S COUNTY UNLESS THE PROPOSED CHANGE IS APPROVED BY THE**
8 **LEGISLATIVE BODY OF THE MUNICIPAL CORPORATION.**

9 **(2) (I) ANY PARTY AGGRIEVED BY THE REFUSAL OF A**
10 **MUNICIPAL CORPORATION TO APPROVE A PROPOSED CHANGE MAY APPEAL TO**
11 **THE PRINCE GEORGE’S COUNTY COUNCIL.**

12 **(II) AFTER PUBLIC HEARING AND ON A FINDING OF NEED**
13 **FOR PUBLIC HEALTH, SAFETY, AND WELFARE, THE COUNTY COUNCIL BY**
14 **RESOLUTION MAY AUTHORIZE THE CHANGE NOTWITHSTANDING THE**
15 **OBJECTIONS OF THE MUNICIPAL CORPORATION.**

16 **(III) THE RESOLUTION SHALL REQUIRE THE AFFIRMATIVE**
17 **VOTE OF TWO–THIRDS OF ALL THE MEMBERS OF THE COUNTY COUNCIL.**

18 REVISOR’S NOTE: This section is new language derived without substantive
19 change from former Art. 28, § 5–117.

20 In the introductory language to subsection (a)(1) of this section, the
21 former references to “chang[ing] existing names of streets and highways,
22 and renam[ing] the streets and highways from time to time” and
23 “chang[ing] existing numbers of houses and chang[ing] these numbers
24 from time to time” are deleted as implicit in the reference to “nam[ing]
25 and renam[ing] any street or highway and number[ing] and
26 renumber[ing] the houses”.

27 In subsection (a)(3) of this section, the former reference to a surplus “as
28 on hand from time to time” is deleted as surplusage.

29 Also in subsection (a)(3) of this section, the former reference to “costs” is
30 deleted as included in the reference to “expenses”.

31 In subsection (b) of this section, the former references to “rules” are
32 deleted as included in the comprehensive references to “regulations”. See
33 General Revisor’s Note to article.

1 The Land Use Article Review Committee notes, for consideration by the
2 General Assembly, that in subsection (a)(1) of this section, the authority
3 of the Commission to name streets and number houses in the
4 “metropolitan district” should instead refer to the “regional district”. The
5 General Assembly may wish to make this substitution by substantive
6 legislation.

7 Defined terms: “Commission” § 14–101
8 “Metropolitan district” § 14–101

9 **17–213. FLOOD CONTROL.**

10 **(A) CONDEMNATION AUTHORITY.**

11 **(1) IF IN THE COMMISSION’S JUDGMENT IT IS NECESSARY TO**
12 **PROVIDE FOR FLOOD CONTROL IN THE METROPOLITAN DISTRICT, THE**
13 **COMMISSION MAY CONDEMN LAND AND EASEMENTS NECESSARY IN THE**
14 **CONSTRUCTION OF LEVEES AND OTHER FLOOD CONTROL WORKS.**

15 **(2) THE CONDEMNATION PROCEEDINGS SHALL BE IN**
16 **ACCORDANCE WITH THE GENERAL POWERS PROVIDED IN THIS DIVISION.**

17 **(3) THE COMMISSION MAY ASSUME ALL DAMAGES INCIDENT TO**
18 **ANY FLOOD CONTROL WORKS OR IMPROVEMENTS THAT IT FINDS NECESSARY TO**
19 **CONSTRUCT, EXCEPT DAMAGES TO LAND AND EASEMENTS OF RAILROADS OR**
20 **OTHER PUBLIC UTILITIES.**

21 **(4) THE COMMISSION MAY AGREE TO:**

22 **(I) FURNISH, WITHOUT COST TO THE UNITED STATES, ALL**
23 **LAND AND EASEMENTS THAT MAY BE NECESSARY IN THE CONSTRUCTION OF**
24 **ANY FLOOD CONTROL WORKS OR IMPROVEMENTS; AND**

25 **(II) TAKE OVER, OPERATE, AND MAINTAIN THE WORKS**
26 **WHEN CONSTRUCTED.**

27 **(B) USE OF FLOOD CONTROL LAND FOR PARK PURPOSES.**

28 **THE COMMISSION MAY USE FOR PARK PURPOSES THE LAND ACQUIRED**
29 **FOR FLOOD CONTROL AND NAVIGATION PROJECTS AS PROVIDED IN TITLE 25,**
30 **SUBTITLE 7 OF THIS ARTICLE.**

31 REVISOR’S NOTE: This section is new language derived without substantive
32 change from former Art. 28, § 5–118.

1 In subsection (a)(4)(i) of this section, the former reference to “or any
2 agency thereof” is deleted as implicit in the reference to “the United
3 States”.

4 Defined terms: “Commission” § 14–101
5 “Metropolitan district” § 14–101
6 “Park” § 14–101

7 **SUBTITLE 3. PARK POLICE.**

8 **17–301. APPOINTMENT OF POLICE OFFICERS.**

9 **THE COMMISSION MAY APPOINT PARK POLICE OFFICERS AS NECESSARY**
10 **TO PROVIDE PROTECTION FOR THE ACTIVITIES AND PROPERTY OF THE**
11 **COMMISSION.**

12 REVISOR’S NOTE: This section is new language derived without substantive
13 change from the first sentence of former Art. 28, § 5–114(a).

14 Defined terms: “Commission” § 14–101
15 “Park” § 14–101

16 **17–302. POWERS AND DUTIES.**

17 **(A) POWERS.**

18 **THE PARK POLICE:**

19 **(1) POSSESS ALL THE POWERS AND AUTHORITY VESTED BY**
20 **EXISTING LAW IN THE MONTGOMERY COUNTY AND PRINCE GEORGE’S COUNTY**
21 **POLICE;**

22 **(2) ARE RESPONSIBLE TO AND UNDER THE SUPERVISION OF THE**
23 **COMMISSION; AND**

24 **(3) SHALL EXERCISE SUPERVISORY JURISDICTION OVER THE**
25 **PARK SYSTEM.**

26 **(B) DUTIES.**

27 **THE PARK POLICE SHALL:**

28 **(1) PREVENT CRIME;**

- 1 **(2) APPREHEND CRIMINALS;**
2 **(3) ENFORCE THE CRIMINAL AND MOTOR VEHICLE LAWS OF THE**
3 **STATE;**
4 **(4) ENFORCE PARK REGULATIONS; AND**
5 **(5) PERFORM OTHER RELATED DUTIES THAT THE COMMISSION**
6 **IMPOSES.**

7 REVISOR'S NOTES: This section is new language derived without substantive
8 change from the second and fourth sentences of former Art. 28, §
9 5-114(a).

10 In subsection (b) of this section, the former phrase "[i]n connection with
11 the responsibility to provide that protection," is deleted as redundant of §
12 17-301 of this subtitle.

13 Defined terms: "Commission" § 14-101
14 "Park" § 14-101
15 "State" § 14-101

16 **17-303. JURISDICTION.**

17 **(A) CONCURRENT JURISDICTION.**

18 **THE PARK POLICE HAVE CONCURRENT GENERAL POLICE JURISDICTION**
19 **WITH THE MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY POLICE:**

20 **(1) WITHIN THE PARKS AND OTHER AREAS UNDER THE**
21 **JURISDICTION OF THE COMMISSION;**

22 **(2) WITHIN BUILDINGS UNDER THE JURISDICTION OF THE**
23 **COMMISSION; AND**

24 **(3) ON THE PORTION OF ALL ROADS AND SIDEWALKS**
25 **IMMEDIATELY ADJACENT TO PROPERTY UNDER THE JURISDICTION OF THE**
26 **COMMISSION.**

27 **(B) RECIPROCAL AGREEMENTS.**

1 **(1) THE PARK POLICE HAVE JURISDICTION OFF PARK PROPERTY**
2 **THAT MAY BE PROVIDED BY ANY RECIPROCAL AGREEMENT ENTERED INTO**
3 **UNDER § 2-105 OF THE CRIMINAL PROCEDURE ARTICLE.**

4 **(2) A RECIPROCAL AGREEMENT SHALL SPECIFY THE**
5 **CIRCUMSTANCES UNDER WHICH A PARK POLICE OFFICER MAY MAKE ARRESTS**
6 **OFF OF PARK PROPERTY.**

7 **(3) NOTWITHSTANDING § 2-105 OF THE CRIMINAL PROCEDURE**
8 **ARTICLE, A RECIPROCAL AGREEMENT MAY ALLOW ARRESTS IN EMERGENCY OR**
9 **NONEMERGENCY SITUATIONS.**

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from the third, fifth, sixth, and seventh sentences of former Art.
12 28, § 5-114(a).

13 Defined terms: "Commission" § 14-101

14 "Park" § 14-101

15 "Road" § 14-101

16 **17-304. JURISDICTION AND POWERS OF MONTGOMERY COUNTY AND PRINCE**
17 **GEORGE'S COUNTY POLICE.**

18 **THE MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY POLICE**
19 **HAVE THE SAME GENERAL POLICE JURISDICTION AND RESPONSIBILITY FOR**
20 **THE APPREHENSION OF CRIMINALS AND DETECTION OF CRIME WITHIN THE**
21 **PARKS AND OTHER AREAS AND BUILDINGS UNDER THE JURISDICTION OF THE**
22 **COMMISSION AS THEY HAVE ELSEWHERE IN THEIR RESPECTIVE COUNTIES.**

23 REVISOR'S NOTE: This section formerly was the eighth sentence of Art. 28, §
24 5-114(a).

25 The only changes are in style.

26 Defined terms: "Commission" § 14-101

27 "Park" § 14-101

28 **17-305. PRINCE GEORGE'S COUNTY — DEPUTY CHIEF.**

29 **(A) IN GENERAL.**

30 **(1) IN PRINCE GEORGE'S COUNTY, THE COUNTY PLANNING**
31 **BOARD MAY APPOINT A DEPUTY CHIEF OF THE COUNTY DIVISION OF THE PARK**
32 **POLICE.**

1 **(2) THE DEPUTY CHIEF HAS THE SAME JURISDICTION, POWERS,**
2 **AND AUTHORITY AS PARK POLICE OFFICERS APPOINTED BY THE COMMISSION.**

3 **(B) TENURE.**

4 **THE DEPUTY CHIEF SHALL SERVE AT THE PLEASURE OF THE COUNTY**
5 **PLANNING BOARD.**

6 **(C) COMPENSATION.**

7 **THE COUNTY PLANNING BOARD SHALL SET THE COMPENSATION OF THE**
8 **DEPUTY CHIEF.**

9 REVISOR'S NOTE: This section formerly was Art. 28, § 5-114(b).

10 In subsection (c) of this section, the former phrase "from time to time" is
11 deleted as surplusage.

12 The only other changes are in style.

13 Defined terms: "Commission" § 14-101
14 "County planning board" § 14-101
15 "Park" § 14-101

16 **SUBTITLE 4. MISCELLANEOUS PROPERTY.**

17 **17-401. LAND FOR ADMINISTRATION BUILDING.**

18 **THE COMMISSION MAY NOT ACQUIRE NEW LAND OR USE LAND ALREADY**
19 **HELD BY THE COMMISSION FOR THE PURPOSE OF CONSTRUCTING AN**
20 **ADMINISTRATION BUILDING WITHOUT THE PRIOR APPROVAL OF THE COUNTY**
21 **EXECUTIVE AND COUNTY COUNCIL OF MONTGOMERY COUNTY AND THE**
22 **COUNTY EXECUTIVE AND COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY.**

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 28, § 8-125.

25 The former phrase "acting jointly" is deleted as implicit in the
26 requirement that the county executives and county councils of both
27 Montgomery County and Prince George's County give approval.

28 Defined term: "Commission" § 14-101

29 **17-402. GLENN DALE HOSPITAL PROPERTY.**

1 **(A) ACQUISITION OF TITLE.**

2 **THE COMMISSION HAS ACQUIRED TITLE TO THE ENTIRE PARCEL OF**
 3 **PROPERTY KNOWN AS GLENN DALE HOSPITAL FOR USE IN ACCORDANCE WITH**
 4 **THIS SECTION.**

5 **(B) DUTIES OF COMMISSION.**

6 **(1) THE COMMISSION:**

7 **(I) SHALL MAINTAIN THE APPROXIMATELY 150 ACRES**
 8 **THAT HAVE NOT BEEN DEVELOPED AS PART OF THE EXISTING HOSPITAL**
 9 **CAMPUS IN THE COMMISSION’S PARK SYSTEM; AND**

10 **(II) MAY SELL, LEASE, OR OTHERWISE TRANSFER THE**
 11 **APPROXIMATELY 60 ACRES THAT HAVE BEEN DEVELOPED AS A HOSPITAL**
 12 **CAMPUS TO A PERSON WHO WILL USE THE PROPERTY AS A CONTINUING CARE**
 13 **RETIREMENT COMMUNITY IN ACCORDANCE WITH TITLE 10, SUBTITLE 4 OF THE**
 14 **HUMAN SERVICES ARTICLE.**

15 **(2) IF THE COMMISSION IS UNABLE TO FIND A QUALIFIED**
 16 **PERSON TO CARRY OUT THE INTENT OF PARAGRAPH (1)(II) OF THIS**
 17 **SUBSECTION, THE COMMISSION SHALL RETAIN POSSESSION OF THE**
 18 **APPROXIMATELY 60 ACRES UNTIL THE GENERAL ASSEMBLY APPROVES AN**
 19 **ALTERNATE USE.**

20 **REVISOR’S NOTE:** This section is new language derived without substantive
 21 change from former Art. 28, § 8–127.

22 In subsection (a) of this section, the former obsolete requirement for the
 23 Commission to acquire title to certain property on the sale of all or part of
 24 the property by the District of Columbia is deleted because the
 25 acquisition has already occurred. Similarly, in subsection (b) of this
 26 section, the former obsolete reference to “incorporat[ing] [certain
 27 property] into the Commission’s park system” is deleted because the
 28 incorporation has already occurred.

29 Also in subsection (a) of this section, the reference to acquiring title to
 30 “the entire parcel of property known as Glenn Dale Hospital” is
 31 substituted for the former references to acquiring title to “the
 32 approximately 150 acres that have not been developed as part of the
 33 existing hospital campus” and “the approximately 60 acres that have
 34 been developed as a hospital campus” for brevity and clarity.

1 In subsection (b)(1)(i) of this section, the former phrase “in perpetuity” is
2 deleted as being implicit.

3 In subsection (b)(2) of this section, the reference to “paragraph (1)(ii) of
4 this subsection” is substituted for the former reference to “this section”
5 for accuracy.

6 Defined terms: “Commission” § 14–101

7 “Park” § 14–101

8 “Person” § 14–101

9 **17–403. JESUP BLAIR PARK.**

10 **(A) GIFT OF PROPERTY.**

11 **(1) THE COMMISSION HAS RECEIVED PROPERTY AS A GIFT**
12 **UNDER THE LAST WILL OF VIOLET BLAIR JANIN TO ESTABLISH A PUBLIC PARK**
13 **IN MEMORY OF JESUP BLAIR.**

14 **(2) THE PROPERTY RECEIVED UNDER PARAGRAPH (1) OF THIS**
15 **SUBSECTION IS THE PORTION OF THE FARM, “THE MOORINGS”, FROM THE**
16 **TREES FRONTING ON GEORGIA AVENUE AND BLAIR ROAD, INCLUDING ALL**
17 **IMPROVEMENTS.**

18 **(3) IN ACCORDANCE WITH THE CONDITIONS SET FORTH IN THE**
19 **WILL, THE COMMISSION SHALL:**

20 **(I) MAKE AMPLE PROVISION FOR THE MAINTENANCE OF**
21 **THE PROPERTY AS A PUBLIC PARK;**

22 **(II) UNLESS IT IS ABSOLUTELY NECESSARY TO REMOVE**
23 **TREES IN CONNECTION WITH THE LAYING OUT OF THE PUBLIC PARK, PRESERVE**
24 **ALL OF THE TREES ON THE PROPERTY; AND**

25 **(III) REPLACE ANY TREES ON THE PROPERTY THAT ARE**
26 **DESTROYED OR DIE.**

27 **(B) AUTHORITY OF COMMISSION.**

28 **THE COMMISSION MAY POSSESS, MANAGE, CONTROL, AND MAINTAIN THE**
29 **PROPERTY AS A PUBLIC PARK AND MEMORIAL TO JESUP BLAIR BY:**

30 **(1) PRESERVING TREES ON THE PROPERTY;**

1 **(2) MAINTAINING GOOD ORDER IN THE PUBLIC PARK;**

2 **(3) BUILDING AND MAINTAINING ROADS, BUILDINGS, AND**
3 **CONVENIENCES AS NECESSARY OR ADVISABLE;**

4 **(4) REPLACING TREES THAT DIE OR ARE DESTROYED; AND**

5 **(5) TAKING OTHER ACTIONS NECESSARY TO MAINTAIN THE**
6 **PUBLIC PARK IN GOOD CONDITION AND CARRY OUT THE PURPOSES OF THE**
7 **GIFT.**

8 **(C) COST OF MAINTENANCE.**

9 **THE COMMISSION SHALL MAKE YEARLY EXPENDITURES FROM THE**
10 **GENERAL REVENUES OF THE COMMISSION RECEIVED UNDER THIS DIVISION TO**
11 **PAY THE COST OF THE MAINTENANCE, DEVELOPMENT, AND USE OF THE PUBLIC**
12 **PARK AS NECESSARY TO ACCOMPLISH THE PURPOSES OF THIS DIVISION.**

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 28, § 5-106(a) through (c).

15 Throughout this section, the references to "public park" are substituted
16 for the former references to "park open to the public" for brevity and
17 consistency throughout this section.

18 Also throughout this section, the word "gift" is substituted for the former
19 word "devise" to use more modern terminology.

20 Also throughout this section, the former terms "perpetual", "perpetually",
21 and "in perpetuity" are deleted as being implicit.

22 In subsection (a)(2) of this section, the reference to "Georgia Avenue" is
23 substituted for the former obsolete reference to "Brookville Pike" for
24 clarity. Similarly, also in subsection (a)(2) of this section, the reference to
25 "Blair Road" is substituted for the former reference to "the road on the
26 south" for clarity and accuracy.

27 In subsection (b)(5) of this section, the reference to "necessary" actions is
28 substituted for the former reference to "right and proper" actions for
29 brevity.

30 In subsection (c) of this section, the references to this "division" are
31 substituted for the former references to this "title" for clarity.

1 Former Art. 28, § 5–106(d), which required the Commission to have a
2 survey made and mark certain boundaries, is not retained in the Code
3 because it is apparently obsolete, the survey and marks having already
4 been completed. It is transferred to the Session Laws to avoid any
5 inadvertent substantive effect its repeal might have. *See* § 9 of Ch. __,
6 Acts of 2012.

7 Defined terms: “Commission” § 14–101

8 “Park” § 14–101

9 “Road” § 14–101

10 TITLE 18. FINANCES.

11 SUBTITLE 1. BUDGET.

12 PART I. ANNUAL BUDGETS.

13 18–101. APPLICATION OF OTHER LAWS.

14 **THE PUBLIC GENERAL LAWS GOVERNING THE PREPARATION AND FILING**
15 **OF BUDGETS BY STATE UNITS DO NOT APPLY TO THE COMMISSION.**

16 REVISOR’S NOTE: This section is new language derived without substantive
17 change from the first sentence of the introductory language to former Art.
18 28, § 2–118(a).

19 The reference to “units” is substituted for the former reference to
20 “agencies” for consistency with other revised articles of the Code. *See*
21 General Revisor’s Note to article.

22 Defined terms: “Commission” § 14–101

23 “State” § 14–101

24 18–102. REQUIRED.

25 **THE COMMISSION SHALL PREPARE ANNUAL CAPITAL AND OPERATING**
26 **BUDGETS FOR EACH FISCAL YEAR BEGINNING ON JULY 1 AND ENDING ON JUNE**
27 **30 OF THE SUBSEQUENT YEAR.**

28 REVISOR’S NOTE: This section is new language derived without substantive
29 change from the first sentence of former Art. 28, § 2–118(a)(1), as it
30 related to the requirement to prepare annual budgets.

31 The second sentence of former Art. 28, § 2–118(a)(1), which provided that
32 “[t]he proposed budget shall be established as hereinafter set forth”, is
33 deleted as unnecessary.

1 Defined term: "Commission" § 14-101

2 **18-103. CONTENTS.**

3 **THE BUDGETS SHALL CONTAIN:**

4 **(1) SEPARATELY FOR EACH COUNTY FOR WHICH ITEMS ARE**
 5 **ALLOCABLE AND FOR WHICH A TAX IS IMPOSED, THE PROPOSED EXPENDITURES**
 6 **AND ESTIMATES OF ANTICIPATED REVENUE;**

7 **(2) A COMPLETE PLANNING WORK PROGRAM FOR EACH COUNTY**
 8 **IN THE REGIONAL DISTRICT, INCLUDING A SCHEDULE FOR THE PRODUCTION OF**
 9 **ALL PLANS AND AMENDMENTS;**

10 **(3) ITEMS ALLOCABLE JOINTLY TO BOTH COUNTIES, INCLUDING**
 11 **PROVISIONS FOR:**

12 **(I) THE OPERATION OF THE UNITS OF THE COMMISSION**
 13 **ESTABLISHED BY LAW; AND**

14 **(II) THE REGIONAL PLANNING PROGRAM; AND**

15 **(4) A SCHEDULE OF RECREATION ACTIVITIES AND PROGRAMS**
 16 **FOR PRINCE GEORGE'S COUNTY IN ACCORDANCE WITH § 25-806 OF THIS**
 17 **ARTICLE.**

18 REVISOR'S NOTE: This section is new language derived without substantive
 19 change from the third through fifth sentences and, as it related to the
 20 required contents of the budgets, the first sentence of former Art. 28, §
 21 2-118(a)(1).

22 In item (1) of this section, the reference to a tax "imposed" is substituted
 23 for the former reference to a tax "levied" for consistency with other
 24 recently revised articles of the Code.

25 In item (2) of this section, the former phrase "hereinafter called the
 26 planning schedule of the Commission" is deleted as unnecessary because
 27 the term "planning schedule" is not used in this subtitle.

28 In item (3)(i) of this section, the reference to "units" is substituted for the
 29 former reference to "departments" for consistency with other revised
 30 articles of the Code. *See* General Revisor's Note to article.

31 Defined terms: "Commission" § 14-101

1 “County” § 14–101

2 “Regional district” § 14–101

3 **18–104. SUBMISSION TO COUNTY EXECUTIVES.**

4 **THE COMMISSION SHALL SUBMIT THE PROPOSED BUDGETS ON OR**
5 **BEFORE JANUARY 15 OF EACH YEAR TO THE COUNTY EXECUTIVES OF**
6 **MONTGOMERY COUNTY AND PRINCE GEORGE’S COUNTY.**

7 REVISOR’S NOTE: This section is new language derived without substantive
8 change from former Art. 28, § 2–118(a)(2).

9 Defined terms: “Commission” § 14–101

10 “County” § 14–101

11 **18–105. SUBMISSION TO COUNTY COUNCILS.**

12 **(A) MONTGOMERY COUNTY.**

13 **IN MONTGOMERY COUNTY, THE COUNTY EXECUTIVE SHALL SUBMIT THE**
14 **PROPOSED BUDGETS TO THE COUNTY COUNCIL, TOGETHER WITH THE COUNTY**
15 **EXECUTIVE’S RECOMMENDATIONS, ON OR BEFORE MARCH 1 OF EACH YEAR.**

16 **(B) PRINCE GEORGE’S COUNTY.**

17 **IN PRINCE GEORGE’S COUNTY, THE COUNTY EXECUTIVE SHALL SUBMIT**
18 **THE PROPOSED BUDGETS TO THE COUNTY COUNCIL, TOGETHER WITH THE**
19 **COUNTY EXECUTIVE’S RECOMMENDATIONS, ON OR BEFORE APRIL 1 OF EACH**
20 **YEAR.**

21 REVISOR’S NOTE: This section is new language derived without substantive
22 change from former Art. 28, § 2–118(a)(3).

23 In this section, the references to “submit[ting]” the proposed budgets are
24 substituted for the former references to “transmit[ting]” the proposed
25 budget for consistency throughout this subtitle.

26 Defined term: “County” § 14–101

27 **18–106. APPROVAL BY COUNTY COUNCILS.**

28 **(A) PUBLIC HEARING.**

1 AFTER PUBLIC NOTICE, EACH COUNTY COUNCIL SHALL HOLD A PUBLIC
2 HEARING ON THE COMMISSION'S PROPOSED BUDGETS AT LEAST 21 DAYS AFTER
3 RECEIVING THE BUDGETS FROM THE COUNTY EXECUTIVE.

4 (B) APPROVAL.

5 ON OR BEFORE JUNE 1 OF EACH YEAR, EACH COUNTY COUNCIL SHALL, BY
6 RESOLUTION:

7 (1) APPROVE THE PORTION OF THE BUDGETS ALLOCABLE TO
8 THAT COUNTY, WITH ANY ALTERATIONS MADE UNDER SUBSECTION (C) OF THIS
9 SECTION; AND

10 (2) SUBJECT TO THE REQUIREMENTS AND LIMITATIONS OF
11 SUBTITLES 3 AND 4 OF THIS TITLE AND TITLE 21 OF THIS ARTICLE, IMPOSE
12 TAXES IN THE AMOUNTS THE COUNTY COUNCIL DETERMINES TO BE NECESSARY
13 TO FINANCE THE PORTION OF THE BUDGETS ALLOCABLE TO THAT COUNTY.

14 (C) ALTERATION.

15 EACH COUNTY COUNCIL MAY ADD TO, DELETE FROM, INCREASE, OR
16 DECREASE ANY PART OF THE BUDGETS ALLOCABLE SOLELY TO THAT COUNTY.

17 (D) CONCURRENCE; EFFECT OF FAILURE TO CONCUR.

18 (1) BUDGET ITEMS ALLOCABLE TO BOTH COUNTIES AS
19 SUBMITTED BY THE COMMISSION SHALL BE CONCURRED IN BY BOTH COUNTY
20 COUNCILS.

21 (2) THE COUNTY COUNCILS MAY CONCUR IN ADDITIONS TO,
22 DELETIONS FROM, INCREASES TO, OR DECREASES FROM BUDGET ITEMS
23 ALLOCABLE TO BOTH COUNTIES.

24 (3) FAILURE OF THE COUNTY COUNCILS TO CONCUR IN ANY
25 BUDGET ITEM ALLOCABLE TO BOTH COUNTIES BY JUNE 15 SHALL CONSTITUTE
26 APPROVAL OF THE ITEM AS SUBMITTED BY THE COMMISSION.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 28, § 2-118(a)(4).

29 In the introductory language to subsection (b) of this section, the phrase
30 "by resolution" is added for clarity.

1 Also in the introductory language to subsection (b) of this section, the
2 former phrase “in Montgomery County and Prince George’s County” is
3 deleted as surplusage.

4 In subsection (b)(1) of this section, the phrase “with any alterations made
5 under subsection (c) of this section” is substituted for the former phrase
6 “which may be altered as hereinafter provided” for clarity.

7 Also in subsection (b)(1) of this section, the reference to “impos[ing] taxes”
8 is substituted for the former reference to “establish[ing] tax levies” for
9 consistency with other recently revised articles of the Code.

10 In subsection (d)(2) of this section, the former phrase “[w]ith respect to
11 such budget items” is deleted as surplusage.

12 Defined terms: “Commission” § 14–101
13 “County” § 14–101

14 **18–107. COUNTY EXECUTIVE; VETO.**

15 **(A) SUBMISSION.**

16 **WITHIN 3 CALENDAR DAYS AFTER APPROVAL OF THE BUDGETS, EACH**
17 **COUNTY COUNCIL SHALL SUBMIT THE BUDGETS TO THE RESPECTIVE COUNTY**
18 **EXECUTIVE.**

19 **(B) DISAPPROVAL OR REDUCTION.**

20 **WITHIN 10 DAYS AFTER DELIVERY OF THE BUDGETS BY THE COUNTY**
21 **COUNCIL, THE COUNTY EXECUTIVE MAY DISAPPROVE OR REDUCE ANY ITEM**
22 **CONTAINED IN THE BUDGETS OR THE PLANNING WORK PROGRAM.**

23 **(C) RETURN TO COUNTY COUNCIL.**

24 **IF THE COUNTY EXECUTIVE DISAPPROVES OR REDUCES ANY ITEM IN THE**
25 **BUDGETS, THE COUNTY EXECUTIVE SHALL RETURN THE BUDGETS TO THE**
26 **RESPECTIVE COUNTY COUNCIL WITH THE REASONS FOR THE COUNTY**
27 **EXECUTIVE’S DISAPPROVAL OR REDUCTION STATED IN WRITING.**

28 **(D) VOTE TO OVERRIDE.**

29 **WITHIN 30 DAYS AFTER THE RESPECTIVE COUNTY EXECUTIVE RETURNS**
30 **THE BUDGETS, EACH COUNTY COUNCIL MAY, BY AFFIRMATIVE VOTE OF SIX OF**
31 **ITS MEMBERS, REAPPROVE OR RESTORE ANY ITEM OVER THE DISAPPROVAL OF**
32 **THE COUNTY EXECUTIVE.**

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 28, § 2-118(a)(5).

3 In subsection (c) of this section, the former reference to "modif[ying]" any
4 item is deleted for consistency within this section.

5 In subsection (d) of this section, the reference to 30 days "after the
6 respective county executive returns the budgets" is added for clarity.

7 Defined term: "County" § 14-101

8 **18-108. BUDGET AMENDMENTS.**

9 **(A) IN GENERAL.**

10 **AFTER ADOPTION OF THE BUDGETS BY THE COUNTY COUNCILS, THE**
11 **BUDGETS MAY BE AMENDED BY RESOLUTION BY THE COUNTY COUNCILS ON**
12 **THEIR INITIATIVE OR AT THE REQUEST OF THE COMMISSION.**

13 **(B) RECOMMENDATIONS; PUBLIC HEARING.**

14 **BEFORE ADOPTING A BUDGET AMENDMENT UNDER THIS SUBSECTION, A**
15 **COUNTY COUNCIL SHALL:**

16 **(1) RECEIVE RECOMMENDATIONS FROM THE RESPECTIVE**
17 **COUNTY EXECUTIVE; AND**

18 **(2) HOLD A PUBLIC HEARING ON REASONABLE NOTICE TO THE**
19 **PUBLIC.**

20 **(C) CONCURRENCE REQUIRED.**

21 **AN AMENDMENT TO A BUDGET ITEM ALLOCABLE TO BOTH COUNTIES IS**
22 **NOT EFFECTIVE UNLESS IT HAS RECEIVED THE CONCURRENCE OF BOTH**
23 **COUNTY COUNCILS.**

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 28, § 2-118(a)(6).

26 In subsection (a) of this section, the former references to the "respective"
27 county councils are deleted as surplusage.

28 Defined terms: "Commission" § 14-101

29 "County" § 14-101

1 **18-109. LIMITATIONS ON EXPENDITURES.**

2 **(A) IN GENERAL.**

3 **UNLESS APPROVED BY EITHER OR BOTH COUNTY COUNCILS, AS**
4 **APPLICABLE, AFTER RECEIVING RECOMMENDATIONS FROM EITHER OR BOTH**
5 **COUNTY EXECUTIVES, THE COMMISSION MAY NOT MAKE OR AUTHORIZE AN**
6 **EXPENDITURE OF FUNDS EXCEEDING 110% OF THE AVAILABLE APPROVED**
7 **BUDGET AMOUNTS FOR:**

8 **(1) EACH PARK AND RECREATION PROJECT AND EACH**
9 **ADMINISTRATIVE OR OPERATING DEPARTMENT OR FUNCTION OF THE**
10 **COMMISSION, AS SET FORTH IN EACH COUNTY'S LEGISLATION APPROVING THE**
11 **BUDGETS; AND**

12 **(2) EACH PLANNING PROJECT CONTAINED IN THE PLANNING**
13 **WORK PROGRAM FOR EACH COUNTY.**

14 **(B) TOTAL APPROVED BUDGETS.**

15 **EXCEPT FOR ENTERPRISE FUNDS, THE COMMISSION MAY NOT EXCEED**
16 **THE TOTAL APPROVED BUDGETS FOR EACH OF ITS FUNDS, WITHOUT THE PRIOR**
17 **APPROVAL OF EITHER OR BOTH COUNTY COUNCILS, AS APPLICABLE.**

18 **REVISOR'S NOTE:** This section is new language derived without substantive
19 change from former Art. 28, § 2-118(a)(7).

20 In the introductory language to subsection (a) of this section, the phrase
21 "as applicable" is substituted for the former phrase "as the case may
22 require" for clarity and consistency within this subsection.

23 Also in the introductory language to subsection (a) of this section, the
24 phrase "110% of the available approved budget amounts" is substituted
25 for the former phrase "the available approved budget amounts plus 10
26 percent thereof" for clarity.

27 Defined terms: "Commission" § 14-101
28 "County" § 14-101

29 **18-110. RESERVED.**

30 **18-111. RESERVED.**

31 **PART II. CAPITAL IMPROVEMENTS PROGRAM.**

1 **18-112. PREPARATION AND SUBMISSION TO COUNTIES.**

2 **THE COMMISSION SHALL PREPARE AND SUBMIT A 6-YEAR CAPITAL**
3 **IMPROVEMENTS PROGRAM:**

4 **(1) BEFORE NOVEMBER 1 OF EACH ODD-NUMBERED CALENDAR**
5 **YEAR TO THE COUNTY EXECUTIVE AND COUNTY COUNCIL OF MONTGOMERY**
6 **COUNTY; AND**

7 **(2) BEFORE JANUARY 15 OF EACH CALENDAR YEAR TO THE**
8 **COUNTY GOVERNING BODY OF PRINCE GEORGE'S COUNTY.**

9 REVISOR'S NOTE: This section formerly was Art. 28, § 2-118(b)(1)(i).

10 The only change is in style.

11 The Land Use Article Review Committee notes, for consideration by the
12 General Assembly, that in this part the term "county governing body" is
13 used inconsistently. While it is the only term used for provisions relating
14 to Prince George's County, there are specific references to the "County
15 Executive and County Council of Montgomery County", which seem to be
16 the county governing body of that county under charter home rule. The
17 General Assembly may wish to clarify the term in this part by using the
18 term "local governing body", which is consistent with many other
19 provisions in this article, or if the intention is to mean only the county
20 council, to use that term or the term "legislative body" as defined and
21 used throughout Division I of this article.

22 Defined terms: "Commission" § 14-101

23 "County" § 14-101

24 **18-113. CONTENTS.**

25 **THE CAPITAL IMPROVEMENTS PROGRAM SHALL:**

26 **(1) INCLUDE A STATEMENT OF THE OBJECTIVES OF THE CAPITAL**
27 **PROGRAMS AND THE RELATIONSHIP OF THE PROGRAMS TO THE COUNTY'S**
28 **ADOPTED LONG RANGE DEVELOPMENT PLANS;**

29 **(2) RECOMMEND CAPITAL PROJECTS AND A CONSTRUCTION**
30 **SCHEDULE;**

31 **(3) PROVIDE AN ESTIMATE OF COST AND A STATEMENT OF ALL**
32 **FUNDING SOURCES; AND**

1 **(4) INCLUDE ALL PROGRAMMED PARKLAND ACQUISITION, ALL**
2 **MAJOR PARK IMPROVEMENT AND DEVELOPMENT, AND MAJOR ACQUISITION OF**
3 **EQUIPMENT.**

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 28, § 2-118(b)(1)(ii).

6 In item (4) of this section, the reference to major "park" improvement is
7 substituted for the former reference to major "parkland" improvement for
8 clarity.

9 Defined terms: "County" § 14-101
10 "Park" § 14-101

11 **18-114. RECOMMENDATIONS BY MONTGOMERY COUNTY EXECUTIVE.**

12 **IN MONTGOMERY COUNTY, THE COUNTY EXECUTIVE SHALL SUBMIT**
13 **RECOMMENDATIONS WITH RESPECT TO THE COMMISSION'S PROPOSED**
14 **PROGRAM, INCLUDING ANY SUGGESTED AMENDMENTS, REVISIONS, OR**
15 **MODIFICATIONS, TO THE COUNTY COUNCIL AS PART OF THE COMPREHENSIVE**
16 **6-YEAR CAPITAL IMPROVEMENTS PROGRAM REQUIRED BY THE COUNTY**
17 **CHARTER IN EACH EVEN-NUMBERED CALENDAR YEAR.**

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 28, § 2-118(b)(1)(iii).

20 The former reference to "an integral" part of the program is deleted as
21 surplusage.

22 Defined terms: "Commission" § 14-101
23 "County" § 14-101

24 **18-115. ADOPTION BY COUNTY GOVERNING BODIES.**

25 **(A) SCHEDULE.**

26 **ON OR BEFORE ADOPTION OF ITS ANNUAL BUDGET AND APPROPRIATIONS**
27 **RESOLUTION, EACH COUNTY GOVERNING BODY SHALL ADOPT THE 6-YEAR**
28 **CAPITAL IMPROVEMENTS PROGRAM:**

29 **(1) EACH EVEN-NUMBERED CALENDAR YEAR IN MONTGOMERY**
30 **COUNTY; AND**

31 **(2) EACH YEAR IN PRINCE GEORGE'S COUNTY.**

1 **(B) PUBLIC HEARING.**

2 **(1) EACH COUNTY GOVERNING BODY SHALL HOLD A PUBLIC**
3 **HEARING BEFORE ADOPTING THE 6-YEAR CAPITAL IMPROVEMENTS PROGRAM.**

4 **(2) THE PUBLIC HEARING MAY BE CONDUCTED IN CONJUNCTION**
5 **WITH PUBLIC HEARINGS ON THE 6-YEAR PROGRAMS OR CAPITAL BUDGETS OF**
6 **THE COUNTY AND OTHER UNITS.**

7 **(C) AMENDMENT.**

8 **(1) EACH COUNTY GOVERNING BODY MAY AMEND, REVISE, OR**
9 **MODIFY THE 6-YEAR CAPITAL IMPROVEMENTS PROGRAM.**

10 **(2) AN AMENDMENT, REVISION, OR MODIFICATION MADE UNDER**
11 **THIS PARAGRAPH MAY NOT BECOME FINAL UNTIL AT LEAST 30 DAYS AFTER IT IS**
12 **SUBMITTED TO THE COMMISSION FOR WRITTEN COMMENT.**

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 28, § 2-118(b)(2)(i) and (ii).

15 In subsection (b)(1) of this section, the reference to the "county governing
16 body" holding a public hearing is added for clarity.

17 In subsection (b)(2) of this section, the reference to "units" is substituted
18 for the former reference to "agencies" for consistency with other revised
19 articles of the Code. *See* General Revisor's Note to article.

20 In subsection (c)(1) of this section, the former phrase "as it may
21 determine" is deleted as surplusage.

22 In subsection (c)(2) of this section, the reference to "30 days after" is
23 substituted for the former reference to "30 days' notice" for clarity.

24 Defined terms: "Commission" § 14-101

25 "County" § 14-101

26 **18-116. AMENDMENT OF APPROVED PROGRAM IN MONTGOMERY COUNTY.**

27 **IN MONTGOMERY COUNTY, THE COUNTY COUNCIL MAY AMEND AN**
28 **APPROVED 6-YEAR CAPITAL IMPROVEMENTS PROGRAM AT ANY TIME BY AN**
29 **AFFIRMATIVE VOTE OF SIX OF ITS MEMBERS.**

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 28, § 2-118(b)(2)(iii).

3 Defined term: "County" § 14-101

4 **18-117. COMMISSION'S CAPITAL BUDGET.**

5 **(A) CONFORMITY REQUIRED.**

6 **THE COMMISSION'S CAPITAL BUDGET FOR EACH FISCAL YEAR MAY**
7 **INCLUDE ONLY PROJECTS THAT FULLY CONFORM WITH THE PART OF THE MOST**
8 **RECENTLY ADOPTED 6-YEAR CAPITAL IMPROVEMENTS PROGRAM APPLICABLE**
9 **TO THAT YEAR.**

10 **(B) AMENDMENT.**

11 **(1) UNLESS THE 6-YEAR CAPITAL IMPROVEMENTS PROGRAM HAS**
12 **BEEN AMENDED IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION, A**
13 **CAPITAL PROJECT MAY NOT BE UNDERTAKEN, WHOLLY OR PARTLY, THAT IS**
14 **NOT IN CONFORMITY WITH THE PART OF THE PROGRAM APPLICABLE TO THAT**
15 **YEAR.**

16 **(2) THE 6-YEAR CAPITAL IMPROVEMENTS PROGRAM MAY BE**
17 **AMENDED BY THE COUNTY GOVERNING BODY:**

18 **(I) ON ITS OWN INITIATIVE OR AT THE REQUEST OF THE**
19 **COMMISSION; AND**

20 **(II) AFTER A PUBLIC HEARING ON REASONABLE NOTICE TO**
21 **THE PUBLIC.**

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 28, § 2-118(b)(3).

24 In subsection (a) of this section, the reference to the program "applicable
25 to that year" is added for clarity and consistency with subsection (b)(1) of
26 this section.

27 Also in subsection (a) of this section, the reference to "each" fiscal year is
28 substituted for the former reference to the "succeeding" fiscal year for
29 clarity.

30 Defined terms: "Commission" § 14-101
31 "County" § 14-101

1 GENERAL REVISOR'S NOTE TO SUBTITLE

2 The second sentence of the introductory language to former Art. 28, §
3 2–118(a), which ratified the “budget programs and procedures heretofore
4 followed by the Commission”, is not retained in the Code because it is
5 apparently obsolete. It is transferred to the Session Laws to avoid any
6 inadvertent substantive effect its repeal might have. See § 10 of Ch. __, Acts of
7 2012.

8 **SUBTITLE 2. DEBT AND SECURITIES.**

9 **18–201. “BOND” DEFINED.**

10 **IN THIS SUBTITLE, “BOND” MEANS A BOND, NOTE, OR OTHER EVIDENCE**
11 **OF INDEBTEDNESS ISSUED UNDER THIS TITLE.**

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 28, § 6–101(a), as it related to the definition of
14 “bond[s]”.

15 **18–202. CONSTRUCTION OF SUBTITLE.**

16 **A REQUIREMENT FOR SIGNATURE UNDER THIS SUBTITLE MAY BE**
17 **SATISFIED BY MANUAL OR FACSIMILE SIGNATURE.**

18 REVISOR'S NOTE: This section is new language added for clarity and
19 consistency within this subtitle.

20 **18–203. BONDS — IN GENERAL.**

21 **(A) AUTHORIZATION.**

22 **THE COMMISSION MAY ISSUE AND SELL BONDS IN AMOUNTS NECESSARY**
23 **FOR THE PURPOSES UNDER SUBSECTION (B) OF THIS SECTION AND UNDER**
24 **REGULATIONS THE COMMISSION DETERMINES.**

25 **(B) PURPOSES.**

26 **THE COMMISSION MAY ISSUE THE BONDS TO PAY FOR THE ACQUISITION**
27 **OF PROPERTY IN THE METROPOLITAN DISTRICT FOR THE PURPOSES OF §**
28 **17–101(B) OF THIS ARTICLE.**

29 **(C) TIMING.**

1 **THE COMMISSION MAY ISSUE THE BONDS PERIODICALLY IN ONE OR MORE**
2 **SERIES.**

3 **(D) BONDS OUTSTANDING.**

4 **(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**
5 **AMOUNT OF BONDS OUTSTANDING AT ANY TIME MAY NOT EXCEED AN AMOUNT**
6 **THAT IS REDEEMABLE WITHIN 30 YEARS FROM THE DATE OF ISSUE BY THE TAX**
7 **AUTHORIZED AND PLEDGED TO PAY THE BONDS, TO THE EXTENT THAT THE TAX**
8 **IS PROPOSED TO BE IMPOSED IN MONTGOMERY COUNTY OR PRINCE GEORGE'S**
9 **COUNTY OR BOTH.**

10 **(2) TO DETERMINE THE AMOUNT OF BONDS THAT MAY BE**
11 **OUTSTANDING UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSION**
12 **MAY ASSUME:**

13 **(I) FUTURE IMPOSITION OF THE TAX AT THE RATE**
14 **ESTABLISHED BY EACH COUNTY;**

15 **(II) 100% COLLECTION OF THE TAX IN EACH FISCAL YEAR;**
16 **AND**

17 **(III) THE ASSESSED VALUE OF PROPERTY AT THE TIME THE**
18 **BONDS ARE ISSUED WILL REMAIN CONSTANT.**

19 **(E) TERMS AND CONDITIONS.**

20 **THE BONDS SHALL:**

21 **(1) BE REGISTERED OR COUPON BONDS IN DENOMINATIONS**
22 **DETERMINED BY THE COMMISSION;**

23 **(2) BEAR INTEREST:**

24 **(I) ANNUALLY AT A RATE THE COMMISSION DETERMINES**
25 **TO BE ADVANTAGEOUS AND OTHERWISE IN THE PUBLIC INTEREST; AND**

26 **(II) PAYABLE SEMIANNUALLY OR AT A TIME DETERMINED**
27 **BY THE COMMISSION;**

28 **(3) MATURE WITHIN 50 YEARS FROM THE DATE OF ISSUE; AND**

1 **(4) BE ISSUED UNDER THE HAND AND SEAL OF THE COMMISSION,**
2 **BY MANUAL OR FACSIMILE SIGNATURE.**

3 **(F) SALE.**

4 **NOTWITHSTANDING ANY OTHER LAW, THE COMMISSION MAY SELL THE**
5 **BONDS BY COMPETITIVE OR NEGOTIATED SALE IN A MANNER, FOR A PRICE, AND**
6 **AT RATES THE COMMISSION DETERMINES TO BE IN ITS BEST INTERESTS.**

7 **(G) REDEMPTION.**

8 **(1) IN THE ISSUE OF BONDS, THE COMMISSION MAY PROVIDE FOR**
9 **THE REDEMPTION OF SOME OR ALL OF THE BONDS BEFORE THEIR STATED**
10 **MATURITY.**

11 **(2) THE REDEMPTION PRICE OF THE BONDS MAY BE GREATER**
12 **THAN THE PAR VALUE OF THE BONDS.**

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 28, § 6–101(b) and (c), and, as it related to the
15 authorization of bonds, notes, and other obligations, (a).

16 In subsection (a) of this section, the reference to “the purposes under
17 subsection (b) of this section” is substituted for the former reference to
18 “these purposes” for clarity.

19 Also in subsection (a) of this section, the former word “serial” is deleted as
20 unnecessary in light of the authorization in subsection (c) to issue bonds
21 in one or more series.

22 Also in subsection (a) of this section, the former reference to amounts
23 “[the Commission] deems” necessary is deleted as implicit in the
24 authority to issue the bonds.

25 In subsection (b) of this section and throughout this title, the former
26 reference to the acquisition of “lands or other” property is deleted as
27 included in the comprehensive reference to “property”. *See* General
28 Revisor’s Note to article.

29 Also in subsection (b) of this section and throughout this title, the former
30 reference to acquisition “whether by condemnation or purchase” is
31 deleted as surplusage. The comprehensive reference to “acquisition” is not
32 limited as to method of payment or form of consideration, and within the
33 context of this subtitle, acquisition by payment financed by bonds is
34 assumed. No substantive change is intended.

1 Also in subsection (b) of this section, the reference to the “metropolitan”
2 district is added for clarity.

3 Also in subsection (b) of this section, the former reference to the
4 acquisition of land or other property “by the Commission” is deleted as
5 implicit in the reference to the Commission issuing bonds to pay for the
6 acquisition.

7 In subsection (c) of this section, the reference to issuing bonds “in one or
8 more series” is substituted for the former phrase “which need not be
9 serial,” for clarity.

10 In subsection (d)(1) of this section, the reference to “the tax authorized
11 and pledged” is substituted for the former reference to the “means of so
12 much of the tax or taxes hereinafter authorized as is pledged” for brevity.

13 Also in subsection (d)(1) of this section, the reference to a tax to be
14 “imposed” is substituted for the former reference to a tax to be “levied” for
15 consistency with other revised articles of the Code. *See, e.g.*, PU §§
16 17–201 and 22–106. Similarly, in subsection (d)(2)(i) of this section, the
17 reference to “imposition” is substituted for the former reference to “levy”.

18 In the introductory language to subsection (d)(2) of this section, the
19 phrase “[t]o determine the amount of bonds that may be outstanding
20 under paragraph (1) of this subsection” is substituted for the former
21 phrase “[i]n making the calculation to determine compliance with the
22 limitation contained in this subsection” for clarity.

23 In subsection (d)(2)(i) of this section, the former reference to “taxes” is
24 deleted in light of the reference to “tax” and Art. 1, § 8, which provides
25 that the singular generally includes the plural.

26 Also in subsection (d)(2)(i) of this section, the former reference to
27 “continued” future imposition of the tax is deleted as surplusage.

28 As to the deletion of the former reference to “rules” in subsection (a) of
29 this section, *see* General Revisor’s Note to article.

30 Defined terms: “Bond” § 18–201
31 “Commission” § 14–101
32 “Metropolitan district” § 14–101

33 **18–204. BONDS — FULL FAITH AND CREDIT; LIABILITY.**

34 **(A) FULL FAITH AND CREDIT.**

1 **THE BONDS SHALL BE ISSUED ON THE FULL FAITH AND CREDIT OF THE**
2 **COMMISSION AND THE COUNTY GUARANTEEING THE BONDS.**

3 **(B) USE OF BOND PROCEEDS — METROPOLITAN DISTRICT.**

4 **(1) IF THE COMMISSION DECIDES TO SPEND THE PROCEEDS OF A**
5 **BOND ISSUE THROUGHOUT THE METROPOLITAN DISTRICT, MONTGOMERY**
6 **COUNTY AND PRINCE GEORGE’S COUNTY SHALL GUARANTEE THE PAYMENT OF**
7 **PRINCIPAL OF AND INTEREST ON THE BONDS.**

8 **(2) THE FOLLOWING GUARANTEE SHALL BE STATED ON EACH**
9 **BOND:**

10 **“THE PAYMENT OF INTEREST WHEN DUE AND OF THE PRINCIPAL ON**
11 **MATURITY IS GUARANTEED BY MONTGOMERY AND PRINCE GEORGE’S**
12 **COUNTIES, MARYLAND.”.**

13 **(3) THE COUNTY EXECUTIVES OF MONTGOMERY COUNTY AND**
14 **PRINCE GEORGE’S COUNTY SHALL SIGN THE ENDORSEMENT BY MANUAL OR**
15 **FACSIMILE SIGNATURE ON EACH BOND.**

16 **(4) IF THERE IS ANY LIABILITY UNDER THE GUARANTEE, EACH**
17 **COUNTY’S LIABILITY SHALL BE IN THE PROPORTION THE ASSESSABLE BASIS**
18 **FOR THAT PART OF THE COUNTY IN THE METROPOLITAN DISTRICT BEARS TO**
19 **THE ASSESSABLE BASIS OF THE WHOLE DISTRICT.**

20 **(C) USE OF BOND PROCEEDS — MONTGOMERY COUNTY.**

21 **(1) IF THE PROCEEDS OF A BOND ISSUE ARE TO BE EXPENDED**
22 **ONLY IN OR FOR THE BENEFIT OF A PORTION OF THE METROPOLITAN DISTRICT**
23 **THAT IS IN MONTGOMERY COUNTY, MONTGOMERY COUNTY SHALL GUARANTEE**
24 **THE PAYMENT OF PRINCIPAL OF AND INTEREST ON THE BONDS.**

25 **(2) THE FOLLOWING GUARANTY SHALL BE STATED ON EACH**
26 **BOND:**

27 **“THE PAYMENT OF INTEREST WHEN DUE AND OF THE PRINCIPAL ON**
28 **MATURITY IS GUARANTEED BY MONTGOMERY COUNTY, MARYLAND.”.**

29 **(3) THE COUNTY EXECUTIVE OF MONTGOMERY COUNTY SHALL**
30 **SIGN THE ENDORSEMENT BY MANUAL OR FACSIMILE SIGNATURE ON EACH**
31 **BOND.**

1 **(D) USE OF BOND PROCEEDS — PRINCE GEORGE’S COUNTY.**

2 **(1) IF THE PROCEEDS OF A BOND ISSUE ARE TO BE EXPENDED**
3 **ONLY IN OR FOR THE BENEFIT OF A PORTION OF THE METROPOLITAN DISTRICT**
4 **THAT IS IN PRINCE GEORGE’S COUNTY, PRINCE GEORGE’S COUNTY SHALL**
5 **GUARANTEE THE PAYMENT OF PRINCIPAL OF AND INTEREST ON THE BONDS.**

6 **(2) THE FOLLOWING GUARANTY SHALL BE ENDORSED ON EACH**
7 **BOND:**

8 **“THE PAYMENT OF INTEREST WHEN DUE AND OF THE PRINCIPAL ON**
9 **MATURITY IS GUARANTEED BY PRINCE GEORGE’S COUNTY, MARYLAND.”.**

10 **(3) THE COUNTY EXECUTIVE OF PRINCE GEORGE’S COUNTY**
11 **SHALL SIGN THE ENDORSEMENT BY MANUAL OR FACSIMILE SIGNATURE ON**
12 **EACH BOND.**

13 REVISOR’S NOTE: This section is new language derived without substantive
14 change from former Art. 28, § 6–101(d).

15 In subsection (a) of this section, the former reference to “counties” is
16 deleted in light of the reference to “county” and Art. 1, § 8, which provides
17 that the singular generally includes the plural.

18 Also in subsection (a) of this section, the former phrase “as hereinafter
19 provided” is deleted as surplusage.

20 In subsection (d)(2) and (3) of this section, the references to “[t]he
21 following guarantee shall be endorsed on each bond: ‘The payment of
22 interest when due and of the principal on maturity is guaranteed by
23 Prince George’s County, Maryland’” and “[t]he County Executive of
24 Prince George’s County shall sign the endorsement by manual or
25 facsimile signature on each bond” are substituted for the former phrase
26 “in the same form and manner as is above provided for Montgomery
27 County” for clarity and accuracy.

28 Defined terms: “Bond” § 18–201

29 “Commission” § 14–101

30 “Metropolitan district” § 14–101

31 **18–205. BONDS — USE OF PROCEEDS.**

32 **(A) USE IN METROPOLITAN DISTRICT.**

1 SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION, IF THE
2 PROCEEDS OF A BOND ISSUE ARE TO BE EXPENDED THROUGHOUT THE
3 METROPOLITAN DISTRICT, THE PROCEEDS SHALL BE EXPENDED IN THE
4 PORTION OF EACH COUNTY IN THE METROPOLITAN DISTRICT IN THE
5 PROPORTION THAT THE ASSESSABLE BASE OF THAT PORTION OF EITHER
6 COUNTY BEARS TO THE ASSESSABLE BASE OF THE ENTIRE METROPOLITAN
7 DISTRICT.

8 **(B) CORPORATE PURPOSES.**

9 THE COMMISSION MAY ISSUE BONDS TO CARRY OUT THE COMMISSION'S
10 CORPORATE PURPOSES IN THE METROPOLITAN DISTRICT IN EITHER COUNTY.

11 **(C) RECOMMENDATION.**

12 **(1) THE PROCEEDS OF THE SALE OF BONDS TO BE EXPENDED IN**
13 **OR FOR THE BENEFIT OF THE PORTION OF THE METROPOLITAN DISTRICT IN**
14 **MONTGOMERY COUNTY SHALL BE EXPENDED ONLY ON THE RECOMMENDATION**
15 **OF THE COMMISSIONERS FROM MONTGOMERY COUNTY.**

16 **(2) THE PROCEEDS OF THE SALE OF BONDS TO BE EXPENDED IN**
17 **OR FOR THE BENEFIT OF THE PORTION OF THE METROPOLITAN DISTRICT IN**
18 **PRINCE GEORGE'S COUNTY SHALL BE EXPENDED ONLY ON THE**
19 **RECOMMENDATION OF THE COMMISSIONERS FROM PRINCE GEORGE'S**
20 **COUNTY.**

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 28, § 6-101(e).

23 In subsection (b) of this section, the former reference to "that portion of"
24 the metropolitan district is deleted as surplusage.

25 In subsection (c)(2) of this section, the qualification "or for the benefit of"
26 the portion of the metropolitan district in Prince George's County is
27 added for clarity and consistency within this section in conformity with
28 the recommendation of the Commission's bond counsel.

29 Also in subsection (c)(2) of this section, the former phrase "[i]n like
30 manner" is deleted as surplusage.

31 Also in subsection (c)(2) of this section, the former reference to bonds
32 "issued" to be expended is deleted as surplusage.

33 Defined terms: "Bond" § 18-201
34 "Commission" § 14-101

1 "Commissioner" § 14-101
2 "Metropolitan district" § 14-101

3 **18-206. REVENUE BONDS.**

4 **(A) AUTHORIZATION; PURPOSES.**

5 **(1) TO ACCOMPLISH THE PURPOSES UNDER § 18-203(B) OF THIS**
6 **SUBTITLE, THE COMMISSION MAY ISSUE BONDS TO FINANCE THE COST OF**
7 **REVENUE-PRODUCING FACILITIES IN MONTGOMERY COUNTY OR PRINCE**
8 **GEORGE'S COUNTY, INCLUDING:**

9 **(I) THE COST OF ACQUIRING OR CONSTRUCTING A**
10 **FACILITY;**

11 **(II) THE COST OF ENLARGING, IMPROVING, REMODELING,**
12 **OR RESTORING AN ACQUIRED FACILITY;**

13 **(III) THE COST OF SURVEYS, STUDIES, DRAWINGS, AND**
14 **ARCHITECTURAL AND ENGINEERING PLANS AND SPECIFICATIONS;**

15 **(IV) THE COST OF SITE ASSEMBLY, INCLUDING LEGAL**
16 **PROCEEDINGS, TITLE FEES, AND SETTLEMENT CHARGES;**

17 **(V) THE COST OF ISSUANCE OF BONDS UNDER THIS**
18 **SECTION, INCLUDING ADVERTISING AND PRINTING CHARGES AND LEGAL FEES;**

19 **(VI) THE COST OF INTEREST ON THE BONDS DURING**
20 **CONSTRUCTION OF A FACILITY AND FOR 1 YEAR AFTER COMPLETION OF THE**
21 **FACILITY; AND**

22 **(VII) THE COST TO THE COMMISSION OF PERFORMANCE OF**
23 **ANY OF THE FUNCTIONS UNDER THIS PARAGRAPH BY COMMISSION STAFF.**

24 **(2) THE COMMISSION MAY BE REIMBURSED FOR PERFORMANCE**
25 **OF ANY OF THE FUNCTIONS UNDER PARAGRAPH (1) OF THIS SUBSECTION FROM**
26 **THE PROCEEDS OF THE BONDS ISSUED TO FINANCE THE FACILITY WITH**
27 **RESPECT TO WHICH THE SERVICES WERE PERFORMED.**

28 **(3) THE BONDS ARE PAYABLE AS TO PRINCIPAL AND INTEREST**
29 **SOLELY FROM REVENUES OF THE COMMISSION FROM FEES, RATES, RENTS, OR**
30 **OTHER CHARGES RECEIVED BY THE COMMISSION FOR:**

31 **(I) THE USE OF THE FACILITY; OR**

1 **(II) THE USE OF A FACILITY THAT IS NOT FINANCED BY THE**
2 **BORROWING.**

3 **(4) THE COMMISSION MAY SECURE ANY BORROWING BY A**
4 **PLEDGE OF THE REVENUES.**

5 **(B) FEES, RATES, RENTALS, OR OTHER CHARGES.**

6 **(1) THE COMMISSION MAY SET AND PERIODICALLY AMEND FEES,**
7 **RATES, RENTALS, OR OTHER CHARGES FOR THE USE OF THE COMMISSION'S**
8 **FACILITIES IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY:**

9 **(I) TO PROVIDE REVENUE TO PAY DEBT SERVICE:**

10 **1. ON BONDS ISSUED UNDER THIS SECTION TO**
11 **FINANCE THE COST OF A FACILITY EITHER SEPARATELY OR TOGETHER WITH**
12 **OTHER REVENUE-PRODUCING FACILITIES OF THE COMMISSION IN EITHER**
13 **COUNTY; OR**

14 **2. ON BONDS ISSUED TO FINANCE THE COST OF**
15 **OTHER REVENUE-PRODUCING FACILITIES OF THE COMMISSION IN EITHER**
16 **COUNTY; AND**

17 **(II) TO PAY THE EXPENSES OF THE COMMISSION FOR THE**
18 **FACILITY, INCLUDING OPERATING AND MAINTENANCE EXPENSES, UNLESS THE**
19 **COMMISSION AUTHORIZES THE USE OF FUNDS FROM ANOTHER SOURCE FOR**
20 **PAYMENT OF OTHER EXPENSES.**

21 **(2) TO SELL AND SECURE THE BONDS OF THE COMMISSION**
22 **AUTHORIZED UNDER THIS SECTION, THE COMMISSION MAY ENTER INTO**
23 **AGREEMENTS TO SET THE FEES, RATES, RENTALS, OR OTHER CHARGES AND THE**
24 **COLLECTION AND APPLICATION OF THE FEES, RATES, RENTALS, OR OTHER**
25 **CHARGES.**

26 **(C) TERMS AND CONDITIONS.**

27 **(1) THE COMMISSION MAY DETERMINE THE FORM, TERMS AND**
28 **CONDITIONS, ISSUANCE, AND SALE AND DELIVERY OF AN OBLIGATION ISSUED**
29 **UNDER THIS SECTION, INCLUDING:**

30 **(I) THE INTEREST RATE OR METHOD OF DETERMINING THE**
31 **INTEREST RATE OF THE OBLIGATION;**

1 **(I) THE DEPOSIT OF THE PROCEEDS OF THE SALE OF THE**
2 **OBLIGATIONS SECURED BY THE TRUST AGREEMENT WITH THE TRUSTEE; AND**

3 **(II) THE APPLICATION OF THE PROCEEDS TO PAY THE COST**
4 **OF THE FACILITY FINANCED BY THE OBLIGATIONS.**

5 **(3) THE COMMISSION MAY ENTER INTO COVENANTS AND**
6 **AGREEMENTS IN THE TRUST AGREEMENT FOR:**

7 **(I) THE SETTING OF FEES, CHARGES, AND RENTALS FOR**
8 **THE USE AND ENJOYMENT OF THE FACILITY;**

9 **(II) THE PAYMENT OF GROSS OR NET REVENUES FROM THE**
10 **FACILITY AND OTHER FUNDS PLEDGED UNDER THIS SECTION TO THE TRUSTEE;**

11 **(III) THE APPLICATION OF THE PAYMENTS BY THE TRUSTEE**
12 **TO THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE OBLIGATIONS**
13 **SECURED BY THE TRUST AGREEMENT; AND**

14 **(IV) THE ESTABLISHMENT AND MAINTENANCE OF RESERVES**
15 **OR A SINKING FUND.**

16 **(4) THE TRUST AGREEMENT MAY CONTAIN A PLEDGE OF AND**
17 **CONSTITUTE A LIEN ON:**

18 **(I) THE REVENUES AND FUNDS PLEDGED BY THE**
19 **COMMISSION FOR THE PAYMENT OF OBLIGATIONS ISSUED UNDER THIS**
20 **SECTION; AND**

21 **(II) THE PROCEEDS OF SALE OF THE OBLIGATIONS, THE**
22 **INVESTMENT OF THE PROCEEDS, AND THE INCOME OR GAIN RESULTING FROM**
23 **THE INVESTMENT OF THE PROCEEDS.**

24 **(5) THE TRUST AGREEMENT MAY CREATE A SECURITY INTEREST**
25 **FOR THE BENEFIT OF THE HOLDERS OF THE OBLIGATIONS IN THE FACILITY**
26 **THAT IS FINANCED WITH THE PROCEEDS OF THE OBLIGATIONS, BUT NOT IN ANY**
27 **OTHER FACILITY THE REVENUES FROM WHICH ARE PLEDGED BY THE**
28 **COMMISSION TO THE PAYMENT OF DEBT SERVICE ON THE OBLIGATIONS.**

29 **(6) THE TRUST AGREEMENT MAY PROVIDE FOR THE PROTECTION**
30 **OF THE HOLDERS OF THE OBLIGATIONS IF THE COMMISSION FAILS TO**
31 **PERFORM ANY OF THE COVENANTS UNDER THE AGREEMENT, INCLUDING THE**
32 **RIGHT OF THE TRUSTEE TO SELL ANY OF THE FACILITIES AT PUBLIC OR**

1 PRIVATE SALE AND THE APPLICATION OF THE PROCEEDS OF THE SALE TO THE
2 PAYMENT OF THE OBLIGATIONS SECURED BY THE AGREEMENT.

3 (E) RETIREMENT OF BONDS.

4 (1) THE COMMISSION MAY APPLY GENERAL FUNDS NOT
5 OTHERWISE COMMITTED TO THE PAYMENT OF THE PRINCIPAL OF AND
6 INTEREST ON BONDS ISSUED UNDER THIS SECTION, EITHER ON MATURITY OR
7 REDEMPTION.

8 (2) THE COMMISSION MAY RETIRE AN ENTIRE ISSUE OF THE
9 BONDS ISSUED UNDER THIS SUBSECTION FROM THE PROCEEDS OF GENERAL
10 OBLIGATION REFUNDING BONDS ISSUED UNDER § 18-207 OF THIS SUBTITLE.

11 (3) THE COMMISSION MAY:

12 (I) CONTINUE TO CHARGE FOR THE USE OR ENJOYMENT OF
13 A FACILITY ON THE RETIREMENT OF AN ISSUE OF BONDS FROM:

14 1. THE REVENUES OF THE FACILITY FINANCED BY
15 THE BONDS;

16 2. OTHER FUNDS OF THE COMMISSION; OR

17 3. REFUNDING AS AUTHORIZED UNDER § 18-207 OF
18 THIS SUBTITLE; AND

19 (II) APPLY THE REVENUES FROM THE CHARGE TO ANY
20 OTHER FUNCTION, OBJECTIVE, OR PURPOSE OF THE COMMISSION.

21 (F) FACILITY RULES AND REGULATIONS.

22 (1) THE COMMISSION MAY ADOPT RULES AND REGULATIONS FOR
23 THE USE AND ENJOYMENT BY THE GENERAL PUBLIC OF A FACILITY FINANCED
24 UNDER THIS SUBSECTION.

25 (2) THE RULES AND REGULATIONS MAY NOT EXCLUDE A PERSON
26 THAT PAYS THE REQUIRED CHARGE OR FEE FOR USE AND ENJOYMENT OF THE
27 FACILITY BECAUSE OF CREED, RACE, OR GENDER OF THE PERSON.

28 (3) A LEASE OF A FACILITY BY THE COMMISSION SHALL CONTAIN
29 ENFORCEABLE COVENANTS BY THE LESSEE TO COMPLY WITH THIS SECTION.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 28, § 6–101(f)(1) through (5), (7), and (8).

3 In subsection (a)(1)(i) and (vii) of this section, the former references to the
4 “actual” cost are deleted as surplusage.

5 In subsection (a)(1)(vi) of this section, the reference to completion “of the
6 facility” is substituted for the former reference to completion “thereof” for
7 clarity.

8 In the introductory language to subsection (a)(3) of this section, the
9 former reference to “notes or other obligations” is deleted as included in
10 the defined term “bond[s]”.

11 Also in the introductory language to subsection (a)(3) of this section, the
12 former phrase “available for such purpose” is deleted as unnecessary.

13 In subsection (a)(3)(ii) of this section, the reference to a facility “that is
14 not financed by the borrowing” is substituted for the former reference to a
15 facility “other than the facility or facilities being financed by any such
16 borrowing” for brevity and clarity.

17 In the introductory language to subsection (b)(1) of this section, the
18 former reference to “alter[ing]” fees is deleted as included in the reference
19 to “amend[ing]” fees.

20 In subsection (b)(1)(i) of this section, the requirement to “pay” debt
21 service is substituted for the former requirement to “meet” debt service
22 for clarity.

23 In subsection (b)(1)(i)1 of this section, the former reference to “its” bonds
24 is deleted as implicit in the reference to “bonds issued under this section”.

25 In subsections (b)(1)(ii), (d)(2)(ii) and (5), and (e)(3)(i)1 of this section, the
26 former references to “facilities” are deleted in light of the references to
27 “facility” and Art. 1, § 8, which provides that the singular generally
28 includes the plural.

29 In subsection (b)(1)(ii) of this section, the word “including” is substituted
30 for the former phrase “such as, without limitation,” for brevity.

31 In subsection (b)(2) of this section, the reference to “sell[ing] and
32 secur[ing]” the bonds is substituted for the former reference to
33 “market[ing]” the bonds for clarity.

34 Also in subsection (b)(2) of this section, the former phrase “as it may
35 deem requisite” is deleted as surplusage.

1 In the introductory language to subsection (c)(1) of this section, the
2 former phrase “any and all matters relating to” is deleted as surplusage.

3 Also in the introductory language to subsection (c)(1) of this section, the
4 former phrase “, without limitation,” is deleted as unnecessary in light of
5 Art. 1, § 30, which provides that the term “including” is used “by way of
6 illustration and not by way of limitation”.

7 In subsection (c)(1)(i) of this section, the former references to “rates” is
8 deleted in light of the reference to “rate” and Art. 1, § 8, which provides
9 that the singular generally includes the plural. Similarly, in subsection
10 (c)(1)(ii) of this section, the former reference to “dates” is deleted, and in
11 subsection (c)(1)(iii) of this section, the former reference to “prices” is
12 deleted.

13 Also in subsection (c)(1)(i) of this section, the word “of” is substituted for
14 the former phrase “to be borne by” for brevity.

15 In subsection (c)(1)(ii) of this section, the reference to the maturity date
16 “of the obligation” is substituted for the former reference to the maturity
17 date “thereof” for clarity.

18 In subsection (c)(2) of this section, the reference to selling bonds at
19 “competitive or negotiated sale in a manner, for a price, and at rates the
20 Commission determines to be in its best interests” is substituted for the
21 former reference to sale “at public or private sale, as the Commission may
22 determine” for clarity and consistency within this subtitle. *Cf.* § 18–203(f)
23 of this subtitle.

24 In subsection (c)(4) of this section, the reference to the “chair” is
25 substituted for the former reference to the “chairman” because SG §
26 2–1238 requires the use of words that are neutral as to gender to the
27 extent practicable.

28 In subsection (c)(6) of this section, the reference to imprinting the seal “on
29 the obligation” is substituted for the former reference to imprinting the
30 seal “thereon” for clarity.

31 In subsection (d)(2)(i) of this section, the reference to obligations secured
32 “by the trust agreement” is substituted for the former reference to
33 obligations secured “thereby” for clarity.

34 In the introductory language to subsection (d)(3) of this section, the
35 reference to “covenants and agreements” is substituted for the former
36 reference to “appropriate covenants” for consistency with current bond
37 practice.

1 In subsection (d)(5) of this section, the reference to the facility “that is
2 financed” is substituted for the former reference to the facility “the cost of
3 which is being financed” for brevity.

4 In subsection (d)(6) of this section, the phrase “if the Commission fails to
5 perform” is substituted for the former phrase “in the event of a default by
6 the Commission in the performance of” for brevity.

7 In subsection (e)(1) of this section, the phrase “[t]he Commission may”
8 apply funds is substituted for the former phrase “[t]hese provisions may
9 not be construed to prevent the Commission from voluntarily” applying
10 funds for brevity.

11 In subsection (e)(2) of this section, the phrase “[t]he Commission may” is
12 substituted for the former phrase “[t]his authority shall be deemed to
13 include the power to” for brevity.

14 Also in subsection (e)(2) of this section, the former reference to bonds
15 issued “by the Commission” is deleted as surplusage.

16 In subsection (e)(3)(i)3 of this section, the reference to refunding bonds
17 “under § 18–207” of this title is substituted for the former reference to
18 “herein” for clarity.

19 In subsection (e)(3)(ii) of this section, the reference to the revenues “from
20 the charge” is substituted for the former reference to the revenues “so
21 derived” for clarity.

22 In subsection (f)(1) of this section, the former reference to “from time to
23 time, amend[ing]” rules and regulations is deleted as implicit in the
24 authority to “adopt” rules and regulations.

25 In subsection (f)(2) of this section, the reference to a person “that pays” a
26 charge or fee is substituted for the former reference to a person
27 “tendering” a charge or fee for clarity.

28 Also in subsection (f)(2) of this section, the word “gender” is substituted
29 for the former word “sex” for clarity.

30 Also in subsection (f)(2) of this section, the former reference to “be[ing] so
31 drawn as to” exclude a person is deleted as surplusage.

32 In subsection (f)(3) of this section, the reference to this “section” is
33 substituted for the former reference to this “limitation” for clarity.

1 Also in subsection (f)(3) of this section, the former reference to
2 “appropriate” covenants is deleted as implicit in the reference to
3 “enforceable” covenants.

4 The Land Use Article Review Committee notes, for consideration by the
5 General Assembly, that in subsection (f)(3) of this section, the prohibition
6 against discrimination because of “creed, race, or gender” is relatively
7 narrow compared with more recent statutory prohibitions against
8 discrimination based on an individual’s status. The General Assembly
9 may wish to consider comparing this provision to other similar
10 antidiscrimination provisions and harmonizing this provision with more
11 recent provisions.

12 Defined terms: “Bond” § 18–201

13 “Commission” § 14–101

14 “Person” § 14–101

15 “State” § 14–101

16 **18–207. REFUNDING BONDS.**

17 **(A) AUTHORIZED.**

18 **IF ANY BONDS ARE ISSUED UNDER THIS TITLE SUBJECT TO REDEMPTION**
19 **OR REPURCHASE, THE COMMISSION MAY:**

20 **(1) REDEEM OR REPURCHASE THE BONDS AT THE STATED**
21 **REDEMPTION PRICES PLUS ACCRUED INTEREST; AND**

22 **(2) ISSUE AND SELL REFUNDING BONDS AS PROVIDED UNDER**
23 **THIS SECTION TO PROVIDE FUNDS FOR THE REDEMPTION OR REPURCHASE.**

24 **(B) AMOUNT AND PURPOSE.**

25 **(1) THE REFUNDING BONDS MAY BE:**

26 **(I) ISSUED IN AMOUNTS SUFFICIENT TO ACCOMPLISH THE**
27 **REDEMPTION OR REPURCHASE AND IN UNITS CORRESPONDING TO THE BONDS**
28 **TO BE REPURCHASED OR REFUNDED; OR**

29 **(II) ISSUED IN AN AMOUNT SUFFICIENT TO PROVIDE FOR**
30 **THE REFUNDING OR REPURCHASE OF SEVERAL ISSUES OF BONDS.**

31 **(2) BONDS INITIALLY ISSUED ON ACCOUNT OF LANDS**
32 **PURCHASED IN MONTGOMERY COUNTY OR PRINCE GEORGE’S COUNTY MAY**

1 NOT BE REFUNDED OR REPURCHASED THROUGH THE FLOTATION OF A SINGLE
2 ISSUE OF REFUNDING BONDS.

3 (C) TERMS AND CONDITIONS.

4 (1) THE REFUNDING BONDS MAY BE IDENTIFIED AS REFUNDING
5 BONDS OR DESIGNATED IN ANY OTHER APPROPRIATE FASHION.

6 (2) THE COMMISSION MAY DETERMINE:

7 (I) THE TERMS AND CONDITIONS OF THE BONDS; AND

8 (II) THE MANNER, METHOD, AND PLACE OF SALE OF THE
9 BONDS.

10 (3) THE MATURITY DATE OF AN ISSUE OF BONDS MAY NOT
11 EXCEED 60 YEARS FROM THE EARLIEST OF THE RESPECTIVE DATES OF ISSUE OF
12 THE CORRESPONDING SERIES OF BONDS OR NOTES IN SUBSTITUTION FOR
13 WHICH ANY ISSUE OF BONDS IS ISSUED.

14 (D) SALE.

15 THE COMMISSION MAY:

16 (1) SELL THE BONDS, AT NOT LESS THAN PAR VALUE, BY
17 COMPETITIVE OR NEGOTIATED SALE IN A MANNER, FOR A PRICE, AND AT RATES
18 THE COMMISSION DETERMINES TO BE IN ITS BEST INTERESTS;

19 (2) ISSUE THE BONDS IN SERIAL MATURITY FORM OR WITH A
20 SINGLE FIXED DATE OR MATURITY;

21 (3) MAKE THE BONDS REDEEMABLE WHOLLY OR PARTLY BY LOT
22 OR OTHERWISE AFTER A CERTAIN PERIOD OR DATE;

23 (4) ISSUE THE BONDS SUBJECT TO REGISTRATION AS TO
24 PRINCIPAL AND INTEREST OR AS TO PRINCIPAL ONLY;

25 (5) ESTABLISH AND MAINTAIN A SINKING FUND FOR THE
26 PAYMENT OF THE MATURING PRINCIPAL AND INTEREST OF THE BONDS;

27 (6) SET THE INTEREST RATE PAYABLE ON THE BONDS AT THE
28 RATE THE COMMISSION DETERMINES TO BE ADVANTAGEOUS AND IN THE

1 PUBLIC INTEREST OR OTHERWISE ESTABLISH THE MANNER OF DETERMINING
2 THE INTEREST RATE; AND

3 (7) GENERALLY DETERMINE ALL OF THE PROVISIONS OF THE
4 BONDS.

5 (E) PAYMENT GUARANTEE.

6 (1) MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY
7 SHALL GUARANTEE THE PAYMENT OF PRINCIPAL OF AND INTEREST ON THE
8 BONDS ISSUED UNDER THIS SUBSECTION BY ENDORSEMENT AS PROVIDED
9 UNDER § 18-204 OF THIS SUBTITLE.

10 (2) THE BONDS SHALL BE ISSUED ON THE FULL FAITH AND
11 CREDIT OF THE COUNTY GUARANTEEING THEM.

12 (3) THE PRINCIPAL OF AND INTEREST ON THE BONDS SHALL BE
13 PAID FROM THE PROCEEDS OF THE COLLECTION OF THE TAXES AUTHORIZED TO
14 PROVIDE FUNDS FOR SERVICING THE BONDS IN SUBSTITUTION FOR WHICH THE
15 BONDS ARE ISSUED.

16 (4) THE FUNDS NEEDED FOR PRINCIPAL AND INTEREST
17 PAYMENTS OF THE BONDS AUTHORIZED MAY NOT BE PREFERRED IN THE
18 DIVISION OF TAX PROCEEDS OVER THE FUNDS NEEDED FOR PRINCIPAL AND
19 INTEREST PAYMENT OR ANY OTHER ISSUE OF BONDS PAYABLE.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 28, § 6-104.

22 In subsection (a)(2) of this section, the phrase "as provided under this
23 section" is substituted for the former phrase "in the manner and upon the
24 terms and conditions hereinafter set forth" for brevity.

25 Also in subsection (a)(2) of this section, the former phrase "from time to
26 time" is deleted as surplusage.

27 In subsection (b)(2) of this section, the former reference to refunding
28 bonds "authorized hereinabove" is deleted as surplusage.

29 In subsection (c)(1) of this section, the former reference to the refunding
30 bonds "so authorized" is deleted as surplusage. Similarly, in subsections
31 (c)(3) and (e)(3) of this section, the former references to bonds "hereby
32 authorized" is deleted.

1 In subsection (c)(3) of this section, the former phrase “subject only to the
2 condition that” is deleted as surplusage.

3 In the introductory language to subsection (d) of this section, the former
4 phrase “[i]n pursuance of the foregoing,” is deleted as surplusage.

5 Subsection (d)(1) of this section is rewritten in standard language to
6 conform to similar provisions of this subtitle for clarity. *See* § 18–203(f) of
7 this subtitle.

8 In subsection (d)(6) of this section, the former reference to “rates” is
9 deleted in light of the reference to “rate” and Art. 1, § 8, which provides
10 that the singular generally includes the plural.

11 In subsection (e)(1) of this section, the reference to “issu[ance] under this
12 subsection” is substituted for the former phrase “in accordance with the
13 foregoing provisions” for brevity and clarity.

14 Also in subsection (e)(1) of this section, the phrase “as provided under §
15 18–204 of this subtitle” is substituted for the former phrase “in the
16 manner hereinabove prescribed for all other issues of bonds of the
17 Commission” for clarity and accuracy.

18 In subsection (e)(3) of this section, the former phrase “either directly or
19 through the medium of a sinking fund,” is deleted as surplusage.

20 Defined terms: “Bond” § 18–201
21 “Commission” § 14–101

22 **18–208. TAX ANTICIPATION NOTES.**

23 **(A) AUTHORIZED.**

24 **(1) THE COMMISSION MAY BORROW MONEY TO MEET ITS**
25 **EXPENSES, INCLUDING DEBT SERVICE FOR ANY BONDS ISSUED UNDER THIS**
26 **TITLE, WITHIN EITHER COUNTY BY ISSUING TAX ANTICIPATION NOTES.**

27 **(2) THE TAX ANTICIPATION NOTES SHALL:**

28 **(I) BEAR INTEREST AT AN ANNUAL RATE THAT THE**
29 **COMMISSION DETERMINES TO BE ADVANTAGEOUS AND IN THE PUBLIC**
30 **INTEREST; AND**

31 **(II) BE SIGNED BY THE CHAIR AND SECRETARY–TREASURER**
32 **OF THE COMMISSION BY MANUAL OR FACSIMILE SIGNATURE.**

1 **(3) THE TAX ANTICIPATION NOTES MAY BE ISSUED TO ANY BANK,**
2 **INSTITUTION, OR PERSON WILLING TO LEND THE MONEY.**

3 **(B) RENEWAL.**

4 **THE COMMISSION MAY REISSUE OR RENEW ITS TAX ANTICIPATION NOTES**
5 **AT THE SAME OR A GREATER INTEREST RATE.**

6 **(C) AMOUNT BORROWED.**

7 **THE TOTAL AMOUNT BORROWED UNDER THIS SECTION AND**
8 **OUTSTANDING IN ANY FISCAL YEAR MAY NOT EXCEED 75% OF THE TOTAL**
9 **REVENUES RECEIVED BY THE COMMISSION FROM THE TAXES IMPOSED AND**
10 **DERIVED DURING THE COMMISSION'S PRECEDING FISCAL YEAR UNDER THIS**
11 **TITLE.**

12 **(D) REPAYMENT.**

13 **MONEY BORROWED DURING ANY FISCAL YEAR SHALL BE REPAYED NOT**
14 **LATER THAN DURING THE NEXT FISCAL YEAR FROM THE REVENUES DERIVED**
15 **FROM THE TAXES UNDER THIS TITLE.**

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 28, § 6–105.

18 In subsections (a) and (b) of this section, the references to “tax
19 anticipation notes” are substituted for the former references to “tax
20 anticipation certificates of indebtedness” for brevity.

21 In subsection (a)(1) of this section, the former phrase “from time to time
22 during any fiscal year” is deleted as surplusage. Similarly, in subsection
23 (b) of this section, the former phrase “from time to time” is deleted.

24 Also in subsection (a)(1) of this section, the former reference to
25 “promissory notes, to be known as” tax anticipation notes is deleted as
26 surplusage.

27 In subsection (a)(2)(i) of this section, the former reference to “rates” is
28 deleted in light of the reference to “rate” and Art. 1, § 8, which provides
29 that the singular generally includes the plural.

30 In subsection (a)(2)(ii) of this section, the reference to the “chair” is
31 substituted for the former reference to the “chairman” because SG §
32 2–1238 requires the use of words that are neutral as to gender to the
33 extent practicable.

1 In subsection (a)(3) of this section, the phrase “[t]he tax anticipation
2 notes may be issued to” is substituted for the former phrase “these sums
3 of money to be borrowed from” for clarity.

4 In subsection (c) of this section, the reference to a tax being “imposed” is
5 substituted for the former reference to a tax being “levied” for consistency
6 with other revised articles of the Code. *See, e.g.*, PU §§ 17–201 and
7 22–106.

8 The Land Use Article Review Committee notes, for consideration by the
9 General Assembly, that in subsection (b) of this section, it may at times
10 be advantageous to reissue or renew tax anticipation notes at a lower
11 interest rate than the original issue. The General Assembly may wish to
12 consider substituting a standard such as “an interest rate that the
13 Commission determines to be advantageous” for the existing phrase “the
14 same or a greater interest rate”.

15 Defined terms: “Bond” § 18–201

16 “Commission” § 14–101

17 “Person” § 14–101

18 **18–209. PLEDGE OF TAX PROCEEDS.**

19 **(A) AUTHORIZATION; PURPOSE.**

20 **THE REVENUES DERIVED FROM THE COLLECTION OF THE TAXES**
21 **AUTHORIZED UNDER THIS TITLE SHALL PAY THE PRINCIPAL OF AND INTEREST**
22 **ON BONDS ISSUED UNDER THIS TITLE.**

23 **(B) INADEQUATE TAX REVENUE.**

24 **(1) IF THE REVENUES FROM THE TAXES ARE INADEQUATE TO PAY**
25 **THE PRINCIPAL OF AND INTEREST ON THE BONDS, THE COUNTY GUARANTEEING**
26 **THE BONDS SHALL IMPOSE, IN EACH YEAR THE TAXES ARE INADEQUATE, AN**
27 **ADDITIONAL TAX ON ALL ASSESSABLE PROPERTY IN THE PORTION OF THE**
28 **METROPOLITAN DISTRICT IN THAT COUNTY SUFFICIENT TO MAKE UP THE**
29 **DEFICIENCY.**

30 **(2) IF THE REVENUES FROM THE ADDITIONAL TAX UNDER**
31 **PARAGRAPH (1) OF THIS SUBSECTION ARE INADEQUATE, THE COUNTY SHALL**
32 **IMPOSE A TAX ON ALL ASSESSABLE PROPERTY IN THE CORPORATE LIMITS OF**
33 **THE COUNTY SUFFICIENT TO PAY THE DEFICIENCY IN THE REVENUES**
34 **AVAILABLE TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS.**

1 **(C) POWER OF COMMISSION UNCHANGED.**

2 **THIS DIVISION MAY NOT BE CONSTRUED TO MODIFY THE LIMITATIONS ON**
 3 **THE POWERS OF THE COMMISSION TO ISSUE BONDS UNDER §§ 18–203**
 4 **THROUGH 18–207 OF THIS SUBTITLE OR IN ANY OTHER LAW.**

5 REVISOR’S NOTE: This section is new language derived without substantive
 6 change from former Art. 28, § 6–102.

7 In subsection (b)(1) and (2) of this section, the references to a tax being
 8 “impose[d]” are substituted for the former references to a tax being
 9 “lev[ied]” for consistency with other revised articles of the Code. *See, e.g.,*
 10 PU §§ 17–201 and 22–106.

11 In subsection (b)(1) of this section, the reference to the “metropolitan”
 12 district is added for clarity.

13 Also in subsection (b)(1) of this section, the phrase “[i]f the revenues from
 14 the taxes are inadequate” is substituted for the former reference to “[i]n
 15 the event of the inadequacy of the taxes” for clarity.

16 In subsection (b)(2) of this section, the reference to “pay[ing]” the
 17 deficiency is substituted for the former reference to “mak[ing] up” the
 18 inadequacy for clarity.

19 Also in subsection (b)(2) of this section, the former reference to the
 20 principal and interest “maturities” is deleted as surplusage.

21 In subsection (c) of this section, the former reference to “increasing or
 22 decreasing or otherwise” modifying is deleted as included in the
 23 comprehensive reference to “modify[ing]”.

24 Defined terms: “Bond” § 18–201
 25 “Commission” § 14–101
 26 “Metropolitan district” § 14–101

27 **18–210. TAX STATUS OF BONDS.**

28 **THE PRINCIPAL AMOUNT OF BONDS ISSUED UNDER THIS TITLE, THE**
 29 **INTEREST ON THE BONDS, TRANSFER OF THE BONDS, AND ANY INCOME**
 30 **DERIVED FROM THE BONDS, INCLUDING ANY PROFIT FROM THE SALE OR**
 31 **TRANSFER OF THE BONDS, ARE EXEMPT FROM STATE AND LOCAL TAXES.**

32 REVISOR’S NOTE: This section is new language derived without substantive
 33 change from former Art. 28, §§ 6–103 and 6–101(f)(6).

1 The word “are” is substituted for the former phrase “shall be and remain”
2 for brevity.

3 The reference to “State and local taxes” is substituted for the former
4 reference to “taxation by the State of Maryland and the several counties
5 and municipalities of this State” for brevity.

6 Defined terms: “Bond” § 18–201
7 “State” § 14–101

8 **18–211. APPLICATION OF OTHER LAWS.**

9 **THE SALE OF THE BONDS UNDER THIS TITLE IS EXEMPT FROM ARTICLE**
10 **31, §§ 10 AND 11 OF THE CODE.**

11 REVISOR’S NOTE: This section is new language derived without substantive
12 change from former Art. 28, § 6–101(g).

13 Defined term: “Bond” § 18–201

14 **SUBTITLE 3. TAXES.**

15 **18–301. CONSTRUCTION OF SUBTITLE.**

16 **ANY PROVISION OF THIS SUBTITLE OR THIS DIVISION THAT PROVIDES**
17 **THAT A TAX IMPOSED FOR THE COMMISSION SHALL BE IMPOSED AND**
18 **COLLECTED AS COUNTY TAXES ARE IMPOSED AND COLLECTED, HAVE THE SAME**
19 **PRIORITY RIGHTS, BEAR THE SAME INTEREST AND PENALTIES, AND IN ANY**
20 **OTHER RESPECT BE TREATED THE SAME AS A COUNTY TAX:**

21 **(1) APPLIES ONLY TO THE AUTHORITY TO ENFORCE AND**
22 **COLLECT THE TAX IMPOSED FOR THE COMMISSION; AND**

23 **(2) MAY NOT BE DEEMED OR CONSTRUED TO MEAN THAT THE TAX**
24 **IMPOSED FOR THE COMMISSION IS A COUNTY PROPERTY TAX UNDER THE TAX –**
25 **PROPERTY ARTICLE.**

26 REVISOR’S NOTE: This section is new language patterned after § 2(b) of
27 Chapter 336, Acts of 2010.

28 For relevant tax provisions, *see, e.g.*, §§ 18–304(e), 18–305(d), 18–307(e),
29 and 18–308(c) of this subtitle.

30 Defined terms: “Commission” § 14–101
31 “County” § 14–101

1 **18-302. IMPOSITION OF TAXES ON PROPERTY ASSESSED FOR COUNTY**
2 **TAXATION.**

3 **THE TAXES IMPOSED UNDER THIS SUBTITLE SHALL BE IMPOSED ON**
4 **PROPERTY ASSESSED FOR THE PURPOSE OF COUNTY TAXATION.**

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 28, the first and fifth sentences of § 6-106(a), the
7 first sentence of (c), the first sentence of (d), and the first sentence of (e),
8 the first and second sentences of § 6-107(a), and the second sentence of §
9 6-108, as they related to the imposition of taxes on property assessed for
10 the purpose of county taxation.

11 In this section and throughout this subtitle, the references to "impos[ing]"
12 a tax are substituted for the former references to "lev[ying]" a tax for
13 consistency with other revised articles of the Code. *See, e.g.,* PU §§
14 17-201 and 22-106.

15 Defined term: "County" § 14-101

16 **18-303. EXEMPTION FROM LIMITATIONS FOR PRINCE GEORGE'S COUNTY.**

17 **NOTWITHSTANDING ANY PROVISION OF CHARTER OR LAW, THE TAXES**
18 **AUTHORIZED UNDER THIS SUBTITLE ARE NOT SUBJECT TO ANY LIMITATION ON**
19 **THE TAX RATE OR TAX REVENUES OF PRINCE GEORGE'S COUNTY.**

20 REVISOR'S NOTE: This section formerly was Art. 28, § 6-111.

21 The only changes are in style.

22 **18-304. PARK TAXES.**

23 **(A) MANDATORY PARK TAX FOR MONTGOMERY COUNTY.**

24 **(1) THE TAX REQUIRED UNDER THIS SUBSECTION:**

25 **(I) APPLIES TO PROPERTY IN THE METROPOLITAN**
26 **DISTRICT IN MONTGOMERY COUNTY; AND**

27 **(II) SHALL BE IMPOSED WHETHER ANY BONDS HAVE BEEN**
28 **ISSUED UNDER THIS TITLE OR WHETHER INTEREST IS DUE ON ANY BONDS**
29 **ISSUED UNDER THIS TITLE.**

1 **(2) EACH YEAR, MONTGOMERY COUNTY SHALL IMPOSE ON EACH**
2 **\$100 OF ASSESSED VALUATION OF:**

3 **(I) REAL PROPERTY, A TAX OF 3.6 CENTS; AND**

4 **(II) PERSONAL PROPERTY AND OPERATING REAL PROPERTY**
5 **DESCRIBED IN § 8-109(C) OF THE TAX – PROPERTY ARTICLE, A TAX OF 9 CENTS.**

6 **(3) EVERY 60 DAYS THE COUNTY SHALL PAY TO THE COMMISSION**
7 **THE TAX COLLECTED UNDER THIS SUBSECTION.**

8 **(4) THE COMMISSION MAY USE THE REVENUES FROM THE TAX**
9 **IMPOSED UNDER THIS SUBSECTION, AFTER PROVIDING FOR DEBT SERVICE ON**
10 **BONDS ISSUED UNDER SUBTITLE 2 OF THIS TITLE, TO:**

11 **(I) POLICE THE PARKS OR OTHER AREAS UNDER ITS**
12 **JURISDICTION;**

13 **(II) ACQUIRE, DEVELOP, BEAUTIFY, OR MAINTAIN PARKS OR**
14 **OTHER AREAS; OR**

15 **(III) ESTABLISH PLAYGROUND AND RECREATIONAL**
16 **FACILITIES IN THE PARKS OR OTHER AREAS.**

17 **(B) MANDATORY PARK TAX FOR PRINCE GEORGE’S COUNTY.**

18 **(1) IT IS THE INTENT OF THIS SUBSECTION TO PROVIDE THE**
19 **COMMISSION WITH FUNDS TO:**

20 **(I) FINANCE THE ACQUISITION OF PARKLANDS IN THE**
21 **METROPOLITAN DISTRICT IN PRINCE GEORGE’S COUNTY FROM CURRENT**
22 **REVENUES OR BY THE ISSUE OF BONDS; AND**

23 **(II) MAINTAIN, OPERATE, AND DEVELOP ACQUIRED**
24 **PARKLANDS.**

25 **(2) THE TAX REQUIRED UNDER THIS SUBSECTION:**

26 **(I) APPLIES TO PROPERTY IN THE METROPOLITAN**
27 **DISTRICT IN PRINCE GEORGE’S COUNTY; AND**

1 **(II) SHALL BE IMPOSED WHETHER ANY BONDS HAVE BEEN**
2 **ISSUED UNDER THIS TITLE OR WHETHER INTEREST IS DUE ON ANY BONDS**
3 **ISSUED UNDER THIS TITLE.**

4 **(3) EACH FISCAL YEAR, PRINCE GEORGE'S COUNTY SHALL**
5 **IMPOSE ON EACH \$100 OF ASSESSED VALUATION OF:**

6 **(I) REAL PROPERTY, A TAX OF AT LEAST 4 CENTS; AND**

7 **(II) PERSONAL PROPERTY AND OPERATING REAL PROPERTY**
8 **DESCRIBED IN § 8-109(C) OF THE TAX - PROPERTY ARTICLE, A TAX OF AT**
9 **LEAST 10 CENTS.**

10 **(4) EVERY 60 DAYS THE COUNTY SHALL PAY TO THE COMMISSION**
11 **THE TAX COLLECTED UNDER THIS SUBSECTION.**

12 **(5) THE COMMISSION SHALL USE THE REVENUES FROM THE TAX**
13 **IMPOSED UNDER THIS SUBSECTION PRIMARILY TO PAY THE PRINCIPAL OF AND**
14 **INTEREST ON ANY BONDS ISSUED BY THE COMMISSION FOR THE ACQUISITION**
15 **OF PARKLANDS IN THE METROPOLITAN DISTRICT IN PRINCE GEORGE'S**
16 **COUNTY AS AUTHORIZED UNDER THIS TITLE.**

17 **(6) THE COUNTY SHALL PAY TO THE COMMISSION THE TAX**
18 **COLLECTED UNDER THIS SUBSECTION WHETHER ANY PRINCIPAL OR INTEREST**
19 **IS DUE ON ANY BONDS ISSUED FOR THE ACQUISITION OF PARKLANDS OR**
20 **WHETHER ANY BONDS FOR THAT PURPOSE HAVE BEEN ISSUED OR ARE**
21 **OUTSTANDING IN THE FISCAL YEAR IN WHICH THE TAX IS COLLECTED.**

22 **(C) OPTIONAL PARK TAX FOR BOTH COUNTIES.**

23 **(1) THE TAX AUTHORIZED UNDER THIS SUBSECTION APPLIES TO**
24 **PROPERTY IN THE METROPOLITAN DISTRICT IN MONTGOMERY COUNTY AND**
25 **PRINCE GEORGE'S COUNTY.**

26 **(2) EACH YEAR THE COUNTY COUNCIL OF MONTGOMERY**
27 **COUNTY AND THE COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY MAY**
28 **IMPOSE AN AD VALOREM TAX IN ADDITION TO ALL OTHER TAXES IMPOSED FOR**
29 **THE BENEFIT OF AND ON BEHALF OF THE COMMISSION.**

30 **(3) EACH COUNTY MAY PAY TO THE COMMISSION THE**
31 **AGGREGATE AMOUNT COLLECTED UNDER THIS SUBSECTION IN THE SAME**
32 **MANNER AS THE COUNTY PAYS OTHER TAXES UNDER THIS SUBTITLE.**

1 **(4) THE COMMISSION SHALL USE THE PROCEEDS OF THE TAX**
2 **UNDER THIS SUBSECTION TO:**

3 **(I) ACQUIRE, MAINTAIN, DEVELOP, AND OPERATE THE**
4 **PARK SYSTEMS IN THE COUNTIES; AND**

5 **(II) PAY THE DEBT SERVICE REQUIRED BY ITS**
6 **OUTSTANDING BONDS OR BONDS ISSUED IN THE FUTURE.**

7 **(5) THE COMMISSION SHALL EXPEND OR DISBURSE THAT**
8 **PROPORTION OF TAX COLLECTED FROM MONTGOMERY COUNTY IN**
9 **MONTGOMERY COUNTY AND THAT PROPORTION COLLECTED FROM PRINCE**
10 **GEORGE'S COUNTY IN PRINCE GEORGE'S COUNTY.**

11 **(D) ADDITIONAL TAX FOR MONTGOMERY COUNTY.**

12 **(1) THE TAX AUTHORIZED UNDER THIS SUBSECTION:**

13 **(I) APPLIES TO PROPERTY IN THE METROPOLITAN**
14 **DISTRICT IN MONTGOMERY COUNTY; AND**

15 **(II) SHALL BE IN LIEU OF, AND IN COMPLETE SATISFACTION**
16 **OF, ANY OBLIGATIONS OF MONTGOMERY COUNTY TO PAY FOR MAINTENANCE**
17 **OF THE COMMISSION'S PARK SYSTEM IN ACCORDANCE WITH CHAPTER 761, § 8**
18 **OF THE ACTS OF 1953 AND ALL AGREEMENTS EXECUTED UNDER THE TERMS OF**
19 **THAT LAW.**

20 **(2) EACH YEAR, IN ADDITION TO THE TAX IMPOSED UNDER**
21 **SUBSECTION (A) OF THIS SECTION, MONTGOMERY COUNTY SHALL IMPOSE ON**
22 **EACH \$100 OF ASSESSED VALUATION OF:**

23 **(I) REAL PROPERTY, A TAX OF 0.8 CENTS; AND**

24 **(II) PERSONAL PROPERTY AND OPERATING REAL PROPERTY**
25 **DESCRIBED IN § 8-109(C) OF THE TAX – PROPERTY ARTICLE, A TAX OF 2 CENTS.**

26 **(E) PROCEDURAL PROVISIONS.**

27 **A TAX AUTHORIZED UNDER THIS SECTION SHALL:**

28 **(1) BE IMPOSED AND COLLECTED AS COUNTY TAXES ARE**
29 **IMPOSED AND COLLECTED;**

- 1 **(2) HAVE THE SAME PRIORITY RIGHTS AS COUNTY TAXES;**
2 **(3) BEAR THE SAME INTEREST AND PENALTIES AS COUNTY TAXES;**
3 **AND**
4 **(4) BE TREATED THE SAME AS COUNTY TAXES IN EVERY OTHER**
5 **RESPECT.**

6 **(F) UNEXPENDED BALANCES.**

7 **(1) (I) AT LEAST 30 DAYS BEFORE THE END OF THE FISCAL**
8 **YEAR, THE COMMISSION SHALL CERTIFY AND SUBMIT TO THE APPROPRIATE**
9 **FISCAL OFFICERS OF THE COUNTIES THE NET UNEXPENDED BALANCES FROM**
10 **MONEY RECEIVED BY THE COMMISSION FROM TAXES IMPOSED UNDER THIS**
11 **SECTION.**

12 **(II) IN MONTGOMERY COUNTY, THE COMMISSION ALSO**
13 **SHALL FURNISH AT THE TIME REQUESTED BY THE COUNTY COUNCIL AN**
14 **ESTIMATE OF UNEXPENDED BALANCES AS OF THE END OF THE FISCAL YEAR AS**
15 **INFORMATION FOR THE COUNTY'S TAX RESOLUTION.**

16 **(2) TO CALCULATE THE NET UNEXPENDED BALANCE FOR EACH**
17 **COUNTY, THE COMMISSION SHALL DEDUCT, FROM ITS ACTUAL UNEXPENDED**
18 **CASH RECEIPTS FROM TAXES COLLECTED UNDER THIS SECTION, AN AMOUNT**
19 **EQUAL TO THE SUM OF:**

20 **(I) THE DEBT SERVICE FOR THE NEXT SUCCEEDING FISCAL**
21 **YEAR ON BONDS ISSUED BY IT AND OUTSTANDING WITH RESPECT TO PROPERTY**
22 **ACQUIRED BY IT IN THE COUNTY;**

23 **(II) THE COMMISSION'S FIXED OBLIGATIONS UNDER**
24 **CONTRACTS THE FIRST 6 MONTHS OF THE FISCAL YEAR;**

25 **(III) THE AMOUNTS CREDITED TO THE COMMISSION'S**
26 **SELF-INSURANCE FUND;**

27 **(IV) \$200,000 WITH RESPECT TO MONTGOMERY COUNTY;**
28 **AND**

29 **(V) \$150,000 WITH RESPECT TO PRINCE GEORGE'S**
30 **COUNTY.**

1 **(3) (I) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION,**
 2 **WHEN THE COUNTY RECEIVES THE CERTIFICATION FROM THE COMMISSION OF**
 3 **ITS NET UNEXPENDED BALANCE WITH RESPECT TO THAT COUNTY AS**
 4 **CALCULATED UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE COUNTY MAY:**

5 **1. DEDUCT THE NET UNEXPENDED BALANCE FROM**
 6 **ITS ESTIMATE OF THE AMOUNT OF MONEY TO BE RAISED IN THE NEXT**
 7 **SUCCEEDING FISCAL YEAR BY TAXES COLLECTED UNDER THIS SECTION; AND**

8 **2. IMPOSE THE TAX FOR THE NEXT SUCCEEDING**
 9 **FISCAL YEAR AT A RATE THAT THE COUNTY ESTIMATES WILL PRODUCE THE**
 10 **AMOUNT CALCULATED UNDER ITEM 1 OF THIS SUBPARAGRAPH.**

11 **(II) THE AMOUNT CALCULATED UNDER SUBPARAGRAPH (I)1**
 12 **OF THIS PARAGRAPH SHALL BE THE AMOUNT THE COUNTY IS OBLIGATED TO**
 13 **PAY THE COMMISSION IN THAT FISCAL YEAR UNDER THIS SECTION.**

14 **(4) THE TAX RATE MAY NOT BE REDUCED UNDER THIS**
 15 **SUBSECTION TO A RATE INSUFFICIENT TO PAY DEBT SERVICE ON BONDS ISSUED**
 16 **BY THE COMMISSION AND GUARANTEED BY THE COUNTY.**

17 REVISOR'S NOTE: This section is new language derived without substantive
 18 change from former Art. 28, §§ 6–106(b) and (f) and, except as they
 19 related to property assessed for the purposes of county taxation, (a), (c),
 20 and (d) and 6–110(a), (c), and the first and second sentences of (b).

21 In subsection (a)(3) of this section, the former reference to the tax “so
 22 levied” is deleted as included in the reference to the tax “collected”.

23 Also in subsection (a)(3) of this section, the former reference to the tax
 24 collected “to date by the county” is deleted as surplusage.

25 In subsection (a)(4)(iii) of this section, the former reference to
 26 establishing facilities “as the Commission determines” is deleted as
 27 redundant of the authority of the Commission to establish the facilities.

28 In subsection (b) of this section, the former reference to the tax being
 29 “levied and paid over to the Commission in the manner prescribed
 30 elsewhere in this title” is deleted as unnecessary in light of the specific
 31 provisions for imposing and paying over taxes being included in that
 32 subsection.

33 In subsection (b)(2)(ii) of this section, the reference to the tax “be[ing]
 34 imposed whether any bonds have been issued under this title or whether
 35 interest is due on any bonds issued under this title” is substituted for the

1 former authority for Prince George’s County to “levy ... any or all of the
2 taxes authorized in subsection (a) in like manner and upon the same
3 basis as set forth in subsection (a), in which event all the provisions of
4 subsection (a) apply equally to both counties” for clarity.

5 In subsection (b)(3) of this section, the former introductory clause “[o]f the
6 tax which Prince George’s County is authorized to levy in this title,” is
7 deleted as surplusage.

8 In subsection (b)(4) of this section, the requirement that “[e]very 60 days
9 the county shall pay to the Commission the tax collected under this
10 subsection” is substituted for the former reference to Prince George’s
11 County “pay[ing] over to the Commission any or all taxes authorized in
12 subsection (a) in like manner and upon the same basis as set forth in
13 subsection (a)” for clarity.

14 In subsection (b)(5) of this section, the former reference to the proceeds
15 “of the collection” is deleted as surplusage.

16 Also in subsection (b)(5) of this section, the former reference to bonds
17 issued “within the limitations on indebtedness prescribed in this title” is
18 deleted as implicit.

19 In subsection (b)(6) of this section, the reference to bonds “issued for the
20 acquisition of parklands” is added for clarity.

21 Also in subsection (b)(6) of this section, the reference to bonds “for that
22 purpose” is added for clarity.

23 Also in subsection (b)(6) of this section, the reference to bonds
24 outstanding in “the fiscal year in which the tax is collected” is substituted
25 for the former reference to bonds outstanding “in any one fiscal year” for
26 clarity.

27 In subsection (c)(1) of this section, the reference to the tax applying to
28 property in the metropolitan district “in Montgomery County and Prince
29 George’s County” is substituted for the former reference to “all the
30 property” in the metropolitan district for clarity.

31 Also in subsection (c)(1) of this section, the former phrase “as the
32 metropolitan district is defined at the time of the levy” is deleted as
33 surplusage.

34 In subsection (c)(2) of this section, the former reference to the county
35 councils imposing an ad valorem tax “in Prince George’s County and in
36 Montgomery County” is deleted as implicit.

1 In subsection (c)(3) of this section, the reference to the amount collected
2 “under this subsection” is substituted for the former reference to the
3 amount collected “by the tax” for clarity.

4 Also in subsection (c)(3) of this section, the reference to payment of other
5 “taxes under this subtitle” is substituted for the former reference to
6 payment of other “funds collected by taxation for the benefit of the
7 Commission” for brevity and clarity.

8 In the introductory language to subsection (d)(2) of this section, the word
9 “shall” is substituted for the former word “may” to clarify that the tax
10 under subsection (d) is a mandatory tax.

11 In subsection (f)(1)(i) of this section, the reference to the “fiscal year” is
12 substituted for the former reference to the “fiscal years of Montgomery
13 and Prince George’s Counties, respectively,” because the fiscal year for
14 each county is the same.

15 Also in subsection (f)(1)(i) of this section, the former reference to balances
16 “in the hands of the Commission” is deleted as surplusage.

17 In the introductory language to subsection (f)(3)(i) of this section, the
18 reference to the balance “as calculated under paragraph (2) of this
19 subsection” is substituted for the former reference to the balance “as
20 above defined” for clarity.

21 In subsection (f)(3)(i)2 of this section, the reference to the amount
22 “calculated under item 1 of this subparagraph” is substituted for the
23 former reference to an amount “equal to the difference so arrived at” for
24 clarity. Correspondingly, in subsection (f)(3)(ii) of this section, the
25 reference to the “amount calculated under subparagraph (i)1 of this
26 paragraph” is substituted for the former reference to “which amount”.

27 In subsection (f)(3)(ii) of this section, the reference to payment “under this
28 section” is substituted for the former reference to payment “pursuant to
29 provisions elsewhere in this title” for clarity and accuracy.

30 In subsection (f)(4) of this section, the former reference to a rate
31 insufficient “to produce the amount of money necessary” is deleted as
32 surplusage.

33 The Land Use Article Review Committee notes, that although subsection
34 (e)(4) of this section provides that “[a] tax authorized under this section
35 shall be treated the same as county taxes in every other respect”, it is
36 unclear whether exemptions and credits that apply to property assessed
37 for taxation by a county apply to the taxes imposed under this subtitle.

1 The General Assembly may wish to consider explicitly applying or
2 curtailing the application of those exemptions and credits to these taxes.

3 The third sentence of former Art. 28, § 6–110(b), which provided for the
4 application of the net unexpended balance to sums payable to the
5 Commission, is deleted as surplusage in light of subsection (f)(2) of this
6 section.

7 Defined terms: “Commission” § 14–101

8 “County” § 14–101

9 “Metropolitan district” § 14–101

10 “Park” § 14–101

11 **18–305. MONTGOMERY COUNTY BOND TAX.**

12 **(A) CERTIFICATION OF BOND ISSUE.**

13 **WHENEVER BONDS THAT THE COMMISSION ISSUES UNDER SUBTITLE 2**
14 **OF THIS TITLE FOR ACQUISITION OF PROPERTY IN MONTGOMERY COUNTY ARE**
15 **SOLD, THE COMMISSION SHALL PROMPTLY CERTIFY TO THE COUNTY THE**
16 **AMOUNT OF BONDS ISSUED, THE RATE OF INTEREST, AND THE MATURITIES.**

17 **(B) PURPOSE.**

18 **THE REVENUE FROM THE TAX UNDER THIS SECTION SHALL BE THE**
19 **PRIMARY SOURCE OF REVENUE FOR THE PAYMENT OF THE PRINCIPAL OF AND**
20 **INTEREST ON THE BONDS.**

21 **(C) IMPOSITION.**

22 **WHILE ANY BOND IS OUTSTANDING AND UNPAID, THE COUNTY SHALL**
23 **IMPOSE ON ALL PROPERTY IN THE COUNTY IN THE METROPOLITAN DISTRICT AN**
24 **ANNUAL TAX IN AN AMOUNT SUFFICIENT TO PAY THE PRINCIPAL OF AND**
25 **INTEREST ON THE BONDS.**

26 **(D) STATUS.**

27 **THE TAX SHALL:**

28 **(1) BE IMPOSED AND COLLECTED AS COUNTY TAXES ARE**
29 **IMPOSED AND COLLECTED;**

30 **(2) HAVE THE SAME PRIORITY RIGHTS AS COUNTY TAXES;**

1 **(3) BEAR THE SAME INTEREST AND PENALTIES AS COUNTY TAXES;**
 2 **AND**

3 **(4) BE TREATED THE SAME AS COUNTY TAXES IN EVERY OTHER**
 4 **RESPECT.**

5 **(E) COLLECTION.**

6 **MONTGOMERY COUNTY SHALL:**

7 **(1) COLLECT THE TAX; AND**

8 **(2) REMIT TO THE COMMISSION THE TAX COLLECTED EVERY 60**
 9 **DAYS.**

10 REVISOR'S NOTE: This section is new language derived without substantive
 11 change from the first, third, fourth, and fifth sentences, and, as it related
 12 to the levying of a tax, the second sentence of former Art. 28, § 6–108.

13 In subsection (a) of this section, the reference to “acquisition of property”
 14 is substituted for the former phrase “account of lands” for clarity and
 15 consistency with Subtitle 1 of this title.

16 In subsection (b) of this section, the former reference to proceeds “of the
 17 collection” is deleted as surplusage.

18 In subsection (e)(2) of this section, the former reference to the tax
 19 collected “to date” is deleted as surplusage.

20 Defined terms: “Commission” § 14–101

21 “County” § 14–101

22 “Metropolitan district” § 14–101

23 **18–306. RECREATION TAX FOR PRINCE GEORGE’S COUNTY.**

24 **(A) SCOPE OF SECTION.**

25 **THE TAX REQUIRED UNDER THIS SECTION APPLIES TO PROPERTY IN**
 26 **PRINCE GEORGE’S COUNTY.**

27 **(B) TAX REQUIRED.**

28 **EACH FISCAL YEAR, PRINCE GEORGE’S COUNTY SHALL IMPOSE ON EACH**
 29 **\$100 OF ASSESSED VALUATION OF:**

1 **(1) REAL PROPERTY, A TAX FOR RECREATION OF AT LEAST 2**
2 **CENTS; AND**

3 **(2) PERSONAL PROPERTY AND OPERATING REAL PROPERTY**
4 **DESCRIBED IN § 8-109(C) OF THE TAX - PROPERTY ARTICLE, A TAX FOR**
5 **RECREATION OF AT LEAST 5 CENTS.**

6 **(C) PAYMENT TO COUNTY.**

7 **EVERY 60 DAYS THE COUNTY SHALL PAY TO THE COMMISSION THE TAX**
8 **COLLECTED UNDER THIS SECTION.**

9 **(D) USE OF REVENUES.**

10 **THE COMMISSION SHALL USE THE REVENUES FROM THE TAX IMPOSED**
11 **UNDER THIS SECTION TO FINANCE ITS ADOPTED BUDGET TO REGULATE,**
12 **OPERATE, AND MAINTAIN RECREATION FUNCTIONS, PROGRAMS, FACILITIES,**
13 **AND PERSONNEL IN PRINCE GEORGE'S COUNTY AS THE COMMISSION**
14 **DETERMINES.**

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 28, § 6-106(e), except as it related to property
17 assessed for the purposes of county taxation.

18 In the introductory language to subsection (b) of this section, the word
19 "shall" is substituted for the former word "may" because the tax is
20 required to be imposed at the minimum rates specified in subsection
21 (b)(1) and (2) of this section.

22 Also in the introductory language to subsection (b) of this section, the
23 former reference to each fiscal year "beginning July 1, 1970" is deleted as
24 obsolete.

25 In subsection (c) of this section, the former reference to the tax "so levied"
26 is deleted as included in the reference to the tax "collected".

27 Also in subsection (c) of this section, the former reference to the tax
28 collected "to date by the county" is deleted as surplusage.

29 Defined term: "Commission" § 14-101

30 **18-307. ADMINISTRATIVE TAX.**

31 **(A) SCOPE OF SECTION.**

1 **THE TAX REQUIRED UNDER THIS SECTION APPLIES TO PROPERTY IN THE**
2 **REGIONAL DISTRICT IN MONTGOMERY COUNTY AND PRINCE GEORGE'S**
3 **COUNTY.**

4 **(B) PURPOSE OF TAX.**

5 **THE PURPOSE OF THE TAX REQUIRED UNDER THIS SECTION IS FOR**
6 **PAYING THE CURRENT OPERATING OR ADMINISTRATIVE EXPENSES OF THE**
7 **COMMISSION, INCLUDING THE COST OF:**

8 **(1) THE DEVELOPMENT OF ANY PART OF THE PLAN OF THE**
9 **REGIONAL DISTRICT; AND**

10 **(2) THE EXERCISE OF THE POWERS AND DUTIES OF THE**
11 **COMMISSION.**

12 **(C) TAX REQUIRED; RATE.**

13 **EACH YEAR, EACH COUNTY SHALL IMPOSE ON EACH \$100 OF ASSESSED**
14 **VALUATION OF:**

15 **(1) REAL PROPERTY, A TAX OF 1.2 CENTS; AND**

16 **(2) PERSONAL PROPERTY AND OPERATING REAL PROPERTY**
17 **DESCRIBED IN § 8-109(C) OF THE TAX – PROPERTY ARTICLE, A TAX OF 3 CENTS.**

18 **(D) ADMINISTRATIVE FUND.**

19 **(1) THERE IS AN ADMINISTRATIVE FUND OF THE COMMISSION.**

20 **(2) THE ADMINISTRATIVE FUND CONSISTS OF:**

21 **(I) THE REVENUES FROM THE TAX IMPOSED UNDER THIS**
22 **SECTION THAT ARE PAID TO THE COMMISSION; AND**

23 **(II) ADDITIONAL MONEY APPROPRIATED OR CONTRIBUTED**
24 **TO THE COMMISSION FOR OPERATING OR ADMINISTRATIVE PURPOSES BY THE**
25 **TWO COUNTIES, THE GENERAL ASSEMBLY OF MARYLAND, THE UNITED STATES,**
26 **OR PRIVATE DONORS.**

27 **(3) OPERATING AND ADMINISTRATIVE EXPENSES OF THE**
28 **COMMISSION SHALL BE LIMITED TO THE MONEY IN THE ADMINISTRATIVE FUND.**

1 **(E) PROCEDURAL PROVISIONS.**

2 **A TAX REQUIRED UNDER THIS SECTION SHALL:**

3 **(1) BE IMPOSED AND COLLECTED AS COUNTY TAXES ARE**
4 **IMPOSED AND COLLECTED;**

5 **(2) HAVE THE SAME PRIORITY RIGHTS AS COUNTY TAXES;**

6 **(3) BEAR THE SAME INTEREST AND PENALTIES AS COUNTY TAXES;**
7 **AND**

8 **(4) BE TREATED THE SAME AS COUNTY TAXES IN EVERY OTHER**
9 **RESPECT.**

10 **(F) UNEXPENDED BALANCES.**

11 **(1) AT LEAST 30 DAYS BEFORE THE END OF THE FISCAL YEAR,**
12 **THE COMMISSION SHALL CERTIFY AND SUBMIT TO THE APPROPRIATE FISCAL**
13 **OFFICERS OF THE COUNTIES THE UNEXPENDED BALANCES FROM MONEY**
14 **RECEIVED BY THE COMMISSION FROM THE TAX IMPOSED UNDER THIS SECTION.**

15 **(2) (I) IF THE UNEXPENDED BALANCE WITH RESPECT TO**
16 **EITHER COUNTY EXCEEDS THE SUM OF \$100,000, THAT COUNTY MAY:**

17 **1. DEDUCT THE EXCESS FROM ITS ESTIMATE OF THE**
18 **AMOUNT OF MONEY TO BE RAISED IN THE NEXT SUCCEEDING FISCAL YEAR BY**
19 **THE IMPOSITION OF THE TAX IMPOSED UNDER THIS SECTION; AND**

20 **2. IMPOSE THE TAX FOR THE NEXT SUCCEEDING**
21 **FISCAL YEAR AT A RATE THAT THE COUNTY ESTIMATES WILL PRODUCE THE**
22 **AMOUNT CALCULATED UNDER ITEM 1 OF THIS SUBPARAGRAPH.**

23 **(II) THE AMOUNT CALCULATED UNDER SUBPARAGRAPH (I)1**
24 **OF THIS PARAGRAPH SHALL BE THE AMOUNT THE COUNTY IS OBLIGATED TO**
25 **PAY THE COMMISSION FOR ADMINISTRATION IN THAT FISCAL YEAR UNDER THIS**
26 **SECTION.**

27 **(3) ON OR BEFORE THE 30TH DAY OF THE MONTH IMMEDIATELY**
28 **BEFORE THE BEGINNING OF THE FISCAL YEAR, THE MONTGOMERY COUNTY**
29 **COUNCIL AND THE PRINCE GEORGE'S COUNTY COUNCIL SHALL SET THE RATE**
30 **OF THE TAX AS AUTHORIZED UNDER THIS SECTION.**

1 **(4) ON OR BEFORE THE 5TH DAY OF THE MONTH IMMEDIATELY**
2 **BEFORE THE BEGINNING OF THE FISCAL YEAR, THE COMMISSION SHALL**
3 **SUBMIT TO EACH COUNTY COUNCIL:**

4 **(I) ITS COMPLETE BUDGET ESTIMATES FOR THE NEXT**
5 **FISCAL YEAR; AND**

6 **(II) STATEMENTS THAT JUSTIFY THE ADMINISTRATIVE**
7 **BUDGET AND ADMINISTRATIVE TAX RATE REQUESTED BY THE COMMISSION.**

8 **(5) THE COMMISSION MAY USE ANY COMMISSION MONEY IN**
9 **EXCESS OF THE AMOUNT NECESSARY FOR OPERATING AND ADMINISTRATIVE**
10 **PURPOSES OR NOT SPECIFICALLY PLEDGED BY LAW IN THE RESPECTIVE**
11 **COUNTIES OF THE REGIONAL DISTRICT, IN THE SAME PROPORTION AS THEY**
12 **WERE COLLECTED FROM THESE COUNTIES, TO ACQUIRE, DEVELOP, MAINTAIN,**
13 **AND OPERATE PARKS IN THE COUNTIES.**

14 **(6) THE COMMISSION MAY USE ANY FUNDS NOT COLLECTED IN**
15 **THE COUNTIES FOR THE BEST INTERESTS OF THE REGIONAL DISTRICT.**

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 28, § 6–107(c), (d), (e), and, except as it applied
18 to property assessed for purposes of county taxation, (a).

19 In subsection (a) of this section, the former reference to the requirement
20 to impose the tax “except as hereinafter provided” is deleted as
21 surplusage.

22 Subsection (d)(1) of this section is added as standard language for
23 establishing a fund.

24 In subsection (d)(2)(i) of this section, the former reference to the proceeds
25 “of the collection” of the tax is deleted as surplusage.

26 In subsection (d)(3) of this section, the reference to operating and
27 administrative expenses being “limited to the money in the
28 administrative fund” is substituted for the former reference to the
29 expenditures for operating or administrative purposes being “within the
30 amount of the fund” for clarity.

31 In subsection (f)(1) of this section, the reference to the “fiscal year” is
32 substituted for the former reference to the “fiscal years of Montgomery
33 and Prince George’s counties, respectively” because the fiscal year for
34 each county is the same.

1 Also in subsection (f)(1) of this section, the reference to the “tax imposed
2 under this section” is substituted for the former reference to the
3 “administrative taxes theretofore levied by the counties, respectively, as
4 hereinabove provided” for brevity.

5 Also in subsection (f)(1) of this section, the former reference to balances
6 “in the hands of the Commission” is deleted as surplusage.

7 In subsection (f)(2)(i)2 of this section, the reference to the amount
8 “calculated under item 1 of this subparagraph” is substituted for the
9 former reference to an amount “equal to the difference so arrived at” for
10 clarity. Correspondingly, in subsection (f)(2)(ii) of this section, the
11 reference to the “amount calculated under subparagraph (i)1 of this
12 paragraph” is substituted for the former reference to “which amount”.

13 In subsection (f)(3) and (4) of this section, the former references to the
14 “Commission’s” fiscal year are deleted because it is the same as the
15 State’s and the counties’ fiscal year.

16 In subsection (f)(3) of this section, the word “shall” is substituted for the
17 former phrase “are authorized and directed” for brevity.

18 Also in subsection (f)(3) of this section, the reference to “set[ting] the rate”
19 is substituted for the former reference to “fix[ing] the amount” for
20 accuracy.

21 In subsection (f)(4)(ii) of this section, the former reference to “suitable”
22 statements is deleted as implicit.

23 In subsection (f)(5) of this section, the former reference to funds “which
24 remain in the hands of the Commission” is deleted as surplusage.

25 In subsection (f)(6) of this section, the former phrase “in its discretion” is
26 deleted as unnecessary in light of the authorization of the Commission to
27 use certain money.

28 Former Art. 28, § 6–107(b), which provided for the repeal and
29 reinstatement of certain Acts if the administrative tax imposed under
30 this section were enjoined by a court, is deleted as obsolete.

31 Defined terms: “Commission” § 14–101

32 “County” § 14–101

33 “Park” § 14–101

34 “Regional district” § 14–101

35 **18–308. ADVANCE LAND ACQUISITION REVOLVING FUNDS TAX.**

1 **(A) MONTGOMERY COUNTY.**

2 **(1) THE MONTGOMERY COUNTY COUNCIL SHALL IMPOSE**
3 **AGAINST ALL OF THE PROPERTY ASSESSED FOR THE PURPOSES OF COUNTY**
4 **TAXATION AN ANNUAL TAX OF:**

5 **(I) NOT LESS THAN 0.4 CENTS OR MORE THAN 1.2 CENTS ON**
6 **EACH \$100 OF ASSESSED VALUATION OF REAL PROPERTY; AND**

7 **(II) NOT LESS THAN 1 CENT OR MORE THAN 3 CENTS ON**
8 **EACH \$100 OF ASSESSED VALUATION OF PERSONAL PROPERTY AND OPERATING**
9 **REAL PROPERTY DESCRIBED IN § 8-109(C) OF THE TAX – PROPERTY ARTICLE.**

10 **(2) THE COUNTY COUNCIL SHALL IMPOSE THE TAX EVEN IF NO**
11 **INTEREST IS DUE ON THE BONDS OR NOTES OR NO BONDS OR NOTES HAVE BEEN**
12 **ISSUED UNDER SUBTITLE 2 OF THIS TITLE.**

13 **(3) SUBJECT TO THE LIMITS IN PARAGRAPH (1) OF THIS**
14 **SUBSECTION, IF A TAX IS IMPOSED UNDER THIS SECTION, THE COUNTY**
15 **COUNCIL SHALL CONTINUE TO IMPOSE A TAX SUFFICIENT TO PAY THE**
16 **INTEREST ON THE BONDS AS THE INTEREST COMES DUE AND TO PAY THE**
17 **PRINCIPAL OF THE BONDS AS THEY MATURE.**

18 **(4) THE COUNTY COUNCIL DOES NOT NEED TO IMPOSE THE TAX**
19 **REQUIRED UNDER THIS SECTION IF MONEY IS AVAILABLE TO MAKE THE**
20 **PAYMENTS IN ANY YEAR AND HAVE BEEN APPLIED TO OR AUTHORIZED FOR**
21 **PAYMENT BY THE COMMISSION.**

22 **(5) EVERY 60 DAYS, THE COUNTY SHALL REMIT THE TAX**
23 **COLLECTED UNDER THIS SECTION TO THE COMMISSION.**

24 **(6) THE COMMISSION MAY USE ANY PROCEEDS FROM THE TAX**
25 **THAT ARE NOT USED FOR DEBT SERVICE ON THE PRINCIPAL AND INTEREST OF**
26 **THE BONDS FOR:**

27 **(I) THE ADVANCE LAND ACQUISITION REVOLVING FUNDS**
28 **UNDER SUBTITLE 4 OF THIS TITLE FOR THE USES SPECIFIED IN THIS SECTION**
29 **AND SUBTITLE 4 OF THIS TITLE; OR**

30 **(II) PAYMENT OF DEBT SERVICE BONDS ISSUED UNDER THIS**
31 **SECTION.**

32 **(B) PRINCE GEORGE’S COUNTY.**

1 **IF THE PRINCE GEORGE’S COUNTY COUNCIL HAS APPROVED THE ISSUE**
 2 **AND SALE OF BONDS UNDER SUBTITLE 2 OF THIS TITLE, THE COUNTY COUNCIL**
 3 **SHALL IMPOSE AN ANNUAL AMOUNT ON ALL PROPERTY ASSESSED FOR THE**
 4 **PURPOSES OF COUNTY TAXATION THAT IS SUFFICIENT TO PAY THE INTEREST**
 5 **ON THE BONDS AS THEY BECOME DUE AND TO PAY THE PRINCIPAL OF THE**
 6 **BONDS AS THEY MATURE.**

7 **(C) PROCEDURAL PROVISIONS.**

8 **SUBJECT TO § 18–303 OF THIS SUBTITLE, A TAX AUTHORIZED UNDER THIS**
 9 **SECTION SHALL:**

10 **(1) BE IMPOSED AND COLLECTED AS COUNTY TAXES ARE**
 11 **IMPOSED AND COLLECTED;**

12 **(2) HAVE THE SAME PRIORITY RIGHTS AS COUNTY TAXES;**

13 **(3) BEAR THE SAME INTEREST AS COUNTY TAXES; AND**

14 **(4) BE TREATED THE SAME AS COUNTY TAXES IN EVERY OTHER**
 15 **RESPECT.**

16 REVISOR’S NOTE: This section is new language derived without substantive
 17 change from former Art. 28, § 7–106(e–1) and (e)(2) and (1)(i), (ii), and the
 18 first and second sentences of (iii).

19 In subsection (a)(3) of this section, the cross–reference to “paragraph (1)
 20 of this subsection” is substituted for the first clause of the first sentence
 21 of former Art. 28, § 7–106(e)(1)(ii) and for the former phrase “the tax in
 22 any one year not to exceed the limit heretofore provided” for brevity and
 23 clarity.

24 In subsection (a)(4) of this section, the former phrase “from the sources” is
 25 deleted as surplusage.

26 In subsection (a)(5) of this section, the former reference to the tax
 27 collected “to date” is deleted as surplusage.

28 Also in subsection (a)(5) of this section, the former reference to the tax “so
 29 levied” is deleted as included in the reference to the tax “collected”.

30 Defined terms: “Commission” § 14–101

31 “County” § 14–101

1 **SUBTITLE 4. LAND ACQUISITION FUNDING.**

2 **18-401. ADVANCE LAND ACQUISITION FUND; SALE OF BONDS.**

3 **(A) "FUND" DEFINED.**

4 **IN THIS SECTION, "FUND" MEANS AN ADVANCE LAND ACQUISITION**
5 **FUND.**

6 **(B) ESTABLISHED.**

7 **THERE IS AN ADVANCE LAND ACQUISITION FUND IN EACH COUNTY.**

8 **(C) PURPOSE.**

9 **THE PURPOSE OF EACH FUND IS TO PURCHASE LAND AND RELATED**
10 **FACILITIES CONSISTENT WITH THE PURPOSES OF THIS SECTION AND §§ 18-402**
11 **AND 18-403 OF THIS SUBTITLE.**

12 **(D) ADMINISTRATION.**

13 **THE COMMISSION SHALL ADMINISTER EACH FUND.**

14 **(E) NATURE OF FUNDS.**

15 **EACH FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO**
16 **REVERSION UNDER § 7-302 OF THE STATE FINANCE AND PROCUREMENT**
17 **ARTICLE OR PROVISIONS OF THIS DIVISION RELATING TO UNEXPENDED**
18 **BALANCES.**

19 **(F) CONTENTS.**

20 **EACH FUND CONSISTS OF:**

21 **(1) MONEY ALLOCATED TO THE FUND FOR THE RESPECTIVE**
22 **COUNTY IN THE ANNUAL BUDGETS OF THE COMMISSION UNDER SUBTITLE 1 OF**
23 **THIS TITLE;**

24 **(2) PROCEEDS OF BONDS ISSUED UNDER THIS SECTION AND**
25 **ALLOCATED TO THE FUND;**

26 **(3) INVESTMENT EARNINGS OF THE FUND; AND**

1 **(4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR**
2 **THE BENEFIT OF THE FUND.**

3 **(G) INVESTMENT.**

4 **ANY INVESTMENT EARNINGS OF A FUND SHALL BE PAID INTO THE FUND.**

5 **(H) EXPENDITURES.**

6 **EXPENDITURES FROM A FUND MAY BE MADE ONLY IN ACCORDANCE WITH**
7 **THIS SECTION AND §§ 18-402 AND 18-403 OF THIS SUBTITLE.**

8 **(I) TRANSFER, USE, AND DISPOSAL OF LAND ACQUIRED THROUGH**
9 **FUNDS.**

10 **(1) AT ANY TIME AFTER ACQUIRING LAND, ON REPAYMENT TO**
11 **THE COMMISSION OF THE AMOUNT DISBURSED BY THE COMMISSION FOR THE**
12 **LAND PLUS INTEREST, THE COMMISSION MAY TRANSFER THE LAND TO:**

13 **(I) A CONSTRUCTION AGENCY OF THE STATE;**

14 **(II) MONTGOMERY COUNTY;**

15 **(III) PRINCE GEORGE'S COUNTY;**

16 **(IV) THE REDEVELOPMENT AUTHORITY OF PRINCE**
17 **GEORGE'S COUNTY;**

18 **(V) THE REVENUE AUTHORITY OF PRINCE GEORGE'S**
19 **COUNTY; OR**

20 **(VI) A MUNICIPAL CORPORATION OR GOVERNED SPECIAL**
21 **TAXING DISTRICT IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY.**

22 **(2) THE COMMISSION SHALL PLACE ANY AMOUNT RECEIVED IN**
23 **REPAYMENT FOR LAND IN THE FUND.**

24 **(3) (I) IF THE STATE CONSTRUCTION AGENCY FOR**
25 **MONTGOMERY COUNTY OR A MUNICIPAL CORPORATION OR GOVERNED**
26 **DISTRICT IN MONTGOMERY COUNTY DETERMINES THAT ACQUIRED LAND IS**
27 **NOT REQUIRED FOR A PUBLIC USE SPECIFIED ON THE COUNTY'S PLAN**
28 **REQUIRED UNDER § 18-402(B) OF THIS SUBTITLE, THE COMMISSION MAY USE**
29 **THE LAND AS A PART OF ITS PARK SYSTEM.**

1 **(II) A USE OF LAND BY THE COMMISSION FOR PARK OR**
2 **RECREATION PURPOSES UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IS**
3 **NOT A DEDICATION FOR THESE PURPOSES.**

4 **(III) IF THE COMMISSION AT ANY TIME DETERMINES THAT**
5 **THE LAND IS NOT NEEDED FOR PARK PURPOSES, THE COMMISSION MAY**
6 **DISPOSE OF THE LAND IN THE MANNER PROVIDED FOR ELSEWHERE IN THIS**
7 **DIVISION.**

8 **(4) (I) IF THE STATE CONSTRUCTION AGENCY FOR PRINCE**
9 **GEORGE'S COUNTY OR A MUNICIPAL CORPORATION OR GOVERNED DISTRICT IN**
10 **PRINCE GEORGE'S COUNTY, THE REDEVELOPMENT AUTHORITY FOR PRINCE**
11 **GEORGE'S COUNTY, OR THE REVENUE AUTHORITY OF PRINCE GEORGE'S**
12 **COUNTY DETERMINES THAT ACQUIRED LAND IS NOT REQUIRED FOR PUBLIC**
13 **USE, THE COMMISSION MAY USE THE LAND AS A PART OF ITS PARK SYSTEM,**
14 **SUBJECT TO THE APPROVAL OF THE PRINCE GEORGE'S COUNTY COUNCIL.**

15 **(II) A USE OF LAND BY THE COMMISSION FOR PARK OR**
16 **RECREATION PURPOSES UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IS**
17 **NOT A DEDICATION FOR THESE PURPOSES.**

18 **(III) IF THE COMMISSION AT ANY TIME DETERMINES THAT**
19 **THE LAND IS NOT NEEDED FOR PARK PURPOSES, THE COMMISSION MAY**
20 **DISPOSE OF THE LAND IN THE MANNER PROVIDED FOR ELSEWHERE IN THIS**
21 **DIVISION.**

22 **(J) SALE OF BONDS.**

23 **(1) (I) THE COMMISSION MAY ISSUE AND SELL BONDS IN**
24 **AMOUNTS IT CONSIDERS NECESSARY FOR THE PURPOSES OF THE FUNDS.**

25 **(II) IN PRINCE GEORGE'S COUNTY, THE COMMISSION'S**
26 **ISSUANCE AND SALE OF BONDS CONCERNING THE COUNTY IS SUBJECT TO**
27 **APPROVAL BY THE COUNTY COUNCIL.**

28 **(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,**
29 **THE AMOUNT OF THE BONDS OUTSTANDING AT ANY TIME MAY NOT EXCEED AN**
30 **AMOUNT THAT IS REDEEMABLE WITHIN 30 YEARS FROM THE DATE OF ISSUE BY**
31 **A TAX OF 1.2 CENTS ON EACH \$100 ASSESSED VALUATION OF REAL PROPERTY**
32 **IN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY AND 3 CENTS ON**
33 **EACH \$100 ASSESSED VALUATION OF PERSONAL PROPERTY AND OPERATING**
34 **REAL PROPERTY DESCRIBED IN § 8-109(C) OF THE TAX - PROPERTY ARTICLE.**

1 **(II) TO DETERMINE THE AMOUNT OF BONDS OUTSTANDING**
 2 **UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE COMMISSION MAY**
 3 **ASSUME:**

4 **1. FUTURE IMPOSITION OF THE TAX AT THE RATE**
 5 **ESTABLISHED BY EACH COUNTY;**

6 **2. 100% COLLECTION OF THE TAX IN EACH FISCAL**
 7 **YEAR; AND**

8 **3. THE ASSESSED VALUE OF PROPERTY AT THE TIME**
 9 **THE BONDS ARE ISSUED WILL REMAIN CONSTANT.**

10 **(3) THE PROVISIONS OF SUBTITLE 2 OF THIS TITLE RELATING TO**
 11 **FORM, INTEREST RATE, SALE, REDEMPTION, GUARANTY, AND LIABILITY APPLY**
 12 **TO BONDS ISSUED UNDER THIS SUBSECTION.**

13 REVISOR'S NOTE: Subsection (a) of this section is new language added to
 14 avoid repetition of the full reference to a "land acquisition revolving
 15 fund".

16 Subsections (b) through (j) of this section are new language derived
 17 without substantive change from former Art. 28, § 7–106(b), (c), (f), the
 18 second and third sentences of (e)(1)(iii), and the introductory language to
 19 (e).

20 Subsections (e), (f), and (g) of this section are restated in standard
 21 language for clarity.

22 In subsection (e) of this section, the reference to "reversion under §
 23 7–302 of the State Finance and Procurement Article" is added for clarity.

24 In subsections (f)(3) and (g) of this section, the references to "investment
 25 earnings of the Fund" and "investment earnings [being] paid into the
 26 Fund", respectively, are added as implicit in the nature of a revolving
 27 fund.

28 In subsection (i)(4)(i) of this section, the reference to the Prince George's
 29 "County Council" is substituted for the former obsolete reference to the
 30 Prince George's "County Commissioners" to accurately reflect the current
 31 form of county government in Prince George's County.

32 In subsection (j)(1)(i), the former reference to "serial" bonds is deleted as
 33 redundant of the reference to the application of "Subtitle 2 of this title ...
 34 to bonds issued under this section" in subsection (j)(3) of this section.

1 Subsection (j)(2)(ii) of this section is revised to set forth in the text of the
2 section the assumptions that were formerly cross-referenced.

3 Defined terms: "Commission" § 14-101
4 "County" § 14-101
5 "Governed special taxing district" § 14-101
6 "Park" § 14-101
7 "State" § 14-101

8 **18-402. ACQUISITION OF LAND BY COMMISSION IN MONTGOMERY COUNTY.**

9 (A) **AUTHORIZATION TO ACQUIRE LAND IN MONTGOMERY COUNTY —**
10 **GENERALLY.**

11 **THE COMMISSION MAY INCLUDE IN ITS ANNUAL BUDGETS PROVISIONS**
12 **FOR ACQUIRING LAND NEEDED FOR PUBLIC USES IN MONTGOMERY COUNTY,**
13 **INCLUDING:**

14 (1) **STATE HIGHWAYS, STREETS AND ROADS, AND MASS TRANSIT**
15 **FACILITIES, INCLUDING BUSWAYS AND LIGHT RAIL FACILITIES;**

16 (2) **SCHOOLS;**

17 (3) **LIBRARIES;**

18 (4) **PARKS AND RECREATION CENTERS; AND**

19 (5) **GOVERNMENT BUILDINGS.**

20 (B) **ACQUISITION IN GENERAL PLAN.**

21 (1) **THE COMMISSION SHALL SHOW EACH PUBLIC USE TO BE**
22 **ACQUIRED UNDER THIS SUBTITLE ON THE COMMISSION'S GENERAL OR**
23 **ADOPTED PLAN FOR THE PHYSICAL DEVELOPMENT OF THE REGIONAL**
24 **DISTRICT.**

25 (2) **AN ACQUISITION BY THE COMMISSION UNDER THIS SECTION**
26 **SHALL RECEIVE APPROVAL BY FORMAL RESOLUTION OF THE DISTRICT COUNCIL**
27 **OF MONTGOMERY COUNTY.**

28 (C) **ACQUISITION OF LAND IN PUBLIC CONSTRUCTION PROGRAM.**

1 **A PUBLIC USE THAT IS NOT A STATE HIGHWAY, STREET, ROAD, OR MASS**
 2 **TRANSIT FACILITY MAY NOT BE WITHIN A PUBLIC CONSTRUCTION PROGRAM AT**
 3 **THE TIME THAT THE COMMISSION ACQUIRES THE LAND.**

4 **(D) ACQUISITION OF SCHOOL SITE — APPROVAL.**

5 **THE COMMISSION MAY NOT ACQUIRE A SCHOOL SITE UNDER THIS**
 6 **SECTION WITHOUT THE PRIOR APPROVAL OF THE MONTGOMERY COUNTY**
 7 **BOARD OF EDUCATION.**

8 REVISOR'S NOTE: This section is new language derived without substantive
 9 change from former Art. 28, § 7-106(a).

10 In subsection (a) of this section, the former reference to “sites for” schools,
 11 libraries, and other public uses is deleted as surplusage.

12 In subsection (b)(1) of this section, the former reference to a “highway,
 13 street, road, mass transit facility, school site, library site, park site,
 14 recreation center site, [or] government building site” is deleted as
 15 unnecessary in light of the comprehensive reference to a “public use”.
 16 Similarly, in subsection (c) of this section, the former reference to a
 17 “school site, library site, park site, recreation center site, [or] government
 18 building site” is deleted.

19 In subsection (c) of this section, the former word “current” is deleted as
 20 unnecessary in light of the reference to “at the time that”.

21 Defined terms: “Commission” § 14-101

22 “District council” § 14-101

23 “Park” § 14-101

24 “Regional district” § 14-101

25 “Road” § 14-101

26 “State” § 14-101

27 **18-403. ACQUISITION OF LAND BY COMMISSION IN PRINCE GEORGE'S**
 28 **COUNTY.**

29 **(A) AUTHORIZATION FOR TRANSPORTATION PURPOSES.**

30 **THE COMMISSION MAY ACQUIRE LAND IN PRINCE GEORGE'S COUNTY**
 31 **THAT IS NEEDED FOR STATE HIGHWAYS, STREETS, ROADS, OR MASS TRANSIT**
 32 **FACILITIES THAT ARE SHOWN ON ADOPTED AND APPROVED MASTER PLANS AND**
 33 **ARE INCLUDED IN THE MARYLAND TRANSPORTATION PLAN DESCRIBED IN §**
 34 **2-103.1 OF THE TRANSPORTATION ARTICLE.**

1 **(B) AUTHORIZATION FOR OTHER PUBLIC USES.**

2 **(1) THE COMMISSION MAY INCLUDE IN ITS BUDGET PROVISIONS**
 3 **FOR ACQUIRING LAND NEEDED FOR PUBLIC USES IN PRINCE GEORGE’S**
 4 **COUNTY, INCLUDING:**

5 **(I) SCHOOLS;**

6 **(II) LIBRARIES;**

7 **(III) RECREATION CENTERS;**

8 **(IV) HEALTH SERVICES FACILITIES; AND**

9 **(V) ELDER CARE FACILITIES.**

10 **(2) THE COMMISSION MAY NOT ACQUIRE LAND FOR ANY**
 11 **PROJECT THAT IS IN THE CAPITAL BUDGET OF THE APPROVED CAPITAL**
 12 **IMPROVEMENT PROGRAM OF PRINCE GEORGE’S COUNTY.**

13 **(C) EFFECT OF LOCAL LAW.**

14 **ALL LAND ACQUISITIONS BY THE COMMISSION IN PRINCE GEORGE’S**
 15 **COUNTY ARE SUBJECT TO ENACTMENT OF A LOCAL LAW BY THE PRINCE**
 16 **GEORGE’S COUNTY COUNCIL.**

17 REVISOR’S NOTE: This section is new language derived without substantive
 18 change from former Art. 28, § 7–106(d).

19 In subsection (a) of this section, the word “acquire” is substituted for the
 20 former phrase “[p]rovision also may be made for acquisition” for brevity
 21 and clarity.

22 Also in subsection (a) of this section, the reference to the “Maryland
 23 Transportation Plan described in § 2–103.1 of the Transportation Article”
 24 is substituted for the former reference to the “Maryland twenty-year
 25 highway needs study”. Section 2–103.1(d) of the Transportation Article
 26 describes the plan as a forecast of the needs of the State for the next 20
 27 years and is likely the correct term to reference.

28 Defined terms: “Commission” § 14–101

29 “Local law” § 14–101

30 “Road” § 14–101

31 “State” § 14–101

1 **18-404. GRANTS BY COUNTIES; AGREEMENTS RELATING TO COUNTY**
2 **PROPERTY.**

3 (A) **GRANTS BY COUNTIES.**

4 (1) **ON REQUEST BY THE COMMISSION, MONTGOMERY COUNTY**
5 **AND PRINCE GEORGE'S COUNTY MAY GRANT MONEY TO THE COMMISSION FOR**
6 **ANY OF THE PURPOSES OF SUBTITLES 2 AND 3 OF THIS TITLE.**

7 (2) **THE COMMISSION SHALL USE THE MONEY GRANTED UNDER**
8 **THIS SUBSECTION IN THE COUNTY MAKING THE GRANT.**

9 (3) (I) **EACH YEAR, MONTGOMERY COUNTY MAY NOT GRANT**
10 **MORE THAN ONE-HALF OF THE COUNTY'S SHARE OF THE STATE INCOME TAX**
11 **PLUS ONE-HALF THE PROFITS OF THE COUNTY DISPENSARY DISTRIBUTED TO**
12 **THE COUNTY.**

13 (II) **EACH YEAR, PRINCE GEORGE'S COUNTY MAY NOT**
14 **GRANT MORE THAN ONE-HALF OF THE COUNTY'S SHARE OF THE STATE INCOME**
15 **TAX.**

16 (B) **AGREEMENTS RELATING TO COUNTY PROPERTY.**

17 **THE GOVERNING BODY OF MONTGOMERY COUNTY OR PRINCE GEORGE'S**
18 **COUNTY MAY CONVEY, LEASE, OR ENTER INTO A CONTRACT OR AGREEMENT**
19 **WITH THE COMMISSION FOR USE, DEVELOPMENT, AND MAINTENANCE BY THE**
20 **COMMISSION OF COUNTY PROPERTY FOR THE PURPOSES OF THIS DIVISION.**

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 28, § 6-109.

23 In subsection (a)(1) of this section, the former reference to the granting of
24 money "from time to time" is deleted as surplusage.

25 In subsection (a)(3)(i) of this section, the reference to profits "distributed
26 to the county" is substituted for the former reference to profits "as turned
27 over to the county treasurer" for brevity and accuracy.

28 Defined terms: "Commission" § 14-101
29 "State" § 14-101

30 **SUBTITLE 5. PAYMENT OF OBLIGATIONS.**

31 **18-501. DEFINITIONS.**

1 **(A) IN GENERAL.**

2 **IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
3 **INDICATED.**

4 REVISOR'S NOTE: This subsection formerly was Art. 28, § 2–201(a).

5 No changes are made.

6 **(B) PAYMENT DATE.**

7 **“PAYMENT DATE” MEANS THE DATE OF THE COMMISSION’S CHECK.**

8 REVISOR'S NOTE: This subsection formerly was Art. 28, § 2–201(b).

9 No changes are made.

10 Defined term: “Commission” § 14–101

11 **(C) PROPER INVOICE.**

12 **“PROPER INVOICE” MEANS AN INVOICE THAT:**

13 **(1) CONTAINS:**

14 **(I) THE CONTRACTOR’S FEDERAL EMPLOYER**
15 **IDENTIFICATION NUMBER OR SOCIAL SECURITY NUMBER; AND**

16 **(II) THE CONTRACT OR PURCHASE ORDER NUMBER OR**
17 **OTHER DESCRIPTION OF THE CONTRACT; AND**

18 **(2) CONTAINS OR IS ACCOMPANIED BY SUBSTANTIATING**
19 **INFORMATION AND DOCUMENTATION AS REQUIRED BY REGULATION OR**
20 **CONTRACT.**

21 REVISOR'S NOTE: This subsection formerly was Art. 28, § 2–201(c).

22 The only changes are in style.

23 **(D) RECEIPT DATE.**

24 **“RECEIPT DATE” MEANS THE DATE THAT A PROPER INVOICE IS RECEIVED**
25 **BY THE COMMISSION.**

1 REVISOR'S NOTE: This subsection formerly was Art. 28, § 2-201(d).

2 No changes are made.

3 Defined terms: "Commission" § 14-101

4 "Proper invoice" § 18-501

5 **18-502. PAYMENT OF PROCUREMENT CONTRACT.**

6 **IT IS THE POLICY OF THE COMMISSION THAT PAYMENT UNDER AN**
7 **AUTHORIZED, WRITTEN PROCUREMENT CONTRACT SHALL BE MADE BY THE**
8 **COMMISSION TO THE CONTRACTOR WITHIN 30 DAYS AFTER THE RECEIPT DATE**
9 **OF A PROPER INVOICE.**

10 REVISOR'S NOTE: This section formerly was Art. 28, § 2-202.

11 The former reference to "calendar" days is deleted in light of Art. 1, § 36,
12 which provides that any period exceeding 7 days is assumed to mean
13 calendar days, not business days.

14 The only other changes are in style.

15 Defined terms: "Commission" § 14-101

16 "Proper invoice" § 18-501

17 "Receipt date" § 18-501

18 **18-503. INTEREST ON UNPAID CONTRACTS.**

19 **AN AMOUNT DUE AND PAYABLE UNDER AN AUTHORIZED, WRITTEN**
20 **PROCUREMENT CONTRACT AND IN ACCORDANCE WITH LAW THAT REMAINS**
21 **UNPAID FOR MORE THAN 45 DAYS AFTER THE RECEIPT DATE SHALL ACCRUE**
22 **INTEREST:**

23 **(1) FOR THE PERIOD THAT BEGINS 31 DAYS AFTER THE RECEIPT**
24 **DATE; AND**

25 **(2) AT THE RATE SPECIFIED IN § 11-107(A) OF THE COURTS**
26 **ARTICLE.**

27 REVISOR'S NOTE: This section formerly was Art. 28, § 2-203.

28 In the introductory language to and in item (1) of this section, the former
29 references to "calendar" days are deleted in light of Art. 1, § 36, which

1 provides that any period exceeding 7 days is assumed to mean calendar
2 days, not business days.

3 The only other changes are in style.

4 Defined term: "Receipt date" § 18-501

5 **18-504. LIABILITY OF COMMISSION.**

6 **THE COMMISSION IS NOT LIABLE FOR THE PAYMENT OF INTEREST UNDER**
7 **THIS SUBTITLE:**

8 **(1) IF A PROPER INVOICE FOR ACCRUED INTEREST IS NOT**
9 **SUBMITTED WITHIN 30 DAYS AFTER THE PAYMENT DATE OF THE AMOUNT ON**
10 **WHICH THE INTEREST ACCRUED;**

11 **(2) FOR MORE THAN 1 YEAR AND 31 DAYS AFTER THE RECEIPT**
12 **DATE;**

13 **(3) ON AMOUNTS REPRESENTING UNPAID INTEREST; OR**

14 **(4) IF THE COMMISSION DETERMINES THERE IS A DISPUTE**
15 **REGARDING ANY MATERIAL FACTOR IN THE CONTRACT OR PURCHASE ORDER.**

16 REVISOR'S NOTE: This section formerly was Art. 28, § 2-204.

17 In items (1) and (2) of this section, the former references to "calendar"
18 days are deleted in light of Art. 1, § 36, which provides that any period
19 exceeding 7 days is assumed to mean calendar days, not business days.

20 The only other changes are in style.

21 Defined terms: "Commission" § 14-101

22 "Payment date" § 18-501

23 "Proper invoice" § 18-501

24 "Receipt date" § 18-501

25 **TITLE 19. MARYLAND-WASHINGTON METROPOLITAN DISTRICT.**

26 **19-101. METROPOLITAN DISTRICT.**

27 **(A) CONTINUED.**

1 **THE AREA IN MONTGOMERY COUNTY AND PRINCE GEORGE’S COUNTY**
2 **WITHIN THE BOUNDARIES SPECIFIED IN THIS TITLE IS KNOWN AS THE**
3 **MARYLAND–WASHINGTON METROPOLITAN DISTRICT.**

4 **(B) STATUS.**

5 **THE METROPOLITAN DISTRICT IS THE AUTHORITY OF THE COMMISSION**
6 **FOR THE PURPOSES SET FORTH IN THIS DIVISION.**

7 REVISOR’S NOTE: This section is new language derived without substantive
8 change from former Art. 28, § 3–101.

9 Defined terms: “Commission” § 14–101
10 “Metropolitan district” § 14–101

11 **19–102. BOUNDARIES.**

12 **THE BOUNDARIES OF THE METROPOLITAN DISTRICT ARE THE SAME AS**
13 **EXISTED ON OCTOBER 1, 2012, WITH THE EXCLUSION OF ANY PROPERTY**
14 **ANNEXED INTO THE CITY OF ROCKVILLE, THE CITY OF GAITHERSBURG, OR THE**
15 **TOWN OF WASHINGTON GROVE UNDER CHAPTER 429 OF THE ACTS OF THE**
16 **GENERAL ASSEMBLY OF 2007.**

17 REVISOR’S NOTE: This section is new language derived without substantive
18 change from former Art. 28, § 3–106(1) and (2), as it related to the effect
19 of certain annexations on the boundaries of the metropolitan district, and
20 the introductory language to § 3–102(a).

21 The reference to the boundaries being “the same as existed on October 1,
22 2012” is substituted for the former reference to the boundaries being “as
23 follows” for clarity.

24 The remainder of former Art. 28, § 3–102 and §§ 3–103 through 3–107,
25 which provided the specific, detailed boundaries for the
26 Maryland–Washington Metropolitan District, are transferred to the
27 Session Laws. *See* § 11 of Ch. __, Acts of 2012.

28 Defined term: “Metropolitan district” § 14–101

29 **GENERAL REVISOR’S NOTE TO TITLE**

30 Former Art. 28, §§ 3–102 through 3–107, which specified the boundaries of the
31 metropolitan district, are transferred to the Session Laws because the
32 boundaries rarely change and to avoid confusion for users of the Annotated
33 Code. *See* § 11 of Ch. __, Acts of 2012.

1 **TITLE 20. MARYLAND–WASHINGTON REGIONAL DISTRICT.**

2 **SUBTITLE 1. GENERAL PROVISIONS.**

3 **20–101. MARYLAND–WASHINGTON REGIONAL DISTRICT.**

4 **(A) ESTABLISHED.**

5 **THERE IS A MARYLAND–WASHINGTON REGIONAL DISTRICT.**

6 **(B) COMPOSITION.**

7 **THE REGIONAL DISTRICT CONSISTS OF:**

8 **(1) THE ENTIRE AREA OF MONTGOMERY COUNTY, SUBJECT TO**
 9 **THE LIMITATIONS IN SUBTITLE 7, PART I OF THIS TITLE AND TITLE 24,**
 10 **SUBTITLE 2 OF THIS ARTICLE; AND**

11 **(2) THE ENTIRE AREA OF PRINCE GEORGE’S COUNTY, EXCEPT**
 12 **FOR THE CITY OF LAUREL AS IT EXISTED ON JULY 1, 2008.**

13 REVISOR’S NOTE: This section is new language derived without substantive
 14 change from former Art. 28, § 7–103(a) and the first sentence of (b) and
 15 the third sentence of § 7–102.

16 In subsection (a) of this section, the former reference to the
 17 Maryland–Washington Regional District being “referred to as the
 18 ‘regional district’ or as ‘district’” is deleted as unnecessary in light of the
 19 definition of “regional district” in § 14–101 of this article.

20 The first and second sentences of former Art. 28, § 7–102, which provided
 21 for the continuity of the boundaries of the regional district through
 22 several recodifications, are deleted as unnecessary. The references to the
 23 various Chapters of the Acts are unnecessary as each one repealed the
 24 former, creating very specific boundaries for the regional district.
 25 References to specific boundaries are unnecessary, as former § 7–103 did
 26 not include boundaries for the regional district, except to the extent that
 27 specified municipal corporations are excluded.

28 The Land Use Article Review Committee notes, for consideration by the
 29 General Assembly, that in subsection (b)(2) of this section, the exclusion
 30 from the regional district of “the City of Laurel as it existed on July 1,
 31 2008” precludes the application of the land use powers of the City of
 32 Laurel to land annexed to that municipal corporation after July 1, 2008,

1 absent specific subsequent substantive legislation altering the boundaries
2 of the regional district.

3 Defined term: "Regional district" § 14-101

4 **SUBTITLE 2. COUNTY PLANNING BOARDS.**

5 **20-201. MEMBERSHIP.**

6 **THE COMMISSIONERS FROM EACH COUNTY ARE DESIGNATED AS THE**
7 **MONTGOMERY COUNTY PLANNING BOARD OR THE PRINCE GEORGE'S COUNTY**
8 **PLANNING BOARD, RESPECTIVELY.**

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from the first sentence of former Art. 28, § 7-111(a).

11 Defined term: "Commissioner" § 14-101

12 **20-202. POWERS AND DUTIES.**

13 **(A) IN GENERAL.**

14 **(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A COUNTY**
15 **PLANNING BOARD:**

16 **(I) IS RESPONSIBLE FOR PLANNING, SUBDIVISION, AND**
17 **ZONING FUNCTIONS THAT ARE PRIMARILY LOCAL IN SCOPE; AND**

18 **(II) SHALL EXERCISE, WITHIN THE COUNTY PLANNING**
19 **BOARD'S JURISDICTION, THE FOLLOWING POWERS:**

20 1. **PLANNING;**

21 2. **ZONING;**

22 3. **SUBDIVISION;**

23 4. **ASSIGNMENT OF STREET NAMES AND HOUSE**
24 **NUMBERS; AND**

25 5. **ANY RELATED MATTER.**

1 **(2) THE FUNCTIONS UNDER PARAGRAPH (1) OF THIS SUBSECTION**
2 **DO NOT INCLUDE THE REGIONAL PLANNING FUNCTIONS OF THE COMMISSION**
3 **RELATING TO OR AFFECTING THE REGIONAL DISTRICT AS A PLANNING UNIT.**

4 **(B) EXCLUSIVE JURISDICTION.**

5 **(1) A COUNTY PLANNING BOARD HAS EXCLUSIVE JURISDICTION**
6 **OVER:**

7 **(I) LOCAL FUNCTIONS, INCLUDING:**

8 **1. THE ADMINISTRATION OF SUBDIVISION**
9 **REGULATIONS;**

10 **2. THE PREPARATION AND ADOPTION OF**
11 **RECOMMENDATIONS TO THE DISTRICT COUNCIL WITH RESPECT TO ZONING MAP**
12 **AMENDMENTS; AND**

13 **3. THE ASSIGNMENT OF STREET NAMES AND HOUSE**
14 **NUMBERS IN THE REGIONAL DISTRICT; AND**

15 **(II) MANDATORY REFERRALS MADE IN ACCORDANCE WITH**
16 **SUBTITLE 3, PART I OF THIS TITLE BY THE COUNTY PLANNING BOARD'S**
17 **RESPECTIVE COUNTY GOVERNMENT OR ANY UNIT OF THE COUNTY**
18 **GOVERNMENT.**

19 **(2) THE MONTGOMERY COUNTY PLANNING BOARD HAS**
20 **EXCLUSIVE JURISDICTION OVER A MANDATORY REFERRAL MADE IN**
21 **ACCORDANCE WITH SUBTITLE 3, PART I OF THIS TITLE BY THE COUNTY BOARD**
22 **OF EDUCATION, A MUNICIPAL CORPORATION OR SPECIAL TAXING DISTRICT, OR**
23 **A PUBLICLY OWNED OR PRIVATELY OWNED PUBLIC UTILITY.**

24 **(C) REVIEW OF CAPITAL BUDGETS BY MONTGOMERY COUNTY**
25 **PLANNING BOARD.**

26 **(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**
27 **MONTGOMERY COUNTY PLANNING BOARD SHALL:**

28 **(I) REVIEW THE ANNUAL CAPITAL BUDGETS OF THE**
29 **COUNTY AND FUTURE CAPITAL BUDGET PROJECTIONS; AND**

30 **(II) SUBMIT RECOMMENDATIONS TO THE COUNTY COUNCIL.**

1 **(2) THE COUNTY GOVERNMENT SHALL HAVE SOLE**
 2 **RESPONSIBILITY FOR THE PREPARATION OF THE CAPITAL BUDGETS AND**
 3 **PROGRAMS OF PUBLIC WORKS.**

4 **(D) MEETINGS.**

5 **EACH COUNTY PLANNING BOARD SHALL:**

6 **(1) MEET FROM TIME TO TIME WITH ITS RESPECTIVE COUNTY**
 7 **COUNCIL; AND**

8 **(2) PERFORM SURVEYS, STUDIES, AND OTHER PLANNING DUTIES**
 9 **THE COUNTY COUNCIL ASSIGNS TO THE COUNTY PLANNING BOARD.**

10 REVISOR'S NOTE: This section is new language derived without substantive
 11 change from the second through sixth sentences of former Art. 28, §
 12 7-111(a) and the fifth sentence of (b).

13 In subsection (a)(1)(i) of this section, the defined term "subdivision" is
 14 substituted for the former word "platting" for clarity.

15 In subsection (a)(1)(ii) of this section, the former reference to the planning
 16 boards "hav[ing]" powers is deleted as implicit in the county planning
 17 boards "exercis[ing]" powers.

18 In subsection (b)(1)(i) of this section, the former phrase "but are not
 19 limited to" is deleted as unnecessary in light of Art. 1, § 30, which
 20 provides that the term "including" is used "by way of illustration and not
 21 by way of limitation".

22 In subsection (b)(1)(ii) of this section, the reference to any "unit" of county
 23 government is substituted for the former reference to any "agency" of
 24 county government for consistency with other revised articles of the Code.

25 In subsection (c)(2) of this section, the reference to the county government
 26 having "sole responsibility" for preparing the capital budgets is
 27 substituted for the former reference to the responsibility being in the
 28 county government and "not in the staff of the Commission and the
 29 county planning board" for brevity.

30 Defined terms: "Commission" § 14-101
 31 "County planning board" § 14-101
 32 "District council" § 14-101
 33 "Regional district" § 14-101
 34 "Subdivision" § 14-101

1 **20–203. REGIONAL FUNCTIONS.**

2 **(A) JURISDICTION OF COMMISSION.**

3 **THE REGIONAL FUNCTIONS WITHIN THE JURISDICTION OF THE**
4 **COMMISSION INCLUDE:**

5 **(1) PREPARATION, ADOPTION, AND AMENDMENT OF THE**
6 **GENERAL PLAN OR PARTS OF THE GENERAL PLAN FOR THE PHYSICAL**
7 **DEVELOPMENT OF THE REGIONAL DISTRICT IN ACCORDANCE WITH TITLE 21 OF**
8 **THIS ARTICLE; AND**

9 **(2) MANDATORY REFERRALS FROM THE UNITED STATES OR THE**
10 **STATE, OR ANY UNIT OF THE UNITED STATES OR THE STATE, IN ACCORDANCE**
11 **WITH SUBTITLE 3, PART I OF THIS TITLE.**

12 **(B) RECOMMENDATIONS.**

13 **THE COMMISSION OR THE COUNTY PLANNING BOARDS MAY RECOMMEND**
14 **TO THE PROPER AUTHORITIES AMENDMENTS TO THE ZONING LAWS,**
15 **SUBDIVISION REGULATIONS, AND ANY OTHER RULES AND REGULATIONS**
16 **AUTHORIZED IN THIS TITLE.**

17 **(C) ADOPTION OF RESOLUTIONS OR RECOMMENDATIONS.**

18 **(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**
19 **ADOPTION OF A RESOLUTION OR RECOMMENDATION RELATING TO A REGIONAL**
20 **MATTER SHALL BE BY A MAJORITY VOTE OF THE COMMISSION.**

21 **(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
22 **PARAGRAPH, THE MAJORITY VOTE SHALL INCLUDE AT LEAST THREE MEMBERS**
23 **FROM MONTGOMERY COUNTY AND AT LEAST THREE MEMBERS FROM PRINCE**
24 **GEORGE’S COUNTY.**

25 **(II) IF A REGIONAL PLAN AFFECTS ONLY ONE COUNTY, THE**
26 **AFFIRMATIVE VOTE OF THREE MEMBERS OF THE COUNTY PLANNING BOARD**
27 **FOR THE COUNTY AFFECTED SHALL CONTROL.**

28 **REVISOR’S NOTE:** This section is new language derived without substantive
29 change from the first through fourth sentences of former Art. 28, §
30 7–111(b).

31 In the introductory language to subsection (a) of this section, the former
32 phrase “but are not to be limited to” is deleted as unnecessary in light of

1 Art. 1, § 30, which provides that the term “includes” is used “by way of
2 illustration and not by way of limitation”.

3 In subsection (a)(2) of this section, the reference to a “unit” is substituted
4 for the former reference to an “agency” for consistency with other revised
5 articles of the Code.

6 In subsection (b) of this section, the former reference to “text”
7 amendments is deleted as unnecessary.

8 In subsection (c)(1) of this section, the phrase “a majority vote” is
9 substituted for the former phrase “the affirmative votes of not less than
10 six members” for brevity.

11 Defined terms: “Commission” § 14–101
12 “County planning board” § 14–101
13 “Regional district” § 14–101
14 “State” § 14–101
15 “Subdivision” § 14–101
16 “Zoning law” § 14–101

17 **20–204. JURISDICTION OVER PERSONNEL.**

18 **(A) IN GENERAL.**

19 **EACH COUNTY PLANNING BOARD SHALL HAVE ADMINISTRATIVE CONTROL**
20 **AND JURISDICTION OVER PERSONNEL PERFORMING THE DUTIES AND**
21 **FUNCTIONS ASSIGNED IN THIS SUBTITLE TO THE RESPECTIVE COUNTY**
22 **PLANNING BOARD.**

23 **(B) MONTGOMERY COUNTY PLANNING BOARD.**

24 **IN MONTGOMERY COUNTY, A DIRECTOR SERVES AT THE PLEASURE OF**
25 **THE MONTGOMERY COUNTY PLANNING BOARD.**

26 **(C) PRINCE GEORGE’S COUNTY PLANNING BOARD.**

27 **(1) IN THIS SUBSECTION, “DEPUTY DIRECTOR” INCLUDES ANY**
28 **POSITION COMPARABLE TO THE POSITION OF A DEPUTY DIRECTOR, AS THE**
29 **PRINCE GEORGE’S COUNTY PLANNING BOARD DETERMINES.**

30 **(2) IN PRINCE GEORGE’S COUNTY, A DIRECTOR OR DEPUTY**
31 **DIRECTOR OF A DEPARTMENT SHALL HAVE EDUCATION OR PROFESSIONAL**
32 **EXPERIENCE IN A FIELD RELEVANT TO THE RESPONSIBILITIES OF THAT**
33 **DEPARTMENT.**

1 **(3) A DIRECTOR OR DEPUTY DIRECTOR SHALL RECEIVE THE**
2 **COMPENSATION ESTABLISHED IN THE BUDGET FOR THE PRINCE GEORGE'S**
3 **COUNTY PLANNING BOARD.**

4 **(4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
5 **PARAGRAPH, A DIRECTOR OR DEPUTY DIRECTOR SHALL BE APPOINTED BY AND**
6 **SERVE AT THE PLEASURE OF THE PRINCE GEORGE'S COUNTY PLANNING**
7 **BOARD.**

8 **(II) IN PRINCE GEORGE'S COUNTY, AN INDIVIDUAL MAY**
9 **ELECT TO REMAIN IN THE MERIT SYSTEM ESTABLISHED UNDER TITLE 16,**
10 **SUBTITLE 1 OF THIS ARTICLE IF ON JUNE 30, 1991, THE INDIVIDUAL WAS A**
11 **DIRECTOR OF PLANNING OR A DIRECTOR OF PARKS AND RECREATION.**

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 28, § 7-111(c)(1), (2)(i) through (iii) and (iv)1 and
14 2A, and (3)(i).

15 Former Art. 28, § 7-111(c)(2)(iv)2B and (3)(ii), which allowed certain
16 individuals employed in certain positions as of certain dates to remain in
17 the merit system, are deleted as obsolete.

18 Defined terms: "County planning board" § 14-101
19 "Park" § 14-101

20 **20-205. PARKS AND PARKLANDS.**

21 **(A) COMMISSION RETAINS POWERS AND DUTIES.**

22 **EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS SECTION,**
23 **THIS SUBTITLE MAY NOT BE CONSTRUED TO AFFECT THE POWERS AND DUTIES**
24 **OF THE COMMISSION WITH RESPECT TO PARKS AND PARKLANDS.**

25 **(B) AUTHORITY OF COMMISSION TO DELEGATE.**

26 **THE COMMISSION MAY DELEGATE TO THE COUNTY PLANNING BOARDS**
27 **THOSE POWERS AND DUTIES WITH RESPECT TO PARKS AND PARKLANDS THAT**
28 **THE COMMISSION MAY DETERMINE.**

29 **(C) PRINCE GEORGE'S COUNTY PLANNING BOARD.**

30 **THE PRINCE GEORGE'S COUNTY PLANNING BOARD SHALL:**

1 **(1) PROVIDE A PROGRAM OF RECREATION IN PRINCE GEORGE'S**
2 **COUNTY; AND**

3 **(2) COORDINATE THE PROGRAM WITH THE COMMISSION'S PARK**
4 **FUNCTIONS.**

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 28, § 7-111(d).

7 In subsection (b) of this section, the former reference to the Commission
8 making a determination "from time to time" is deleted as surplusage.

9 Defined terms: "Commission" § 14-101
10 "County planning board" § 14-101
11 "Park" § 14-101

12 **20-206. EXPENSES.**

13 **THE EXPENSES OF OPERATING EACH COUNTY PLANNING BOARD SHALL**
14 **BE PAID FROM THE PROCEEDS OF THE ADMINISTRATIVE TAX COLLECTED FOR**
15 **THE COMMISSION UNDER § 18-307 OF THIS ARTICLE AND ANY ADDITIONAL**
16 **FUNDS APPROPRIATED BY THE RESPECTIVE COUNTY GOVERNING BODY.**

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 28, § 7-111(e).

19 Defined terms: "Commission" § 14-101
20 "County planning board" § 14-101

21 **20-207. ASSIGNMENT OF OTHER FUNCTIONS.**

22 **(A) IN GENERAL.**

23 **SUBJECT TO SUBSECTION (B) OF THIS SECTION, FUNCTIONS NOT**
24 **SPECIFICALLY ALLOCATED IN THIS SUBTITLE SHALL BE ASSIGNED TO THE**
25 **COMMISSION OR TO ONE OR BOTH OF THE COUNTY PLANNING BOARDS, AS**
26 **NEEDED.**

27 **(B) REQUIREMENTS.**

28 **THE ASSIGNMENTS SHALL:**

29 **(1) BE MADE BY RESOLUTION OF THE COMMISSION WITH THE**
30 **APPROVAL OF THE RESPECTIVE COUNTY COUNCIL; AND**

1 **(2) CARRY OUT THE POLICY THAT LOCAL OR INTRACOUNTY**
2 **PLANNING FUNCTIONS SHOULD BE PERFORMED BY THE COUNTY PLANNING**
3 **BOARDS.**

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 28, § 7-111(f).

6 In subsection (b)(2) of this section, the reference to "carry[ing] out the
7 policy" is substituted for the former phrase "so as to effectuate the
8 concept" for clarity and brevity.

9 Also in subsection (b)(2) of this section, the former reference to functions
10 that are "essentially" local or intracounty is deleted as unnecessary.

11 Defined terms: "Commission" § 14-101
12 "County planning board" § 14-101

13 **20-208. COMPENSATION OF MEMBERS.**

14 **(A) ANNUAL SALARY.**

15 **NOTWITHSTANDING OTHER PROVISIONS OF THIS DIVISION, MONEY MAY**
16 **BE INCLUDED IN THE COMMISSION'S ANNUAL BUDGET AND APPROPRIATED BY**
17 **THE RESPECTIVE COUNTY COUNCIL TO PROVIDE AN ANNUAL SALARY FOR EACH**
18 **COUNTY PLANNING BOARD MEMBER, OTHER THAN A FULL-TIME MEMBER, AS**
19 **COMPENSATION FOR THE MEMBER'S SERVICES.**

20 **(B) COMPENSATION BY COUNTY COUNCILS.**

21 **AFTER NOTICE AND PUBLIC HEARING, THE MONTGOMERY COUNTY**
22 **COUNCIL AND THE PRINCE GEORGE'S COUNTY COUNCIL MAY EACH ESTABLISH**
23 **THE SALARY FOR A COUNTY PLANNING BOARD MEMBER FROM THAT COUNTY,**
24 **OTHER THAN A FULL-TIME MEMBER, BY LOCAL LAW SEPARATE FROM BUDGET**
25 **ACTION.**

26 REVISOR'S NOTE: This section formerly was Art. 28, § 7-111(g).

27 The only changes are in style.

28 Defined terms: "Commission" § 14-101
29 "County" § 14-101
30 "County planning board" § 14-101
31 "Local law" § 14-101

1 **20–209. AUTHORITY OF MONTGOMERY COUNTY PLANNING BOARD.**

2 **IN MONTGOMERY COUNTY, TO THE EXTENT AUTHORIZED BY LOCAL LAW,**
3 **THE MONTGOMERY COUNTY PLANNING BOARD MAY:**

4 **(1) ADMINISTER AND ENFORCE ANY ADOPTED GROWTH POLICY**
5 **OR FOREST CONSERVATION PROGRAM; AND**

6 **(2) PROVIDE STAFFING ASSISTANCE ON MATTERS RELATING TO**
7 **THE PROMOTION OF HISTORIC PRESERVATION.**

8 REVISOR’S NOTE: This section formerly was Art. 28, § 7–111(h).

9 The only changes are in style.

10 Defined term: “Local law” § 14–101

11 **SUBTITLE 3. REVIEW OF PUBLIC PROJECTS.**

12 **PART I. MANDATORY REFERRAL REVIEW.**

13 **20–301. PRIOR APPROVAL REQUIRED.**

14 **SUBJECT TO §§ 20–303 AND 20–304 OF THIS SUBTITLE, A PUBLIC BOARD,**
15 **PUBLIC BODY, OR PUBLIC OFFICIAL MAY NOT CONDUCT ANY OF THE**
16 **FOLLOWING ACTIVITIES IN THE REGIONAL DISTRICT UNLESS THE PROPOSED**
17 **LOCATION, CHARACTER, GRADE, AND EXTENT OF THE ACTIVITY IS REFERRED**
18 **TO AND APPROVED BY THE COMMISSION:**

19 **(1) ACQUIRING OR SELLING LAND;**

20 **(2) LOCATING, CONSTRUCTING, OR AUTHORIZING:**

21 **(I) A ROAD;**

22 **(II) A PARK;**

23 **(III) ANY OTHER PUBLIC WAY OR GROUND;**

24 **(IV) A PUBLIC BUILDING OR STRUCTURE, INCLUDING A**
25 **FEDERAL BUILDING OR STRUCTURE; OR**

26 **(V) A PUBLICLY OWNED OR PRIVATELY OWNED PUBLIC**
27 **UTILITY; OR**

1 **(3) CHANGING THE USE OF OR WIDENING, NARROWING,**
 2 **EXTENDING, RELOCATING, VACATING, OR ABANDONING ANY FACILITY LISTED IN**
 3 **ITEM (2) OF THIS SECTION.**

4 REVISOR'S NOTE: This section is new language derived without substantive
 5 change from the first sentence of former Art. 28, § 7–112, and, as it
 6 related to mandatory referrals, the fourth sentence.

7 In the introductory language to this section, the phrase “[s]ubject to §§
 8 20–303 and 20–304 of this subtitle,” is added for clarity.

9 Also in the introductory language to this section, the former phrase
 10 “[w]hen the Commission has adopted a master plan of highways of the
 11 regional district and has certified the plan to the County Council and
 12 clerk of the Circuit Court of Montgomery County and to the Board of
 13 County Commissioners and clerk of the Circuit Court of Prince George’s
 14 County,” is deleted as obsolete.

15 Also in the introductory language to this section, the former word “until”
 16 is deleted as included in the word “unless”.

17 Defined terms: “Commission” § 14–101

18 “Park” § 14–101

19 “Regional district” § 14–101

20 “Road” § 14–101

21 **20–302. JURISDICTION.**

22 **(A) FEDERAL AND STATE REFERRALS.**

23 **THE COMMISSION HAS EXCLUSIVE JURISDICTION OVER MANDATORY**
 24 **REFERRALS MADE UNDER THIS PART FROM THE UNITED STATES OR THE**
 25 **STATE, OR ANY UNIT OF THE UNITED STATES OR THE STATE.**

26 **(B) COUNTY REFERRALS.**

27 **A COUNTY PLANNING BOARD HAS EXCLUSIVE JURISDICTION OVER A**
 28 **MANDATORY REFERRAL UNDER THIS PART BY THE COUNTY PLANNING BOARD’S**
 29 **RESPECTIVE COUNTY GOVERNMENT OR ANY UNIT OF THE COUNTY**
 30 **GOVERNMENT.**

31 **(C) ADDITIONAL REFERRALS — MONTGOMERY COUNTY.**

1 **THE MONTGOMERY COUNTY PLANNING BOARD HAS EXCLUSIVE**
 2 **JURISDICTION OVER A MANDATORY REFERRAL UNDER THIS PART BY THE**
 3 **COUNTY BOARD OF EDUCATION, A MUNICIPAL CORPORATION OR SPECIAL**
 4 **TAXING DISTRICT, OR A PUBLICLY OWNED OR PRIVATELY OWNED PUBLIC**
 5 **UTILITY.**

6 REVISOR'S NOTE: This section is new language derived without substantive
 7 change from the fourth sentence of former Art. 28, § 7-111(a) and the
 8 first sentence of (b), as they related to mandatory referrals.

9 In subsection (a) of this section, the reference to "exclusive" jurisdiction is
 10 added for clarity.

11 In subsection (b) of this section, the reference to any "unit" of county
 12 government is substituted for the former reference to any "agency" for
 13 consistency with other revised articles of the Code.

14 Defined terms: "Commission" § 14-101
 15 "County" § 14-101
 16 "County planning board" § 14-101
 17 "State" § 14-101

18 **20-303. COMMISSION DISAPPROVAL.**

19 **(A) REQUIRED NOTICE.**

20 **IF THE COMMISSION DISAPPROVES A REFERRAL SUBMITTED UNDER §**
 21 **20-301 OF THIS SUBTITLE, THE COMMISSION SHALL COMMUNICATE THE**
 22 **REASONS FOR THE DISAPPROVAL TO THE ENTITY THAT PROPOSED THE**
 23 **ACTIVITY.**

24 **(B) OVERRULING.**

25 **NOTWITHSTANDING § 20-301 OF THIS SUBTITLE, THE ENTITY THAT**
 26 **PROPOSED THE ACTIVITY MAY OVERRULE THE DISAPPROVAL OF THE**
 27 **COMMISSION AND PROCEED WITH THE ACTIVITY AS PROPOSED.**

28 REVISOR'S NOTE: This section is new language derived without substantive
 29 change from the second and third sentences and, as it related to
 30 overruling certain actions, the fourth sentence of former Art. 28, §
 31 7-112.

32 In subsections (a) and (b) of this section, the references to an "entity" are
 33 substituted for the former references to a "board, body, or official"
 34 because certain private entities such as utilities, in addition to public

1 entities such as boards and bodies, may be required to refer proposals to
2 the Commission under this part.

3 Defined term: "Commission" § 14-101

4 **20-304. COMMISSION FAILURE TO ACT.**

5 **UNLESS A LONGER PERIOD IS GRANTED BY THE SUBMITTING ENTITY, AN**
6 **OFFICIAL REFERRAL TO THE COMMISSION UNDER THIS PART IS DEEMED**
7 **APPROVED IF THE COMMISSION FAILS TO ACT WITHIN 60 DAYS AFTER THE DATE**
8 **OF SUBMISSION.**

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from the fifth sentence of former Art. 28, § 7-112.

11 The reference to an "entity" is substituted for the former reference to a
12 "board, body, or official" because certain private entities such as utilities,
13 in addition to public entities such as boards and bodies, may be required
14 to refer proposals to the Commission under this part.

15 Defined term: "Commission" § 14-101

16 **20-305. UNIFORM STANDARDS OF REVIEW.**

17 **(A) ADOPTION.**

18 **AFTER APPROPRIATE PUBLIC HEARINGS, THE COMMISSION SHALL ADOPT**
19 **UNIFORM STANDARDS OF REVIEW TO BE FOLLOWED IN REVIEWING CHANGES TO**
20 **PROPERTY SUBJECT TO REVIEW.**

21 **(B) NOTICE.**

22 **(1) THE COMMISSION SHALL PUBLISH A NOTICE OF THE**
23 **ADOPTION OF THE STANDARDS OF REVIEW IN A NEWSPAPER OF GENERAL**
24 **CIRCULATION THAT IS PUBLISHED IN EACH COUNTY.**

25 **(2) THE NOTICE SHALL:**

26 **(I) INCLUDE A SUMMARY OF THE PURPOSE OF THE**
27 **STANDARDS AND THE REVIEW PROCESS; AND**

28 **(II) IDENTIFY A LOCATION AND A PHONE NUMBER TO**
29 **CONTACT FOR A COMPLETE COPY OF THE STANDARDS OF REVIEW.**

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from the sixth through ninth sentences of former Art. 28, § 7–112.

3 In subsection (b)(1) of this section, the reference to “a newspaper of
4 general circulation” is substituted for the former reference to “one
5 newspaper of record” to conform to the terminology used in other revised
6 articles of the Code.

7 Defined term: “Commission” § 14–101

8 **20–306. RESERVED.**

9 **20–307. RESERVED.**

10 **PART II. PERMISSIVE REFERRAL REVIEW.**

11 **20–308. RECOMMENDATIONS BY COMMISSION TO MONTGOMERY COMMUNITY**
12 **COLLEGE.**

13 **ON THE REQUEST OF THE BOARD OF TRUSTEES OF MONTGOMERY**
14 **COMMUNITY COLLEGE, AND IN ACCORDANCE WITH § 16–413 OF THE**
15 **EDUCATION ARTICLE, THE COMMISSION MAY MAKE RECOMMENDATIONS TO**
16 **THE BOARD CONCERNING REAL PROPERTY SITES APPROPRIATE FOR**
17 **ACQUISITION BY THE BOARD THAT CONFORM AS FAR AS PRACTICABLE TO**
18 **DEVELOPMENT PLANS FOR LAND USE IN MONTGOMERY COUNTY.**

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 28, § 7–106(g).

21 Defined term: “Commission” § 14–101

22 **SUBTITLE 4. ROAD GRADES.**

23 **20–401. AUTHORITY TO ESTABLISH.**

24 **(A) IN GENERAL.**

25 **THE COMMISSION MAY ESTABLISH GRADES FOR ALL ROADS IN THE**
26 **REGIONAL DISTRICT.**

27 **(B) MONTGOMERY COUNTY.**

28 **IN MONTGOMERY COUNTY, ALL ROAD GRADES SHALL BE ESTABLISHED IN**
29 **ACCORDANCE WITH LOCAL LAW.**

1 **(C) PRINCE GEORGE’S COUNTY.**

2 **IN PRINCE GEORGE’S COUNTY, THE DEPARTMENT OF PUBLIC WORKS**
3 **AND TRANSPORTATION SHALL ESTABLISH ROAD GRADES.**

4 **(D) RESTRICTIONS ON PERMANENT ROAD GRADING.**

5 **PERMANENT ROAD GRADING MAY NOT OCCUR UNTIL A ROAD GRADE HAS**
6 **BEEN ESTABLISHED BY:**

7 **(1) THE COMMISSION IN MONTGOMERY COUNTY; OR**

8 **(2) THE DEPARTMENT OF PUBLIC WORKS AND**
9 **TRANSPORTATION IN PRINCE GEORGE’S COUNTY.**

10 **(E) PENALTY FOR UNAUTHORIZED PERMANENT ROAD GRADING.**

11 **UNAUTHORIZED PERMANENT ROAD GRADING IS A MISDEMEANOR AND IS**
12 **PUNISHABLE UNDER TITLE 27 OF THIS ARTICLE.**

13 REVISOR’S NOTE: This section is new language derived without substantive
14 change from former Art. 28, § 7–113.

15 In subsection (b) of this section, the phrase “in accordance with” is
16 substituted for the former phrase “within the tolerances set forth in” for
17 clarity and brevity.

18 Also in subsection (b) of this section, the reference to “local law” is
19 substituted for the former reference to “the Montgomery County Road
20 Code” for consistency within this division.

21 In the introductory language to subsection (d) of this section, the
22 references to “road” grading and grade are added for clarity.

23 In subsection (d)(1) of this section, the reference to “Montgomery County”
24 is added for clarity.

25 In subsection (d)(2) of this section, the reference to the “Department of
26 Public Works and Transportation in Prince George’s County” is
27 substituted for the former reference to the “county department” for
28 clarity.

29 In subsection (e) of this section, the reference to “road” grading is added
30 for clarity.

1 Also in subsection (e) of this section, the former phrase “by any State,
2 municipal or county officer or employee or by any private person” is
3 deleted as unnecessary because the phrase covered all possible offenders.
4 By deleting the phrase, no one is excluded; therefore, the statute still
5 covers all possible offenders.

6 Also in subsection (e) of this section, the former reference to unauthorized
7 grading being “declared to be” a misdemeanor is deleted as unnecessary.

8 Defined terms: “Commission” § 14–101

9 “Local law” § 14–101

10 “Regional district” § 14–101

11 “Road” § 14–101

12 **SUBTITLE 5. BUILDING CODES AND PERMITS.**

13 **PART I. GENERAL PROVISIONS.**

14 **20–501. SCOPE OF PART.**

15 **THIS PART APPLIES ONLY IN THE REGIONAL DISTRICT.**

16 REVISOR’S NOTE: This section is new language added for clarity.

17 Defined term: “Regional district” § 14–101

18 **20–502. BUILDING PERMIT REQUIRED.**

19 **(A) IN GENERAL.**

20 **(1) A PERSON MAY NOT CONSTRUCT OR ALTER STRUCTURALLY A**
21 **BUILDING OR OTHER STRUCTURE IN THE REGIONAL DISTRICT WITHOUT A**
22 **BUILDING PERMIT.**

23 **(2) A BUILDING PERMIT SHALL CONFORM TO THIS DIVISION AND**
24 **ANY LOCAL LAW ENACTED BY THE APPROPRIATE DISTRICT COUNCIL.**

25 **(B) AGRICULTURAL USE EXEMPTION.**

26 **A BUILDING PERMIT MAY NOT BE REQUIRED FOR A BUILDING OR**
27 **STRUCTURE TO BE USED EXCLUSIVELY FOR AGRICULTURE ON LAND USED**
28 **EXCLUSIVELY FOR AGRICULTURE.**

29 **(C) APPROVAL NOT REQUIRED.**

1 **A LOCAL LAW ENACTED UNDER THIS DIVISION MAY NOT REQUIRE THE**
 2 **COMMISSION TO APPROVE A BUILDING PERMIT.**

3 REVISOR'S NOTE: This section is new language derived without substantive
 4 change from the first, second, and fourth sentences of former Art. 28, §
 5 8–119(a).

6 In subsection (a)(1) of this section, the former reference to the “issuance
 7 of” a building permit is deleted as unnecessary.

8 In subsection (a)(2) of this section, the requirement that a permit “shall
 9 conform” is substituted for the former limitation that a permit “may not
 10 be given except in conformity with” for clarity.

11 Also in subsection (a)(2) of this section, the reference to an enacted “local
 12 law” is substituted for the former reference to enacted “regulations” for
 13 consistency within this division. No substantive change is intended.

14 Also in subsection (a)(2) of this section, the reference to the “appropriate
 15 district council” is substituted for the former reference to the “respective
 16 district councils” for clarity.

17 In subsection (c) of this section, the former reference to a building permit
 18 “in Montgomery County or Prince George’s County” is deleted as
 19 unnecessary in light of the scope provision in § 20–501 of this subtitle.

20 Also in subsection (c) of this section, the former reference to “any acts,
 21 ordinances, or regulations inconsistent herewith are repealed to the
 22 extent of the inconsistency” is deleted as implicit in the prohibition on a
 23 local law requiring the Commission to approve a building permit.

24 The third sentence of former Art. 28, § 8–119(a), which required the
 25 appropriate district council to designate an approving official for a part of
 26 the regional district not having a local law under this section, is deleted
 27 as obsolete.

28 Defined terms: “Commission” § 14–101

29 “District council” § 14–101

30 “Local law” § 14–101

31 “Person” § 14–101

32 “Regional district” § 14–101

33 **20–503. ZONING REVIEW.**

34 **(A) IN GENERAL.**

1 **BY ZONING LAW, A DISTRICT COUNCIL MAY PROVIDE FOR:**

2 **(1) THE ISSUANCE OF USE AND OCCUPANCY PERMITS; AND**

3 **(2) A PROCESS TO RAISE A ZONING QUESTION BEFORE THE**
4 **PREPARATION OF ALL STRUCTURAL SPECIFICATIONS OF A BUILDING OR**
5 **STRUCTURE THAT MAY BE REQUIRED FOR A COMPLETE BUILDING PERMIT.**

6 **(B) MONTGOMERY COUNTY.**

7 **IN MONTGOMERY COUNTY, ALL BUILDING PERMIT APPLICATIONS SHALL**
8 **BE REFERRED TO THE COMMISSION FOR REVIEW AND RECOMMENDATION AS TO**
9 **ZONING REQUIREMENTS.**

10 **(C) PRINCE GEORGE'S COUNTY.**

11 **IN PRINCE GEORGE'S COUNTY, THE COUNTY COUNCIL, BY LOCAL LAW,**
12 **MAY PROVIDE FOR THE REFERRAL OF SOME OR ALL BUILDING PERMIT**
13 **APPLICATIONS TO THE COMMISSION FOR REVIEW AND RECOMMENDATION AS**
14 **TO ZONING REQUIREMENTS.**

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 28, § 8-119(b) and the fifth and sixth sentences
17 of (a).

18 Defined terms: "Commission" § 14-101

19 "County" § 14-101

20 "District council" § 14-101

21 "Local law" § 14-101

22 "Zoning law" § 14-101

23 **20-504. ACCESS REQUIREMENTS.**

24 **(A) IN GENERAL.**

25 **A PERMIT TO CONSTRUCT A BUILDING OR STRUCTURE IN A SUBDIVISION**
26 **MAY NOT BE ISSUED UNLESS THE ROAD GIVING ACCESS TO THE LOT WHERE THE**
27 **BUILDING OR STRUCTURE IS PROPOSED TO BE LOCATED:**

28 **(1) HAS THE LEGAL STATUS OF A PUBLIC ROAD OR WAS**
29 **DEDICATED TO PUBLIC USE;**

1 **(2) CORRESPONDS IN ITS EXACT LOCATION WITH A ROAD SHOWN**
 2 **ON A SUBDIVISION PLAT APPROVED BY THE COMMISSION OR WITH A MASTER**
 3 **PLAN OF TRANSPORTATION OR PLAT ADOPTED BY THE COMMISSION; OR**

4 **(3) IS ON A PRIVATE RIGHT-OF-WAY OR EASEMENT APPROVED AS**
 5 **ADEQUATE BY THE COUNTY COUNCIL IN ACCORDANCE WITH SUBSECTION (B) OF**
 6 **THIS SECTION.**

7 **(B) STANDARDS; DELEGATION.**

8 **BY LOCAL LAW, THE COUNTY COUNCIL MAY:**

9 **(1) ADOPT STANDARDS TO ASSURE THAT A PRIVATE**
 10 **RIGHT-OF-WAY OR EASEMENT IS ADEQUATE TO PROVIDE ACCESS TO A LOT**
 11 **WHERE A BUILDING IS PROPOSED TO BE LOCATED; AND**

12 **(2) DELEGATE TO THE EXECUTIVE BRANCH OR COUNTY**
 13 **PLANNING BOARD THE AUTHORITY TO APPROVE A PRIVATE RIGHT-OF-WAY OR**
 14 **EASEMENT THAT IS ADEQUATE UNDER ITEM (1) OF THIS SUBSECTION.**

15 REVISOR'S NOTE: This section is new language derived without substantive
 16 change from former Art. 28, § 8-118.

17 In the introductory language to subsection (a) of this section, the former
 18 phrase "within the regional district" is deleted as unnecessary in light of
 19 § 20-501 of this subtitle.

20 In subsection (a)(1) of this section, the former phrase "on May 24, 1939" is
 21 deleted as obsolete.

22 In subsection (a)(2) of this section, the reference to a master plan of
 23 "transportation" is substituted for the former reference to a master plan
 24 of "highways" for consistency with § 23-103 of this article.

25 Defined terms: "Commission" § 14-101
 26 "County" § 14-101
 27 "County planning board" § 14-101
 28 "Local law" § 14-101
 29 "Road" § 14-101
 30 "Subdivision" § 14-101

31 **20-505. RESERVED.**

32 **20-506. RESERVED.**

1 **PART II. MONTGOMERY COUNTY.**

2 **20-507. SCOPE OF PART.**

3 **THIS PART APPLIES ONLY IN THE PORTION OF THE REGIONAL DISTRICT**
4 **LOCATED IN MONTGOMERY COUNTY.**

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from the second sentence of former Art. 28, § 8-114.

7 The reference to the part "apply[ing] only in the portion of the regional
8 district located in Montgomery County" is substituted for the former
9 reference to the section "not apply[ing] to that portion of the regional
10 district in Prince George's County" for clarity and consistency with other
11 similar provisions of this article.

12 Defined term: "Regional district" § 14-101

13 **20-508. BUILDING PERMITS — WASTE PLANS.**

14 **A PERMIT FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE MAY**
15 **BE ISSUED ONLY IF:**

16 **(1) ADEQUATE PLANS ARE MADE FOR THE DISPOSAL OF WASTE,**
17 **SEWERAGE, AND DRAINAGE FROM THE BUILDING OR STRUCTURE; AND**

18 **(2) THE PLANS ARE PRESENTED TO THE BUILDING INSPECTOR**
19 **THAT HAS JURISDICTION.**

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from the first sentence of former Art. 28, § 8-114.

22 In the introductory language to this section, the former reference to the
23 "erection" of a building is deleted as included in the reference to the
24 "construction" of a building.

25 Also in the introductory language to this section, the former reference to
26 a building or structure "of any kind" is deleted as unnecessary.

27 Also in the introductory language to this section, the former reference to
28 a building "in the regional district" is deleted in light of § 20-507 of this
29 subtitle, which establishes that this part only applies in the regional
30 district.

31 **20-509. MUNICIPAL BUILDING REQUIREMENTS; REGULATION OF SIGNS.**

1 **(A) IN GENERAL.**

2 **SUBJECT TO SUBSECTIONS (B), (C), AND (D) OF THIS SECTION, BY LOCAL**
3 **LAW, THE LEGISLATIVE BODY OF A MUNICIPAL CORPORATION OR GOVERNED**
4 **SPECIAL TAXING DISTRICT MAY IMPOSE AN ADDITIONAL OR STRICTER**
5 **BUILDING REQUIREMENT THAN IS REQUIRED BY A STATE, REGIONAL, OR**
6 **COUNTY UNIT THAT EXERCISES ZONING OR PLANNING AUTHORITY OVER THE**
7 **MUNICIPAL CORPORATION OR GOVERNED DISTRICT IF THE AUTHORITY IS**
8 **EXERCISED IN ADDITION TO THE STATE, REGIONAL, OR COUNTY ZONING OR**
9 **PLANNING AUTHORITY.**

10 **(B) PURPOSES; APPLICABILITY.**

11 **A BUILDING REQUIREMENT ADOPTED UNDER THIS SECTION:**

12 **(1) SHALL BE IMPOSED FOR:**

13 **(I) THE PROTECTION OF THE PUBLIC HEALTH, SAFETY,**
14 **AND WELFARE; OR**

15 **(II) THE PRESERVATION, IMPROVEMENT, OR PROTECTION**
16 **OF LANDS, WATER, AND IMPROVEMENTS IN THE MUNICIPAL CORPORATION OR**
17 **GOVERNED SPECIAL TAXING DISTRICT; AND**

18 **(2) MAY REGULATE ONLY THE CONSTRUCTION, REPAIR, OR**
19 **REMODELING OF SINGLE-FAMILY RESIDENTIAL HOUSES OR BUILDINGS ON**
20 **LAND ZONED FOR SINGLE-FAMILY RESIDENTIAL USE AS IT RELATES TO:**

21 **(I) FENCES, WALLS, HEDGES, AND SIMILAR BARRIERS;**

22 **(II) SIGNS;**

23 **(III) RESIDENTIAL PARKING;**

24 **(IV) RESIDENTIAL STORAGE;**

25 **(V) THE LOCATION OF STRUCTURES, INCLUDING SETBACK**
26 **REQUIREMENTS;**

27 **(VI) THE DIMENSIONS OF STRUCTURES, INCLUDING HEIGHT,**
28 **BULK, MASSING, AND DESIGN; AND**

1 **(VII) LOT COVERAGE, INCLUDING IMPERVIOUS SURFACES.**

2 **(C) PROCEDURES.**

3 **BEFORE ADOPTING A LOCAL LAW UNDER THIS SECTION, A MUNICIPAL**
4 **CORPORATION OR GOVERNED SPECIAL TAXING DISTRICT SHALL:**

5 **(1) HOLD A PUBLIC HEARING; AND**

6 **(2) AT LEAST 30 DAYS BEFORE THE PUBLIC HEARING, TRANSMIT**
7 **A COPY OF THE PROPOSED LOCAL LAW TO THE COUNTY COUNCIL.**

8 **(D) WAIVER.**

9 **A LOCAL LAW THAT A MUNICIPAL CORPORATION OR GOVERNED SPECIAL**
10 **TAXING DISTRICT ADOPTS UNDER THIS SECTION SHALL PROVIDE A PROCEDURE**
11 **FOR A WAIVER FROM THE STRICT APPLICATION OF THE BUILDING**
12 **REQUIREMENTS.**

13 **(E) REGULATION OF COMMERCIAL SIGNS.**

14 **BY LOCAL LAW, A MUNICIPAL CORPORATION OR GOVERNED SPECIAL**
15 **TAXING DISTRICT MAY ENACT AN ADDITIONAL OR STRICTER COMMERCIAL SIGN**
16 **REGULATION THAN IS IMPOSED BY THE STATE, THE COMMISSION, OR THE**
17 **COUNTY.**

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 28, §§ 8–115.1 and 8–115.2(b).

20 In subsections (a) and (e) of this section, the former references to a
21 building requirement “otherwise” required are deleted as unnecessary.

22 In subsection (a) of this section, the former phrase “[n]otwithstanding
23 any other law or section of this article to the contrary” is deleted as
24 unnecessary. Similarly, in subsection (e) of this section, the former
25 phrase “[n]otwithstanding any other law” is deleted.

26 Also in subsection (a) of this section, the former reference to authority
27 being exercised in addition to “but not in lieu of” State, regional, or
28 county authority is deleted as unnecessary.

29 In subsection (b)(2) of this section, the former reference to the “erection”
30 of a house or building is deleted as included in the reference to the
31 “construction” of a house or building.

1 Also in subsection (b)(2) of this section, the former reference to “other
2 structures” is deleted as included in the reference to “buildings”.

3 In subsection (d) of this section, the reference to a local law “adopt[ed]
4 under this section” is substituted for the former reference to an ordinance
5 or regulation “authorized by this section and enacted” for consistency
6 with other similar provisions of the Code.

7 Former Art. 28, § 8–115.2(a), which limited the scope of that provision to
8 municipal corporations in Montgomery County, is deleted as implicit in
9 the organization of this part.

10 Defined terms: “Commission” § 14–101
11 “Governed special taxing district” § 14–101
12 “Local law” § 14–101
13 “State” § 14–101

14 **20–510. RESERVED.**

15 **20–511. RESERVED.**

16 **PART III. PRINCE GEORGE’S COUNTY.**

17 **20–512. SCOPE OF PART.**

18 **THIS PART APPLIES ONLY IN THE PORTION OF THE REGIONAL DISTRICT**
19 **IN PRINCE GEORGE’S COUNTY.**

20 REVISOR’S NOTE: This section is new language derived without substantive
21 change from former Art. 28, § 8–119(c)(1) and, as it related to the
22 jurisdiction to which it applied, § 8–119.1.

23 Defined term: “Regional district” § 14–101

24 **20–513. BUILDING PERMITS.**

25 **(A) PERMITS; REGULATIONS.**

26 **(1) (I) THE COUNTY COUNCIL MAY PROVIDE FOR THE**
27 **ISSUANCE OF PERMITS FOR THE CONSTRUCTION, REPAIR, OR REMODELING OF**
28 **BUILDINGS.**

29 **(II) A PERSON MAY NOT CONSTRUCT, REPAIR, OR REMODEL**
30 **A BUILDING WITHOUT OBTAINING A PERMIT AND PAYING A FEE ESTABLISHED**
31 **BY THE COUNTY COUNCIL.**

1 **(2) THE COUNTY COUNCIL SHALL:**

2 **(I) REGULATE UNIFORMLY THE CONSTRUCTION,**
3 **IMPROVEMENT, AND DEMOLITION OF BUILDINGS;**

4 **(II) REGULATE THE SIZE OF BRICKS AND THICKNESS OF**
5 **WALLS THAT ARE USED IN HOUSES TO BE BUILT;**

6 **(III) PROVIDE FOR THE ENTRY INTO AND EXAMINATION OF**
7 **ALL BUILDINGS, LOTS, YARDS, ENCLOSURES, BOATS, AND VEHICLES IN ORDER**
8 **TO DETERMINE THEIR CONDITION FOR HEALTH, CLEANLINESS, AND SAFETY;**

9 **(IV) 1. PROVIDE FOR THE TAKING DOWN AND REMOVAL**
10 **OF BUILDINGS, WALLS, STRUCTURES, OR SUPERSTRUCTURES THAT ARE OR MAY**
11 **BECOME DANGEROUS; OR**

12 **2. REQUIRE OWNERS TO MOVE THE BUILDINGS,**
13 **WALLS, STRUCTURES, OR SUPERSTRUCTURES OR PUT THEM IN A SAFE AND**
14 **SOUND CONDITION AT THEIR OWN EXPENSE;**

15 **(V) REGULATE THE BUILDING AND MAINTENANCE OF PARTY**
16 **WALLS, PARTITIONS, FENCES, PARAPET WALLS, FIRE WALLS, SMOKE FLUES,**
17 **FIREPLACES, HOT-AIR FLUES, BOILERS, KETTLES, SMOKESTACKS, AND STOVE**
18 **PIPES;**

19 **(VI) REGULATE THE STORAGE OF GASOLINE AND OTHER**
20 **COMBUSTIBLES OR EXPLOSIVES IN ANY STRUCTURE LISTED IN ITEM (V) OF THIS**
21 **PARAGRAPH;**

22 **(VII) REGULATE THE SAFE CONSTRUCTION, INSPECTION, AND**
23 **REPAIR OF PRIVATE AND PUBLIC BUILDINGS;**

24 **(VIII) REGULATE, LIMIT, OR PROHIBIT THE CONSTRUCTION**
25 **OF WOODEN OR FRAME BUILDINGS AND REMOVE THE BUILDINGS AT THE**
26 **OWNER'S EXPENSE, WHEN CONSTRUCTED OR NOT REMOVED;**

27 **(IX) REGULATE THE HEIGHT, CONSTRUCTION, AND**
28 **INSPECTION OF NEW BUILDINGS;**

29 **(X) REGULATE THE LIMITS IN WHICH STEPS, PORTICOES,**
30 **BAY WINDOWS, OR OTHER STRUCTURAL ORNAMENTS MAY BE ADDED TO HOUSES**
31 **FRONTING ON A HIGHWAY, STREET, AVENUE, LANE, OR ALLEY;**

1 **(XI) REGULATE THE MATERIALS USED AND THE MANNER OF**
2 **INSTALLING ELECTRIC WIRING OR PIPING OR LAYING CONDUIT IN ANY**
3 **BUILDING;**

4 **(XII) REGULATE THE LOCATION, MANNER OF INSTALLATION,**
5 **SIZE, AND AREA PER LOT OF ALL ADVERTISING STRUCTURES AND RESTRICT THE**
6 **PROJECTION OF ADVERTISING STRUCTURES OVER PUBLIC PROPERTY;**

7 **(XIII) ADOPT AND ENFORCE ALL NECESSARY RULES OR**
8 **REGULATIONS OVER PUBLIC PROPERTY; AND**

9 **(XIV) IMPOSE FINES AND PENALTIES FOR VIOLATIONS OF**
10 **RULES OR REGULATIONS ADOPTED UNDER THIS PARAGRAPH.**

11 **(B) ADOPTION OF LOCAL LAW; NOTICE.**

12 **(1) A LOCAL LAW IS NOT VALID OR EFFECTIVE UNTIL IT IS**
13 **ADOPTED BY THE COUNTY COUNCIL AT A REGULAR MEETING AND RECORDED**
14 **IN THE RECORDS OF THE COUNTY COUNCIL.**

15 **(2) BEFORE ADOPTING ANY LOCAL LAW UNDER THIS SECTION,**
16 **THE COUNTY COUNCIL SHALL PUBLISH NOTICE OF THE DATE, PLACE, AND**
17 **TIME, IN A NEWSPAPER OF GENERAL CIRCULATION IN THE PART OF THE**
18 **REGIONAL DISTRICT AFFECTED BY THE LOCAL LAW, OF THE MEETING OF THE**
19 **COUNTY COUNCIL AT WHICH THE LOCAL LAW IS TO BE PRESENTED FOR**
20 **ADOPTION.**

21 **(3) THE NOTICE SHALL:**

22 **(i) STATE THAT THE MEETING WILL INCLUDE A HEARING**
23 **ON THE PROPOSED LOCAL LAW AT WHICH ALL PERSONS WILL BE GIVEN AN**
24 **OPPORTUNITY TO EXPRESS THE PERSON'S VIEWS ON THE PROPOSED LOCAL**
25 **LAW;**

26 **(ii) 1. BRIEFLY INDICATE THE NATURE OF THE LOCAL**
27 **LAW TO BE ADOPTED, AMENDED, OR REPEALED; OR**

28 **2. IF A COMPLETE AND COMPREHENSIVE BUILDING**
29 **CODE IS TO BE CONSIDERED FOR ADOPTION, PROVIDE A STATEMENT TO THAT**
30 **EFFECT; AND**

1 (III) BE PUBLISHED AT LEAST ONCE EACH WEEK FOR 2
2 CONSECUTIVE WEEKS BEFORE THE DATE OF THE MEETING, BUT THE COUNTY
3 COUNCIL MAY PROVIDE FOR MORE EXTENSIVE NOTIFICATION.

4 (C) RECORDATION AND PRINTED COPIES OF LOCAL LAWS.

5 (1) (I) AFTER LOCAL LAWS ARE ADOPTED, THE COUNTY
6 COUNCIL SHALL RECORD THE LOCAL LAWS IN A BOOK KEPT FOR THAT PURPOSE
7 IN THE OFFICE OF THE COUNTY COUNCIL.

8 (II) WHEN THE LOCAL LAWS ARE RECORDED UNDER THIS
9 PARAGRAPH, ALL PERSONS ARE DEEMED TO HAVE NOTICE OF THE LOCAL LAWS
10 AND NO ACTUAL NOTICE NEED BE PROVEN.

11 (2) (I) THE COUNTY COUNCIL SHALL PRINT A SUFFICIENT
12 NUMBER OF COPIES OF THE ADOPTED AND RECORDED LOCAL LAWS FOR
13 GENERAL DISTRIBUTION.

14 (II) IF IT IS NECESSARY TO PROVE THE EXISTENCE OF THE
15 LOCAL LAWS IN ANY JUDICIAL PROCEEDING, A PRINTED COPY IS PRIMA FACIE
16 EVIDENCE OF THE EXISTENCE.

17 (D) AMENDMENT OF REGULATIONS.

18 (1) THE COUNTY COUNCIL MAY WHOLLY OR PARTLY AMEND ANY
19 LOCAL LAW ADOPTED UNDER THIS SECTION.

20 (2) AMENDMENTS ARE VALID AND EFFECTIVE WHEN RECORDED
21 AS PROVIDED IN SUBSECTION (C) OF THIS SECTION.

22 (E) EXEMPTIONS.

23 THE COUNTY COUNCIL MAY EXEMPT A MUNICIPAL CORPORATION OR
24 SPECIAL TAXING DISTRICT IN THE REGIONAL DISTRICT FROM LOCAL LAWS
25 ADOPTED UNDER THIS SECTION IF THE COUNTY COUNCIL DETERMINES THAT
26 THE BUILDING REGULATIONS AND ENFORCEMENT IN THE MUNICIPAL
27 CORPORATION OR SPECIAL TAXING DISTRICT ARE AS ADEQUATE AND EQUALLY
28 EFFECTIVE AS THE LOCAL LAWS ADOPTED BY THE COUNTY COUNCIL.

29 (F) REMEDIES.

30 (1) THE COUNTY COUNCIL, IN ADDITION TO THE REMEDIES
31 PROVIDED FOR BY THIS SUBTITLE AND TITLE 27 OF THIS ARTICLE, MAY

1 PROVIDE FOR THE ENFORCEMENT OF THE LOCAL LAWS ADOPTED UNDER THIS
2 SECTION BY APPLYING TO THE CIRCUIT COURT FOR PRINCE GEORGE'S
3 COUNTY FOR AN INJUNCTION.

4 (2) A VIOLATION OF THE LOCAL LAWS IS SUFFICIENT CAUSE IN
5 ITSELF FOR THE ISSUANCE OF AN INJUNCTION WHEN APPLIED FOR, AND NO
6 FURTHER CAUSE NEED BE ALLEGED OR SHOWN.

7 (G) ENFORCEMENT.

8 (1) A BUILDING CODE ADOPTED UNDER THIS SECTION SHALL BE
9 ENFORCED BY THE OFFICERS DESIGNATED IN THE COUNTY CHARTER OR
10 COUNTY CODE.

11 (2) ALL FEES AND PENALTIES ARE GOVERNED BY THE LAW
12 APPLICABLE TO A CHARTER COUNTY.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 28, §§ 8-116 and 8-115(a), (b), (d) through (g),
15 and the first and second sentences of (c).

16 Throughout this section, the references to the "County Council" are
17 substituted for the former obsolete references to the "County
18 Commissioners" and the "board" for accuracy.

19 Also throughout this section, the defined term "local law" is substituted
20 for the former references to "rules and regulations" for clarity and
21 consistency within this division.

22 In subsections (a), (c)(1), (d), and (g) of this section, the former references
23 to "within the regional district", "that portion of the regional district", "in
24 the regional district in Prince George's County", "within the limits of that
25 portion of the regional district", "within that portion of the regional
26 district in Prince George's County", "in that portion of the regional
27 district within Prince George's County", and in "thickly populated
28 portion[s]" of the regional district are deleted in light of the scope
29 provision for this part, which establishes that the part applies only in the
30 regional district.

31 In subsection (a) of this section, the references to "erect[ion]" are deleted
32 as included in the comprehensive references to "construct[ion]".

33 In subsection (a)(1)(i) of this section, the former references to "houses"
34 and "other structures" are deleted as included in the references to
35 "buildings" for consistency with other similar provisions of this subtitle.

1 In subsection (a)(1)(ii) of this section, the reference to a “building” is
2 substituted for the former reference to “structures” for consistency with
3 other similar provisions of this subtitle.

4 Also in subsection (a)(1)(ii) of this section, the former reference to a fee
5 established “in accordance with the authority hereinafter set forth” is
6 deleted as unnecessary.

7 In subsection (a)(2)(i) of this section, the former reference to “rules and
8 regulations, which shall be uniform throughout that portion of the
9 regional district in Prince George’s County” is deleted as unnecessary.

10 Also in subsection (a)(2)(i) of this section, the former reference to “all
11 types” of buildings is deleted as unnecessary.

12 Also in subsection (a)(2)(i) of this section, the former reference to
13 constructing, improving, and demolishing buildings “as it deems
14 necessary” is deleted as unnecessary.

15 In subsection (a)(2)(ii) of this section, the former reference to
16 “establish[ing]” the size of bricks is deleted as implicit in the requirement
17 to “regulate” the size of bricks.

18 In subsection (a)(2)(iii) of this section, the former reference to vehicles “of
19 every description” is deleted as unnecessary.

20 In subsection (a)(2)(vii) of this section, the former reference to
21 “provid[ing] for” the safe construction, inspection, and repair of buildings
22 is deleted as included in the reference to “regulat[ing]” the safe
23 construction, inspection, and repair of buildings.

24 Also in subsection (a)(2)(viii) of this section, the former reference to
25 buildings constructed or not removed “contrary to law or regulations it
26 adopts” is deleted as implicit in the ability to regulate construction or
27 removal.

28 In subsection (a)(2)(ix) of this section, the former reference to new
29 buildings “hereafter erected” is deleted as unnecessary.

30 In subsection (a)(2)(xi) of this section, the former reference to “systems” of
31 electrical wiring is deleted as unnecessary.

32 In subsection (a)(2)(xiii) of this section, the former reference to
33 “[g]enerally” adopting and enforcing rules and regulations is deleted as
34 unnecessary.

1 In subsection (a)(2)(xiv) of this section, the reference to violations of
2 “rules or regulations adopted under this paragraph” is substituted for the
3 former reference to violations “thereof” for clarity.

4 In subsection (b)(1) of this section, the reference to recording a local law
5 “in the records of the County Council” is substituted for the former
6 reference to recording rules and regulations “in a book kept at its office
7 for the purpose” for clarity.

8 Also in subsection (b)(1) of this section, the former reference to rules
9 “formally” adopted is deleted as unnecessary.

10 In subsection (b)(2) of this section, the former reference to the County
11 Council “caus[ing]” rules and regulations to be published is deleted as
12 unnecessary.

13 Also in subsection (b)(2) of this section, the former reference to publishing
14 notice in “one or more” newspapers is deleted as implicit in the authority
15 of the County Council to publish notice in newspapers.

16 In subsection (b)(3)(i) of this section, the reference to expressing the
17 person’s views “on the proposed rules and regulations” is substituted for
18 the former reference to expressing views “with respect thereto” for clarity.

19 Also in subsection (b)(3)(i) of this section, the former reference to persons
20 “having an interest therein” being allowed to express their views is
21 deleted as potentially misleading as it implies that only a person having a
22 legal interest in the proceedings can speak instead of anyone who has a
23 general interest.

24 In subsection (b)(3)(ii)2 of this section, the former reference to a
25 statement that a building code is to be adopted being “sufficient” is
26 deleted as unnecessary.

27 In subsection (c)(1)(i) of this section, the former reference to the County
28 Council of Prince George’s County “caus[ing]” the local laws to be
29 recorded is deleted as unnecessary. Similarly, in subsection (c)(2)(ii) of
30 this section, the former reference to the County Council “caus[ing]” copies
31 to be printed is deleted.

32 Also in subsection (c)(1)(i) of this section, the former reference to
33 recording the local laws “adopted by it” is deleted as implicit in the
34 reference to “[a]fter local laws are adopted”.

35 Also in subsection (c)(1)(i) of this section, the former reference to “books”
36 is deleted in light of the reference to “book” and Art. 1, § 8, which
37 provides that the singular generally includes the plural.

1 In subsection (c)(1)(ii) of this section, the former reference to persons
2 “taken” to have notice is deleted as included in the reference to persons
3 “deemed” to have notice.

4 In subsection (d) of this section, the former references to a “change” to
5 rules or regulations are deleted as included in the references to
6 “amend[ing]” local law.

7 In subsection (d)(1) of this section, the former reference to amending
8 regulations “from time to time, as necessary” is deleted as unnecessary.

9 In subsection (e) of this section, the reference to “local laws adopted under
10 this section” is substituted for the former reference to “the provisions
11 hereof” for clarity.

12 Also in subsection (e) of this section, the reference to local laws “in the
13 municipal corporation or special taxing district” is substituted for the
14 former reference to regulations “thereof” for clarity.

15 Also in subsection (e) of this section, the former reference to regulations
16 adopted by the County Council “under the provisions hereof” is deleted as
17 unnecessary.

18 In subsection (f)(1) of this section, the reference to “local laws adopted
19 under this section” is substituted for the former reference to “regulations
20 and provisions hereof” for clarity.

21 Also in subsection (f)(1) of this section, the former reference to
22 “prevent[ing] infractions thereof” is deleted as included in the reference to
23 “enforc[ing] the local laws”.

24 Also in subsection (f)(1) of this section, the former reference to applying
25 “in equity” for an injunction is deleted in light of the merger of law and
26 equity.

27 In subsection (f)(2) of this section, the former reference to a “breach” of a
28 rule or regulation is deleted as included in the reference to a “violation”.

29 Also in subsection (f)(2) of this section, the reference to the “local laws” is
30 substituted for the former reference to “thereof or of any regulations” for
31 clarity.

32 In subsection (g) of this section, the former reference to the “electrical
33 code” is deleted in light of the fact that there are no provisions in this
34 section or any of the provisions of former Art. 28, Title 8 that govern an
35 electrical code.

1 The Land Use Article Review Committee notes, for consideration by the
 2 General Assembly, that in subsection (a)(2)(iii) of this section, the nexus
 3 between the issuance of building permits and the right to enter and
 4 inspect boats and vehicles may be tenuous, and may in part be preempted
 5 by federal and State manufacturing and licensing laws.

6 Former Art. 28, § 8–115(h), which provided for the continuity of the
 7 building code in the Prince George’s County portion of the regional
 8 district, is deleted as redundant of § 20–512 of this subtitle.

9 The third sentence of former Art. 28, § 8–115(c), which provided for the
 10 continuity of certain rules and regulations in force in Prince George’s
 11 County before May 7, 1943, is not retained in the Code because it is
 12 apparently obsolete. It is transferred to the Session Laws to avoid any
 13 inadvertent substantive effect its repeal might have. *See* § 12 of Ch. __,
 14 Acts of 2012; *see also* Ch. 714, Acts of 1939 and § 2HH of Ch. 992, Acts of
 15 1943.

16 Defined terms: “County” § 14–101

17 “Local law” § 14–101

18 “Person” § 14–101

19 “Regional district” § 14–101

20 **20–514. COUNTY BOARD OF EDUCATION — COMPLIANCE.**

21 **(A) COMPLIANCE WITH BUILDING REGULATIONS.**

22 **THE COUNTY BOARD OF EDUCATION SHALL COMPLY WITH ALL BUILDING**
 23 **REGULATIONS THE COUNTY COUNCIL ADOPTS FOR THE REGIONAL DISTRICT.**

24 **(B) FIRE ESCAPES REQUIRED.**

25 **THE COUNTY BOARD OF EDUCATION SHALL PROVIDE:**

26 **(1) FIRE ESCAPES FOR ALL SCHOOL BUILDINGS IN USE BEFORE**
 27 **MAY 7, 1943, IF THE BUILDINGS ARE MORE THAN ONE STORY IN HEIGHT; AND**

28 **(2) FIRE ESCAPES FOR ALL BUILDINGS CONSTRUCTED ON OR**
 29 **AFTER MAY 7, 1943.**

30 **(C) ENFORCEMENT; OFFSET.**

31 **IF THE COUNTY BOARD OF EDUCATION DOES NOT COMPLY WITH THIS**
 32 **TITLE, THE COUNTY COUNCIL MAY CONTRACT FOR THE PERFORMANCE OF THE**

1 WORK AND DEDUCT COSTS INCURRED FOR THE WORK FROM THE AMOUNT
2 ALLOCATED FOR THE SUPPORT OF SCHOOLS IN THE COUNTY.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 28, § 8–117.

5 In subsections (a) and (c) of this section, the references to the “County
6 Council” are substituted for the former obsolete references to the “County
7 Commissioners” for accuracy.

8 In subsection (a) of this section, the former reference to “that portion” of
9 the regional district “within Prince George’s County” is deleted in light of
10 the scope provision of this part.

11 In subsection (b) of this section, the references to “May 7, 1943” are
12 substituted for the former references to buildings “in use” and “now in
13 course of” construction “or hereafter” erected for accuracy. *See* § 2JJ of
14 Ch. 992, Acts of 1943.

15 Also in subsection (b) of this section, the former references to “suitable”
16 fire escapes are deleted as implicit in a requirement to provide fire
17 escapes.

18 In subsection (c) of this section, the reference to costs “incurred for the
19 work” is substituted for the former reference to costs “thereof” for clarity.

20 Also in subsection (c) of this section, the reference to costs “allocated” is
21 substituted for the former reference to costs “levied” for consistency with
22 other similar provisions of the Code.

23 The Land Use Article Review Committee notes, for consideration by the
24 General Assembly, that the specific construction standards for fire
25 escapes under subsection (b) of this section may conflict with current
26 provisions of the Life Safety Code and are likely obsolete.

27 Defined term: “Regional district” § 14–101

28 **20–515. GRADING PERMITS.**

29 **THE COUNTY OR A UNIT OF THE COUNTY RESPONSIBLE FOR ISSUING**
30 **GRADING PERMITS SHALL PLACE CONDITIONS ON A GRADING PERMIT ISSUED**
31 **UNDER SUBTITLE 4, DIVISION 3 OF THE PRINCE GEORGE’S COUNTY CODE**
32 **(2007 EDITION) IF:**

33 **(1) THE PERMIT INVOLVES AT LEAST 10 ACRES OF LAND IN THE**
34 **COUNTY PORTION OF THE REGIONAL DISTRICT; AND**

1 **(2) THE COUNTY OR THE UNIT FINDS THERE IS OR WOULD BE AN**
 2 **ADVERSE EFFECT, AS A RESULT OF NOISE OR TRAFFIC, ON THE SAFETY,**
 3 **HEALTH, OR WELFARE OF THE RESIDENTS IN THE IMMEDIATE AREA OF THE**
 4 **LAND THAT IS THE SUBJECT OF THE GRADING PERMIT.**

5 REVISOR'S NOTE: This section is new language derived without substantive
 6 change from former Art. 28, § 8–119.1.

7 The references to a “unit” of the county are substituted for the former
 8 references to a “department” of the county for consistency with other
 9 similar provisions of the Code.

10 In the introductory language to this section, the former reference to
 11 grading permits “to be issued” is deleted as included in the reference to
 12 permits “issued”.

13 Defined term: “Regional district” § 14–101

14 **20–516. NOTICE OF ENTERTAINMENT PERMIT.**

15 **WHEN AN ADMINISTRATIVE OFFICIAL ISSUES A USE AND OCCUPANCY**
 16 **PERMIT THAT UNDER THE APPLICABLE COUNTY ZONING LAW ALLOWS**
 17 **ENTERTAINMENT TO BE HELD FOR AN ASSOCIATION, A CLUB, A SOCIETY, OR**
 18 **ANOTHER ORGANIZATION OR THE PUBLIC, THE OFFICIAL PROMPTLY SHALL**
 19 **TRANSMIT A COPY OF THE PERMIT OR GIVE OTHER NOTICE OF THE ISSUANCE OF**
 20 **THE PERMIT TO:**

21 **(1) THE BOARD OF LICENSE COMMISSIONERS;**

22 **(2) THE CHIEF OF POLICE;**

23 **(3) THE FIRE CHIEF;**

24 **(4) THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL**
 25 **RESOURCES; AND**

26 **(5) IF APPLICABLE, THE MUNICIPAL CORPORATION IN WHICH THE**
 27 **ENTERTAINMENT IS TO BE HELD.**

28 REVISOR'S NOTE: This section formerly was Art. 28, § 8–119(c)(2).

29 The only changes are in style.

30 Defined terms: “County” § 14–101

1 “Zoning law” § 14–101

2 **20–517. RESERVED.**

3 **20–518. RESERVED.**

4 **PART IV. EXPEDITED BUILDING PERMITS IN PRINCE GEORGE’S COUNTY.**

5 **20–519. DEFINITIONS.**

6 **(A) IN GENERAL.**

7 **IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

8 REVISOR’S NOTE: This subsection formerly was Art. 28, § 8–128(a)(1).

9 The only change is in style.

10 **(B) COUNTY UNIT.**

11 **“COUNTY UNIT” INCLUDES:**

12 **(1) THE COMMISSION;**

13 **(2) THE COUNTY DEPARTMENT OF ENVIRONMENTAL**
14 **RESOURCES;**

15 **(3) THE COUNTY DEPARTMENT OF PUBLIC WORKS AND**
16 **TRANSPORTATION;**

17 **(4) THE COUNTY FIRE/EMS DEPARTMENT;**

18 **(5) THE COUNTY HEALTH DEPARTMENT; AND**

19 **(6) THE WASHINGTON SUBURBAN SANITARY COMMISSION.**

20 REVISOR’S NOTE: This subsection formerly was Art. 28, § 8–128(a)(3).

21 The only changes are in style.

22 Defined term: “County” § 14–101

23 **(C) DEVELOPMENT.**

24 **“DEVELOPMENT” HAS THE MEANING STATED IN § 1–101 OF THIS ARTICLE.**

1 REVISOR'S NOTE: This subsection formerly was Art. 28, § 8–128(a)(4).

2 The only changes are in style.

3 **(D) DEVELOPMENT PERMIT.**

4 **“DEVELOPMENT PERMIT” MEANS A BUILDING PERMIT OR OTHER PERMIT**
5 **ISSUED IN WRITING, AS REQUIRED BY LOCAL LAW, TO AUTHORIZE THE START OF**
6 **CONSTRUCTION ACTIVITIES TO CONSTRUCT, ALTER, DEMOLISH, OR RELOCATE**
7 **AN EXISTING STRUCTURE.**

8 REVISOR'S NOTE: This subsection is new language derived without
9 substantive change from former Art. 28, § 8–128(a)(5).

10 The comprehensive reference to “construct[ion]” is substituted for the
11 former references to “enlargement, conversion, reconstruction,
12 remodeling, rehabilitation, [and] erection” for clarity and brevity.

13 Defined terms: “Development” § 20–519

14 “Local law” § 14–101

15 **(E) QUALIFYING REDEVELOPMENT PROJECT.**

16 **“QUALIFYING REDEVELOPMENT PROJECT” MEANS A DEVELOPMENT**
17 **PROJECT TO REHABILITATE DILAPIDATED REAL PROPERTY THROUGH**
18 **DEMOLITION, RECONSTRUCTION, OR REUSE THAT QUALIFIES FOR EXPEDITED**
19 **DEVELOPMENT PERMIT REVIEW UNDER THIS PART.**

20 REVISOR'S NOTE: This subsection formerly was Art. 28, § 8–128(a)(6).

21 The only changes are in style.

22 Defined terms: “Development” § 20–519

23 “Development permit” § 20–519

24 REVISOR'S NOTE TO SECTION

25 Former Art. 28, § 8–128(a)(2), which defined “county” to mean Prince
26 George's County, is deleted as unnecessary in light of § 20–520 of this
27 subtitle, which limits the scope of this part to Prince George's County.

28 **20–520. SCOPE OF PART.**

29 **THIS PART APPLIES ONLY IN PRINCE GEORGE'S COUNTY.**

1 REVISOR'S NOTE: This section formerly was Art. 28, § 8–128(b).

2 The only change is in style.

3 **20–521. PURPOSE OF PART.**

4 **THE PURPOSE OF THIS PART IS TO ENCOURAGE ENVIRONMENTALLY**
5 **RESPONSIBLE URBAN RENEWAL AND REVITALIZATION THROUGH EXPEDITED**
6 **REVIEW OF DEVELOPMENT PERMITS REQUIRED FOR QUALIFYING**
7 **REDEVELOPMENT PROJECTS.**

8 REVISOR'S NOTE: This section formerly was Art. 28, § 8–128(c).

9 The only change is in style.

10 Defined terms: "Development permit" § 20–519

11 "Qualifying redevelopment project" § 20–519

12 **20–522. PROCEDURE.**

13 **(A) IN GENERAL.**

14 **EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS SECTION,**
15 **WITHIN 90 DAYS AFTER RECEIVING AN APPLICATION FOR A DEVELOPMENT**
16 **PERMIT FOR A QUALIFYING REDEVELOPMENT PROJECT, THE COUNTY SHALL:**

17 **(1) APPROVE OR DISAPPROVE THE APPLICATION; AND**

18 **(2) NOTIFY THE APPLICANT OF THE APPROVAL OR DISAPPROVAL**
19 **IN WRITING.**

20 **(B) EXTENSION OF REVIEW.**

21 **THE COUNTY SHALL HAVE AN ADDITIONAL 60 DAYS TO COMPLY WITH**
22 **SUBSECTION (A) OF THIS SECTION IF:**

23 **(1) (I) A COUNTY UNIT INVOLVED IN THE REVIEW OF THE**
24 **APPLICATION DETERMINES THAT THE EXTENSION IS NECESSARY TO COMPLETE**
25 **THE REVIEW BASED ON:**

26 **1. THE NATURE OR COMPLEXITY OF THE**
27 **APPLICATION; OR**

1 (II) IMPROVE EFFICIENCY IN THE USE OF WATER; OR

2 (III) MAKE MORE EFFICIENT USE OF THE WATER TREATMENT
3 INFRASTRUCTURE;

4 (2) ENERGY EFFICIENCY BY USING PRACTICES, TECHNIQUES, AND
5 TECHNOLOGIES THAT REDUCE AND MINIMIZE THE CONSUMPTION, LOSS, OR
6 WASTE OF ENERGY; AND

7 (3) THE USE OF RECYCLED OR RECYCLABLE BUILDING
8 MATERIALS.

9 REVISOR'S NOTE: This section formerly was Art. 28, § 8–128(e).

10 No changes are made.

11 Defined term: “Qualifying redevelopment project” § 20–519

12 **20–524. RESERVED.**

13 **20–525. RESERVED.**

14 **PART V. ENFORCEMENT.**

15 **20–526. CRIMINAL AND CIVIL ENFORCEMENT.**

16 **(A) CRIME — MONTGOMERY COUNTY.**

17 **(1) IN MONTGOMERY COUNTY, IT IS A MISDEMEANOR TO:**

18 **(i) CONSTRUCT, ALTER STRUCTURALLY, OR USE ANY**
19 **BUILDING, STRUCTURE, OR LAND IN VIOLATION OF THIS TITLE, A LOCAL LAW**
20 **ADOPTED UNDER THIS TITLE, OR A DECISION MADE UNDER THIS TITLE; OR**

21 **(ii) WILLFULLY ISSUE A BUILDING, USE, OR OCCUPANCY**
22 **PERMIT IN VIOLATION OF THIS TITLE, A LOCAL LAW ADOPTED UNDER THIS**
23 **TITLE, OR A DECISION MADE UNDER THIS TITLE.**

24 **(2) THE COUNTY COUNCIL OF MONTGOMERY COUNTY OR THE**
25 **PROSECUTING OFFICIAL OF THE COUNTY MAY PROSECUTE ANY VIOLATION**
26 **UNDER THIS SUBSECTION.**

27 **(B) CRIME — PRINCE GEORGE'S COUNTY.**

1 **(1) IN PRINCE GEORGE’S COUNTY, IT IS A MISDEMEANOR TO:**

2 **(I) CONSTRUCT, ALTER STRUCTURALLY, OR USE ANY**
3 **BUILDING OR OTHER STRUCTURE IN VIOLATION OF THE BUILDING CODE OF**
4 **PRINCE GEORGE’S COUNTY;**

5 **(II) USE LAND IN VIOLATION OF THIS TITLE, A LOCAL LAW**
6 **ADOPTED UNDER THIS TITLE, A DECISION MADE UNDER THIS TITLE, OR A**
7 **ZONING TEXT AMENDMENT ADOPTED UNDER THIS TITLE; OR**

8 **(III) WILLFULLY ISSUE ANY PERMIT, INCLUDING A BUILDING,**
9 **USE, OR OCCUPANCY PERMIT, IN VIOLATION OF THE BUILDING CODE OF PRINCE**
10 **GEORGE’S COUNTY, THIS TITLE, A LOCAL LAW ADOPTED UNDER THIS TITLE, A**
11 **DECISION MADE UNDER THIS TITLE, OR A ZONING TEXT AMENDMENT ADOPTED**
12 **UNDER THIS TITLE.**

13 **(2) THE COUNTY ATTORNEY OR THE STATE’S ATTORNEY MAY**
14 **PROSECUTE ANY VIOLATION UNDER THIS SUBSECTION.**

15 **(C) CIVIL FINES AND PENALTIES; ENFORCEMENT; PROSECUTION OF**
16 **VIOLATIONS.**

17 **(1) IN ADDITION TO ALL OTHER REMEDIES PROVIDED BY LAW,**
18 **THE GOVERNING BODY OF MONTGOMERY COUNTY OR PRINCE GEORGE’S**
19 **COUNTY MAY PROVIDE BY LOCAL LAW FOR THE IMPOSITION OF CIVIL**
20 **MONETARY FINES OR PENALTIES FOR A VIOLATION OF:**

21 **(I) THIS TITLE;**

22 **(II) A LOCAL LAW ADOPTED UNDER THIS TITLE;**

23 **(III) A DECISION MADE UNDER THIS TITLE; OR**

24 **(IV) A ZONING TEXT AMENDMENT ADOPTED UNDER THIS**
25 **TITLE.**

26 **(2) THE GOVERNING BODY MAY PROVIDE FOR THE**
27 **ENFORCEMENT OF THE LOCAL LAW:**

28 **(I) AS PROVIDED IN TITLE 11, SUBTITLE 2 OF THIS**
29 **ARTICLE, AND NOT SUBJECT TO AN APPEAL TO THE BOARD OF APPEALS; OR**

1 **(II) BY A HEARING BY AN OFFICIAL OR UNIT OF THE**
2 **COUNTY, SUBJECT TO AN APPEAL FROM THE HEARING TO THE BOARD OF**
3 **APPEALS.**

4 **(3) THE GOVERNING BODY MAY PROVIDE FOR THE COUNTY**
5 **ATTORNEY TO PROSECUTE VIOLATIONS FOR WHICH CIVIL MONETARY FINES OR**
6 **PENALTIES ARE IMPOSED.**

7 **(D) OTHER RELIEF.**

8 **(1) IN ADDITION TO ALL OTHER REMEDIES PROVIDED BY LAW,**
9 **THE GOVERNING BODY OF MONTGOMERY COUNTY OR PRINCE GEORGE'S**
10 **COUNTY, PUBLIC OFFICIALS OF ANY MUNICIPAL CORPORATION OR POLITICAL**
11 **SUBDIVISION IN THE REGIONAL DISTRICT, OR ANY NEIGHBORING PROPERTY**
12 **OWNER OR OCCUPANT MAY INSTITUTE A CIVIL ACTION TO PREVENT UNLAWFUL**
13 **CONSTRUCTION, ALTERATION, OR USE OF A BUILDING OR LAND.**

14 **(2) IN AN ACTION UNDER PARAGRAPH (1) OF THIS SUBSECTION,**
15 **ANY COURT OF COMPETENT JURISDICTION HAS JURISDICTION TO ISSUE**
16 **RESTRAINING ORDERS, TEMPORARY OR PERMANENT INJUNCTIONS,**
17 **MANDAMUS, OR OTHER APPROPRIATE FORMS OF REMEDY OR RELIEF.**

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 28, § 8–120.

20 In subsections (a)(1)(i), (b)(1)(i), and (d)(1) of this section, the former
21 references to “erection” of a building are deleted as included in the
22 references to “construct[ion]” of a building. Similarly, the former
23 references to “reconstruction” of a building are deleted.

24 In subsections (a)(1)(i) and (b)(1)(ii) of this section, the former references
25 to “premises” are deleted as included in the references to “land”.

26 In subsections (a)(2) and (b)(2) of this section, the references to any
27 violation “under this subsection” are added for clarity.

28 In subsection (b)(1) of this section, the former reference to the building
29 code of Prince George's County “as authorized by this article or by Article
30 25A of the Code” is deleted as unnecessary.

31 In subsection (b)(2) of this section, the reference to the county “attorney”
32 is added for clarity.

33 In subsection (c)(2)(ii) of this section, the reference to appeal “to the board
34 of appeals” is added for clarity.

1 Also in subsection (c)(2)(ii) of this section, the reference to a county “unit”
2 is substituted for the former reference to a county “board ... or agency” for
3 consistency with other revised articles of the Code.

4 In subsection (d)(1) of this section, the reference to use “of a building or
5 land” is added for clarity.

6 Also in subsection (d)(1) of this section, the reference to “a civil action” is
7 substituted for the former reference to “injunction, mandamus, or other
8 appropriate action or proceeding” for clarity and consistency with
9 recently revised articles of the Code.

10 Defined terms: “Local law” § 14–101
11 “Regional district” § 14–101

12 **SUBTITLE 6. PRINCE GEORGE’S COUNTY — ANNEXATION.**

13 **20–601. SCOPE OF SUBTITLE.**

14 **THIS SUBTITLE APPLIES ONLY IN PRINCE GEORGE’S COUNTY.**

15 REVISOR’S NOTE: This section is new language derived without substantive
16 change from former Art. 28, § 7–104(a) as it related to the application of
17 this subtitle to Prince George’s County.

18 **20–602. AUTHORIZED.**

19 **SUBJECT TO THIS SUBTITLE AND ANY LOCAL LAW ADOPTED BY THE**
20 **COUNTY COUNCIL UNDER THIS SUBTITLE, ANY AREA IN THE COUNTY WITHIN AN**
21 **ELECTION DISTRICT THAT ABUTS TERRITORY WITHIN THE REGIONAL DISTRICT**
22 **MAY BE ANNEXED TO THE BOUNDARIES OF THE REGIONAL DISTRICT.**

23 REVISOR’S NOTE: This section is new language derived without substantive
24 change from former Art. 28, § 7–104(a) as it related to the authorization
25 to annex areas in the county to the regional district.

26 The reference to “this subtitle and any local law adopted by the County
27 Council under this subtitle” is substituted for the former reference to
28 “laws and provisions appertaining thereto by ordinance adopted by the
29 County Council of Prince George’s County, and subject to the conditions
30 hereinafter stated” for clarity.

31 Defined terms: “Local law” § 14–101
32 “Regional district” § 14–101

1 **20-603. PETITION.**

2 **(A) INITIATION.**

3 **(1) A PROPOSAL FOR ANNEXATION OF AN AREA TO THE**
4 **REGIONAL DISTRICT SHALL BE INITIATED BY A WRITTEN PETITION.**

5 **(2) THE WRITTEN PETITION SHALL BE SIGNED BY:**

6 **(I) AT LEAST 25% OF THE RESIDENTS OF THE AREA TO BE**
7 **ANNEXED WHO ARE REGISTERED AS VOTERS IN COUNTY ELECTIONS; AND**

8 **(II) OWNERS OF AT LEAST 25% OF THE ASSESSED**
9 **VALUATION OF THE REAL PROPERTY LOCATED IN THE AREA TO BE ANNEXED.**

10 **(B) VERIFICATION.**

11 **IF A WRITTEN PETITION FOR ANNEXATION IS SUBMITTED TO THE COUNTY**
12 **COUNCIL, THE CHAIR OF THE COUNTY COUNCIL SHALL VERIFY:**

13 **(1) THE SIGNATURES ON THE WRITTEN PETITION; AND**

14 **(2) THAT THE PETITION MEETS THE REQUIREMENTS OF**
15 **SUBSECTION (A)(2) OF THIS SECTION.**

16 **REVISOR'S NOTE:** This section is new language derived without substantive
17 change from the first and second sentences of former Art. 28, § 7-104(b).

18 In subsection (a)(1) of this section, the reference to “[a] proposal for
19 annexation of an area to the regional district” is substituted for the
20 former reference to “[t]he proposal for such inclusion” for clarity.

21 In subsection (a)(2)(ii) of this section, the reference to the area to be
22 “annexed” is substituted for the former reference to the area to be
23 “included” for consistency within this subtitle.

24 In the introductory language to subsection (b) of this section and
25 throughout this subtitle, the references to the Prince George’s “County
26 Council” are substituted for the former obsolete references to the “County
27 Commissioners” to accurately reflect the current form of county
28 government in Prince George’s County.

29 In the introductory language to subsection (b) of this section, the
30 reference to the “chair” is substituted for the former reference to the

1 “chairman” because SG § 2–1238 requires the use of terms that are
2 neutral as to gender. *See* General Revisor’s Note to article.

3 Also in the introductory language to subsection (b) of this section, the
4 word “verify” is substituted for the former phrase “cause to be made a
5 verification of” for brevity and clarity.

6 In subsection (b)(2) of this section, the reference to “the petition meet[ing]
7 the requirements of subsection (a)(2) of this section” is substituted for the
8 former reference to “persons signing the petition represent at least 25
9 percent of the persons who reside in the area to be included and who are
10 registered as voters in county elections, and the owners of 25 percent of
11 the assessed valuation of the real property located in the area to be
12 included” for brevity and to avoid unnecessary repetition.

13 Defined terms: “County” § 14–101

14 “Regional district” § 14–101

15 **20–604. LOCAL LAW REQUIRED.**

16 **(A) REQUIRED INTRODUCTION.**

17 **ON VERIFYING THAT THE REQUIREMENTS OF § 20–603 OF THIS SUBTITLE**
18 **HAVE BEEN COMPLIED WITH, THE CHAIR OF THE COUNTY COUNCIL SHALL**
19 **PROMPTLY CAUSE A LOCAL LAW TO BE INTRODUCED THAT PROPOSES THE**
20 **CHANGE OF BOUNDARIES THAT THE PETITION REQUESTS.**

21 **(B) REQUIRED CONTENTS.**

22 **THE LOCAL LAW SHALL:**

23 **(1) DESCRIBE BY CLEARLY ASCERTAINED BOUNDARY LINES, BY**
24 **LANDMARKS, AND BY OTHER WELL-KNOWN TERMS CONSISTENT WITH THE**
25 **DESCRIPTION OF OTHER AREAS INCLUDED IN THE REGIONAL DISTRICT, THE**
26 **EXACT AREA PROPOSED TO BE INCLUDED IN THE CHANGE; AND**

27 **(2) INCLUDE A BRIEF AND ACCURATE DESCRIPTION OF THE**
28 **CONDITIONS AND CIRCUMSTANCES APPLICABLE TO THE CHANGE OF**
29 **BOUNDARIES THE PETITION REQUESTS.**

30 REVISOR’S NOTE: This section is new language derived without substantive
31 change from the third and fourth sentences of former Art. 28, § 7–104(b).

32 In subsection (b)(2) of this section, the reference to the circumstances
33 applicable “to the change of boundaries the petition requests” is

1 substituted for the former reference to the circumstances applicable
2 “thereto” for clarity.

3 Defined terms: “Local law” § 14–101
4 “Regional district” § 14–101

5 **20–605. REQUIRED NOTICE AND HEARING.**

6 **(A) PUBLIC NOTICE.**

7 **(1) THE COUNTY COUNCIL SHALL GIVE PUBLIC NOTICE OF A**
8 **HEARING ON THE LOCAL LAW INTRODUCED UNDER § 20–604 OF THIS SUBTITLE.**

9 **(2) THE NOTICE REQUIRED UNDER THIS SUBSECTION SHALL BE**
10 **PUBLISHED AT LEAST FOUR TIMES AT NOT LESS THAN WEEKLY INTERVALS IN A**
11 **NEWSPAPER OF GENERAL CIRCULATION IN THE AREA PROPOSED TO BE**
12 **ANNEXED.**

13 **(3) THE NOTICE REQUIRED UNDER THIS SUBSECTION SHALL**
14 **INCLUDE:**

15 **(I) A BRIEF AND ACCURATE DESCRIPTION OF THE CHANGE**
16 **IN BOUNDARIES PROPOSED IN THE LOCAL LAW AND THE CONDITIONS AND**
17 **CIRCUMSTANCES APPLICABLE TO THE CHANGE IN BOUNDARIES; AND**

18 **(II) THE TIME AND PLACE WHERE THE PUBLIC HEARING ON**
19 **THE PROPOSED LOCAL LAW WILL BE HELD.**

20 **(B) HEARING.**

21 **THE HEARING SHALL:**

22 **(1) COMMENCE NOT LESS THAN 7 DAYS AFTER THE FOURTH**
23 **PUBLICATION OF THE REQUIRED NOTICE OF THE HEARING; AND**

24 **(2) BE HELD AT THE LOCATION IDENTIFIED IN THE NOTICE.**

25 **(C) ADOPTION OF LOCAL LAW.**

26 **AFTER THE REQUIRED NOTICE AND HEARING ON THE LOCAL LAW, A**
27 **MAJORITY OF THE COUNTY COUNCIL MAY ADOPT THE LOCAL LAW.**

28 REVISOR’S NOTE: This section is new language derived without substantive
29 change from former Art. 28, § 7–104(c).

1 In subsection (b)(1) of this section, the reference to a hearing being
2 required to “commence” at a certain time is substituted for the former
3 reference to a hearing being required to “be set for” a certain time for
4 clarity.

5 In subsection (b)(2) of this section, the reference to a hearing being
6 conducted at “the location identified in the notice” is substituted for the
7 former obsolete reference to conducting the hearing at “the courthouse at
8 Upper Marlboro, Maryland” to reflect current administrative practice.

9 In subsection (c) of this section, the phrase “[a]fter the required notice
10 and hearing on the local law, a majority of the County Council may adopt
11 the local law” is substituted for the former phrase “[t]he ordinance may
12 be adopted by a majority of the County Council at a hearing, after public
13 notice has been given” for clarity.

14 Defined term: “Local law” § 14–101

15 **20–606. ENACTMENT AND EFFECTIVE DATE OF LOCAL LAW.**

16 **(A) ENACTMENT.**

17 **AFTER THE PUBLIC HEARING ON THE LOCAL LAW, THE COUNTY COUNCIL**
18 **MAY ENACT THE LOCAL LAW IN ACCORDANCE WITH THE USUAL REQUIREMENTS**
19 **AND PRACTICES APPLICABLE TO LEGISLATIVE ENACTMENTS OF THE COUNTY**
20 **COUNCIL.**

21 **(B) EFFECTIVE DATE.**

22 **THE LOCAL LAW MAY NOT BECOME EFFECTIVE UNTIL AT LEAST 45 DAYS**
23 **FOLLOWING ITS FINAL ENACTMENT.**

24 REVISOR’S NOTE: This section is new language derived without substantive
25 change from former Art. 28, § 7–104(d).

26 Defined term: “Local law” § 14–101

27 **20–607. PROCEDURES FOR REFERENDUM FOLLOWING ENACTMENT OF LOCAL**
28 **LAW.**

29 **(A) PETITION REQUIRED.**

1 **A WRITTEN PETITION FOR A REFERENDUM ON THE LOCAL LAW MAY BE**
2 **FILED DURING THE 45 DAYS FOLLOWING THE FINAL ENACTMENT OF THE LOCAL**
3 **LAW.**

4 **(B) REQUIRED SIGNATURES.**

5 **A PETITION FILED UNDER THIS SECTION MUST BE SIGNED BY:**

6 **(1) AT LEAST 20% OF THE RESIDENTS OF THE AREA TO BE**
7 **ANNEXED UNDER THE LOCAL LAW; AND**

8 **(2) OWNERS OF AT LEAST 20% OF THE ASSESSED VALUATION OF**
9 **THE REAL PROPERTY LOCATED IN THE AREA TO BE ANNEXED.**

10 **(C) STATUS OF SIGNERS.**

11 **THE SIGNERS OF A PETITION FILED UNDER THIS SECTION MUST BE:**

12 **(1) REGISTERED AS VOTERS IN COUNTY ELECTIONS; OR**

13 **(2) IF THERE ARE FEWER THAN 20 INDIVIDUALS LIVING IN THE**
14 **AREA PROPOSED TO BE ANNEXED WHO ARE ELIGIBLE TO SIGN A PETITION**
15 **UNDER THIS SUBSECTION, ANY PERSON OWNING REAL PROPERTY IN THE AREA**
16 **PROPOSED TO BE ANNEXED.**

17 **(D) VERIFICATION.**

18 **WHEN A WRITTEN PETITION FOR REFERENDUM ON A LOCAL LAW IS**
19 **SUBMITTED TO THE CHAIR OF THE COUNTY COUNCIL, THE CHAIR SHALL**
20 **VERIFY:**

21 **(1) THE SIGNATURES ON THE WRITTEN PETITION; AND**

22 **(2) THAT THE PETITION MEETS THE REQUIREMENTS OF THIS**
23 **SECTION.**

24 **(E) EFFECT OF PETITION.**

25 **ON VERIFYING THAT THE REQUIREMENTS OF THIS SECTION HAVE BEEN**
26 **MET, THE CHAIR OF THE COUNTY COUNCIL SHALL SUSPEND THE**
27 **EFFECTIVENESS OF THE LOCAL LAW CONTINGENT ON THE RESULTS OF THE**
28 **REFERENDUM.**

1 **(F) PROCEDURE.**

2 **(1) THE CHAIR OF THE COUNTY COUNCIL SHALL SET A DATE FOR**
3 **THE REFERENDUM ON THE LOCAL LAW AND PUBLISH NOTICE OF THE**
4 **REFERENDUM ON THE LOCAL LAW.**

5 **(2) THE DATE OF THE REFERENDUM ON THE LOCAL LAW SHALL**
6 **BE BETWEEN 15 AND 90 DAYS AFTER THE PUBLISHED NOTICE OF THE**
7 **REFERENDUM.**

8 **(3) THE NOTICE OF THE REFERENDUM ON THE LOCAL LAW**
9 **SHALL:**

10 **(I) BE PUBLISHED TWICE AT NOT LESS THAN WEEKLY**
11 **INTERVALS IN A NEWSPAPER OF GENERAL CIRCULATION IN THE AREA TO BE**
12 **ANNEXED; AND**

13 **(II) SPECIFY THE TIME AND PLACE AT WHICH THE**
14 **REFERENDUM WILL BE HELD.**

15 **(4) THE PLACE WHERE THE REFERENDUM IS HELD SHALL BE**
16 **WITHIN THE AREA TO BE ANNEXED UNDER THE LOCAL LAW.**

17 **(G) ELECTION.**

18 **(1) ON THE DATE AND AT THE PLACE SPECIFIED, THE LOCAL LAW**
19 **PROPOSING TO ANNEX AN AREA TO THE REGIONAL DISTRICT SHALL BE**
20 **SUBMITTED TO A REFERENDUM ELECTION OF THE QUALIFIED VOTERS WHO**
21 **RESIDE IN THE AREA TO BE ANNEXED AND WHO ARE REGISTERED AS VOTERS IN**
22 **COUNTY ELECTIONS.**

23 **(2) IF THERE ARE FEWER THAN 20 INDIVIDUALS LIVING IN THE**
24 **AREA PROPOSED TO BE ANNEXED WHO ARE ELIGIBLE TO PARTICIPATE IN A**
25 **REFERENDUM ELECTION, ANY PERSON OWNING REAL PROPERTY IN THE AREA**
26 **PROPOSED TO BE ANNEXED MAY PARTICIPATE IN THE REFERENDUM ELECTION.**

27 **(3) THE BALLOTS OR VOTING MACHINES FOR THE REFERENDUM**
28 **ELECTION SHALL CONTAIN A SUMMARY OF THE LOCAL LAW WITH SUITABLE**
29 **PROVISIONS FOR THE VOTER TO INDICATE A CHOICE FOR OR AGAINST IT.**

30 **(H) EFFECT OF PASSAGE.**

1 **IF A MAJORITY OF THE PERSONS VOTING ON THE LOCAL LAW IN THE**
2 **REFERENDUM VOTE IN FAVOR OF THE LOCAL LAW, THE LOCAL LAW SHALL**
3 **BECOME EFFECTIVE ON THE 14TH DAY FOLLOWING THE REFERENDUM.**

4 **(I) LOCAL LAWS AND REGULATIONS.**

5 **THE COUNTY COUNCIL MAY ENACT LOCAL LAWS OR ADOPT REGULATIONS**
6 **THAT PROVIDE FOR CONDUCTING A REFERENDUM HELD UNDER THIS SECTION**
7 **AND TABULATING THE RESULTS OF THE REFERENDUM.**

8 **(J) COSTS.**

9 **THE COUNTY SHALL PAY IN FULL FOR THE EXPENSES OF A REFERENDUM**
10 **HELD UNDER THIS SECTION.**

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 28, § 7–104(e) through (j).

13 In the introductory language to subsection (b) of this section, the
14 requirement that a petition be “signed by” specified persons is added for
15 clarity, as the former language implies that the petition must be signed
16 by specified persons by requiring that signatures on the petition be
17 verified.

18 In subsection (b)(2) of this section, the former word “included” is deleted
19 as being included in the comprehensive reference to “annexed”.

20 In the introductory language to subsections (d), (e), and (f)(1) of this
21 section, the references to the “chair” are substituted for the former
22 references to the “chairman” because SG § 2–1238 requires the use of
23 terms that are neutral as to gender. *See* General Revisor’s Note to article.

24 In the introductory language to subsection (d) of this section, the word
25 “verify” is substituted for the former phrase “cause to be made a
26 verification of” for clarity and brevity.

27 In subsection (d)(2) of this section, the requirement that the chair of the
28 Prince George’s County Council verify “that the petition meets the
29 requirements of this section” is substituted for the former requirement
30 that the chairman ascertain “that the persons signing the petition
31 represent at least 20 percent of the assessed valuation of the real
32 property located in the area to be annexed, and are registered voters in
33 county elections” for brevity and to avoid unnecessary redundancy.

1 In subsection (f) of this section, the former references to “places” and
2 “newspapers” are deleted in light of Art. 1, § 8, which provides that the
3 singular generally includes the plural.

4 In subsection (f)(4) of this section, the former reference to the referendum
5 “within that area” is deleted as surplusage.

6 In subsection (g) of this section, the former clause “(the word “person”
7 here including an association, the two or more joint owners of jointly
8 owned property, a firm or corporation)” is deleted in light of the defined
9 term “person” in § 14–101 of this article.

10 In subsection (g)(2) of this section, the former reference to a person
11 having “a right equal to that of a natural person” is deleted as
12 unnecessary.

13 In subsection (g)(3) of this section, the former phrase “as the case may be”
14 is deleted as surplusage.

15 In subsection (h) of this section, the reference to the “local law [becoming]
16 effective” is substituted for the former reference to the “change
17 [becoming] effective” for clarity and brevity.

18 The Land Use Article Review Committee notes, for consideration by the
19 General Assembly, that in subsections (b)(2) and (g)(2) of this section, the
20 requirement for obtaining signatures based on a percentage of assessed
21 value of real property and voting based on property ownership has been
22 found to be unconstitutional under federal law. *See Muller v. Curran*, 889
23 F.2d 54 (4th Cir. 1989), *cert. denied*, 493 U.S. 1074 (1990). The General
24 Assembly may wish to seek the advice of the Attorney General on the
25 soundness of this provision and, if necessary, repeal it and the
26 corresponding provision of § 20–603(a)(2)(ii) and (b)(2) of this subtitle.

27 Defined terms: “County” § 14–101

28 “Local law” § 14–101

29 “Person” § 14–101

30 “Regional district” § 14–101

31 **SUBTITLE 7. MUNICIPAL PLANNING AND ZONING AUTHORITY.**

32 **PART I. MONTGOMERY COUNTY.**

33 **20–701. “PRIOR ESTABLISHED MUNICIPAL CORPORATION” DEFINED.**

34 **IN THIS PART, “PRIOR ESTABLISHED MUNICIPAL CORPORATION”:**

1 **(1) MEANS A MUNICIPAL CORPORATION SUBJECT TO ARTICLE**
2 **XI-E OF THE MARYLAND CONSTITUTION THAT INCLUDES LAND ADDED TO THE**
3 **REGIONAL DISTRICT UNDER CHAPTER 596 OF THE ACTS OF THE GENERAL**
4 **ASSEMBLY OF 1957; AND**

5 **(2) INCLUDES:**

6 **(I) BARNESVILLE;**

7 **(II) BROOKEVILLE;**

8 **(III) GAITHERSBURG;**

9 **(IV) LAYTONSVILLE;**

10 **(V) ROCKVILLE;**

11 **(VI) POOLESVILLE; AND**

12 **(VII) WASHINGTON GROVE.**

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 28, § 7-105(a).

15 Item (2) of this section, the specific list of named municipal corporations
16 that were added to the regional district under Chapter 596 of the Acts of
17 the General Assembly of 1957, is added for clarity.

18 Defined term: "Regional district" § 14-101

19 **20-702. SCOPE OF PART.**

20 **THIS PART APPLIES ONLY IN MONTGOMERY COUNTY.**

21 REVISOR'S NOTE: This section is new language added for clarity.

22 **20-703. NO JURISDICTION OVER PRIOR ESTABLISHED MUNICIPAL**
23 **CORPORATION.**

24 **(A) IN GENERAL.**

25 **EXCEPT AS PROVIDED BY AGREEMENT UNDER § 20-704 OF THIS**
26 **SUBTITLE, THE COMMISSION, COUNTY PLANNING BOARD, AND DISTRICT**

1 COUNCIL MAY NOT EXERCISE ANY PLANNING OR ZONING POWER IN ANY PRIOR
2 ESTABLISHED MUNICIPAL CORPORATION IN THE COUNTY.

3 (B) OTHER LAWS AND TAXES NOT APPLICABLE.

4 EXCEPT AS OTHERWISE PROVIDED IN THIS PART:

5 (1) THE COUNTY MAY NOT IMPOSE THE ADMINISTRATIVE TAX
6 PROVIDED FOR UNDER § 18–307 OF THIS ARTICLE IN A PRIOR ESTABLISHED
7 MUNICIPAL CORPORATION;

8 (2) ANY LOCAL LAW ADOPTED BY THE COMMISSION, COUNTY
9 PLANNING BOARD, OR DISTRICT COUNCIL DOES NOT APPLY TO A PRIOR
10 ESTABLISHED MUNICIPAL CORPORATION; AND

11 (3) §§ 20–401 AND 20–502 THROUGH 20–504 OF THIS TITLE AND
12 TITLE 22, SUBTITLE 1 AND §§ 22–308, 23–102, 23–103, 23–301, AND 23–302 OF
13 THIS ARTICLE DO NOT APPLY TO A PRIOR ESTABLISHED MUNICIPAL
14 CORPORATION.

15 REVISOR’S NOTE: This section is new language derived without substantive
16 change from former Art. 28, § 7–105(c), (d), (e), and the first sentence of
17 (b).

18 In subsection (a) of this section, the former reference to “jurisdiction” is
19 deleted as included in the reference to “power”.

20 In subsection (b)(1) of this section, the reference to not “impos[ing]” the
21 administrative tax is substituted for the former reference to not “levy[ing]
22 or collect[ing]” the tax for consistency with other similar terminology
23 throughout the Code.

24 Defined terms: “Commission” § 14–101

25 “County” § 14–101

26 “County planning board” § 14–101

27 “District council” § 14–101

28 “Local law” § 14–101

29 “Prior established municipal corporation” § 20–701

30 **20–704. AGREEMENT WITH PRIOR ESTABLISHED MUNICIPAL CORPORATION.**

31 (A) AUTHORIZED.

32 THE COMMISSION OR THE COUNTY PLANNING BOARD MAY ENTER INTO
33 AN AGREEMENT WITH A PRIOR ESTABLISHED MUNICIPAL CORPORATION THAT

1 **ALLOWS THE COMMISSION OR THE COUNTY PLANNING BOARD TO EXERCISE**
2 **PLANNING AND ZONING POWERS IN THE MUNICIPAL CORPORATION.**

3 **(B) APPLICABLE LAWS.**

4 **ON EXECUTION OF AN AGREEMENT AUTHORIZED UNDER THIS SECTION,**
5 **THE FOLLOWING SHALL APPLY TO A PRIOR ESTABLISHED MUNICIPAL**
6 **CORPORATION THAT ENTERS AN AGREEMENT WITH THE COMMISSION OR THE**
7 **COUNTY PLANNING BOARD:**

8 **(1) ALL LOCAL LAWS AND OFFICIAL ACTS OF THE COMMISSION**
9 **OR THE COUNTY PLANNING BOARD AND THE DISTRICT COUNCIL THAT ARE IN**
10 **EFFECT IN THE REGIONAL DISTRICT WITHIN THE COUNTY;**

11 **(2) ALL PROVISIONS OF THIS TITLE; AND**

12 **(3) THE ADMINISTRATIVE TAX PROVIDED FOR IN § 18-307 OF**
13 **THIS ARTICLE.**

14 **(C) GOVERNING BODY AS DISTRICT COUNCIL.**

15 **(1) AN AGREEMENT UNDER THIS SECTION MAY AUTHORIZE THE**
16 **GOVERNING BODY OF THE PRIOR ESTABLISHED MUNICIPAL CORPORATION TO**
17 **ACT AS THE DISTRICT COUNCIL FOR THE MUNICIPAL CORPORATION.**

18 **(2) IF THE GOVERNING BODY OF THE MUNICIPAL CORPORATION**
19 **IS AUTHORIZED TO ACT AS THE DISTRICT COUNCIL FOR THE MUNICIPAL**
20 **CORPORATION, THE GOVERNING BODY SHALL EXERCISE ALL THE POWER**
21 **GRANTED TO THE DISTRICT COUNCIL BY THIS TITLE WITHIN THE MUNICIPAL**
22 **CORPORATION.**

23 **(D) TERM.**

24 **AN AGREEMENT UNDER THIS SECTION BETWEEN A MUNICIPAL**
25 **CORPORATION AND THE COMMISSION OR COUNTY PLANNING BOARD SHALL**
26 **REMAIN IN EFFECT AS WRITTEN UNLESS REVOKED OR AMENDED BY MUTUAL**
27 **ACTION OF THE PARTIES TO THE AGREEMENT.**

28 **REVISOR'S NOTE:** This section is new language derived without substantive
29 change from former Art. 28, § 7-105(f), (g), (h), and (j).

30 In subsection (a) of this section, the former reference to "jurisdiction" is
31 deleted as included in the reference to "powers".

1 In subsection (b)(1) of this section, the reference to “official acts” of the
2 Commission is added for clarity.

3 In subsection (b)(3) of this section, the former phrase providing that the
4 administrative tax “shall thenceforth be levied and collected within the
5 area of the municipal corporation as the tax is levied and collected
6 throughout the remainder of the regional district in Montgomery County”
7 is deleted as implicit in the provisions that the tax is applied to the
8 municipal corporations that enter specified agreements.

9 In subsection (d) of this section, the reference to the “parties to the
10 agreement” is substituted for the former reference to the “Commission or
11 the Planning Board and the municipal corporation” for brevity and to
12 avoid unnecessary redundancy.

13 Also in subsection (d) of this section, the former phrase “as the case may
14 be” is deleted as surplusage.

15 Defined terms: “Commission” § 14–101
16 “County planning board” § 14–101
17 “District council” § 14–101
18 “Local law” § 14–101
19 “Prior established municipal corporation” § 20–701
20 “Regional district” § 14–101

21 **20–705. RECOMMENDATIONS.**

22 **(A) AUTHORIZED.**

23 **THE COMMISSION OR THE COUNTY PLANNING BOARD MAY SUBMIT**
24 **RECOMMENDATIONS TO ANY PRIOR ESTABLISHED MUNICIPAL CORPORATION**
25 **REGARDING ANY PLANNING OR ZONING ACTION UNDER CONSIDERATION BY THE**
26 **MUNICIPAL CORPORATION.**

27 **(B) INCORPORATION IN RECORD.**

28 **THE PRIOR ESTABLISHED MUNICIPAL CORPORATION SHALL**
29 **INCORPORATE THE RECOMMENDATION OF THE COMMISSION OR THE COUNTY**
30 **PLANNING BOARD AS A PART OF THE RECORD OF THE PLANNING OR ZONING**
31 **ACTION.**

32 REVISOR’S NOTE: This section is new language derived without substantive
33 change from former Art. 28, § 7–105(i).

34 In subsection (a) of this section, the former phrase “whenever it deems
35 proper” is deleted as unnecessary in light of the general authorization of

1 the Commission and the Montgomery County Planning Board to submit
2 recommendations.

3 Defined terms: "Commission" § 14-101
4 "County planning board" § 14-101

5 **20-706. OTHER MUNICIPAL CORPORATIONS NOT AUTHORIZED.**

6 **A MUNICIPAL CORPORATION IN THE REGIONAL DISTRICT THAT IS NOT A**
7 **PRIOR ESTABLISHED MUNICIPAL CORPORATION IN THE COUNTY MAY NOT**
8 **EXERCISE ANY PLANNING, ZONING, OR SUBDIVISION POWER UNLESS EXPRESSLY**
9 **AUTHORIZED IN THIS DIVISION.**

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from the second sentence of former Art. 28, § 7-105(b).

12 The reference to a "municipal corporation in the regional district that is
13 not a prior established municipal corporation in the county" is
14 substituted for the former reference to a "municipality that incorporates
15 after June 1, 1957" for clarity and consistency within this part.

16 Defined terms: "County" § 14-101
17 "Prior established municipal corporation" § 20-701
18 "Regional district" § 14-101
19 "Subdivision" § 14-101

20 **20-707. RESERVED.**

21 **20-708. RESERVED.**

22 **PART II. PRINCE GEORGE'S COUNTY.**

23 **20-709. PLANNING AND ZONING AUTHORITY OF MUNICIPAL CORPORATIONS IN**
24 **PRINCE GEORGE'S COUNTY.**

25 **A MUNICIPAL CORPORATION IN PRINCE GEORGE'S COUNTY THAT IS IN**
26 **THE REGIONAL DISTRICT MAY NOT EXERCISE ANY POWERS RELATING TO**
27 **PLANNING, SUBDIVISION CONTROL, OR ZONING NOT GRANTED TO THE**
28 **MUNICIPAL CORPORATION BY THE DISTRICT COUNCIL UNDER § 25-303 OF THIS**
29 **ARTICLE.**

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from the second sentence of former Art. 28, § 7-103(b).

1 The reference to a municipal corporation “in Prince George’s County that
2 is in the regional district” is substituted for the former reference to a
3 municipal corporation “within the areas added by this subsection to the
4 Maryland–Washington Regional District” for clarity.

5 The reference to powers “not granted to the municipal corporation by the
6 district council under § 25–303 of this article” is substituted for the
7 former reference to powers “granted by the Maryland–National Capital
8 Park and Planning Commission or the County Council of Prince George’s
9 County” for clarity.

10 The former phrase “by means of an amendment to its charter or
11 otherwise” is deleted as superfluous.

12 The third sentence of former Art. 28, § 7–103(b), which provided for the
13 severability of those provisions, is deleted as unnecessary in light of the
14 general severability provision in Art. 1, § 23.

15 For the exclusion from the regional district of the City of Laurel as it
16 existed on July 1, 2008, *see* § 20–101 of this title.

17 Defined terms: “District council” § 14–101

18 “Regional district” § 14–101

19 “Subdivision” § 14–101

20 TITLE 21. REGIONAL DISTRICT PLAN.

21 SUBTITLE 1. IN GENERAL.

22 21–101. PURPOSE OF PLAN.

23 (A) SCOPE OF SECTION.

24 THIS SECTION APPLIES TO:

25 (1) THE MAKING OF THE APPROPRIATE GENERAL PLAN;

26 (2) ANY PART, AMENDMENT, EXTENSION, OR ADDITION TO THE
27 PLAN;

28 (3) THE PROTECTION OF AND THE CARRYING OUT OF THE PLAN;
29 AND

30 (4) THE EXERCISE OF ANY:

1 **(I) PLANNING, ZONING, OR SUBDIVISION CONTROL POWERS**
2 **IN THE REGIONAL DISTRICT; AND**

3 **(II) OTHER POWERS GRANTED IN THIS TITLE TO THE**
4 **COMMISSION OR TO THE MONTGOMERY COUNTY COUNCIL OR THE PRINCE**
5 **GEORGE’S COUNTY COUNCIL.**

6 **(B) IN GENERAL.**

7 **THE PURPOSE OF THE PLAN IS TO:**

8 **(1) GUIDE AND ACCOMPLISH A COORDINATED, COMPREHENSIVE,**
9 **ADJUSTED, AND SYSTEMATIC DEVELOPMENT OF THE REGIONAL DISTRICT;**

10 **(2) COORDINATE AND ADJUST THE DEVELOPMENT OF THE**
11 **REGIONAL DISTRICT WITH PUBLIC AND PRIVATE DEVELOPMENT OF OTHER**
12 **PARTS OF THE STATE AND OF THE DISTRICT OF COLUMBIA; AND**

13 **(3) PROTECT AND PROMOTE THE PUBLIC HEALTH, SAFETY, AND**
14 **WELFARE.**

15 REVISOR’S NOTE: This section is new language derived without substantive
16 change from former Art. 28, § 7–110.

17 In subsection (a)(1) of this section, the reference to the “appropriate”
18 general plan is added for clarity.

19 In subsection (a)(4)(i) of this section, the reference to exercising certain
20 powers “in the regional district” is added for clarity.

21 In subsection (a)(4)(ii) of this section, the reference to the “Prince
22 George’s County Council” is substituted for the former obsolete reference
23 to the “County Commissioners” to accurately reflect the current form of
24 county government in Prince George’s County.

25 In subsection (b)(3) of this section, the reference to “the public” is
26 substituted for the former reference to “the inhabitants of the regional
27 district” for consistency with other similar provisions of this article.

28 Also in subsection (b)(3) of this section, the former reference to “morals
29 [and] comfort” is deleted as included in the comprehensive reference to
30 “welfare”.

31 Defined terms: “Commission” § 14–101

32 “Regional district” § 14–101

1 "State" § 14-101
2 "Subdivision" § 14-101

3 **21-102. STATEMENT OF POLICY.**

4 **(A) IN GENERAL.**

5 **IT IS THE POLICY OF THE STATE THAT:**

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

9 **(2) LOCAL GOVERNMENTS SHALL IMPLEMENT PLANNING AND**
10 **ZONING CONTROLS.**

11 **(B) RECOGNITION OF DISPLACEMENT AND LIMITS ON ECONOMIC**
12 **COMPETITION.**

13 **(1) TO ACHIEVE THE PUBLIC PURPOSES OF THIS REGULATORY**
14 **SCHEME, THE GENERAL ASSEMBLY RECOGNIZES THAT LOCAL GOVERNMENT**
15 **ACTION WILL DISPLACE OR LIMIT ECONOMIC COMPETITION BY OWNERS AND**
16 **USERS OF PROPERTY.**

17 **(2) IT IS THE POLICY OF THE GENERAL ASSEMBLY AND OF THE**
18 **STATE THAT COMPETITION AND ENTERPRISE SHALL BE DISPLACED OR LIMITED**
19 **FOR THE ATTAINMENT OF THE PURPOSES OF THE STATE POLICY FOR**
20 **IMPLEMENTING PLANNING AND ZONING CONTROLS AS PROVIDED FOR IN STATE**
21 **AND LOCAL LAW.**

22 **(C) CONSTRUCTION OF SECTION.**

23 **THE POWERS GRANTED TO THE COMMISSION AND DISTRICT COUNCILS**
24 **UNDER THIS SECTION MAY NOT BE CONSTRUED TO:**

25 **(1) GRANT TO THE COMMISSION OR DISTRICT COUNCILS POWERS**
26 **IN ANY SUBSTANTIVE AREA THAT ARE NOT OTHERWISE GRANTED TO THE**
27 **COMMISSION AND DISTRICT COUNCILS BY STATE OR LOCAL LAW;**

28 **(2) RESTRICT THE COMMISSION OR DISTRICT COUNCILS FROM**
29 **EXERCISING ANY POWER GRANTED TO THE COMMISSION AND DISTRICT**
30 **COUNCILS BY OTHER LAW;**

1 **(3) AUTHORIZE THE COMMISSION OR DISTRICT COUNCILS TO**
 2 **ENGAGE IN ANY ACTIVITY THAT IS BEYOND THEIR POWER UNDER OTHER LAW;**
 3 **OR**

4 **(4) PREEMPT OR SUPERSEDE THE REGULATORY AUTHORITY OF**
 5 **ANY STATE UNIT UNDER ANY STATE LAW.**

6 REVISOR'S NOTE: This section is new language derived without substantive
 7 change from former Art. 28, § 7–108.1.

8 In the introductory language to subsection (a) of this section, the phrase
 9 “[i]t is the policy of the State” is substituted for the former phrase “[i]t
 10 has been and shall continue to be the policy of this State” for brevity.

11 In subsection (b)(2) of this section, the reference to “State and local law”
 12 is substituted for the former reference to “this article and elsewhere in
 13 the public local and public general laws” for brevity.

14 In subsection (c)(2) and (3) of this section, the references to “other law”
 15 are substituted for the former references to “other public general [or]
 16 public local law [or] otherwise” for brevity.

17 In subsection (c)(3) of this section, the former reference to a district
 18 council’s “officers” is deleted as included in the reference to the “district
 19 councils”.

20 In subsection (c)(4) of this section, the reference to a State “unit” is
 21 substituted for the former reference to a State “department or agency” for
 22 consistency with other revised articles of the Code.

23 Defined terms: “Commission” § 14–101

24 “District council” § 14–101

25 “Local law” § 14–101

26 “State” § 14–101

27 **21–103. PLAN REQUIRED.**

28 **(A) IN GENERAL.**

29 **AT THE DIRECTION OF THE APPROPRIATE DISTRICT COUNCIL, THE**
 30 **COMMISSION SHALL INITIATE AND ADOPT:**

31 **(1) A GENERAL PLAN FOR THE DEVELOPMENT OF THAT PORTION**
 32 **OF THE REGIONAL DISTRICT LOCATED IN EACH COUNTY; AND**

33 **(2) AMENDMENTS TO THE GENERAL PLAN.**

1 **(B) REVIEW REQUIRED IN PRINCE GEORGE’S COUNTY.**

2 NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (A) OF THIS
3 SECTION, THE COMMISSION SHALL REVIEW, 2 YEARS AFTER EACH DECENNIAL
4 CENSUS OF THE UNITED STATES, THE GENERAL PLAN FOR THE DEVELOPMENT
5 OF THAT PORTION OF THE REGIONAL DISTRICT LOCATED IN PRINCE GEORGE’S
6 COUNTY.

7 **(C) AUTHORITY TO AMEND.**

8 **(1) IN ACCORDANCE WITH SUBTITLE 2 OF THIS TITLE, THE**
9 **COMMISSION MAY INITIATE AND ADOPT ANY AMENDMENT TO THE GENERAL**
10 **PLAN.**

11 **(2) THE APPROPRIATE DISTRICT COUNCIL MAY DESIGNATE A**
12 **FUNCTIONAL MASTER PLAN, AN AREA MASTER PLAN, OR AN AMENDMENT TO**
13 **EITHER PLAN, AS AN AMENDMENT TO THE GENERAL PLAN.**

14 REVISOR’S NOTE: This section is new language derived without substantive
15 change from former Art. 28, § 7–108(a)(1) and (5).

16 In subsection (a) of this section, the former phrase “the district council for
17 Prince George’s County or the district council for Montgomery County, as
18 the case may be, hereinafter referred to in this section as the”
19 appropriate district council is deleted as surplusage.

20 In subsections (a)(2) and (c)(1) of this section and throughout this
21 subtitle, the former phrase “from time to time” is deleted as surplusage.

22 In subsection (c)(1) of this section, the phrase “[i]n accordance with
23 Subtitle 2 of this title,” is added for clarity.

24 Also in subsection (c)(1) of this section, the former references to
25 “exten[sion]”, “add[ition]”, and “revis[ion]” are deleted as implicit in the
26 authority to “adopt any amendment” to the general plan.

27 In subsection (c)(2) of this section and throughout this subtitle, the
28 reference to an “area” master plan is substituted for the former reference
29 to a “local area” master plan for clarity and consistency with current
30 Commission practice.

31 Defined terms: “Commission” § 14–101
32 “County” § 14–101
33 “District council” § 14–101

1 “Regional district” § 14–101

2 **21–104. ELEMENTS.**

3 **(A) REQUIRED ELEMENTS.**

4 **THE GENERAL PLAN AND ANY AMENDMENT TO THE GENERAL PLAN SHALL**
5 **CONTAIN:**

6 **(1) THE COMMISSION’S RECOMMENDATIONS FOR DEVELOPMENT**
7 **WITHIN THE REGIONAL DISTRICT;**

8 **(2) ANY DESCRIPTIVE OR SUPPORTING MATERIAL THAT:**

9 **(I) THE APPROPRIATE DISTRICT COUNCIL REQUIRES; OR**

10 **(II) THE COMMISSION DETERMINES TO BE NECESSARY AND**
11 **FEASIBLE; AND**

12 **(3) THE ELEMENTS REQUIRED UNDER TITLE 1, SUBTITLE 4 OF**
13 **THIS ARTICLE.**

14 **(B) PERMISSIBLE ELEMENTS.**

15 **(1) IN ACCORDANCE WITH THE PROCEDURE SET FORTH IN THIS**
16 **SUBTITLE, THE APPROPRIATE DISTRICT COUNCIL MAY REQUIRE THE**
17 **COMMISSION TO PREPARE THE GENERAL PLAN, OR ANY AMENDMENT TO THE**
18 **PLAN, CONSIDERING ELEMENTS SUCH AS:**

19 **(I) EXISTING AND FORECASTED:**

20 **1. POPULATION, INCLUDING POPULATION**
21 **DISTRIBUTION AND OTHER APPROPRIATE CHARACTERISTICS;**

22 **2. AMOUNT, TYPE, INTENSITY, GENERAL LOCATION,**
23 **AND CHARACTERISTICS OF COMMERCIAL, INDUSTRIAL, AND PUBLIC SECTOR**
24 **FACILITIES AND RELATED EMPLOYMENT;**

25 **3. AMOUNT, TYPE, NEED, AND LOCATION OF MAJOR**
26 **PUBLIC SERVICES, FACILITIES, AND UTILITIES;**

27 **4. TRANSPORTATION NEEDS, FACILITIES, ROUTES,**
28 **AND SYSTEMS; AND**

1 **5. HOUSING DEMAND AND NEEDS, AND THE AMOUNT,**
2 **TYPE, QUALITY, AND GENERAL LOCATION OF HOUSING;**

3 **(II) EXISTING LAND USES, FORECASTS OF LAND**
4 **ABSORPTION RATES OR MARKETS, AND ANALYSES OF THE AMOUNT, GENERAL**
5 **LOCATION, AND INTERRELATIONSHIPS AMONG DIFFERENT CATEGORIES OF**
6 **LAND USE;**

7 **(III) STAGING OR SCHEDULING OF DEVELOPMENT AND**
8 **CAPITAL IMPROVEMENTS, AND THE FISCAL OR ECONOMIC IMPACT OF THOSE**
9 **IMPROVEMENTS;**

10 **(IV) PHYSICAL RESOURCES AND CONDITIONS, INCLUDING**
11 **TOPOGRAPHY, SOILS, GEOLOGY AND MINERAL DEPOSITS, HYDROLOGY AND**
12 **WATERWAYS, WETLANDS AND SHORELINES, WATER AND AIR QUALITY, CLIMATE,**
13 **NOISE, OPEN SPACES, SCENIC AREAS, VEGETATION, FORESTS, AGRICULTURAL**
14 **LANDS, FISHERIES, WILDLIFE AND WILDLIFE HABITATS, AND OTHER AREAS OF**
15 **ENVIRONMENTAL OR ECOLOGICAL IMPORTANCE OR SENSITIVITY;**

16 **(V) SITES, STRUCTURES, AREAS, OR SETTINGS OF**
17 **ARCHAEOLOGICAL, HISTORICAL, ARCHITECTURAL, CULTURAL, OR SCENIC**
18 **VALUE OR SIGNIFICANCE;**

19 **(VI) EXTENT AND GENERAL LOCATION OF PHYSICALLY**
20 **BLIGHTED OR DETERIORATED AREAS AND RELATED FACTORS;**

21 **(VII) EVALUATION OF THE PROBABLE CONSEQUENCES OF**
22 **MAJOR RECOMMENDATIONS OF THE GENERAL PLAN ON THE GENERAL**
23 **PHYSICAL AND SOCIAL ENVIRONMENT AND POPULATION OF THE REGIONAL**
24 **DISTRICT;**

25 **(VIII) ESTIMATES OF THE PROBABLE CONSEQUENCES ON**
26 **PUBLIC REVENUES AND EXPENDITURES OF MAJOR RECOMMENDATIONS OF THE**
27 **GENERAL PLAN; AND**

28 **(IX) ANY OTHER MATTER THAT THE APPROPRIATE DISTRICT**
29 **COUNCIL OR THE COMMISSION DETERMINES TO BE NECESSARY AND FEASIBLE**
30 **TO THE PREPARATION OR PRESENTATION OF THE GENERAL PLAN.**

31 **(2) THE APPROPRIATE DISTRICT COUNCIL MAY PROVIDE, TO THE**
32 **EXTENT NECESSARY AND FEASIBLE, THAT:**

1 **(I) THE COMMISSION SHALL:**

2 **1. CONSIDER VARIOUS ALTERNATIVE CONCEPTS OF**
3 **GROWTH OR DEVELOPMENT IN PREPARING THE GENERAL PLAN; AND**

4 **2. APPROPRIATELY DESCRIBE THE ALTERNATIVE**
5 **CONCEPTS CONSIDERED BY THE COMMISSION; AND**

6 **(II) THE GENERAL PLAN SHALL INCLUDE MATERIAL TO**
7 **CONTAIN AND EXPLAIN THE APPROPRIATE DISTRICT COUNCIL'S**
8 **RECOMMENDATIONS WITH RESPECT TO ANY MATTER IN THIS SUBSECTION.**

9 **(3) THE MATERIALS IN PARAGRAPHS (1) AND (2) OF THIS**
10 **SUBSECTION ARE GUIDELINES FOR THE BASIS, CONTENT, AND CONSIDERATION**
11 **OF:**

12 **(I) THE GENERAL PLAN;**

13 **(II) A FUNCTIONAL MASTER PLAN;**

14 **(III) AN AREA MASTER PLAN; OR**

15 **(IV) ANY AMENDMENT TO THE PLANS.**

16 **(4) SUBJECT TO PARAGRAPH (5) OF THIS SUBSECTION, A**
17 **GENERAL PLAN, A FUNCTIONAL MASTER PLAN, OR AN AREA MASTER PLAN OR**
18 **ANY AMENDMENT TO A PLAN MAY NOT BE DEEMED VOID, INAPPLICABLE, OR**
19 **INOPERATIVE ON THE GROUND THAT THE BASIS, CONTENT, OR CONSIDERATION**
20 **OF THE PLAN OR AMENDMENT IS INCONSISTENT WITH THIS DIVISION.**

21 **(5) WITH RESPECT TO JUDICIAL REVIEW ON THE RECORD OF A**
22 **GOVERNMENTAL ACTION CONCERNING DEVELOPMENT, THIS SECTION DOES**
23 **NOT PREVENT THE CONSIDERATION OF THE REASONABLENESS OF A GENERAL**
24 **PLAN OR THE APPROPRIATENESS AND COMPLETENESS OF A GENERAL PLAN IN**
25 **RELATION TO THE GOVERNMENTAL ACTION AND REVIEW.**

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 28, § 7-108(a)(2), (3), (4), and (6).

28 In subsection (a)(1) of this section, the reference to "development within
29 the regional district" is substituted for the former reference to "such
30 development" for clarity.

1 In subsection (a)(3) of this section, the reference to “the elements required
2 under Title 1, Subtitle 4 of this article”, which applies to all charter
3 counties, is added for clarity.

4 In the introductory language to subsection (b)(1) of this section, the
5 phrase “considering elements such as” is substituted for the former
6 reference to “studies and the consideration of such elements, factors, and
7 conditions as the following” for brevity.

8 In subsection (b)(1)(iv) of this section, the former phrase “but not limited
9 to” is deleted as unnecessary in light of Art. 1, § 30, which provides that
10 the term “including” is used “by way of illustration and not by way of
11 limitation”.

12 In subsection (b)(1)(ix) and (2)(ii) of this section, the former references to
13 “element”, “factor”, and “condition” are deleted as included in the
14 references to “matter”.

15 In subsection (b)(2)(ii) of this section, the word “material” is substituted
16 for the former phrase “such chapters or sections” for brevity.

17 Also in subsection (b)(2)(ii) of this section, the former phrase “as may be
18 necessary” is deleted as surplusage.

19 In subsection (b)(3)(iii) and (4) of this section, the references to an “area”
20 master plan are substituted for the former reference to a “local area”
21 master plan for clarity and consistency with current Commission
22 practice.

23 The Land Use Article Review Committee notes, for consideration by the
24 General Assembly, that in subsection (b)(1)(i)5 of this section, the
25 reference to considering the “quality” of housing may or may not include
26 aesthetic as well as functional considerations. Similarly, it may be
27 advisable for the development process for the general plan to consider
28 needs, types, quality, and general location of other land uses, such as the
29 commercial, industrial, and public sector facilities listed in subsection
30 (b)(1)(i)2 of this section. The General Assembly may wish to consider the
31 scope of each of these provisions in light of Smart Growth and similar
32 principles.

33 Defined terms: “Commission” § 14–101

34 “District council” § 14–101

35 “Regional district” § 14–101

36 **21–105. LOCAL PLANNING AREA AND AREA MASTER PLAN.**

37 **(A) IN GENERAL.**

1 **THE APPROPRIATE DISTRICT COUNCIL SHALL CARRY OUT THE**
2 **REQUIREMENTS OF THIS SECTION:**

3 **(1) IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN THIS**
4 **SUBTITLE; AND**

5 **(2) TO THE EXTENT NECESSARY AND FEASIBLE.**

6 **(B) LOCAL PLANNING AREA.**

7 **(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**
8 **APPROPRIATE DISTRICT COUNCIL SHALL PROVIDE THAT IN ITS COUNTY THE**
9 **COMMISSION SHALL ADOPT, AND THE DISTRICT COUNCIL SHALL APPROVE, A**
10 **MAP THAT SHOWS THE ENTIRE AREA OF THAT COUNTY LOCATED WITHIN THE**
11 **REGIONAL DISTRICT, DIVIDED INTO LOCAL PLANNING AREAS.**

12 **(2) (I) BEFORE APPROVING A MAP, THE APPROPRIATE**
13 **DISTRICT COUNCIL SHALL CONSULT WITH THE COMMISSION WITH RESPECT TO**
14 **THE BOUNDARIES OF THE LOCAL PLANNING AREAS LOCATED WHOLLY OR**
15 **PARTIALLY WITHIN THAT COUNTY.**

16 **(II) IF THERE IS A DISAGREEMENT AS TO THE BOUNDARIES**
17 **OF A LOCAL PLANNING AREA, THE DECISION OF THE DISTRICT COUNCIL SHALL**
18 **PREVAIL WITHIN THE AREA OF ITS JURISDICTION.**

19 **(C) AREA MASTER PLAN.**

20 **THE APPROPRIATE DISTRICT COUNCIL SHALL PROVIDE THAT IN ITS**
21 **COUNTY:**

22 **(1) (I) NOTWITHSTANDING SUBSECTION (B) OF THIS SECTION,**
23 **THE PRINCE GEORGE'S COUNTY DISTRICT COUNCIL SHALL CONSIDER, EVERY 6**
24 **YEARS, WHETHER TO AMEND THE AREA MASTER PLAN IN THAT PORTION OF THE**
25 **REGIONAL DISTRICT LOCATED IN PRINCE GEORGE'S COUNTY; AND**

26 **(II) THE DECISION OF THE PRINCE GEORGE'S COUNTY**
27 **DISTRICT COUNCIL REGARDING WHETHER TO AMEND THE AREA MASTER PLAN**
28 **SHALL:**

29 **1. BE IN WRITING; AND**

30 **2. INCLUDE THE REASONS FOR THE DECISION;**

1 **(2) IN ACCORDANCE WITH THE WORK PROGRAM AND BUDGET**
2 **ADOPTED BY THE COUNTY COUNCIL OF THAT COUNTY, THE COMMISSION:**

3 **(I) SHALL INITIATE AND ADOPT AN AREA MASTER PLAN**
4 **FOR EACH PLANNING AREA, ANY PART OF A PLANNING AREA, OR ANY**
5 **COMBINATION OF CONTIGUOUS PLANNING AREAS; AND**

6 **(II) MAY AMEND AN AREA MASTER PLAN FOR EACH**
7 **PLANNING AREA, ANY PART OF A PLANNING AREA, OR ANY COMBINATION OF**
8 **CONTIGUOUS PLANNING AREAS;**

9 **(3) AN AREA MASTER PLAN MAY INCLUDE RECOMMENDATIONS**
10 **FOR ZONING, STAGING OF DEVELOPMENT AND PUBLIC IMPROVEMENTS, AND**
11 **PUBLIC SERVICES TO IMPLEMENT THE AREA MASTER PLAN;**

12 **(4) (I) SUBJECT TO ITEM (II) OF THIS ITEM, AN AREA MASTER**
13 **PLAN SHALL BE BASED ON THE SAME MATTERS AS CONTAINED IN THE GENERAL**
14 **PLAN AND ANY AMENDMENT TO THE GENERAL PLAN;**

15 **(II) AN AREA MASTER PLAN:**

16 **1. SHALL INCLUDE GREATER DETAIL THAN THE**
17 **GENERAL PLAN; AND**

18 **2. IS NOT LIMITED TO THE CONTENTS OF THE**
19 **GENERAL PLAN; AND**

20 **(5) AN AREA MASTER PLAN, OR ANY AMENDMENT TO AN AREA**
21 **MASTER PLAN, SHALL SHOW ON A MAP CONTAINED IN THE AREA MASTER PLAN**
22 **THE BOUNDARY OF THE AREA WITHIN WHICH THE AREA MASTER PLAN APPLIES.**

23 **(D) DESIGNATION AS AMENDMENT TO GENERAL PLAN.**

24 **THE APPROPRIATE DISTRICT COUNCIL MAY DESIGNATE AN AREA MASTER**
25 **PLAN, OR ANY AMENDMENT TO AN AREA MASTER PLAN, WHEN ADOPTED BY THE**
26 **COMMISSION AND APPROVED BY THE APPROPRIATE DISTRICT COUNCIL, AS AN**
27 **AMENDMENT TO THE GENERAL PLAN.**

28 **(E) PLAN ADOPTED BEFORE PLANNING AREA MAP.**

29 **A PLAN THAT IS ADOPTED BEFORE THE APPROVAL OF, OR ANY**
30 **AMENDMENT TO, THE PLANNING AREA MAP SHALL CONTINUE IN FORCE AND**

1 **MAY NOT BE INVALIDATED BY THE FACT THAT ITS BOUNDARIES DO NOT**
2 **CORRESPOND TO THE BOUNDARIES SHOWN ON THE PLANNING AREA MAP.**

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 28, § 7–108(b).

5 In subsection (b)(1) of this section, the reference to “amend[ing]” a map is
6 deleted as included in the comprehensive reference to “adopt[ing]” a map.

7 In subsection (b)(2)(ii) of this section, the reference to boundaries “of a
8 local planning area” is added for clarity.

9 In subsections (c) and (d) of this section, the references to an “area”
10 master plan are substituted for the former references to a “local” master
11 plan for clarity and consistency with current Commission practice.

12 In subsection (c)(2)(ii) of this section, the former reference to “revis[ing]” a
13 local master plan is deleted as included in the reference to “amend[ing]”
14 an area master plan.

15 In subsection (c)(4)(i) of this section, the reference to “matter” is
16 substituted for the former reference to “factors, elements, and conditions”
17 for brevity and consistency within this subtitle.

18 Defined terms: “Commission” § 14–101
19 “Regional district” § 14–101

20 **21–106. FUNCTIONAL MASTER PLAN.**

21 **(A) IN GENERAL.**

22 **SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE COMMISSION**
23 **MAY ADOPT, AND THE APPROPRIATE DISTRICT COUNCIL MAY APPROVE, A**
24 **FUNCTIONAL MASTER PLAN FOR THE VARIOUS ELEMENTS OF THE GENERAL**
25 **PLAN, INCLUDING:**

26 **(1) TRANSPORTATION ROUTES AND FACILITIES;**

27 **(2) HOSPITALS AND HEALTH CENTERS;**

28 **(3) PARKS AND OTHER OPEN SPACES;**

29 **(4) POLICE STATIONS;**

30 **(5) FIRE STATIONS; AND**

1 **(6) UTILITIES.**

2 **(B) TRANSPORTATION ROUTES AND FACILITIES IN PRINCE GEORGE’S**
3 **COUNTY.**

4 **(1) BEFORE ADOPTING OR AMENDING A FUNCTIONAL MASTER**
5 **PLAN OF TRANSPORTATION ROUTES AND FACILITIES IN PRINCE GEORGE’S**
6 **COUNTY, THE COMMISSION SHALL SUBMIT ITS PROPOSED PLAN OR**
7 **AMENDMENT TO THE DISTRICT COUNCIL AND THE COUNTY EXECUTIVE FOR**
8 **REVIEW AND COMMENT.**

9 **(2) THE DISTRICT COUNCIL AND THE COUNTY EXECUTIVE HAVE**
10 **60 DAYS TO REVIEW AND PROVIDE WRITTEN COMMENTS.**

11 **(3) THE ADOPTED PLAN MAY NOT INCLUDE A TRANSPORTATION**
12 **ROUTE OR FACILITY UNLESS THE DISTRICT COUNCIL, AFTER CONSULTING WITH**
13 **THE COUNTY EXECUTIVE, BY RESOLUTION APPROVES THE INCLUSION OF THE**
14 **TRANSPORTATION ROUTE OR FACILITY FOR PLANNING PURPOSES.**

15 **(C) DESIGNATION AS AMENDMENT TO GENERAL PLAN.**

16 **THE APPROPRIATE DISTRICT COUNCIL MAY DESIGNATE A FUNCTIONAL**
17 **MASTER PLAN, OR ANY AMENDMENT TO A FUNCTIONAL MASTER PLAN, AS AN**
18 **AMENDMENT TO THE GENERAL PLAN.**

19 REVISOR’S NOTE: This section is new language derived without substantive
20 change from former Art. 28, § 7–108(c).

21 In the introductory language to subsection (a) of this section, the former
22 references to “mak[ing]” and “amend[ing]” a functional master plan are
23 deleted as included in the references to “adopt[ing]” and “approv[ing]” a
24 functional master plan.

25 Also in the introductory language to subsection (a) of this section, the
26 former phrase “but not limited to” is deleted as unnecessary in light of
27 Art. 1, § 30, which provides that the term “including” is used “by way of
28 illustration and not by way of limitation”.

29 In subsection (a)(1) of this section, the comprehensive reference to
30 “transportation routes and facilities” is substituted for the former
31 reference to “master plans of highways, mass transit that includes light
32 rail and busways” for clarity and consistency within this article.
33 Similarly, in subsection (b)(1) and (3) of this section, the references to
34 “transportation routes and facilities” and a “transportation route or

1 facility” are substituted for the former references to “highway[s] or
2 transportation line[s]”. The Land Use Article Review Committee brings
3 these substitutions to the attention of the General Assembly. No
4 substantive change is intended.

5 Defined terms: “Commission” § 14–101
6 “District council” § 14–101
7 “Park” § 14–101

8 **21–107. PLAN IDENTIFYING AND DESIGNATING SIGNIFICANT SITES AND**
9 **STRUCTURES.**

10 **(A) IN GENERAL.**

11 **SUBJECT TO SUBSECTION (B) OF THIS SECTION AND SUBTITLE 2 OF THIS**
12 **TITLE, THE COMMISSION MAY ADOPT A PLAN THAT IDENTIFIES AND**
13 **DESIGNATES SITES, STRUCTURES AND THEIR APPURTENANCES AND**
14 **ENVIRONMENTAL SETTINGS, OR DISTRICTS THAT HAVE HISTORICAL,**
15 **ARCHAEOLOGICAL, ARCHITECTURAL, OR CULTURAL VALUE.**

16 **(B) CRITERIA.**

17 **THE CRITERIA USED FOR MAKING AN IDENTIFICATION OR DESIGNATION**
18 **UNDER SUBSECTION (A) OF THIS SECTION MAY NOT BE INCONSISTENT WITH THE**
19 **CRITERIA APPLICABLE TO THE MARYLAND HISTORICAL TRUST UNDER §**
20 **5A–323 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

21 **(C) ADVISORY COMMITTEE AUTHORIZED.**

22 **THE COMMISSION MAY ESTABLISH AN ADVISORY COMMITTEE TO ASSIST**
23 **THE COMMISSION IN THE PERFORMANCE OF ITS DUTIES WITH RESPECT TO**
24 **ADOPTING A PLAN IN ACCORDANCE WITH THIS SECTION.**

25 **(D) AMENDMENT TO GENERAL PLAN.**

26 **EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, A PLAN**
27 **ADOPTED UNDER THIS SECTION IS AN AMENDMENT TO THE GENERAL PLAN.**

28 **(E) MUNICIPAL PROPERTY.**

29 **(1) A PLAN ADOPTED UNDER THIS SECTION MAY INCLUDE SITES,**
30 **STRUCTURES AND THEIR APPURTENANCES AND ENVIRONMENTAL SETTINGS, OR**
31 **DISTRICTS LOCATED IN A MUNICIPAL CORPORATION IN MONTGOMERY COUNTY**
32 **OR PRINCE GEORGE’S COUNTY THAT IS NOT SUBJECT TO THE JURISDICTION OF**

1 THE COMMISSION, WITH THE CONSENT OF THE GOVERNING BODY OF THAT
2 MUNICIPAL CORPORATION.

3 **(2) THE CONSENT OF THE GOVERNING BODY SHALL CONSTITUTE**
4 **THE AGREEMENT OF THE MUNICIPAL CORPORATION TO BE BOUND BY ALL**
5 **RULES AND REGULATIONS GOVERNING THE SITES, STRUCTURES AND THEIR**
6 **APPURTENANCES AND ENVIRONMENTAL SETTINGS, OR DISTRICTS AS THE**
7 **APPROPRIATE DISTRICT COUNCIL MAY ENACT.**

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 28, § 7–108(e).

10 In subsection (a) of this section, the former reference to “mak[ing]” or
11 “amend[ing]” a plan is deleted as included in the reference to “adopt[ing]”
12 a plan. Correspondingly, in subsection (c) of this section, the reference to
13 “adopting” a plan is substituted for the former reference to “making or
14 amending” a plan for consistency within this section.

15 Defined terms: “Commission” § 14–101
16 “District council” § 14–101

17 **SUBTITLE 2. DEVELOPMENT AND ADOPTION.**

18 **PART I. GENERAL PROVISIONS.**

19 **21–201. INTENT OF SUBTITLE.**

20 **(A) AUTHORITY OF DISTRICT COUNCILS.**

21 **THIS SUBTITLE IS INTENDED TO VEST CONTROL OVER PLANNING**
22 **PROCEDURES IN THE DISTRICT COUNCILS OF MONTGOMERY COUNTY AND**
23 **PRINCE GEORGE'S COUNTY, TO THE EXTENT THAT CONTROL IS NOT**
24 **INCONSISTENT WITH THIS DIVISION.**

25 **(B) EXISTING AUTHORITY UNAFFECTED.**

26 **NOTHING CONTAINED IN THIS SUBTITLE AUTHORIZES A TRANSFER OR**
27 **DILUTION OF PLANNING AUTHORITY OR RESPONSIBILITY VESTED IN THE**
28 **COMMISSION, COUNTY PLANNING BOARDS, OR DISTRICT COUNCILS AS OF**
29 **OCTOBER 1, 1959.**

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from the seventh sentence of former Art. 28, § 7–108(d)(2)(i) and
32 the tenth sentence of (3).

1 In subsection (a) of this section, the reference to the “district councils of
2 Montgomery County and Prince George’s County” is substituted for the
3 former reference to the “respective district councils” for clarity.

4 In subsection (b) of this section, the phrase “vested ... as of October 1,
5 1959” is substituted for the former phrase “now vested” to indicate that
6 the intent referred to the situation in existence as of the effective date of
7 the original legislation.

8 The fifth and sixth sentences of former Art. 28, § 7–108(d)(2)(i) and the
9 eighth and ninth sentences of (3), which provided for the continuity of
10 certain plans and laws in effect on October 1, 1959, are not retained in
11 the Code because they are apparently obsolete. They are transferred to
12 the Session Laws to avoid any inadvertent substantive effect their repeal
13 might have. *See* § 13 of Ch. __, Acts of 2012.

14 Defined terms: “Commission” § 14–101
15 “County planning board” § 14–101
16 “District council” § 14–101

17 **21–202. INITIATION OF PLAN.**

18 **(A) IN GENERAL.**

19 **(1) THE COMMISSION MAY INITIATE A PLAN OR PART OF A PLAN**
20 **WITH THE CONCURRENCE OF THE DISTRICT COUNCIL OF THE COUNTY OR**
21 **COUNTIES IN WHICH THE AREA OF THE PROPOSED PLAN IS LOCATED.**

22 **(2) THE REVIEW BY THE DISTRICT COUNCIL OF THE PROPOSED**
23 **BUDGET OF THE COMMISSION AND THE APPROVAL BY THE DISTRICT COUNCIL**
24 **OF THE PLANNING SCHEDULE THAT IS CONTAINED IN THE BUDGET**
25 **CONSTITUTES CONCURRENCE IN THE INITIATION OF PLANS PROPOSED IN THE**
26 **BUDGET FOR ANY SINGLE FISCAL YEAR.**

27 **(B) MODIFICATION OF SCHEDULE.**

28 **THE DISTRICT COUNCIL MAY MODIFY THE PLANNING SCHEDULE**
29 **CONTAINED IN THE PROPOSED BUDGET.**

30 **(C) DIRECTION TO INITIATE PLAN.**

31 **THE DISTRICT COUNCIL MAY DIRECT THE COMMISSION TO INITIATE A**
32 **PLAN OR PART OF A PLAN.**

33 **(D) REQUIRED ACTION.**

1 **THE COMMISSION SHALL INITIATE THE PLAN OR PART OF THE PLAN**
2 **UNDER SUBSECTION (C) OF THIS SECTION WITH REASONABLE PROMPTNESS TO**
3 **THE EXTENT FUNDS ARE AVAILABLE FOR THAT PURPOSE.**

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 28, § 7-108(d)(1).

6 In subsection (d) of this section, the reference to the plan "or part of the
7 plan under subsection (c) of this section" is added for clarity.

8 Defined terms: "Commission" § 14-101

9 "County" § 14-101

10 "District council" § 14-101

11 **21-203. ADOPTION OF PLAN.**

12 **(A) BY RESOLUTION OF COMMISSION.**

13 **(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
14 **SUBSECTION, THE COMMISSION SHALL ADOPT A PLAN BY RESOLUTION WITH**
15 **THE AFFIRMATIVE VOTES OF AT LEAST SIX COMMISSIONERS, OF WHOM AT**
16 **LEAST THREE SHALL BE FROM MONTGOMERY COUNTY AND AT LEAST THREE**
17 **SHALL BE FROM PRINCE GEORGE'S COUNTY.**

18 **(2) TO ADOPT AN AREA MASTER PLAN OR A FUNCTIONAL MASTER**
19 **PLAN THAT LIES ENTIRELY WITHIN ONE COUNTY, THE AFFIRMATIVE VOTES OF**
20 **THREE COMMISSIONERS FROM THAT COUNTY SHALL SUFFICE TO ADOPT THE**
21 **PLAN.**

22 **(B) USE OF MAPS AND DESCRIPTIVE MATTER.**

23 **(1) THE RESOLUTION TO ADOPT A PLAN SHALL REFER**
24 **EXPRESSLY TO THE MAPS AND THE DESCRIPTIVE AND OTHER MATTER THAT THE**
25 **COMMISSION INTENDS TO FORM THE WHOLE OR PART OF THE PLAN.**

26 **(2) ANY ACTION TAKEN SHALL BE RECORDED ON THE MAP, PLAN,**
27 **OR DESCRIPTIVE MATTER BY THE IDENTIFYING SIGNATURE OF THE CHAIR AND**
28 **SECRETARY-TREASURER OF THE COMMISSION.**

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 28, § 7-108(d)(4).

1 In subsections (a) and (b)(1) of this section, the former references to
2 “amendment” of a plan are deleted as included in the comprehensive
3 reference to “adopt[ing]” a plan.

4 In subsection (a)(2) of this section, the reference to “an area” master plan
5 is substituted for the former reference to “a local” master plan for
6 consistency within this title.

7 Also in subsection (a)(2) of this section, the phrase “shall suffice” is
8 substituted for the former phrase “shall prevail and be sufficient” for
9 brevity.

10 In subsection (b)(2) of this section, the reference to the “chair” is
11 substituted for the former reference to the “chairman” because SG §
12 2–1238 requires the use of terms that are neutral as to gender. *See*
13 General Revisor’s Note to article.

14 Defined terms: “Commission” § 14–101
15 “Commissioner” § 14–101

16 **21–204. INTERGOVERNMENTAL COOPERATION.**

17 **(A) WITH NATIONAL CAPITAL PLANNING COMMISSION.**

18 **IN PREPARING AND MAKING A PLAN AND IN EXERCISING THE ZONING,**
19 **PLANNING, SUBDIVISION CONTROL, AND OTHER POWERS GRANTED TO THE**
20 **COMMISSION UNDER THIS DIVISION, THE COMMISSION MAY ACT IN**
21 **CONJUNCTION AND COOPERATION WITH THE NATIONAL CAPITAL PLANNING**
22 **COMMISSION.**

23 **(B) COMMISSION REPRESENTS STATE.**

24 **THE COMMISSION IS THE REPRESENTATIVE OF THE STATE TO THE**
25 **NATIONAL CAPITAL PLANNING COMMISSION.**

26 **(C) AUTHORITY TO ENTER INTO AGREEMENTS.**

27 **FOR THE PURPOSES DESCRIBED IN SUBSECTION (A) OF THIS SECTION,**
28 **THE COMMISSION MAY ENTER INTO COMMITMENTS AND AGREEMENTS WITH**
29 **THE NATIONAL CAPITAL PLANNING COMMISSION AS THE COMMISSION**
30 **CONSIDERS NECESSARY.**

31 **(D) COOPERATION WITH OTHER GOVERNMENTS.**

1 **THE COMMISSION MAY ACT IN CONJUNCTION AND COOPERATION WITH**
2 **OTHER REPRESENTATIVES OR OFFICERS OF THE UNITED STATES GOVERNMENT**
3 **OR OF THE DISTRICT OF COLUMBIA OR OF THIS STATE, INCLUDING THE**
4 **DEPARTMENT OF PLANNING AND THE WASHINGTON SUBURBAN SANITARY**
5 **COMMISSION, OR OF THE COMMONWEALTH OF VIRGINIA OR OF MONTGOMERY**
6 **COUNTY OR PRINCE GEORGE’S COUNTY OR OF ANY DISTRICT, MUNICIPAL**
7 **CORPORATION, OR OTHER POLITICAL SUBDIVISION IN THESE STATES OR**
8 **COUNTIES.**

9 REVISOR’S NOTE: This section is new language derived without substantive
10 change from former Art. 28, § 7–109.

11 In subsection (a) of this section, the former phrase “created by act of
12 Congress approved April 30, 1926, as amended” is deleted as surplusage.

13 In subsection (b) of this section, the phrase “to the National Capital
14 Planning Commission” is added for clarity.

15 In subsection (d) of this section, the reference to the “Department of
16 Planning” is substituted for the obsolete reference to the “Maryland State
17 Planning Commission” for clarity.

18 Also in subsection (d) of this section, the reference to the “Commonwealth
19 of Virginia” is substituted for the former reference to the “State of
20 Virginia” because this is how the Commonwealth of Virginia officially
21 refers to itself.

22 Defined terms: “Commission” § 14–101
23 “State” § 14–101
24 “Subdivision” § 14–101

25 **21–205. RESERVED.**

26 **21–206. RESERVED.**

27 **PART II. MONTGOMERY COUNTY.**

28 **21–207. SCOPE OF PART.**

29 **THIS PART APPLIES IN MONTGOMERY COUNTY.**

30 REVISOR’S NOTE: This section is new language added for clarity.

31 **21–208. PROCEDURES.**

1 **(A) DISTRICT COUNCIL TO ESTABLISH PROCEDURES.**

2 **(1) AFTER A PUBLIC HEARING, THE DISTRICT COUNCIL SHALL**
3 **ESTABLISH BY LOCAL LAW OR SUBSEQUENT AMENDMENT TO THE LOCAL LAW**
4 **PROCEDURES FOR THE COMMISSION TO SUBMIT, ADOPT, AND APPROVE A PLAN**
5 **OR PART OF A PLAN.**

6 **(2) THE DISTRICT COUNCIL SHALL PUBLISH NOTICE OF THE TIME**
7 **AND PLACE OF THE PUBLIC HEARING IN AT LEAST ONE NEWSPAPER OF**
8 **GENERAL CIRCULATION IN THE COUNTY AT LEAST 30 DAYS BEFORE THE**
9 **HEARING.**

10 **(B) PROCEDURAL REQUIREMENTS.**

11 **THE PROCEDURES ESTABLISHED IN ACCORDANCE WITH SUBSECTION (A)**
12 **OF THIS SECTION:**

13 **(1) MAY INCLUDE REQUIREMENTS FOR SUBMISSION TO AND**
14 **APPROVAL BY THE DISTRICT COUNCIL OF PRELIMINARY CONCEPTS,**
15 **GUIDELINES, GOALS, OR PLANS;**

16 **(2) SHALL INCLUDE ADOPTION OF A PLAN BY THE COMMISSION**
17 **AFTER AT LEAST ONE PUBLIC HEARING, NOTICE OF THE TIME AND PLACE OF**
18 **WHICH SHALL BE PUBLISHED IN AT LEAST ONE NEWSPAPER OF GENERAL**
19 **CIRCULATION IN THE COUNTY AT LEAST 30 DAYS BEFORE THE HEARING;**

20 **(3) MAY INCLUDE PROCEDURES FOR THE APPROVAL OF A PLAN**
21 **BY THE DISTRICT COUNCIL;**

22 **(4) SHALL INCLUDE A METHOD FOR THE COMMISSION TO**
23 **CERTIFY AND FILE A PLAN IN THE OFFICE OF THE CLERK OF THE CIRCUIT**
24 **COURT OF MONTGOMERY COUNTY; AND**

25 **(5) SHALL INCLUDE PROVISIONS FOR THE COMMISSION TO**
26 **PUBLISH AN ADOPTED AND APPROVED PLAN.**

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from the first through fourth sentences of former Art. 28, §
29 7-108(d)(2)(i).

30 Throughout this section, the former references to "amendment" of a plan
31 are deleted as included in the comprehensive references to "adopt[ion]"
32 and "approv[al]" of a plan.

1 Defined terms: "Commission" § 14-101
2 "District council" § 14-101
3 "Local law" § 14-101

4 **21-209. PLAN INFORMATION.**

5 (A) NOTIFICATION OF COUNTY EXECUTIVE.

6 NOTWITHSTANDING § 21-208 OF THIS SUBTITLE, WHEN THE COMMISSION
7 INITIATES A MASTER PLAN OR AN AMENDMENT TO A MASTER PLAN, THE
8 COMMISSION SHALL NOTIFY THE COUNTY EXECUTIVE OF THE WORK SCHEDULE
9 OF THE COMMISSION.

10 (B) INFORMATION PROVIDED BY COUNTY EXECUTIVE.

11 (1) THE COUNTY EXECUTIVE SHALL PROVIDE TO THE
12 COMMISSION, AS EARLY AS POSSIBLE, INFORMATION ON MATTERS INCLUDING
13 TRANSPORTATION, WATER AND SEWER, AND OTHER PUBLIC FACILITY AND
14 PUBLIC SERVICES AND FISCAL PORTIONS OF THE PLAN OR AMENDMENT.

15 (2) THE COUNTY EXECUTIVE MAY PROVIDE TO THE COMMISSION
16 OTHER STUDIES AND INFORMATION THE COUNTY EXECUTIVE CONSIDERS
17 PERTINENT TO THE PREPARATION OF THE PLAN OR AMENDMENT.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from the first through third sentences of former Art. 28, §
20 7-108(d)(2)(i).

21 In subsection (b) of this section, the phrases "to the Commission" are
22 added for clarity.

23 In subsection (b)(2) of this section, the former word "data" is deleted as
24 included in the comprehensive word "information".

25 Defined term: "Commission" § 14-101

26 **21-210. TRANSMISSION OF PLAN OR AMENDMENT.**

27 ON COMPLETION OF A MASTER PLAN OR MASTER PLAN AMENDMENT, THE
28 COUNTY PLANNING BOARD SHALL TRANSMIT:

29 (1) THE PLAN OR AMENDMENT TO THE DISTRICT COUNCIL; AND

30 (2) COPIES OF THE PLAN OR AMENDMENT TO THE COUNTY
31 EXECUTIVE.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from the fourth sentence of former Art. 28, § 7–108(d)(2)(ii).

3 Defined terms: “County planning board” § 14–101
4 “District council” § 14–101

5 **21–211. FISCAL IMPACT ANALYSIS.**

6 **WITHIN 60 DAYS AFTER THE TRANSMISSION OF A COPY OF A MASTER**
7 **PLAN OR MASTER PLAN AMENDMENT TO THE COUNTY EXECUTIVE UNDER §**
8 **21–210 OF THIS SUBTITLE, THE COUNTY EXECUTIVE SHALL TRANSMIT A FISCAL**
9 **IMPACT ANALYSIS TO THE DISTRICT COUNCIL WITH OTHER COMMENTS AND**
10 **RECOMMENDATIONS THE COUNTY EXECUTIVE CONSIDERS APPROPRIATE.**

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from the fifth sentence of former Art. 28, § 7–108(d)(2)(ii).

13 The phrase “after the transmission of a copy of a master plan or master
14 plan amendment to the County Executive under § 21–210 of this subtitle”
15 is added for clarity.

16 Defined term: “District council” § 14–101

17 **21–212. APPROVAL, MODIFICATION, DISAPPROVAL, AND EXTENSIONS BY**
18 **DISTRICT COUNCIL.**

19 **(A) APPROVAL, MODIFICATION, OR DISAPPROVAL.**

20 **WITHIN 180 DAYS AFTER THE RECEIPT OF THE COUNTY EXECUTIVE'S**
21 **COMMENTS, RECOMMENDATIONS, AND FISCAL IMPACT ANALYSIS AS PROVIDED**
22 **IN § 21–211 OF THIS SUBTITLE, THE DISTRICT COUNCIL SHALL APPROVE,**
23 **MODIFY, OR DISAPPROVE THE MASTER PLAN OR MASTER PLAN AMENDMENT.**

24 **(B) EXTENSIONS.**

25 **ON A VOTE OF TWO–THIRDS OF THOSE PRESENT AND VOTING, THE**
26 **DISTRICT COUNCIL MAY EXTEND, BY SEQUENTIAL 60–DAY INTERVALS, THE**
27 **180–DAY PERIOD FOR REVIEW AND ACTION ON THE MASTER PLAN OR MASTER**
28 **PLAN AMENDMENT PROVIDED IN SUBSECTION (A) OF THIS SECTION.**

29 **(C) FAILURE TO ACT CONSTITUTES APPROVAL.**

1 **FAILURE OF THE DISTRICT COUNCIL TO ACT WITHIN THE TIME LIMITS**
2 **IMPOSED UNDER THIS SECTION CONSTITUTES APPROVAL OF A MASTER PLAN OR**
3 **MASTER PLAN AMENDMENT AS SUBMITTED BY THE COUNTY PLANNING BOARD.**

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from the sixth through ninth sentences of former Art. 28, §
6 7-108(d)(2)(ii).

7 In subsection (a) of this section, the phrase "as provided in § 21-211 of
8 this subtitle" is added for clarity.

9 In subsection (b) of this section, the reference to the requirement
10 "provided in subsection (a) of this section" is substituted for the former
11 reference to the "previous" requirement for clarity.

12 Also in subsection (b) of this section, the former reference to the authority
13 of the district council to "extend further its time limit" is deleted as
14 surplusage.

15 In subsection (c) of this section, the phrase "under this section" is added
16 for clarity.

17 Defined terms: "County planning board" § 14-101
18 "District council" § 14-101

19 **21-213. RESERVED.**

20 **21-214. RESERVED.**

21 **PART III. PRINCE GEORGE'S COUNTY.**

22 **21-215. SCOPE OF PART.**

23 **THIS PART APPLIES IN PRINCE GEORGE'S COUNTY.**

24 REVISOR'S NOTE: This section is new language added for clarity.

25 **21-216. PROCEDURES.**

26 **(A) DISTRICT COUNCIL TO ESTABLISH PROCEDURES.**

27 **(1) AFTER A PUBLIC HEARING, THE DISTRICT COUNCIL SHALL**
28 **ESTABLISH BY LOCAL LAW OR SUBSEQUENT AMENDMENT TO THE LOCAL LAW**
29 **PROCEDURES FOR THE COMMISSION TO INITIATE, SUBMIT, ADOPT, AND AMEND**

1 A PLAN OR PART OF A PLAN, AND FOR THE DISTRICT COUNCIL TO APPROVE OR
2 AMEND A PLAN OR PART OF A PLAN.

3 (2) THE DISTRICT COUNCIL SHALL PUBLISH NOTICE OF THE TIME
4 AND PLACE OF THE PUBLIC HEARING IN AT LEAST ONE NEWSPAPER OF
5 GENERAL CIRCULATION IN THE COUNTY AT LEAST 30 DAYS BEFORE THE
6 HEARING.

7 (B) PROCEDURAL REQUIREMENTS.

8 THE PROCEDURES ESTABLISHED IN ACCORDANCE WITH SUBSECTION (A)
9 OF THIS SECTION SHALL:

10 (1) INCLUDE REQUIREMENTS FOR THE DISTRICT COUNCIL TO
11 APPROVE PRELIMINARY CONCEPTS, GUIDELINES, AND GOALS;

12 (2) PROVIDE FOR ONE OR MORE PUBLIC HEARINGS ON THE PLAN
13 TO BE HELD JOINTLY BY THE COMMISSION AND THE DISTRICT COUNCIL, AT THE
14 DIRECTION OF THE DISTRICT COUNCIL, AFTER 30 DAYS' NOTICE BY
15 PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY;

16 (3) INCLUDE PROVISION FOR THE COMMISSION TO ADOPT A PLAN
17 AFTER THE PUBLIC HEARING, AND FOR THE DISTRICT COUNCIL TO APPROVE
18 THE PLAN;

19 (4) INCLUDE A METHOD TO CERTIFY AND FILE AN APPROVED
20 PLAN IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT FOR PRINCE
21 GEORGE'S COUNTY; AND

22 (5) INCLUDE PROVISIONS FOR THE COMMISSION TO PUBLISH AN
23 ADOPTED AND APPROVED PLAN.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from the first, second, and fifth through seventh sentences of
26 former Art. 28, § 7-108(d)(3).

27 In subsection (b)(3) and (4) of this section, the former references to
28 "amendment" of a plan are deleted as included in the comprehensive
29 references to "adopt[ion]" and "approv[al]" of a plan.

30 Defined terms: "Commission" § 14-101

31 "District council" § 14-101

32 "Local law" § 14-101

1 **21-217. INCONSISTENCIES.**

2 **(A) REVIEW.**

3 **THE PROCEDURES ESTABLISHED IN § 21-216 OF THIS SUBTITLE SHALL**
4 **INCLUDE REVIEW OF PRELIMINARY PLANS BY THE DISTRICT COUNCIL AND THE**
5 **COUNTY EXECUTIVE TO IDENTIFY INCONSISTENCIES BETWEEN THE PLAN AND**
6 **EXISTING OR PROPOSED STATE OR COUNTY FACILITIES, INCLUDING ROADS,**
7 **HIGHWAYS, OR OTHER PUBLIC FACILITIES.**

8 **(B) ELIMINATION.**

9 **THE DISTRICT COUNCIL SHALL DIRECT THE COMMISSION HOW TO**
10 **ELIMINATE OR ACCOMMODATE IN THE PLAN ANY INCONSISTENCY IDENTIFIED**
11 **UNDER SUBSECTION (A) OF THIS SECTION.**

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from the third and fourth sentences of former Art. 28, §
14 7-108(d)(3).

15 In subsection (a) of this section, the reference to the procedures
16 "established in § 21-216 of this subtitle" is added for clarity.

17 In subsection (b) of this section, the reference to an inconsistency
18 "identified under subsection (a) of this section" is added for clarity.

19 Also in subsection (b) of this section, the former phrase "[i]n the event
20 any inconsistencies are revealed" is deleted as surplusage.

21 Defined terms: "Commission" § 14-101

22 "District council" § 14-101

23 "Road" § 14-101

24 "State" § 14-101

25 **TITLE 22. ZONING.**

26 **SUBTITLE 1. GENERAL PROVISIONS.**

27 **PART I. DISTRICT COUNCILS.**

28 **22-101. DESIGNATION OF DISTRICT COUNCILS.**

29 **(A) MONTGOMERY COUNTY.**

1 **THE COUNTY COUNCIL OF MONTGOMERY COUNTY IS THE DISTRICT**
2 **COUNCIL FOR THAT PORTION OF THE REGIONAL DISTRICT LOCATED IN**
3 **MONTGOMERY COUNTY.**

4 **(B) PRINCE GEORGE’S COUNTY.**

5 **THE COUNTY COUNCIL OF PRINCE GEORGE’S COUNTY IS THE DISTRICT**
6 **COUNCIL FOR THAT PORTION OF THE REGIONAL DISTRICT LOCATED IN PRINCE**
7 **GEORGE’S COUNTY.**

8 REVISOR’S NOTE: This section is new language derived without substantive
9 change from the first sentence of former Art. 28, § 8–101(a).

10 The former phrase “for the purposes of this article” is deleted as
11 surplusage.

12 Defined terms: “District council” § 14–101
13 “Regional district” § 14–101

14 **22–102. BI–COUNTY DISTRICT COUNCIL.**

15 **SITTING TOGETHER AS A JOINT BODY, THE DISTRICT COUNCIL FOR**
16 **MONTGOMERY COUNTY AND THE DISTRICT COUNCIL FOR PRINCE GEORGE’S**
17 **COUNTY ARE THE BI–COUNTY DISTRICT COUNCIL FOR THE REGIONAL DISTRICT**
18 **AS A WHOLE.**

19 REVISOR’S NOTE: This section is new language derived without substantive
20 change from the second sentence of former Art. 28, § 8–101(a).

21 The former phrase “for the special purposes delineated in this article” is
22 deleted as surplusage.

23 Defined terms: “District council” § 14–101
24 “Regional district” § 14–101

25 **22–103. ADOPTION OF LOCAL LAW BY BI–COUNTY DISTRICT COUNCIL —**
26 **MAJORITY VOTE BY EACH DISTRICT COUNCIL REQUIRED.**

27 **THE BI–COUNTY DISTRICT COUNCIL MAY NOT ADOPT A LOCAL LAW**
28 **EXCEPT BY AFFIRMATIVE VOTE OF:**

29 **(1) A MAJORITY OF THE MEMBERSHIP OF THE MONTGOMERY**
30 **COUNTY DISTRICT COUNCIL; AND**

1 **(2) A MAJORITY OF THE MEMBERSHIP OF THE PRINCE GEORGE'S**
2 **COUNTY DISTRICT COUNCIL.**

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from the third sentence of former Art. 28, § 8–101(a).

5 The former reference to the “total” membership of each district council is
6 deleted as surplusage.

7 The Land Use Article Review Committee notes, for consideration by the
8 General Assembly, that in practice the bi–county district council never
9 meets as such other than to consider the budgets.

10 Defined terms: “District council” § 14–101
11 “Local law” § 14–101

12 **22–104. AUTHORITY TO ADOPT AND AMEND ZONING LAW.**

13 **(A) IN GENERAL.**

14 **THE MONTGOMERY COUNTY DISTRICT COUNCIL OR THE PRINCE**
15 **GEORGE'S COUNTY DISTRICT COUNCIL, IN ACCORDANCE WITH THE**
16 **REQUIREMENTS OF THIS DIVISION AS TO THE PORTION OF THE REGIONAL**
17 **DISTRICT LOCATED IN THE RESPECTIVE COUNTY, MAY:**

18 **(1) BY LOCAL LAW ADOPT AND AMEND THE TEXT OF THE ZONING**
19 **LAW FOR THAT COUNTY; AND**

20 **(2) BY LOCAL LAW ADOPT AND AMEND ANY MAP ACCOMPANYING**
21 **THE TEXT OF THE ZONING LAW FOR THAT COUNTY.**

22 **(B) PURPOSES.**

23 **THE LOCAL LAW MAY REGULATE:**

24 **(1) (I) THE LOCATION, HEIGHT, BULK, AND SIZE OF EACH**
25 **BUILDING OR OTHER STRUCTURE, AND ANY UNIT IN THE BUILDING OR**
26 **STRUCTURE;**

27 **(II) BUILDING LINES;**

28 **(III) MINIMUM FRONTAGE;**

29 **(IV) THE DEPTH AND AREA OF EACH LOT; AND**

- 1 **(V) THE PERCENTAGE OF A LOT THAT MAY BE OCCUPIED;**
- 2 **(2) THE SIZE OF LOTS, YARDS, COURTS, AND OTHER OPEN**
3 **SPACES;**
- 4 **(3) THE CONSTRUCTION OF TEMPORARY STANDS AND**
5 **STRUCTURES;**
- 6 **(4) THE DENSITY AND DISTRIBUTION OF POPULATION;**
- 7 **(5) THE LOCATION AND USES OF BUILDINGS AND STRUCTURES**
8 **AND ANY UNITS IN THOSE BUILDINGS AND STRUCTURES FOR:**
- 9 **(I) TRADE;**
- 10 **(II) INDUSTRY;**
- 11 **(III) RESIDENTIAL PURPOSES;**
- 12 **(IV) RECREATION;**
- 13 **(V) AGRICULTURE;**
- 14 **(VI) PUBLIC ACTIVITIES; AND**
- 15 **(VII) OTHER PURPOSES; AND**
- 16 **(6) THE USES OF LAND, INCLUDING SURFACE, SUBSURFACE, AND**
17 **AIR RIGHTS FOR THE LAND, FOR BUILDING OR FOR ANY OF THE PURPOSES**
18 **DESCRIBED IN ITEM (5) OF THIS SUBSECTION.**

19 **(C) LIMITATION.**

20 **THE EXERCISE OF AUTHORITY BY A DISTRICT COUNCIL UNDER THIS**
21 **SECTION IS LIMITED BY §§ 17-402 AND 25-211 OF THIS ARTICLE.**

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 28, § 8-101(b)(2).

24 In subsection (a)(2) of this section, the former reference to "maps" is
25 deleted in light of the reference to a "map" and Art. 1, § 8, which provides
26 that the singular generally includes the plural.

1 The Land Use Article Review Committee notes, for consideration by the
2 General Assembly, that in subsection (b) of this section the land use
3 attributes that a district council may regulate do not include explicit
4 authority to regulate design elements and aesthetics, unlike the
5 attributes that may be regulated in a commissioner county or a municipal
6 corporation under Division I of this article, specifically, §§ 4–102 and
7 4–103 of this article. Although charter counties generally have plenary
8 land use authority under the Express Powers Act, Art. 23A, § 5(X), it is
9 unclear whether the failure to provide this authority to the district
10 councils under this division presumes that they have this authority
11 implicitly, or that they do not have the authority to regulate design
12 elements and aesthetics. The General Assembly may wish to clarify the
13 authority over design elements and aesthetics that the district councils
14 are intended to have, or to state explicitly that the district councils have
15 the same authority to regulate as have charter counties.

16 Defined terms: “County” § 14–101

17 “District council” § 14–101

18 “Local law” § 14–101

19 “Regional district” § 14–101

20 “Zoning law” § 14–101

21 **22–105. DEVELOPMENT RIGHTS.**

22 **(A) IN GENERAL.**

23 **A DISTRICT COUNCIL MAY ESTABLISH A PROGRAM FOR THE TRANSFER OF**
24 **DEVELOPMENT RIGHTS.**

25 **(B) PRINCE GEORGE’S COUNTY — PURCHASE OF DEVELOPMENT**
26 **RIGHTS.**

27 **THE DISTRICT COUNCIL FOR PRINCE GEORGE’S COUNTY MAY BY LOCAL**
28 **LAW CREATE A PROGRAM FOR THE PURCHASE OF DEVELOPMENT RIGHTS**
29 **UNDER TITLE 25, SUBTITLE 6 OF THIS ARTICLE.**

30 REVISOR’S NOTE: This section is new language derived without substantive
31 change from former Art. 28, § 8–101(b)(3).

32 Defined terms: “District council” § 14–101

33 “Local law” § 14–101

34 **22–106. PROHIBITED LAND USES — LIMITATIONS.**

35 **(A) SCOPE OF SECTION.**

1 **THIS SECTION APPLIES TO PROPERTY OF:**

2 **(1) A LANDOWNER;**

3 **(2) THE HOLDER OF AN EASEMENT OR RIGHT IN THE LAND OF**
4 **THE LANDOWNER; AND**

5 **(3) THE TENANT OF THE LANDOWNER OR OF THE HOLDER OF THE**
6 **EASEMENT OR RIGHT IN THE LAND.**

7 **(B) IN GENERAL.**

8 **A DISTRICT COUNCIL MAY NOT PROHIBIT THE USE OF LAND SUBJECT TO**
9 **THIS SECTION FOR:**

10 **(1) FARMING OR OTHER AGRICULTURAL USES; OR**

11 **(2) IN PRINCE GEORGE’S COUNTY, STORAGE OF NATURAL OR**
12 **ARTIFICIAL GAS AT MORE THAN 500 FEET BELOW GROUND LEVEL.**

13 REVISOR’S NOTE: This section is new language derived without substantive
14 change from former Art. 28, § 8–101(b)(4).

15 In the introductory language to subsection (b) of this section, the phrase
16 “[a] district council may not prohibit” is substituted for the former phrase
17 “[n]o regulation may prohibit” for clarity and accuracy.

18 In subsection (b)(1) of this section, the former word “exclusively” is
19 deleted as surplusage.

20 Defined term: “District council” § 14–101

21 **22–107. APPLICATION FOR ZONING MAP AMENDMENT — MONTGOMERY**
22 **COUNTY.**

23 **(A) SCOPE AND APPLICATION OF SECTION.**

24 **(1) THIS SECTION APPLIES ONLY IN MONTGOMERY COUNTY.**

25 **(2) THE REQUIREMENTS OF THIS SECTION DO NOT APPLY TO AN**
26 **APPLICATION FOR A ZONING MAP AMENDMENT FILED BY THE DISTRICT**
27 **COUNCIL OR BY THE COMMISSION.**

28 **(B) LAND SUBJECT TO A PREVIOUS APPLICATION.**

1 **(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**
2 **DISTRICT COUNCIL FOR MONTGOMERY COUNTY MAY NOT RECEIVE AN**
3 **APPLICATION FOR A ZONING MAP AMENDMENT ON LAND THAT WAS:**

4 **(I) THE SUBJECT OF A PRIOR APPLICATION FOR A ZONING**
5 **MAP AMENDMENT FILED AFTER JUNE 1, 1965; AND**

6 **(II) FOR THE SAME ZONING CLASSIFICATION ON WHICH**
7 **THERE WAS A DECISION ON THE MERITS.**

8 **(2) AN APPLICATION MAY BE REFILED AFTER 36 MONTHS HAVE**
9 **ELAPSED SINCE THE FILING OF THE APPLICATION FOR THE PRIOR ZONING MAP**
10 **AMENDMENT THAT WAS DECIDED ON THE MERITS.**

11 **(C) REQUIRED INFORMATION.**

12 **(1) IN THIS SUBSECTION, “SUBSTANTIAL INTEREST” INCLUDES**
13 **AN INDIVIDUAL OR CORPORATE INTEREST OF 5% OR MORE OF THE FULL CASH**
14 **VALUE OF PROPERTY THAT IS SUBJECT TO AN APPLICATION FOR A ZONING MAP**
15 **AMENDMENT UNDER THIS SECTION, EXCLUDING ALL MORTGAGES, DEEDS OF**
16 **TRUST, LIENS, AND ENCUMBRANCES ON THE PROPERTY.**

17 **(2) AN APPLICATION FOR A ZONING MAP AMENDMENT SHALL**
18 **INCLUDE THE NAME OF:**

19 **(I) EACH PERSON THAT HAS A SUBSTANTIAL INTEREST IN**
20 **THE PROPERTY THAT IS THE SUBJECT OF THE APPLICATION;**

21 **(II) EACH CONTRACT PURCHASER; AND**

22 **(III) EACH PERSON HOLDING A MORTGAGE, DEED OF TRUST,**
23 **OR OPTION TO PURCHASE THE PROPERTY.**

24 REVISOR’S NOTE: This section is new language derived without substantive
25 change from former Art. 28, § 8–101(b)(5).

26 In subsection (a)(2) of this section, the reference to an application “for a
27 zoning map amendment” is added for clarity.

28 Also in subsection (a)(2) of this section, the former reference to the “time
29 limitation and name” requirements is deleted as unnecessary since those
30 are the only types of requirements contained in this section.

1 Defined terms: "Commission" § 14-101

2 "District council" § 14-101

3 "Person" § 14-101

4 **22-108. PROTECTION OF HISTORICAL, ARCHAEOLOGICAL, ARCHITECTURAL, OR**
5 **CULTURAL HERITAGE AREAS.**

6 **(A) PURPOSES.**

7 **THE PURPOSES OF THIS SECTION ARE TO:**

8 **(1) PROTECT THE HISTORICAL, ARCHAEOLOGICAL,**
9 **ARCHITECTURAL, OR CULTURAL HERITAGE AREAS IN MONTGOMERY COUNTY**
10 **AND PRINCE GEORGE'S COUNTY THAT COMPRISE THE REGIONAL DISTRICT;**
11 **AND**

12 **(2) PRESERVE AND ENHANCE THE QUALITY OF LIFE IN THE**
13 **COMMUNITY.**

14 **(B) IN GENERAL.**

15 **IN ADDITION TO THE POWER TO REGULATE PLANNING, ZONING, OR**
16 **SUBDIVISION, A DISTRICT COUNCIL MAY ADOPT LOCAL LAWS TO PROTECT,**
17 **PRESERVE, AND ENHANCE, AS DESIGNATED ON THE ADOPTED AND APPROVED**
18 **GENERAL PLAN:**

19 **(1) SITES;**

20 **(2) STRUCTURES AND THEIR APPURTENANCES AND**
21 **ENVIRONMENTAL SETTINGS; AND**

22 **(3) DISTRICTS OF HISTORICAL, ARCHAEOLOGICAL,**
23 **ARCHITECTURAL, OR CULTURAL VALUE.**

24 **(C) REQUIREMENTS; LIMITATION.**

25 **(1) THE ENACTMENT AND APPLICATION OF A LOCAL LAW UNDER**
26 **THIS SECTION SHALL BE:**

27 **(I) REASONABLE AND APPROPRIATE TO THE PURPOSE OF**
28 **THIS SUBTITLE; AND**

29 **(II) LIMITED TO THE PROTECTION, PRESERVATION, AND**
30 **ENHANCEMENT OF THE EXTERIOR OF THE SITE, STRUCTURE, OR DISTRICT.**

1 **(2) IF THE ENACTMENT OR APPLICATION OF A LOCAL LAW BY THE**
 2 **DISTRICT COUNCIL EFFECTS A TAKING OF PRIVATE PROPERTY, THE DISTRICT**
 3 **COUNCIL SHALL MAKE PROVISION FOR JUST COMPENSATION.**

4 REVISOR'S NOTE: This section is new language derived without substantive
 5 change from former Art. 28, § 8–101(c).

6 In the introductory language to subsection (a) of this section, the
 7 reference to “[t]he purposes of this section” is added for clarity.

8 In the introductory language to subsection (b) of this section, the former
 9 reference to the “authority” of a district council to regulate certain
 10 property is deleted as included in the reference to the “power” of the
 11 district council to regulate the property.

12 In the introductory language to subsection (c)(1) of this section, the
 13 defined term “local law” is substituted for the former word “regulation”
 14 for clarity and consistency within this division.

15 In subsection (c)(1)(i) of this section, the reference to the purpose of this
 16 “subtitle” is substituted for the former reference to the purpose of this
 17 “section” for clarity.

18 In subsection (c)(2) of this section, the reference to “the district council”
 19 making provision for compensation is added for clarity.

20 Also in subsection (c)(2) of this section, the reference to “the enactment or
 21 application of a local law by the district council” is substituted for the
 22 former reference to “such action” for clarity.

23 Defined terms: “District council” § 14–101

24 “Local law” § 14–101

25 “Regional district” § 14–101

26 “Subdivision” § 14–101

27 **22–109. RESERVED.**

28 **22–110. RESERVED.**

29 PART II. NONCONFORMING USES.

30 **22–111. GRANT OF POWER TO BOARD OF APPEALS OF PRINCE GEORGE'S**
 31 **COUNTY.**

32 **(A) CONSTRUCTION OF SECTION.**

1 **THIS SECTION DOES NOT AUTHORIZE THE VALIDATION, RATIFICATION, OR**
 2 **LEGALIZATION OF ANY VIOLATION OF LAW OR REGULATION IN EFFECT AT THE**
 3 **TIME OF THE ACTION BY THE DISTRICT COUNCIL UNDER THIS SECTION.**

4 **(B) IN GENERAL.**

5 **IN ACCORDANCE WITH ITS ZONING LAWS, THE DISTRICT COUNCIL MAY**
 6 **PROVIDE FOR THE GRANT OF POWER TO THE BOARD OF APPEALS OF PRINCE**
 7 **GEORGE’S COUNTY ON APPEAL TO ALLOW:**

8 **(1) AN EXTENSION OF A LAWFUL NONCONFORMING USE**
 9 **THROUGHOUT ALL OR A PART OF A BUILDING IN WHICH THE NONCONFORMING**
 10 **USE LAWFULLY EXISTS;**

11 **(2) THE RESTORATION OR RECONSTRUCTION OF AN EXISTING**
 12 **LAWFUL NONCONFORMING USE IF BY FIRE OR OTHER CALAMITY THE USE HAS**
 13 **BEEN DESTROYED TO THE EXTENT OF NOT MORE THAN 75% OF THE**
 14 **RECONSTRUCTION VALUE OF THE BUILDING IN WHICH THE LAWFUL**
 15 **NONCONFORMING USE WAS CARRIED ON; OR**

16 **(3) AN EXTENSION OF AN EXISTING LAWFUL NONCONFORMING**
 17 **USE ON THE SAME LOT AS THE LOT EXISTED AS A SINGLE LOT UNDER SINGLE**
 18 **OWNERSHIP WHEN ENACTMENT OF THE ZONING LAW MADE THE THEN EXISTING**
 19 **USE ON THE LOT NONCONFORMING.**

20 REVISOR’S NOTE: This section is new language derived without substantive
 21 change from former Art. 28, § 8–108.

22 In the introductory language to subsection (b) of this section, the phrase
 23 “[i]n accordance with” is substituted for the former phrase “to the degree
 24 and upon the terms and conditions as may be set forth in” for brevity.

25 In subsection (b)(3) of this section, the defined term “zoning law” is
 26 substituted for the former word “regulation” for clarity and consistency
 27 within this division.

28 Defined terms: “District council” § 14–101

29 “Zoning law” § 14–101

30 **22–112. COMMERCIAL AND INDUSTRIAL LICENSES IN RESIDENTIAL ZONES**
 31 **PROHIBITED.**

32 **(A) SCOPE OF SECTION.**

1 **THIS SECTION APPLIES TO ANY OFFICIAL OR BODY AUTHORIZED TO ISSUE**
2 **A LICENSE OR PERMIT.**

3 **(B) ISSUANCE OF LICENSE OR PERMIT IN RESIDENTIAL ZONE —**
4 **PROHIBITED.**

5 **(1) IN THIS SUBSECTION, “RESIDENTIAL ZONE” MEANS ANY AREA**
6 **IN THE REGIONAL DISTRICT THAT IS DESIGNATED ON A ZONING MAP AS**
7 **RESIDENTIAL.**

8 **(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS**
9 **SUBSECTION, AN OFFICIAL OR BODY MAY NOT ISSUE A LICENSE OR PERMIT FOR**
10 **A COMMERCIAL OR INDUSTRIAL PURPOSE OR TO CONDUCT ANY COMMERCIAL**
11 **OR INDUSTRIAL ENTERPRISE OR BUSINESS IN A RESIDENTIAL ZONE.**

12 **(3) PARAGRAPH (2) OF THIS SUBSECTION DOES NOT APPLY IF**
13 **THE PURPOSE, ENTERPRISE, OR BUSINESS IS ALLOWED BY AN APPLICABLE**
14 **ZONING LAW UNDER ALLOWED USES OR SPECIAL EXCEPTIONS GRANTED BY A**
15 **BOARD OF APPEALS.**

16 REVISOR’S NOTE: This section is new language derived without substantive
17 change from former Art. 28, § 8–109(a).

18 In subsection (a) of this section, the comprehensive reference to “any
19 official or body authorized to issue a license or permit” is substituted for
20 the former reference to “[n]o clerk of the Circuit Court of Montgomery
21 County or of Prince George’s County, no administrative official, no
22 licensing body or board, and no person whatever” for brevity.

23 Defined terms: “Regional district” § 14–101
24 “Zoning law” § 14–101

25 **22–113. LAWFUL NONCONFORMING USES ALLOWED TO CONTINUE — IN**
26 **GENERAL.**

27 **A PERSON MAY CONTINUE, AND APPROPRIATE LICENSES MAY BE ISSUED**
28 **TO THE PERSON FOR, A LAWFUL NONCONFORMING USE EXISTING ON THE**
29 **EFFECTIVE DATE OF THE RESPECTIVE ZONING LAWS IN THE METROPOLITAN**
30 **DISTRICT.**

31 REVISOR’S NOTE: This section is new language derived without substantive
32 change from former Art. 28, § 8–109(b).

1 The term “effective date” is substituted for the former word “enactment”
2 for clarity and consistency within this division.

3 The former phrase “limited, however, to the particular use already
4 existing in each case” is deleted as unnecessary.

5 Defined terms: “Metropolitan district” § 14–101
6 “Person” § 14–101
7 “Zoning law” § 14–101

8 **22–114. LAWFUL NONCONFORMING USES ALLOWED TO CONTINUE — OUTSIDE**
9 **METROPOLITAN DISTRICT.**

10 **A LAWFUL NONCONFORMING USE THAT EXISTED ON THE EFFECTIVE DATE**
11 **OF A ZONING LAW ENACTED BY MONTGOMERY COUNTY OR PRINCE GEORGE’S**
12 **COUNTY UNDER THIS TITLE IN THAT PORTION OF THE REGIONAL DISTRICT IN**
13 **THE APPLICABLE COUNTY THAT IS OUTSIDE THE METROPOLITAN DISTRICT MAY**
14 **BE CONTINUED AND APPROPRIATE LICENSES MAY BE ISSUED.**

15 REVISOR’S NOTE: This section is new language derived without substantive
16 change from former Art. 28, § 8–109(d).

17 The former phrase “limited, however, to the particular use in each case”
18 is deleted as unnecessary.

19 Defined terms: “Metropolitan district” § 14–101
20 “Regional district” § 14–101
21 “Zoning law” § 14–101

22 **22–115. MAPS.**

23 **TO CARRY OUT §§ 22–112 THROUGH 22–114 OF THIS SUBTITLE, THE**
24 **COMMISSION SHALL SUPPLY A COPY OF ANY MAP THAT SHOWS THE**
25 **RESIDENTIAL, COMMERCIAL, INDUSTRIAL, AND OTHER ZONES OR DISTRICTS IN**
26 **THE REGIONAL DISTRICT TO EACH:**

27 **(1) CLERK;**

28 **(2) ADMINISTRATIVE OFFICIAL;**

29 **(3) LICENSING BODY; AND**

30 **(4) ANY OTHER OFFICIAL OR BODY AUTHORIZED TO ISSUE A**
31 **LICENSE OR PERMIT.**

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 28, § 8–109(e).

3 In the introductory language to this section, the former reference to
4 “maps” is deleted in light of the reference to “map” and Art. 1, § 8, which
5 provides that the singular generally includes the plural.

6 In item (3) of this section, the former reference to a licensing “board” is
7 deleted as included in the reference to a “licensing body”.

8 Defined terms: “Commission” § 14–101
9 “Regional district” § 14–101

10 **22–116. INVALID LICENSES OR PERMITS.**

11 **(A) IN GENERAL.**

12 **A LICENSE OR PERMIT ISSUED IN VIOLATION OF ANY PROVISION OF §§**
13 **22–112 THROUGH 22–115 OF THIS SUBTITLE IS INVALID.**

14 **(B) PENALTY.**

15 **AN OFFICIAL OR PERSON WHO ISSUES A LICENSE OR PERMIT IN**
16 **VIOLATION OF ANY PROVISION OF §§ 22–112 THROUGH 22–115 OF THIS**
17 **SUBTITLE IS GUILTY OF A MISDEMEANOR AND SUBJECT TO THE PENALTY**
18 **PROVIDED IN TITLE 27 OF THIS ARTICLE.**

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 28, § 8–109(f).

21 Defined term: “Person” § 14–101

22 **22–117. RESERVED.**

23 **22–118. RESERVED.**

24 **PART III. STATEWIDE ZONING LAWS.**

25 **22–119. EFFECT OF STATEWIDE ZONING — IN MUNICIPAL CORPORATIONS.**

26 **(A) IN GENERAL.**

27 **(1) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS**
28 **SUBSECTION, WITHIN THE REGIONAL DISTRICT, THE ZONING POWERS VESTED**
29 **BY DIVISION I OF THIS ARTICLE IN A MUNICIPAL CORPORATION OR THE**

1 COUNCIL OF A MUNICIPAL CORPORATION WITHIN THE REGIONAL DISTRICT
2 SHALL BE CONSTRUED TO BE VESTED EXCLUSIVELY IN THE APPROPRIATE
3 DISTRICT COUNCIL.

4 (2) A MUNICIPAL CORPORATION IN PRINCE GEORGE'S COUNTY
5 HAS CONCURRENT JURISDICTION WITH PRINCE GEORGE'S COUNTY TO
6 ENFORCE ZONING LAWS IN THE BOUNDARIES OF THE MUNICIPAL
7 CORPORATION.

8 (3) THE POWER TO ENFORCE ZONING LAWS FOR THE CITY OF
9 TAKOMA PARK AND THE TOWN OF KENSINGTON IS AS PROVIDED IN §§ 24-201
10 AND 24-202 OF THIS ARTICLE, RESPECTIVELY.

11 (B) PRINCE GEORGE'S COUNTY — AGREEMENT REQUIRED.

12 BEFORE EXERCISING THE AUTHORITY GRANTED BY THIS SECTION, A
13 MUNICIPAL CORPORATION IN PRINCE GEORGE'S COUNTY SHALL ENTER INTO A
14 WRITTEN AGREEMENT WITH THE DISTRICT COUNCIL CONCERNING:

15 (1) THE METHOD BY WHICH THE COUNTY WILL BE ADVISED OF
16 CITATIONS ISSUED BY A MUNICIPAL INSPECTOR;

17 (2) THE RESPONSIBILITY OF THE MUNICIPAL CORPORATION OR
18 THE COUNTY TO PROSECUTE VIOLATIONS CITED BY THE MUNICIPAL
19 CORPORATION;

20 (3) THE DISPOSITION OF FINES IMPOSED FOR VIOLATIONS CITED
21 BY THE MUNICIPAL CORPORATION;

22 (4) THE RESOLUTION OF DISAGREEMENTS BETWEEN THE
23 MUNICIPAL CORPORATION AND THE COUNTY ABOUT THE INTERPRETATION OF
24 ZONING LAWS; AND

25 (5) ANY OTHER MATTER THAT THE DISTRICT COUNCIL
26 CONSIDERS NECESSARY FOR THE PROPER EXERCISE OF THE AUTHORITY
27 GRANTED BY THIS SECTION.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 28, § 8-112(a).

30 In subsection (a)(1) of this section, the former phrase "may be exercised
31 within their discretion only" is deleted as surplusage.

1 The Land Use Article Review Committee notes, for consideration by the
2 General Assembly, that in subsection (a)(2) of this section, the power to
3 “enforce” laws is an executive power, not a legislative power, and should
4 properly vest in the chief executive of the municipal corporation rather
5 than in the governing body. The General Assembly may wish to clarify
6 this provision.

7 Defined terms: “District council” § 14–101

8 “Regional district” § 14–101

9 “Zoning law” § 14–101

10 **22–120. EFFECT OF STATEWIDE ZONING — IN PLANNING COMMISSIONS OR**
11 **BOARD OF APPEALS.**

12 **WITHIN THE REGIONAL DISTRICT, ANY POWER GRANTED TO A PLANNING**
13 **COMMISSION OR BOARD OF APPEALS UNDER DIVISION I OF THIS ARTICLE**
14 **SHALL BE CONSTRUED AS VESTED EXCLUSIVELY IN AND MAY BE EXERCISED**
15 **ONLY BY:**

16 **(1) THE COMMISSION; OR**

17 **(2) THE BOARD OF APPEALS CREATED OR AUTHORIZED BY THIS**
18 **TITLE.**

19 REVISOR’S NOTE: This section is new language derived without substantive
20 change from former Art. 28, § 8–112(b).

21 Defined terms: “Commission” § 14–101

22 “Regional district” § 14–101

23 **22–121. RESERVED.**

24 **22–122. RESERVED.**

25 **PART IV. MISCELLANEOUS.**

26 **22–123. INCONSISTENT OR CONTRARY PROVISIONS.**

27 **OTHER THAN A PROVISION APPLICABLE TO MONTGOMERY COUNTY,**
28 **PRINCE GEORGE’S COUNTY, OR ALL CHARTER COUNTIES UNDER TITLE 1,**
29 **SUBTITLE 4 OF THIS ARTICLE, ANY PROVISION OF DIVISION I OF THIS ARTICLE**
30 **THAT IS IN CONFLICT WITH THIS TITLE DOES NOT APPLY IN THE REGIONAL**
31 **DISTRICT.**

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 28, § 8–112(c).

3 The phrase “[o]ther than a provision applicable to Montgomery County,
4 Prince George’s County, or all charter counties under Title 1, Subtitle 4 of
5 this article,” is added for clarity.

6 The former reference to a “contrary” provision is deleted as included in
7 the reference to a provision that is “in conflict”.

8 Defined term: “Regional district” § 14–101

9 **GENERAL REVISOR'S NOTE TO SUBTITLE**

10 Former Art. 28, § 8–101(b)(1), which defined “zoning classification of
11 agricultural open space”, is deleted because that term was not used in the
12 former law or in this revision.

13 Former Art. 28, § 8–109(c), which authorized the Montgomery County Board of
14 License Commissioners to issue and renew certain alcoholic beverages licenses
15 on certain premises, is transferred to Art. 2B, § 9–216(g). *See* § 5 of Ch. __, Acts
16 of 2012.

17 Former Art. 28, § 8–113, which provided for the continuation of certain zoning
18 regulations and maps in force on May 24, 1939, is not retained in the Code
19 because it is obsolete. It is transferred to the Session Laws to avoid any
20 inadvertent substantive effect its repeal might have. *See* § 14 of Ch. __, Acts of
21 2012.

22 **SUBTITLE 2. DESIGNATION AND ADOPTION.**

23 **PART I. DESIGNATION.**

24 **22–201. DISTRICTS AND ZONES.**

25 **(A) IN GENERAL.**

26 **A DISTRICT COUNCIL MAY DIVIDE THE PORTION OF THE REGIONAL**
27 **DISTRICT LOCATED WITHIN ITS COUNTY INTO DISTRICTS AND ZONES OF ANY**
28 **NUMBER, SHAPE, OR AREA IT MAY DETERMINE.**

29 **(B) ZONING LAWS.**

30 **(1) WITHIN THE DISTRICTS AND ZONES, THE DISTRICT COUNCIL**
31 **MAY REGULATE THE CONSTRUCTION, ALTERATION, AND USES OF BUILDINGS**

1 AND STRUCTURES AND THE USES OF LAND, INCLUDING SURFACE, SUBSURFACE,
2 AND AIR RIGHTS.

3 **(2) (I) ZONING LAWS SHALL BE UNIFORM FOR EACH CLASS OR**
4 **KIND OF DEVELOPMENT THROUGHOUT A DISTRICT OR ZONE.**

5 **(II) THE ZONING LAWS IN ONE DISTRICT OR ZONE MAY**
6 **DIFFER FROM THOSE IN OTHER DISTRICTS OR ZONES.**

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 28, § 8–102.

9 In subsection (a) of this section, the former phrase “[f]or the purposes of
10 such exercise of power” is deleted as surplusage.

11 In subsection (b)(1) of this section, the former references to “erection” and
12 “reconstruction” are deleted as included in the comprehensive reference
13 to “construction”.

14 In subsection (b)(2) of this section and throughout this subtitle, the
15 references to “zoning” laws are added for clarity and consistency with
16 similar provisions in Division I of this article.

17 In subsection (b)(2)(i) of this section, the reference to “development” is
18 substituted for the former reference to “building” for clarity.

19 Also in subsection (b)(2)(i) of this section, the former phrase “[b]oth
20 districts and zones may be created” is deleted as implicit in the language
21 of subsection (a) of this section.

22 Defined terms: “District council” § 14–101

23 “Regional district” § 14–101

24 “Zoning law” § 14–101

25 **22–202. EFFECT OF ZONING LAWS.**

26 **(A) SCOPE OF SECTION.**

27 **THIS SECTION APPLIES TO ANY ZONING LAW THAT IMPOSES A MORE**
28 **RESTRICTIVE HEIGHT LIMITATION, LESSER PERCENTAGE OF LOT OCCUPANCY,**
29 **WIDER OR LARGER COURTS, DEEPER YARDS, OR OTHER MORE RESTRICTIVE**
30 **LIMITATIONS THAN THOSE PROVIDED BY STATE, COUNTY, MUNICIPAL, OR**
31 **OTHER LOCAL REGULATIONS.**

32 **(B) PRIORITY OF REGULATIONS.**

1 **A ZONING LAW DESCRIBED IN SUBSECTION (A) OF THIS SECTION SHALL**
2 **PREVAIL IN THE AREA WHERE IT IS IMPOSED OVER THE LIMITATIONS PROVIDED**
3 **BY STATE, COUNTY, MUNICIPAL, OR OTHER LOCAL REGULATIONS.**

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 28, § 8–103.

6 In subsection (a) of this section, the reference to a “more restrictive”
7 height limitation is substituted for the former reference to a “lower”
8 height limitation for clarity and consistency with similar provisions of
9 Division I of this article.

10 Defined terms: “County” § 14–101

11 “State” § 14–101

12 “Zoning law” § 14–101

13 **22–203. MUNICIPAL REGULATION — PRINCE GEORGE'S COUNTY.**

14 **(A) CONCURRENT REGULATION OF SIGNS.**

15 **A MUNICIPAL CORPORATION IN PRINCE GEORGE'S COUNTY SHALL HAVE**
16 **CONCURRENT AUTHORITY IN ITS BOUNDARIES WITH THE COUNTY DEPARTMENT**
17 **OF ENVIRONMENTAL RESOURCES, LICENSES AND INSPECTIONS GROUP, TO**
18 **SEEK COMPLIANCE WITH ZONING REQUIREMENTS TO THE EXTENT THAT THE**
19 **REQUIREMENTS PERTAIN TO SIGNS.**

20 **(B) REGULATION OF FENCES.**

21 **A MUNICIPAL CORPORATION IN PRINCE GEORGE'S COUNTY MAY ENACT**
22 **LOCAL LAWS REGULATING FENCES ERECTED IN FRONT OF THE BUILDING**
23 **SETBACK LINES ON ALL RESIDENTIAL PROPERTY LOCATED IN THE MUNICIPAL**
24 **CORPORATION.**

25 **(C) LIMITATION.**

26 **ANY LOCAL LAW ENACTED UNDER THIS SECTION MAY NOT BE LESS**
27 **RESTRICTIVE THAN ANY LOCAL LAW IN EFFECT OR SUBSEQUENTLY ENACTED BY**
28 **THE COUNTY COUNCIL.**

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 28, § 8–104(f).

31 In subsection (a) of this section, the reference to the “Department of
32 Environmental Resources, Licenses and Inspections Group,” is

1 substituted for the former obsolete reference to the “Department of
2 Inspections and Permits of Prince George’s County” for clarity and
3 accuracy.

4 Also in subsection (a) of this section, the former reference to municipal
5 corporations “as defined in Article 23A, § 9(a)” is deleted as surplusage.

6 In subsection (c) of this section, the reference to “[a]ny local law enacted
7 under this section” is substituted for the former reference to “[e]nacted
8 ordinances” for clarity.

9 Defined terms: “County” § 14–101

10 “Local law” § 14–101

11 **22–204. RESERVED.**

12 **22–205. RESERVED.**

13 **PART II. AMENDMENTS.**

14 **22–206. PROCEDURES.**

15 **(A) IN GENERAL.**

16 **A DISTRICT COUNCIL MAY AMEND ITS ZONING LAWS, INCLUDING ANY**
17 **MAPS:**

18 **(1) IN ACCORDANCE WITH PROCEDURES ESTABLISHED IN ITS**
19 **ZONING LAWS; AND**

20 **(2) AFTER HOLDING AN ADVERTISED PUBLIC HEARING.**

21 **(B) PERMISSIBLE ELEMENTS.**

22 **THE PROCEDURES AND ZONING LAWS MAY INCLUDE:**

23 **(1) PROCEDURES LIMITING THE TIMES WHEN AMENDMENTS MAY**
24 **BE ADOPTED;**

25 **(2) PROVISIONS FOR HEARINGS AND PRELIMINARY**
26 **DETERMINATIONS BY AN EXAMINER, A BOARD, OR ANY OTHER UNIT;**

27 **(3) PROCEDURES FOR QUORUMS, NUMBER OF VOTES REQUIRED**
28 **TO ENACT AMENDMENTS, AND VARIATIONS OR INCREASES BASED ON FACTORS**

1 SUCH AS MASTER PLANS, RECOMMENDATIONS OF THE HEARING EXAMINER,
2 COUNTY PLANNING BOARD, MUNICIPAL CORPORATION, GOVERNED SPECIAL
3 TAXING DISTRICT, OR OTHER BODY, AND PETITIONS OF ABUTTING PROPERTY
4 OWNERS, AND THE EVIDENTIARY VALUE THAT MAY BE ACCORDED TO ANY OF
5 THESE FACTORS; AND

6 (4) PROCEDURES FOR HEARINGS, NOTICE, COSTS, FEES,
7 AMENDMENT OF APPLICATIONS, RECORDINGS, REVERTER, LAPSE, AND
8 RECONSIDERATION DE NOVO OF UNDEVELOPED ZONING AMENDMENTS.

9 (C) NOTICE TO NEARBY PROPERTY OWNERS — PRINCE GEORGE'S
10 COUNTY.

11 (1) IN PRINCE GEORGE'S COUNTY, THE DISTRICT COUNCIL MAY
12 PROVIDE FOR NOTICE OF THE PUBLIC HEARING ON A PROPOSED AMENDMENT
13 TO ITS ZONING PLAN OR ZONING LAWS TO BE GIVEN TO THE OWNERS OF
14 PROPERTIES, AS THEY APPEAR ON THE ASSESSMENT ROLLS OF THE COUNTY,
15 ADJOINING, ACROSS THE ROAD FROM, ON THE SAME BLOCK AS, OR IN THE
16 GENERAL VICINITY OF THE PROPERTY THAT IS THE SUBJECT OF THE PROPOSED
17 AMENDMENT.

18 (2) A ZONING LAW ADOPTED UNDER THIS SUBSECTION MAY
19 REQUIRE NOTICE TO BE GIVEN BY MAIL OR BY POSTING THE NOTICE ON OR IN
20 THE VICINITY OF THE PROPERTY INVOLVED IN THE PROPOSED AMENDMENT OR
21 BOTH.

22 (D) LIMITATION.

23 IN A YEAR IN WHICH A DISTRICT COUNCIL IS ELECTED, THE DISTRICT
24 COUNCIL MAY NOT AMEND A ZONING LAW FROM NOVEMBER 1 AND UNTIL THE
25 NEWLY ELECTED DISTRICT COUNCIL HAS TAKEN OFFICE.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 28, §§ 8-106(c) and (k) and 8-104(a)(1).

28 In subsection (a) of this section, the reference to "holding" a hearing is
29 added for clarity.

30 Also in subsection (a) of this section, the former phrase "from time to
31 time" is deleted as surplusage.

32 Also in subsection (a) of this section, the former reference to "any
33 regulation" is deleted as surplusage.

1 In the introductory language to subsection (b) of this section, the former
2 phrase “but not be limited to” is deleted as unnecessary in light of Art. 1,
3 § 30, which provides that the word “include[s]” is used “by way of
4 illustration and not by way of limitation”.

5 In subsection (b)(4) of this section, the reference to “recordings” are
6 substituted for the former reference to “stenographic records” for clarity.

7 In subsection (d) of this section, the reference to the “district” council is
8 added for clarity.

9 Also in subsection (d) of this section, the phrase “from November 1” is
10 substituted for the former phrase “after the 31st day of October” for
11 clarity.

12 Also in subsection (d) of this section, the former phrase “[t]he existing
13 provisions of the Regional District Law and of the ordinances enacted by
14 the respective district councils relating to the foregoing matters shall
15 remain in full force and effect unless or until specifically superseded or
16 amended in accordance with the power and authority granted herein,” is
17 deleted as obsolete.

18 The Land Use Article Review Committee notes, for consideration by the
19 General Assembly, that the meaning of the phrase “undeveloped zoning
20 amendments”, and their review de novo, are unclear. It is possible that
21 they refer to proposed but unadopted zoning amendments, or to map
22 amendments approved in anticipation of actions that subsequently fail to
23 occur such as in conditional zoning under § 22–215 of this subtitle, or to
24 some other concept. The General Assembly may wish to clarify the
25 meaning of the phrase “undeveloped zoning amendments” and its
26 relationship to other matters in that subsection.

27 Defined terms: “County planning board” § 14–101

28 “District council” § 14–101

29 “Governed special taxing district” § 14–101

30 “Zoning law” § 14–101

31 **22–207. REQUIRED REFERRAL — CLASSIFICATION CHANGE.**

32 **(A) TO MUNICIPAL CORPORATION OR GOVERNED SPECIAL TAXING**
33 **DISTRICT.**

34 **BEFORE A DISTRICT COUNCIL MAY AMEND THE ZONING LAW BY**
35 **CHANGING THE ZONING CLASSIFICATION OF PROPERTY IN A MUNICIPAL**
36 **CORPORATION OR GOVERNED SPECIAL TAXING DISTRICT, THE DISTRICT**
37 **COUNCIL SHALL REFER THE APPLICATION FOR THE CHANGE TO THE**

1 GOVERNING BODY OF THE MUNICIPAL CORPORATION OR GOVERNED DISTRICT
2 FOR ITS RECOMMENDATION.

3 (B) REVIEW PERIOD.

4 THE GOVERNING BODY OF THE MUNICIPAL CORPORATION OR GOVERNED
5 SPECIAL TAXING DISTRICT HAS 60 DAYS TO MAKE ITS RECOMMENDATION.

6 (C) SUPERMAJORITY REQUIRED.

7 A TWO-THIRDS MAJORITY OF ALL THE MEMBERS OF THE DISTRICT
8 COUNCIL IS REQUIRED BEFORE THE DISTRICT COUNCIL MAY CHANGE THE
9 ZONING CLASSIFICATION OF PROPERTY IN A MUNICIPAL CORPORATION OR
10 GOVERNED SPECIAL TAXING DISTRICT CONTRARY TO THE RECOMMENDATION
11 OF THE MUNICIPAL CORPORATION OR GOVERNED DISTRICT.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from the first and second sentences of former Art. 28, § 8-104(c).

14 In subsection (c) of this section, the reference to the "district" council is
15 added for clarity.

16 Defined terms: "District council" § 14-101
17 "Governed special taxing district" § 14-101
18 "Zoning law" § 14-101

19 **22-208. REQUIRED REFERRAL — MAP AMENDMENT.**

20 (A) TO COUNTY PLANNING BOARD AND MUNICIPAL CORPORATION OR
21 GOVERNED SPECIAL TAXING DISTRICT.

22 BEFORE A MAP AMENDMENT IS APPROVED, IT SHALL BE SUBMITTED TO
23 THE APPROPRIATE COUNTY PLANNING BOARD AND TO THE GOVERNING BODY
24 OF THE MUNICIPAL CORPORATION OR GOVERNED SPECIAL TAXING DISTRICT
25 WHERE THE LAND IS LOCATED FOR A RECOMMENDATION AS TO APPROVAL,
26 DISAPPROVAL, OR APPROVAL WITH CONDITIONS.

27 (B) PROCEDURES.

28 A DISTRICT COUNCIL MAY PROVIDE BY LOCAL LAW PROCEDURES FOR THE
29 COUNTY PLANNING BOARD AND A MUNICIPAL CORPORATION OR GOVERNED
30 SPECIAL TAXING DISTRICT TO FOLLOW IN CONSIDERING ZONING MAP
31 AMENDMENTS TO THE EXTENT THAT THESE PROVISIONS DO NOT CONFLICT
32 WITH THIS DIVISION.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 28, § 8-104(b).

3 In subsection (a) of this section, the phrase "for a recommendation as to
4 approval, disapproval, or approval with conditions" is substituted for the
5 former phrase "for approval, disapproval, or suggestions" for clarity and
6 accuracy.

7 Defined terms: "County planning board" § 14-101
8 "District council" § 14-101
9 "Governed special taxing district" § 14-101
10 "Local law" § 14-101

11 **22-209. APPROVAL — MONTGOMERY COUNTY — CLASSIFICATION CHANGE.**

12 **(A) SCOPE OF SECTION.**

13 **THIS SECTION APPLIES TO APPLICATIONS FILED FOR AMENDMENTS TO**
14 **ZONING CLASSIFICATIONS IN MONTGOMERY COUNTY.**

15 **(B) IN GENERAL.**

16 **EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN**
17 **APPLICATION SHALL BE GRANTED ONLY BY THE AFFIRMATIVE VOTE OF AT**
18 **LEAST FIVE MEMBERS OF THE DISTRICT COUNCIL.**

19 **(C) CLASSIFICATION NOT ON APPROVED PLAN.**

20 **(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
21 **SUBSECTION, AN APPLICATION THAT SEEKS A ZONING CLASSIFICATION NOT**
22 **SHOWN AS APPROPRIATE OR SUITABLE IN THE TEXT OR ON THE LAND USE MAP**
23 **OF A MASTER PLAN THAT THE DISTRICT COUNCIL HAS APPROVED UNDER §**
24 **21-107 OF THIS ARTICLE MAY BE GRANTED ONLY BY THE AFFIRMATIVE VOTE OF**
25 **SIX MEMBERS OF THE DISTRICT COUNCIL.**

26 **(2) IF THE COMMISSION RECOMMENDS APPROVAL OF THE**
27 **APPLICATION FOR RECLASSIFICATION OR IF THE APPLICATION IS FOR A ZONING**
28 **CLASSIFICATION CREATED AFTER THE DISTRICT COUNCIL APPROVES THE**
29 **MASTER PLAN, THE AFFIRMATIVE VOTE OF FIVE MEMBERS OF THE DISTRICT**
30 **COUNCIL IS REQUIRED TO GRANT THE APPLICATION.**

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from former Art. 28, § 8-104(a)(2).

1 In subsection (a) of this section, the reference to the section apply[ing] “to
2 applications filed for amendments to zoning classifications” in
3 Montgomery County is added for clarity.

4 In subsection (c)(1) of this section, the phrase “[e]xcept as provided in
5 paragraph (2) of this subsection,” is added for clarity.

6 Also in subsection (c)(1) of this section, the reference to a zoning
7 classification “either euclidean or floating” is deleted as surplusage.

8 In subsection (c)(2) of this section, the former reference to “applications”
9 is deleted in light of the reference to an “application” and Art. 1, § 8,
10 which provides that the singular generally includes the plural.

11 The Land Use Article Review Committee notes, for consideration by the
12 General Assembly, that the requirement for a supermajority vote to
13 approve a zoning classification “not shown as appropriate or suitable in
14 the text or on the land use map of [an approved] master plan” under
15 subsection (c)(1) of this section may inadvertently penalize a beneficial
16 application that does not conform to an outdated master plan that itself
17 may not be legally current. In part, this may be overcome with the
18 express support of the Commission under subsection (c)(2) of this section.
19 The General Assembly may wish to consider how this provision relates to
20 a stale master plan in an evolving area.

21 Defined terms: “Commission” § 14–101

22 “District council” § 14–101

23 **22–210. APPROVAL — PRINCE GEORGE’S COUNTY — SUPERMAJORITY**
24 **REQUIRED.**

25 **(A) SCOPE OF SECTION.**

26 **THIS SECTION APPLIES ONLY IN PRINCE GEORGE’S COUNTY.**

27 **(B) AMENDMENT CONTRARY TO PLAN.**

28 **THE DISTRICT COUNCIL SHALL REQUIRE A TWO–THIRDS VOTE OF ALL**
29 **MEMBERS OF THE DISTRICT COUNCIL TO APPROVE A ZONING MAP AMENDMENT**
30 **IF THE ZONING MAP AMENDMENT IS CONTRARY TO AN APPROVED MASTER**
31 **PLAN.**

32 **(C) MAP AMENDMENT OR SPECIAL EXCEPTION IN MUNICIPAL**
33 **CORPORATION.**

1 **THE DISTRICT COUNCIL SHALL REQUIRE A TWO-THIRDS VOTE OF ALL**
2 **MEMBERS OF THE DISTRICT COUNCIL TO APPROVE A ZONING MAP AMENDMENT**
3 **OR A SPECIAL EXCEPTION IF THE ZONING MAP AMENDMENT OR SPECIAL**
4 **EXCEPTION IS CONTRARY TO THE RECOMMENDATION OF A MUNICIPAL**
5 **CORPORATION THAT HAS ANY PORTION OF THE LAND SUBJECT TO THE ZONING**
6 **MAP AMENDMENT OR SPECIAL EXCEPTION IN ITS BOUNDARIES.**

7 **(D) PARKING PLAN IN MUNICIPAL CORPORATION.**

8 **THE DISTRICT COUNCIL SHALL REQUIRE A TWO-THIRDS VOTE OF ALL**
9 **MEMBERS OF THE DISTRICT COUNCIL AND A FOUR-FIFTHS VOTE OF ALL**
10 **MEMBERS OF THE COUNTY PLANNING BOARD TO APPROVE AN OPTIONAL**
11 **PARKING PLAN IF THE OPTIONAL PARKING PLAN IS CONTRARY TO THE**
12 **RECOMMENDATION OF A MUNICIPAL CORPORATION THAT HAS ANY PORTION OF**
13 **THE LAND SUBJECT TO THE OPTIONAL PARKING PLAN IN ITS BOUNDARIES.**

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 28, § 8-104(a)(3).

16 Defined terms: "County planning board" § 14-101
17 "District council" § 14-101

18 **22-211. RESERVED.**

19 **22-212. RESERVED.**

20 **PART III. MISCELLANEOUS PROVISIONS — PRINCE GEORGE'S COUNTY.**

21 **22-213. SCOPE OF PART.**

22 **THIS PART APPLIES ONLY IN PRINCE GEORGE'S COUNTY.**

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from the first sentence of former Art. 28, § 8-104(e)(1), as it
25 limited the application of that subsection to Prince George's County.

26 **22-214. CONDITIONAL ZONING.**

27 **(A) IN GENERAL.**

28 **IN APPROVING ANY ZONING MAP AMENDMENT, THE DISTRICT COUNCIL**
29 **MAY CONSIDER AND ADOPT ANY REASONABLE REQUIREMENTS, SAFEGUARDS,**
30 **AND CONDITIONS THAT:**

1 **(1) MAY BE NECESSARY TO PROTECT SURROUNDING PROPERTIES**
2 **FROM ADVERSE EFFECTS THAT MIGHT ACCRUE FROM THE ZONING MAP**
3 **AMENDMENT; OR**

4 **(2) WOULD FURTHER ENHANCE THE COORDINATED,**
5 **HARMONIOUS, AND SYSTEMATIC DEVELOPMENT OF THE REGIONAL DISTRICT.**

6 **(B) CONDITIONS — RESOLUTION; EFFECT.**

7 **(1) A STATEMENT OF ANY CONDITION PROVIDED UNDER**
8 **SUBSECTION (A) OF THIS SECTION SHALL BE INCLUDED IN THE RESOLUTION**
9 **GRANTING THE AMENDMENT.**

10 **(2) THE CONDITIONS SHALL REMAIN IN EFFECT FOR SO LONG AS**
11 **THE PROPERTY REMAINS ZONED IN ACCORDANCE WITH THE RESOLUTION AND**
12 **THE APPLICABLE ZONING CLASSIFICATION REQUESTED.**

13 **(3) A BUILDING PERMIT, USE PERMIT, OR SUBDIVISION PLAT MAY**
14 **NOT BE ISSUED OR APPROVED FOR THE PROPERTY EXCEPT IN ACCORDANCE**
15 **WITH CONDITIONS SET FORTH IN THE RESOLUTION.**

16 **(C) ACCEPTANCE OR REJECTION.**

17 **(1) AN APPLICANT HAS 90 DAYS FROM THE DATE OF APPROVAL**
18 **TO ACCEPT OR REJECT THE LAND USE CLASSIFICATION CONDITIONALLY**
19 **APPROVED.**

20 **(2) IF THE APPLICANT EXPRESSLY REJECTS THE AMENDMENT AS**
21 **CONDITIONALLY APPROVED WITHIN THE 90-DAY PERIOD, THE ZONING**
22 **CLASSIFICATION SHALL REVERT TO ITS PRIOR STATUS.**

23 **(D) LIMITATION.**

24 **NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE**
25 **DISTRICT COUNCIL MAY NOT IMPOSE ANY REQUIREMENT, SAFEGUARD, OR**
26 **CONDITION THAT WOULD REQUIRE THE DEDICATION OF LAND FOR PUBLIC USE**
27 **EXCEPT FOR ROADS AND EASEMENTS.**

28 **(E) LOCAL LAWS.**

29 **THE DISTRICT COUNCIL MAY ADOPT LOCAL LAWS NECESSARY TO**
30 **PROVIDE ADEQUATE NOTICE, PUBLIC HEARINGS, AND ENFORCEMENT**
31 **PROCEDURES FOR THE IMPLEMENTATION OF THIS SECTION.**

1 **(F) EFFECT OF INVALIDITY.**

2 **IF ANY RESOLUTION, OR ANY PART OR CONDITION OF ANY RESOLUTION,**
3 **PASSED BY THE DISTRICT COUNCIL IN ACCORDANCE WITH THIS SECTION IS**
4 **DECLARED INVALID BY ANY COURT OF COMPETENT JURISDICTION:**

5 **(1) THE ZONING CATEGORY APPLICABLE TO THE PROPERTY**
6 **REZONED BY THE RESOLUTION SHALL REVERT TO THE CATEGORY APPLICABLE**
7 **BEFORE THE PASSAGE OF THE RESOLUTION; AND**

8 **(2) THE RESOLUTION SHALL BE NULL AND VOID AND OF NO**
9 **EFFECT.**

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 28, § 8-104(e)(2) through (4) and the second,
12 third, and fourth sentences and, as it related to consideration of
13 conditions, the first sentence of (1).

14 In the introductory language to subsection (a) of this section, the
15 reference to a "zoning" map amendment is substituted for the former
16 reference to a "local" map amendment for clarity and accuracy.

17 Also in the introductory language to subsection (a) of this section, the
18 former obsolete reference to approval of a map amendment "after July 1,
19 1968" is deleted.

20 In subsection (a)(1) of this section, the former phrase "in its opinion" is
21 deleted as surplusage.

22 In subsection (b)(1) of this section, the former phrase "and shall become a
23 part thereof" is deleted as redundant of the phrase "shall be included in".

24 In subsection (d) of this section, the former references to "streets" and
25 "alleys" are deleted as included in the defined term "road".

26 Also in subsection (d) of this section, the word "section" is substituted for
27 the former word "article" to provide the correct provision of law to be
28 referenced.

29 In the introductory language to subsection (f) of this section, the
30 comprehensive reference to being declared "invalid" is substituted for the
31 former reference to being declared "illegal, unconstitutional or in any way
32 invalid" for brevity.

33 Defined terms: "District council" § 14-101

1 "Local law" § 14-101
 2 "Regional district" § 14-101
 3 "Road" § 14-101
 4 "Subdivision" § 14-101

5 **22-215. MAP AMENDMENT — RECORDS — FEES; TRANSCRIPT.**

6 **(A) RECORDING.**

7 **(1) AN AUTHORIZED REPORTER SHALL MAKE A RECORD OF ALL**
 8 **HEARINGS ON PETITIONS FOR ZONING MAP AMENDMENTS.**

9 **(2) THE RECORD MAY NOT BE DESTROYED UNTIL THE TIME FOR**
 10 **APPEAL OR REHEARING ON ANY PETITION FOR ZONING MAP AMENDMENTS HAS**
 11 **EXPIRED.**

12 **(B) FILING FEES; TRANSCRIPT.**

13 **(1) A PERSON MAKING AN APPLICATION FOR A ZONING MAP**
 14 **AMENDMENT SHALL PAY AN ADDITIONAL FILING FEE OF \$5 AT THE TIME OF**
 15 **PAYING THE ADVERTISING COSTS.**

16 **(2) A PERSON APPEALING A DECISION OF THE DISTRICT COUNCIL**
 17 **OR REQUESTING THAT A TRANSCRIPT BE TRANSCRIBED SHALL PAY TO THE**
 18 **COUNTY THE ESTIMATED COST OF TRANSCRIPTION OF THE RECORD.**

19 REVISOR'S NOTE: This section is new language derived without substantive
 20 change from former Art. 28, § 8-106(a) and (b).

21 Throughout this section, the former references to a "stenographer" and a
 22 "stenographic" record are deleted as included in the comprehensive
 23 references to a "reporter" and a "record", respectively, for clarity.

24 In subsection (b) of this section, the former references to "corporation, or
 25 party" are deleted as included in the defined term "person".

26 In subsection (b)(2) of this section, the former phrase "for any reason" is
 27 deleted as surplusage.

28 Defined terms: "County" § 14-101
 29 "District council" § 14-101
 30 "Person" § 14-101

31 **22-216. MAP AMENDMENT — RECORDS — CUSTODY AND AVAILABILITY.**

1 **(A) “CUSTODIAN” DEFINED.**

2 **IN THIS SECTION, “CUSTODIAN” MEANS THE CUSTODIAN OF THE RECORDS**
3 **OF A ZONING MAP AMENDMENT CASE IN THE COUNTY.**

4 **(B) IN GENERAL.**

5 **(1) BEFORE THE COMMISSION SENDS A ZONING MAP**
6 **AMENDMENT CASE TO THE DISTRICT COUNCIL, THE COMMISSION IS THE**
7 **CUSTODIAN.**

8 **(2) AFTER THE COMMISSION SENDS A ZONING MAP AMENDMENT**
9 **CASE TO THE DISTRICT COUNCIL, THE DISTRICT COUNCIL IS THE CUSTODIAN.**

10 **(C) RECEIPT OF MATERIALS.**

11 **CORRESPONDENCE OR DOCUMENTS SUBMITTED TO A CUSTODIAN SHALL**
12 **BE RECEIVED IN A RECORD ONLY IN ACCORDANCE WITH ANY APPLICABLE**
13 **STATUTE, LOCAL LAW, RULE OF EVIDENCE, OR CASE LAW.**

14 **(D) AVAILABILITY.**

15 **(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
16 **SUBSECTION, EACH APPLICATION FOR A ZONING MAP AMENDMENT AND ALL**
17 **OFFICIAL CORRESPONDENCE AND RECORDS RELATING TO THE APPLICATION,**
18 **PREPARED OR RECEIVED IN A RECORD BY THE CUSTODIAN, SHALL BE MADE**
19 **AVAILABLE TO THE PUBLIC DURING THE CUSTODIAN’S REGULAR BUSINESS**
20 **HOURS.**

21 **(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,**
22 **THE CUSTODIAN MAY PUBLISH RULES TO PREVENT ANY ACCESS PROVIDED**
23 **UNDER PARAGRAPH (1) OF THIS SUBSECTION FROM UNREASONABLY**
24 **DISRUPTING THE CUSTODIAN’S OFFICIAL BUSINESS.**

25 **(II) COPIES OF TECHNICAL STAFF REPORTS SHALL BE**
26 **AVAILABLE FOR THE PUBLIC AT THE OFFICE OF THE CUSTODIAN UNDER ALL**
27 **CIRCUMSTANCES.**

28 **(E) COPIES.**

29 **AN INDIVIDUAL WHO PERSONALLY APPEARS AT THE OFFICE OF THE**
30 **CUSTODIAN MAY OBTAIN, WITHOUT CHARGE, A COPY OF A PUBLIC DOCUMENT IF**
31 **THE DOCUMENT:**

1 SUBTITLE SHALL FOLLOW THE PROCEDURE DETERMINED BY THE DISTRICT
2 COUNCIL.

3 (C) AUTHORIZATION TO DECIDE CERTAIN QUESTIONS.

4 THE DISTRICT COUNCIL MAY AUTHORIZE THE BOARD OF APPEALS TO
5 INTERPRET ZONING MAPS OR DECIDE QUESTIONS, SUCH AS THE LOCATION OF
6 LOT LINES OR DISTRICT BOUNDARY LINES, AS THE QUESTIONS ARISE IN THE
7 ADMINISTRATION OF ZONING LAWS.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 28, § 8–110(a)(1), (5), and the second sentence of
10 (4).

11 In subsection (a)(1) of this section, the former reference to the authority
12 to “deny” special exceptions and variances is deleted as implicit in the
13 reference to the authority to “grant” them.

14 Also in subsection (a)(1) of this section, the former phrase “in appropriate
15 cases” is deleted as implicit.

16 In subsection (a)(2) of this section, the former references to “principles”,
17 “rules”, and “conditions” are deleted as included in the references to
18 “standards” and “safeguards”.

19 In subsection (b) of this section, the phrase “[s]ubject to § 22–309 of this
20 subtitle” is added for clarity.

21 Also in subsection (b) of this section, the former phrase “from time to
22 time” is deleted as surplusage.

23 In subsection (c) of this section, the reference to “zoning laws” is
24 substituted for the former reference to the “regulations” for clarity.

25 Defined terms: “District council” § 14–101
26 “Zoning law” § 14–101

27 **22–302. RESERVED.**

28 **22–303. RESERVED.**

29 **PART II. MONTGOMERY COUNTY.**

30 **22–304. SCOPE OF PART.**

1 **THIS PART APPLIES ONLY IN MONTGOMERY COUNTY.**

2 REVISOR'S NOTE: This section is new language added to avoid repeated
3 references to "Montgomery County" in provisions that apply exclusively
4 to that county.

5 **22-305. SPECIAL EXCEPTIONS AND VARIANCES.**

6 **(A) VOTING REQUIREMENTS.**

7 **(1) THE DISTRICT COUNCIL MAY ADOPT ZONING LAWS THAT**
8 **PROVIDE THAT THE AFFIRMATIVE VOTE OF:**

9 **(I) AT LEAST FOUR MEMBERS OF THE BOARD OF APPEALS**
10 **ARE REQUIRED TO ADOPT A RESOLUTION THAT GRANTS, REVOKES, SUSPENDS,**
11 **OR AMENDS A SPECIAL EXCEPTION OR EXTENDS THE TIME IN WHICH TO**
12 **IMPLEMENT A SPECIAL EXCEPTION; AND**

13 **(II) A MAJORITY OF THE BOARD OF APPEALS IS REQUIRED**
14 **TO ADOPT A PROCEDURAL MOTION REGARDING A SPECIAL EXCEPTION**
15 **APPLICATION.**

16 **(2) IN EXERCISING ITS AUTHORITY UNDER THIS SUBSECTION,**
17 **THE DISTRICT COUNCIL MAY ENACT, FOR ANY ZONE, DIFFERENT VOTING**
18 **REQUIREMENTS FOR DIFFERENT USES.**

19 **(B) APPEALS FROM ADMINISTRATIVE OFFICE OR AGENCY.**

20 **THE DECISIONS OF THE ADMINISTRATIVE OFFICE OR AGENCY MAY BE**
21 **APPEALED TO THE BOARD OF APPEALS OR OTHER ADMINISTRATIVE BODY THE**
22 **DISTRICT COUNCIL DESIGNATES.**

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 28, § 8-110(a)(2) and the first sentence of (4).

25 In subsection (a)(1)(i) of this section, the former reference to "modify[ing]"
26 a special exception is deleted as included in the reference to "amend[ing]"
27 a special exception.

28 Defined terms: "District council" § 14-101
29 "Zoning law" § 14-101

30 **22-306. RESERVED.**

1 **22-307. RESERVED.**

2 **PART III. PRINCE GEORGE'S COUNTY.**

3 **22-308. SCOPE OF PART.**

4 **THIS PART APPLIES ONLY IN PRINCE GEORGE'S COUNTY.**

5 REVISOR'S NOTE: This section is new language added for clarity.

6 **22-309. BOARD OF APPEALS.**

7 **(A) ESTABLISHED.**

8 **THERE IS A BOARD OF APPEALS IN PRINCE GEORGE'S COUNTY.**

9 **(B) MEMBERSHIP.**

10 **(1) THE COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY SHALL**
11 **APPOINT THREE MEMBERS TO THE BOARD.**

12 **(2) EACH MEMBER OF THE BOARD SHALL BE A RESIDENT OF THE**
13 **REGIONAL DISTRICT IN PRINCE GEORGE'S COUNTY.**

14 **(3) THE TERM OF A MEMBER IS 4 YEARS.**

15 **(4) A MEMBER WHO IS APPOINTED TO FILL A VACANCY SHALL**
16 **SERVE FOR THE REST OF THE TERM.**

17 **(C) OFFICERS.**

18 **THE BOARD EACH YEAR SHALL ELECT A CHAIR AND VICE-CHAIR.**

19 **(D) MEETINGS; PROCEDURES.**

20 **(1) ALL MEETINGS OF THE BOARD SHALL BE PUBLIC.**

21 **(2) THE BOARD SHALL KEEP MINUTES OF ITS PROCEEDINGS.**

22 **(3) (I) THE BOARD SHALL ACT BY RESOLUTION.**

23 **(II) AT LEAST TWO MEMBERS OF THE BOARD MUST CONCUR**
24 **IN ANY RESOLUTION.**

1 **(4) THE BOARD OR ANY OFFICER OF THE BOARD MAY**
2 **ADMINISTER OATHS AND COMPEL THE ATTENDANCE OF WITNESSES.**

3 **(5) THE DISTRICT COUNCIL MAY ADOPT REGULATIONS**
4 **CONSISTENT WITH THIS SUBTITLE TO GOVERN THE ORGANIZATION AND**
5 **PROCEDURE OF THE BOARD.**

6 **(6) THE BOARD MAY ADOPT SUPPLEMENTAL RULES OF**
7 **PROCEDURE CONSISTENT WITH THIS SUBTITLE AND THE REGULATIONS OF THE**
8 **DISTRICT COUNCIL.**

9 **(E) COMPENSATION; STAFF.**

10 **(1) THE COUNTY COUNCIL SHALL DETERMINE THE**
11 **COMPENSATION OF THE MEMBERS OF THE BOARD.**

12 **(2) THE COUNTY COUNCIL MAY PROVIDE STAFF FOR THE BOARD.**

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 28, § 8–107.

15 In subsection (a) of this section, the former statement that the board “is
16 continued” is deleted as unnecessary.

17 In subsection (b)(3) of this section, the former reference to 4–year terms
18 “dating originally from their first appointment in 1939” is deleted as
19 obsolete.

20 In subsection (c) of this section, the references to a “chair” and a
21 “vice–chair” are substituted for the former references to a “chairman” and
22 a “vice–chairman” because SG § 2–1238 requires the use of words that
23 are neutral as to gender to the extent practicable.

24 Also in subsection (c) of this section, the former reference to the members
25 annually “organiz[ing]” and electing officers is deleted as unnecessary.

26 In subsection (d)(3)(ii) of this section, the reference to “[a]t least” two
27 members of the board concurring in a resolution is added for clarity.

28 In subsection (d)(5) of this section, the former reference to “adopting
29 general rules” is deleted as surplusage.

1 In subsection (d)(6) of this section, the reference to “the regulations of the
2 district council” is substituted for the former reference to “such general
3 rules” for consistency within this subsection.

4 In subsection (d)(6) of this section, the former phrase “from time to time”
5 is deleted as surplusage.

6 In subsection (e) of this section, the references to the “County Council”
7 are substituted for the former obsolete references to the “County
8 Commissioners” to accurately reflect the current form of county
9 government in Prince George’s County.

10 In subsection (e)(2) of this section, the reference to “staff” is substituted
11 for the former reference to “executive and clerical assistance” for
12 consistency with other similar provisions of the Code.

13 Also in subsection (e)(2) of this section, the former reference to providing
14 staff “as necessary” is deleted as surplusage.

15 Defined terms: “District council” § 14–101
16 “Regional district” § 14–101

17 **22–310. APPEAL OF SPECIAL EXCEPTIONS.**

18 **(A) TO DISTRICT COUNCIL.**

19 **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE**
20 **DISTRICT COUNCIL SHALL PROVIDE FOR THE APPEAL OF DECISIONS OF THE**
21 **ZONING HEARING EXAMINER IN SPECIAL EXCEPTION CASES TO THE DISTRICT**
22 **COUNCIL.**

23 **(B) MUNICIPAL CORPORATION — VOTING.**

24 **IF A SPECIAL EXCEPTION IS CONTRARY TO THE RECOMMENDATION OF A**
25 **MUNICIPAL CORPORATION THAT HAS ANY PORTION OF THE PROPERTY SUBJECT**
26 **TO THE SPECIAL EXCEPTION IN THE MUNICIPAL BOUNDARIES, THE DISTRICT**
27 **COUNCIL SHALL REQUIRE A TWO–THIRDS VOTE OF ALL DISTRICT COUNCIL**
28 **MEMBERS TO APPROVE THE SPECIAL EXCEPTION.**

29 REVISOR’S NOTE: This section is new language derived without substantive
30 change from former Art. 28, § 8–110(a)(3).

31 In subsection (a) of this section, the former reference to “variance” cases
32 is deleted for clarity because in Prince George’s County hearing
33 examiners only hear variances in the context of a special exception case.

1 Defined term: "District council" § 14-101

2 **22-311. APPEALS TO BOARD OF APPEALS.**

3 **(A) BY WHOM TAKEN.**

4 **APPEALS TO THE BOARD OF APPEALS MAY BE TAKEN BY ANY PERSON**
5 **AGGRIEVED BY:**

6 **(1) THE GRANT OR DENIAL OF A BUILDING PERMIT;**

7 **(2) THE GRANT OR DENIAL OF AN OCCUPANCY OR USE PERMIT;**
8 **OR**

9 **(3) ANY OTHER ADMINISTRATIVE DECISION BASED WHOLLY OR**
10 **PARTLY ON A ZONING LAW ENACTED BY THE DISTRICT COUNCIL.**

11 **(B) POWERS OF BOARD.**

12 **THE BOARD MAY:**

13 **(1) HEAR AND DECIDE APPEALS ALLEGING AN ERROR:**

14 **(I) IN A GRANT OR DENIAL OF A BUILDING, USE, OR**
15 **OCCUPANCY PERMIT;**

16 **(II) IN AN ORDER OR A DECISION MADE BY A BUILDING**
17 **OFFICIAL OR BY THE COMMISSION ON AN APPLICATION FOR A BUILDING OR**
18 **OTHER PERMIT; OR**

19 **(III) BY AN ADMINISTRATIVE OFFICER OR BODY IN THE**
20 **ADMINISTRATION OF ANY ZONING LAW ADOPTED UNDER THIS TITLE;**

21 **(2) IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE**
22 **DISTRICT COUNCIL, HEAR AND DECIDE REQUESTS FOR:**

23 **(I) SPECIAL EXCEPTIONS OR MAP INTERPRETATIONS;**

24 **(II) DECISIONS ON PERMITS FOR EXTENSIONS,**
25 **SUBSTITUTIONS, RESTORATIONS, REINSTATEMENTS, OR RECONSTRUCTIONS OF**
26 **LAWFUL NONCONFORMING USES; OR**

1 **(III) DECISIONS ON SPECIAL QUESTIONS THAT THE BOARD**
2 **OF APPEALS IS REQUIRED OR AUTHORIZED BY THE ZONING LAWS TO DECIDE;**
3 **AND**

4 **(3) ON AN APPEAL RELATING TO A SPECIFIC PIECE OF PROPERTY,**
5 **AUTHORIZE A VARIANCE FROM STRICT APPLICATION OF A ZONING LAW OR**
6 **AMENDMENT IN ORDER TO RELIEVE DIFFICULTY OR HARDSHIP IF:**

7 **(I) STRICT APPLICATION OF THE ZONING LAW OR**
8 **AMENDMENT WOULD RESULT IN EXCEPTIONAL PRACTICAL DIFFICULTY FOR, OR**
9 **EXCEPTIONAL OR UNDUE HARDSHIP ON, THE OWNER OF THE PROPERTY**
10 **BECAUSE OF THE EXCEPTIONAL SHAPE OF THE PROPERTY AT THE TIME OF THE**
11 **ENACTMENT OF THE ZONING LAW OR AMENDMENT OR BECAUSE OF THE**
12 **EXCEPTIONAL SITUATION OR TOPOGRAPHICAL CONDITIONS OF THE PROPERTY;**
13 **AND**

14 **(II) AUTHORIZATION OF THE VARIANCE WILL NOT CAUSE A**
15 **SUBSTANTIAL IMPAIRMENT OF THE INTENT, PURPOSE, AND INTEGRITY OF THE**
16 **ZONE AS EMBODIED IN THE ZONING LAWS.**

17 **(C) LIMITATION ON POWERS.**

18 **(1) NOTHING IN SUBSECTION (B)(1) OF THIS SECTION**
19 **AUTHORIZES THE BOARD TO REVERSE OR MODIFY A DENIAL OF A PERMIT OR**
20 **ANY OTHER ORDER OR DECISION THAT CONFORMS TO THIS TITLE AND THE**
21 **ZONING LAWS ADOPTED UNDER THIS TITLE.**

22 **(2) THE BOARD MAY NOT MAKE OR AMEND ANY ZONING LAW.**

23 **(D) HEARING AND NOTICE.**

24 **(1) BEFORE MAKING A DECISION ON AN APPEAL, THE BOARD**
25 **SHALL HOLD A HEARING.**

26 **(2) NOTICE OF THE TIME AND PLACE OF THE HEARING SHALL BE**
27 **MAILED AT LEAST 7 DAYS BEFORE THE HEARING TO THE APPELLANT AND TO**
28 **THE OWNERS OF ALL PROPERTIES CONTIGUOUS TO OR OPPOSITE THE SUBJECT**
29 **PROPERTY, MEASURED AT RIGHT ANGLES TO THE INTERVENING STREET OR**
30 **STREETS FROM THE PROPERTY.**

31 **(E) DECISION BY BOARD.**

1 **(1) THE BOARD MAY REVERSE OR AFFIRM, WHOLLY OR PARTLY,**
2 **OR MODIFY THE DECISION APPEALED FROM.**

3 **(2) THE DECISION OF THE BOARD SHALL BE BY RESOLUTION AND**
4 **SHALL INCLUDE A STATEMENT OF THE FINDINGS OF FACT AND CONCLUSIONS**
5 **THAT SUPPORT THE DECISION.**

6 **(3) THE RESOLUTION, OR A COPY OF IT, SHALL FORM PART OF**
7 **THE MINUTES OR OTHER RECORDS OF THE BOARD.**

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 28, § 8–111.

10 In the introductory language to subsection (a) of this section, the former
11 reference to a “board, association, corporation, or official” is deleted as
12 included in the defined term “person”.

13 In subsection (a)(1) of this section, the reference to “a grant” of a building,
14 use, or occupancy permit is added for clarity.

15 In subsection (a)(2) of this section, the word “denial” is substituted for the
16 former word “withholding” for consistency within this section.

17 In subsections (a)(3), (b)(3)(ii), and (c)(2) of this section, the former
18 references to “map[s]” are deleted as included in the references to “zoning
19 law[s]”.

20 In subsection (a)(3) of this section, the former reference to a decision
21 “claimed to be based” on a zoning regulation is deleted as implicit in the
22 reference to a “decision based” on a zoning law.

23 In the introductory language to subsection (b)(1) of this section, the
24 former reference to an error being alleged “by the appellant” is deleted as
25 unnecessary.

26 In subsections (b)(1)(ii) and (c)(1) of this section, the former references to
27 a “requirement” or “determination” are deleted as implicit in the
28 references to an “order” or “decision”.

29 In subsection (b)(2)(iii) and (3)(iii) of this section, the defined term
30 “zoning law[s]” is substituted for the former term “zoning regulations” for
31 clarity and consistency within this division. Similarly, in the
32 introductory language to subsection (b)(3) and (3)(i), the defined term
33 “zoning law” is substituted for the former word “regulation”.

1 In subsection (b)(3)(i) of this section, the former reference to “peculiar”
2 difficulties is deleted as included in the reference to “exceptional”
3 difficulties. Similarly, the former reference to an “extraordinary”
4 situation is deleted as included in the reference to an “exceptional”
5 situation.

6 Also in subsection (b)(3)(i) of this section, the former references to the
7 “narrowness” and “shallowness” of a piece of property are deleted as
8 included in the reference to the “shape” of a piece of property.

9 In subsection (b)(3)(ii) of this section, the reference to the “authorization
10 of the variance” is substituted for the former reference to “relief [being]
11 granted” for clarity.

12 In subsection (c)(1) of this section, the former reference to an order or
13 decision “which, therefore, was not erroneous” is deleted as surplusage.

14 In subsection (d)(2) of this section, the former reference to “the time fixed
15 for” the hearing is deleted as unnecessary.

16 Also in subsection (d)(2) of this section, the former reference to the
17 property “of the appellant” is deleted as surplusage.

18 In subsection (e)(1) of this section, the former phrase “[i]n exercising its
19 powers” is deleted as surplusage.

20 Also in subsection (e)(1) of this section, the former reference to the board
21 acting “in conformity with the provisions of this title and the zoning
22 regulations” is deleted as implicit in the authority of the board to act.

23 In subsection (e)(2) of this section, the reference to the “findings of fact
24 and conclusions that support the decision” is substituted for the former
25 reference to the “grounds of its actions or decisions” for clarity and
26 accuracy.

27 Also in subsection (e)(2) of this section, the former references to the
28 “action” of the board are deleted as included in the references to the
29 “decision” of the board.

30 Defined terms: “Commission” § 14–101
31 “District council” § 14–101
32 “Person” § 14–101
33 “Zoning law” § 14–101

34 **SUBTITLE 4. JUDICIAL REVIEW.**

1 **PART I. MONTGOMERY COUNTY.**

2 **22-401. SCOPE OF PART.**

3 **THIS PART APPLIES ONLY IN MONTGOMERY COUNTY.**

4 REVISOR'S NOTE: This section is new language added to avoid repeated
5 references to "Montgomery County" in sections that apply exclusively to
6 that county.

7 **22-402. MAP AMENDMENTS.**

8 **(A) JUDICIAL REVIEW AUTHORIZED.**

9 **(1) JUDICIAL REVIEW OF A FINAL ACTION OF THE DISTRICT**
10 **COUNCIL ON AN APPLICATION FOR A MAP AMENDMENT MAY BE REQUESTED BY:**

11 **(I) A PERSON AGGRIEVED BY THE ACTION; OR**

12 **(II) A PERSON OR MUNICIPAL CORPORATION THAT**
13 **APPEARED AT THE HEARING IN PERSON, BY ATTORNEY, OR IN WRITING.**

14 **(2) A PETITION FOR JUDICIAL REVIEW SHALL BE FILED IN THE**
15 **CIRCUIT COURT FOR MONTGOMERY COUNTY WITHIN 30 DAYS AFTER THE**
16 **DISTRICT COUNCIL TAKES THE FINAL ACTION.**

17 **(3) THE COURT MAY:**

18 **(I) AFFIRM OR REVERSE THE ACTION;**

19 **(II) FOR ANY REASON, REMAND THE ACTION TO THE**
20 **DISTRICT COUNCIL FOR FURTHER CONSIDERATION; OR**

21 **(III) DISMISS THE PETITION.**

22 **(B) PROCEDURE.**

23 **(1) WHEN A PETITION FOR JUDICIAL REVIEW IS FILED, A COPY OF**
24 **THE PETITION SHALL BE SERVED ON THE DISTRICT COUNCIL IN ACCORDANCE**
25 **WITH MARYLAND RULE 7-202(D).**

26 **(2) ON RECEIVING A COPY OF THE PETITION, THE DISTRICT**
27 **COUNCIL SHALL:**

1 **(I) PROMPTLY GIVE NOTICE OF THE PETITION TO ALL**
2 **PARTIES TO THE PROCEEDING BEFORE IT; AND**

3 **(II) WITHIN 30 DAYS AFTER THE FILING OF THE PETITION,**
4 **FILE WITH THE CIRCUIT COURT:**

5 **1. THE ORIGINALS OR CERTIFIED COPIES OF ALL**
6 **PAPERS AND EVIDENCE PRESENTED TO THE DISTRICT COUNCIL IN THE**
7 **PROCEEDING BEFORE IT; AND**

8 **2. A COPY OF ITS OPINION AND RESOLUTION**
9 **DECIDING THE APPLICATION.**

10 **(3) ANY PARTY TO THE PROCEEDING IN THE CIRCUIT COURT**
11 **AGGRIEVED BY THE JUDGMENT OF THE COURT MAY APPEAL FROM THE**
12 **JUDGMENT TO THE COURT OF SPECIAL APPEALS.**

13 **(4) THE REVIEW PROCEEDINGS PROVIDED BY THIS SECTION ARE**
14 **EXCLUSIVE.**

15 **(C) FINALITY OF ACTION; RECONSIDERATION.**

16 **(1) THE ACTION OF THE DISTRICT COUNCIL SHALL BE**
17 **CONSIDERED FINAL UNLESS, WITHIN 30 DAYS AFTER THE ACTION, THE**
18 **DISTRICT COUNCIL, ON ITS OWN MOTION FOR ANY REASON, RECONSIDERS THE**
19 **ACTION.**

20 **(2) THE TIME FOR APPEAL PROVIDED IN THIS SECTION SHALL BE**
21 **STAYED UNTIL ANY RECONSIDERATION IS CONCLUDED.**

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 28, § 8–105.

24 In the introductory language to subsection (a)(1) of this section and
25 throughout this subtitle, the reference to “judicial review” is substituted
26 for the former reference to an “appeal” for clarity and consistency with
27 language used in the Maryland Rules.

28 In subsection (a)(1)(ii) of this section, the former reference to a
29 “corporation, or association, whether or not incorporated” is deleted as
30 included in the defined term “person”.

31 In subsection (a)(3)(iii) of this section, the former phrase “as now or
32 hereafter provided by law” is deleted as surplusage.

1 In subsection (c)(2) of this section, the former reference to a
2 reconsideration being “determined” is deleted as implicit in the reference
3 to a reconsideration being “concluded”.

4 The Land Use Article Review Committee notes, for consideration by the
5 General Assembly, that under subsection (a)(1)(ii) of this section, a
6 person may obtain judicial review of an action without showing
7 aggrievement, so long as the person appeared at the hearing. The
8 General Assembly may wish to consider whether a different standard
9 involving some form of aggrievement or impact should be required of one
10 obtaining judicial review under this section. *See also* § 23–401 of this
11 article.

12 The Land Use Article Review Committee also notes, for consideration by
13 the General Assembly, that it is unclear whether judicial review may be
14 available under subsection (a) of this section only for an individual map
15 amendment, or also for a sectional map amendment. The General
16 Assembly may wish to clarify the type of map amendment for which
17 judicial review is available under this section.

18 Defined terms: “District council” § 14–101

19 “Person” § 14–101

20 **22–403. SPECIAL EXCEPTIONS AND VARIANCES.**

21 **(A) FROM BOARD OF APPEALS.**

22 **(1) NOTWITHSTANDING ARTICLE 25A, § 5(U) OF THE CODE,**
23 **JUDICIAL REVIEW OF A DECISION BY THE BOARD OF APPEALS ON AN**
24 **APPLICATION FOR A ZONING VARIANCE OR SPECIAL EXCEPTION MAY BE**
25 **REQUESTED BY ANY PERSON OR MUNICIPAL CORPORATION THAT APPEARED AT**
26 **THE HEARING IN PERSON, BY ATTORNEY, OR IN WRITING.**

27 **(2) A PETITION FOR JUDICIAL REVIEW SHALL BE FILED IN THE**
28 **CIRCUIT COURT FOR MONTGOMERY COUNTY WITHIN 30 DAYS AFTER THE**
29 **DECISION BY THE BOARD.**

30 **(3) THE COURT MAY:**

31 **(I) AFFIRM OR REVERSE THE ACTION;**

32 **(II) FOR ANY REASON, REMAND THE ACTION TO THE BOARD**
33 **FOR FURTHER CONSIDERATION; OR**

1 **(III) DISMISS THE PETITION.**

2 **(4) ANY PARTY TO THE PROCEEDING IN THE CIRCUIT COURT MAY**
3 **APPEAL FROM THE JUDGMENT OF THE COURT TO THE COURT OF SPECIAL**
4 **APPEALS.**

5 **(B) EXCLUSIVITY OF REVIEW PROCEEDINGS.**

6 **THE REVIEW PROCEEDINGS PROVIDED BY THIS SECTION ARE EXCLUSIVE.**

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 28, § 8–110(b).

9 In subsection (a)(1) of this section, the former reference to the “county”
10 board of appeals is deleted as surplusage.

11 Also in subsection (a)(1) of this section, the former reference to a
12 “corporation, or association, whether or not incorporated” is deleted as
13 included in the defined term “person”.

14 In subsection (a)(3)(iii) of this section, the former phrase “as provided by
15 law” is deleted as surplusage.

16 Defined term: “Person” § 14–101

17 **22–404. RESERVED.**

18 **22–405. RESERVED.**

19 **PART II. PRINCE GEORGE'S COUNTY.**

20 **22–406. SCOPE OF PART.**

21 **THIS PART APPLIES ONLY IN PRINCE GEORGE'S COUNTY.**

22 REVISOR'S NOTE: This section is new language added to avoid repeated
23 references to “Prince George's County” in sections that apply exclusively
24 to that county.

25 **22–407. JUDICIAL REVIEW.**

26 **(A) AUTHORIZED.**

27 **(1) JUDICIAL REVIEW OF A FINAL DECISION OF THE DISTRICT**
28 **COUNCIL AMENDMENT MAY BE REQUESTED BY:**

1 **(I) ANY MUNICIPAL CORPORATION, GOVERNED SPECIAL**
2 **TAXING DISTRICT, OR PERSON IN THE COUNTY;**

3 **(II) ANY CIVIC OR HOMEOWNERS ASSOCIATION**
4 **REPRESENTING PROPERTY OWNERS AFFECTED BY THE FINAL DECISION; OR**

5 **(III) IF AGGRIEVED, THE APPLICANT FOR THE ZONING MAP**
6 **AMENDMENT.**

7 **(2) A PETITION FOR JUDICIAL REVIEW UNDER THIS SUBSECTION**
8 **SHALL BE FILED IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY**
9 **WITHIN 30 DAYS AFTER SERVICE OF THE FINAL DECISION BY THE DISTRICT**
10 **COUNCIL.**

11 **(3) COPIES OF THE PETITION SHALL BE SERVED ON THE**
12 **DISTRICT COUNCIL AND ALL OTHER PERSONS OF RECORD IN ACCORDANCE**
13 **WITH THE MARYLAND RULES.**

14 **(4) THE FILING OF THE PETITION DOES NOT STAY ENFORCEMENT**
15 **OF THE FINAL DECISION OF THE DISTRICT COUNCIL, BUT THE DISTRICT**
16 **COUNCIL MAY STAY ENFORCEMENT OF ITS FINAL DECISION OR THE REVIEWING**
17 **COURT MAY ORDER A STAY ON TERMS IT CONSIDERS PROPER.**

18 **(B) PROCEDURE FOR JUDICIAL REVIEW.**

19 **(1) WITHIN 30 DAYS AFTER SERVICE OF A PETITION UNDER**
20 **SUBSECTION (A) OF THIS SECTION, OR WITHIN AN ADDITIONAL PERIOD OF TIME**
21 **AUTHORIZED BY THE COURT, THE DISTRICT COUNCIL SHALL TRANSMIT TO THE**
22 **REVIEWING COURT THE ORIGINAL OR A CERTIFIED COPY OF THE ENTIRE**
23 **RECORD OF THE PROCEEDING UNDER REVIEW.**

24 **(2) THE COURT MAY:**

25 **(I) SHORTEN THE RECORD BY STIPULATION OF ALL**
26 **PARTIES TO THE REVIEW PROCEEDING;**

27 **(II) CHARGE ANY PARTY UNREASONABLY REFUSING TO**
28 **STIPULATE TO LIMIT THE RECORD FOR THE ADDITIONAL COST; AND**

29 **(III) REQUIRE OR ALLOW SUBSEQUENT CORRECTIONS TO**
30 **THE RECORD THAT THE COURT CONSIDERS ADVISABLE.**

1 **(C) TAKING ADDITIONAL EVIDENCE.**

2 **(1) THE COURT SHALL ORDER THAT ADDITIONAL EVIDENCE BE**
3 **TAKEN BEFORE THE DISTRICT COUNCIL ON CONDITIONS THE COURT**
4 **CONSIDERS PROPER IF:**

5 **(I) BEFORE THE DATE SET FOR THE HEARING ON THE**
6 **PETITION FOR JUDICIAL REVIEW, THE PETITIONER OR ANY PARTY IN INTEREST**
7 **MAKES A WRITTEN APPLICATION TO SHOW CAUSE TO THE COURT FOR LEAVE TO**
8 **PRESENT ADDITIONAL EVIDENCE ON THE ISSUES IN THE CASE; AND**

9 **(II) IT IS SHOWN TO THE SATISFACTION OF THE COURT**
10 **AFTER A HEARING THAT THE ADDITIONAL EVIDENCE IS MATERIAL AND THAT**
11 **THERE WERE GOOD REASONS FOR THE FAILURE TO PRESENT THE ADDITIONAL**
12 **EVIDENCE IN THE PROCEEDINGS BEFORE THE DISTRICT COUNCIL.**

13 **(2) IF THE COURT ORDERS THAT ADDITIONAL EVIDENCE BE**
14 **TAKEN BEFORE THE DISTRICT COUNCIL, IT SHALL IMMEDIATELY REMAND THE**
15 **CASE TO THE DISTRICT COUNCIL TO RECEIVE THAT ADDITIONAL EVIDENCE.**

16 **(3) IF THE DISTRICT COUNCIL RECEIVES ADDITIONAL EVIDENCE,**
17 **THE DISTRICT COUNCIL:**

18 **(I) MAY MODIFY OR REVERSE ITS PREVIOUS FINDINGS AND**
19 **DECISION BECAUSE OF THE ADDITIONAL EVIDENCE; AND**

20 **(II) SHALL FILE WITH THE REVIEWING COURT, TO BECOME**
21 **PART OF THE RECORD, THE ADDITIONAL EVIDENCE TOGETHER WITH ANY**
22 **MODIFICATIONS OR NEW FINDINGS OR DECISION.**

23 **(D) COURT PROCEDURE.**

24 **(1) THE COURT SHALL CONDUCT THE JUDICIAL REVIEW WITHOUT**
25 **A JURY.**

26 **(2) IN CASES WHERE THERE ARE ALLEGED IRREGULARITIES IN**
27 **PROCEDURE BEFORE THE DISTRICT COUNCIL NOT SHOWN IN THE RECORD,**
28 **TESTIMONY RELATING TO THE ALLEGED IRREGULARITIES MAY BE TAKEN IN**
29 **THE COURT.**

30 **(3) THE COURT SHALL HEAR ORAL ARGUMENT AND RECEIVE**
31 **WRITTEN BRIEFS ON REQUEST.**

1 **(E) COURT'S ACTION.**

2 **THE COURT MAY:**

3 **(1) AFFIRM THE DECISION OF THE DISTRICT COUNCIL;**

4 **(2) REMAND THE CASE FOR FURTHER PROCEEDINGS; OR**

5 **(3) REVERSE OR MODIFY THE DECISION IF THE SUBSTANTIAL**
6 **RIGHTS OF THE PETITIONER HAVE BEEN PREJUDICED BECAUSE THE DISTRICT**
7 **COUNCIL'S ACTION IS:**

8 **(I) UNCONSTITUTIONAL;**

9 **(II) IN EXCESS OF THE STATUTORY AUTHORITY OR**
10 **JURISDICTION OF THE DISTRICT COUNCIL;**

11 **(III) MADE ON UNLAWFUL PROCEDURE;**

12 **(IV) AFFECTED BY OTHER ERROR OF LAW;**

13 **(V) UNSUPPORTED BY COMPETENT, MATERIAL, AND**
14 **SUBSTANTIAL EVIDENCE IN VIEW OF THE ENTIRE RECORD AS SUBMITTED; OR**

15 **(VI) ARBITRARY OR CAPRICIOUS.**

16 **(F) FURTHER RIGHT OF APPEAL.**

17 **(1) A FINAL JUDGMENT OF THE CIRCUIT COURT MAY BE**
18 **APPEALED TO THE COURT OF SPECIAL APPEALS BY:**

19 **(I) THE DISTRICT COUNCIL;**

20 **(II) THE APPLICANT; OR**

21 **(III) ANY AGGRIEVED PARTY TO THE CIRCUIT COURT**
22 **PROCEEDINGS.**

23 **(2) EACH MEMBER OF THE DISTRICT COUNCIL IS ENTITLED TO**
24 **VOTE ON WHETHER THE DISTRICT COUNCIL SHALL APPEAL TO THE COURT OF**
25 **SPECIAL APPEALS, REGARDLESS OF WHETHER THE MEMBER PARTICIPATED IN**
26 **THE HEARING ON THE MATTER OR IN THE DECISION.**

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 28, § 8–106(e) through (j).

3 In subsection (a)(1)(i) of this section, the former reference to a “taxpayer”
4 is deleted as included in the reference to “any ... person”.

5 In subsection (a)(2) of this section, the reference to a petition “for judicial
6 review” is added for clarity and consistency with language used in the
7 Maryland Rules.

8 Also in subsection (a)(2) of this section, the former phrase “which may be
9 served upon all persons of record at the district council’s hearing” is
10 deleted as surplusage.

11 In subsection (b)(2)(ii) of this section, the reference to “charg[ing]” a party
12 for the additional cost is substituted for the former reference to “tax[ing]”
13 a party for clarity.

14 In subsection (c)(1)(i) of this section, the reference to written application
15 “by petition” is deleted as surplusage.

16 In the introductory language to subsection (e)(3) of this section, the
17 reference to the “district council’s action” is substituted for the former
18 reference to the “administrative findings, inferences, conclusions, or
19 decisions” for brevity and clarity.

20 In subsection (e)(3)(ii) of this section, the reference to the “district
21 council” is substituted for the former reference to the “agency” for clarity.

22 In subsection (f) of this section, the former reference to the “appeal
23 [being] taken in the manner provided by law for appeals from law courts
24 in other civil cases” is deleted as unnecessary.

25 In the introductory language to subsection (f)(1) of this section, the
26 former reference to “secur[ing] a review” is deleted as unnecessary.

27 Also in the introductory language to subsection (f)(1) of this section, the
28 former reference to a final judgment “under this title” is deleted as
29 unnecessary in light of the context of this subsection and section.

30 The Land Use Article Review Committee notes, for consideration by the
31 General Assembly, that under subsection (c)(3)(i) of this section, the
32 possibility that the district council might modify or reverse a decision
33 based on additional evidence may open up unforeseen consequences if one
34 or more parties changes its position in the proceedings, and the rights of
35 those persons also change accordingly. The General Assembly may wish

1 to explore further, with caution, the possibilities that an open remand to
2 the district council might bring to the process.

3 The Land Use Article Review Committee also notes, for consideration by
4 the General Assembly, that subsection (f)(2) of this section appears to
5 allow a member of the district council who previously was recused to
6 participate in the decision to appeal to the Court of Special Appeals,
7 raising certain ethical concerns. The General Assembly may wish to
8 examine more closely the language of subsection (f)(2) of this section and
9 consider the effect of recusal on qualification to vote on the decision to
10 appeal an action.

11 Former Art. 28, § 8–106(d), which defined various forms of the words
12 “amend” and “regulate”, is deleted as unnecessary. The synonyms and
13 explanations provided for the terms do not add to the understanding of
14 them.

15 Defined terms: “District council” § 14–101
16 “Governed special taxing district” § 14–101
17 “Person” § 14–101

18 **22–408. JUDICIAL REVIEW FROM BOARD OF APPEALS; FINAL AND BINDING**
19 **DECISIONS.**

20 **(A) JUDICIAL REVIEW IN CIRCUIT COURT AND COURT OF SPECIAL**
21 **APPEALS.**

22 **(1) ANY PARTY TO A PROCEEDING BEFORE THE BOARD OF**
23 **APPEALS AGGRIEVED BY THE DECISION OF THE BOARD MAY REQUEST JUDICIAL**
24 **REVIEW OF THE DECISION BY THE CIRCUIT COURT FOR PRINCE GEORGE’S**
25 **COUNTY.**

26 **(2) THE CIRCUIT COURT MAY AFFIRM THE DECISION OF THE**
27 **BOARD, OR, IF THE DECISION IS NOT IN ACCORDANCE WITH LAW, MODIFY OR**
28 **REVERSE THE DECISION, WITH OR WITHOUT REMANDING THE CASE FOR**
29 **REHEARING.**

30 **(3) ANY PARTY TO THE PROCEEDING IN THE CIRCUIT COURT**
31 **AGGRIEVED BY THE JUDGMENT OF THE COURT MAY APPEAL THE DECISION TO**
32 **THE COURT OF SPECIAL APPEALS.**

33 **(B) FINAL AND BINDING DECISIONS OF THE BOARD OF APPEALS.**

34 **(1) THE BOARD OF APPEALS SHALL TAKE ANY ACTION**
35 **NECESSARY TO ENFORCE ANY FINAL DECISION OF THE BOARD.**

1 **(2) ANY REQUEST OR APPLICATION FOR A STAY FROM A FINAL**
 2 **DECISION OF THE BOARD SHALL BE FILED IN THE CIRCUIT COURT FOR PRINCE**
 3 **GEORGE’S COUNTY.**

4 **(3) UNLESS MODIFIED OR REVERSED BY THE CIRCUIT COURT, A**
 5 **DECISION OF THE BOARD CONCERNING ANY NONCONFORMING OCCUPANCY OR**
 6 **USE IS BINDING ON THE PARTIES AND CONTINUES IN FORCE AND EFFECT.**

7 REVISOR’S NOTE: This section is new language derived without substantive
 8 change from former Art. 28, § 8–111.1.

9 In subsection (a)(2) of this section, the former reference to remanding a
 10 case “as justice may require” is deleted as surplusage.

11 The Land Use Article Review Committee notes, for consideration by the
 12 General Assembly, that subsection (b) of this section, which requires the
 13 board of appeals to take certain actions to enforce a final decision of the
 14 board, may be obsolete in light of the district council’s assumption of that
 15 authority. The General Assembly may wish to consider substantively
 16 altering this provision or repealing it.

17 **TITLE 23. SUBDIVISION.**

18 **SUBTITLE 1. POWERS.**

19 **23–101. SCOPE OF TITLE.**

20 **THIS TITLE DOES NOT APPLY TO A GOOD–FAITH DIVISION OR PARTITION**
 21 **OF EXCLUSIVELY AGRICULTURAL LAND THAT IS NOT MADE FOR DEVELOPMENT**
 22 **PURPOSES.**

23 REVISOR’S NOTE: This subsection is new language derived without
 24 substantive change from the second sentence of former Art. 28, §
 25 7–101(d). It is revised as an application provision rather than as an
 26 exclusion to a definition for clarity.

27 The reference to a “good–faith” division or partition is substituted for the
 28 former reference to a “bona fide” division or partition for clarity.

29 **23–102. IN GENERAL.**

30 **(A) SUBDIVISION PLAT APPROVAL REQUIRED BY COUNTY PLANNING**
 31 **BOARD.**

1 **(1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A**
2 **SUBDIVISION PLAT OF LAND IN THE REGIONAL DISTRICT MAY NOT BE ADMITTED**
3 **TO THE LAND RECORDS OF MONTGOMERY COUNTY OR PRINCE GEORGE'S**
4 **COUNTY, OR RECEIVED OR RECORDED BY THE CLERKS OF THE COURTS OF THE**
5 **RESPECTIVE COUNTY, UNLESS:**

6 **(I) THE PLAT HAS BEEN SUBMITTED TO AND APPROVED BY**
7 **THE APPLICABLE COUNTY PLANNING BOARD; AND**

8 **(II) THE CHAIR OF THE COUNTY PLANNING BOARD AND THE**
9 **SECRETARY-TREASURER OF THE COMMISSION ENDORSE AN APPROVAL IN**
10 **WRITING ON THE PLAT.**

11 **(2) THE RECORDATION OF A SUBDIVISION PLAT WITHOUT THE**
12 **APPROVAL OF THE COUNTY PLANNING BOARD IS VOID.**

13 **(B) MINOR SUBDIVISION PLAT APPROVAL.**

14 **(1) IN PRINCE GEORGE'S COUNTY, IF THE SUBDIVISION**
15 **REGULATIONS DISTINGUISH BETWEEN A MAJOR SUBDIVISION AND A MINOR**
16 **SUBDIVISION, THE COMMISSION MAY PROVIDE FOR THE APPROVAL OF A MINOR**
17 **SUBDIVISION PLAT BY THE PLANNING DIRECTOR.**

18 **(2) THE PLANNING DIRECTOR'S ENDORSEMENT IN WRITING ON**
19 **THE MINOR SUBDIVISION PLAT IS SUFFICIENT EVIDENCE OF APPROVAL FOR**
20 **THE PURPOSE OF FILING OR RECORDING THE PLAT.**

21 **(C) MUNICIPAL SUBDIVISION PLAT APPROVAL.**

22 **A SUBDIVISION IN A MUNICIPAL CORPORATION WITH SUBDIVISION**
23 **AUTHORITY UNDER ARTICLE 23A OF THE CODE THAT IS IN THE REGIONAL**
24 **DISTRICT MAY BE RECORDED IN THE LAND RECORDS OF MONTGOMERY**
25 **COUNTY OR PRINCE GEORGE'S COUNTY IF:**

26 **(1) THE SUBDIVISION PLAT HAS BEEN SUBMITTED TO AND**
27 **APPROVED BY THE MUNICIPAL CORPORATION; AND**

28 **(2) THE APPROPRIATE OFFICIAL OF THE MUNICIPAL**
29 **CORPORATION ENDORSES AN APPROVAL IN WRITING ON THE PLAT.**

30 **(D) SUBDIVISION FEES.**

1 **(1) THE COUNTY PLANNING BOARD MAY SET A SCHEDULE OF**
2 **FEEES TO BE PAID TO THE COMMISSION FOR PERFORMANCE OF THE COUNTY**
3 **PLANNING BOARD'S SUBDIVISION FUNCTIONS.**

4 **(2) THE FEES SHALL BE:**

5 **(I) BASED ON THE ESTIMATED COSTS OF SERVICES TO BE**
6 **PERFORMED BY THE COUNTY PLANNING BOARD IN CONNECTION WITH THE**
7 **CONSIDERATION OF SUBDIVISION PLATS AND INCIDENTAL WORK; AND**

8 **(II) PAID INTO THE COMMISSION'S ADMINISTRATIVE FUND**
9 **ESTABLISHED UNDER § 18-307 OF THIS ARTICLE BEFORE A SUBDIVISION PLAT**
10 **IS APPROVED OR DISAPPROVED.**

11 **(E) SUBDIVISION PLAT RECORDATION; CLERK'S FEE.**

12 **(1) AFTER A SUBDIVISION PLAT HAS BEEN RECORDED BY THE**
13 **CLERK OF THE APPROPRIATE CIRCUIT COURT, THE PLAT SHALL BE FIRMLY**
14 **FIXED IN A WELL-BOUND BOOK KEPT BY THE CLERK OF THE COURT FOR**
15 **RECORDING PLATS.**

16 **(2) THE CLERK MAY COLLECT A FEE THAT THE CLERK**
17 **DETERMINES IS REASONABLE FOR RECORDING A SUBDIVISION PLAT.**

18 **(F) PREPARATION OF PLATS.**

19 **(1) A SUBDIVISION PLAT SHALL BE PREPARED IN A MANNER**
20 **REQUIRED BY THE COMMISSION BY REGULATION.**

21 **(2) AN APPROVED SUBDIVISION SHALL HAVE PERMANENT**
22 **MARKERS, BOUND STONES, OR STATIONS:**

23 **(I) AS REQUIRED BY THE COMMISSION; AND**

24 **(II) THAT ARE SHOWN ON THE SUBDIVISION PLAT.**

25 **(3) A COPY OF AN APPROVED SUBDIVISION PLAT SHALL BE**
26 **PROVIDED TO THE COMMISSION AND TO THE DISTRICT COUNCIL OF THE**
27 **COUNTY WHERE THE LAND IS LOCATED.**

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 28, § 7-115(a) through (d).

1 In subsections (a) and (d) of this section and throughout this title, several
2 references to the “county planning board” are substituted for the former
3 references to the “Commission” to conform to current subdivision
4 practice. The Land Use Article Review Committee brings this
5 substitution to the attention of the General Assembly. No substantive
6 change is intended.

7 In subsection (a)(1)(ii) of this section, the reference to the “chair” is
8 substituted for the former reference to the “chairman” because SG §
9 2–1238 requires the use of terms that are neutral as to gender to the
10 extent practicable.

11 In subsection (b)(2) of this section, the reference to a “minor subdivision”
12 plat is added for clarity.

13 In subsections (c) and (f) of this section and throughout this title, the
14 former references to a subdivision “of land” are deleted as implicit in the
15 references to a “subdivision”.

16 In the introductory language to subsection (c) of this section, the
17 reference to a subdivision “in a municipal corporation with subdivision
18 authority” is substituted for the former reference to a subdivision “of land
19 within the regional district that has been annexed by a municipality
20 having planning, zoning, and subdivision authority” for brevity and
21 clarity.

22 Also in the introductory language to subsection (c) of this section, the
23 reference to the land records of “Montgomery County or Prince George’s
24 County” is substituted for the former reference to “the county” for clarity.

25 In subsection (c)(2) of this section, the reference to the “appropriate”
26 official of the municipal corporation is substituted for the former
27 reference to the official of the municipal corporation “charged with that
28 responsibility” for brevity.

29 In subsection (d)(1) of this section, the reference to the “performance of
30 the county planning board’s subdivision functions” is substituted for the
31 former reference to the Commission’s “subdivision work” for clarity.

32 Also in subsection (d)(1) of this section, the reference to “amend[ing] the
33 scale” is deleted as implicit in the reference to “set[ting] a schedule” of
34 fees.

35 Also in subsection (d)(1) of this section, the former phrase “from time to
36 time” is deleted as unnecessary.

1 In subsection (d)(2) of this section, the former phrase “[i]n the case of each
2 subdivision plat submitted to the Commission” is deleted as surplusage.

3 In subsection (e)(1) of this section, the phrase “[a]fter a subdivision plat
4 has been recorded” is substituted for the former phrase “[a]fter the
5 approval and upon receipt of the plat” for brevity and clarity.

6 In subsection (e)(2) of this section, the former reference to a “fair” fee is
7 deleted as included in the reference to a “reasonable” fee.

8 In subsection (f)(1) of this section, the reference to the plat being
9 prepared “in a manner required by the Commission by regulation” is
10 substituted for the former reference to a plat being prepared “upon paper
11 or cloth of a size and character, with notations, information, and
12 markings the Commission prescribes by regulation” for brevity and
13 clarity.

14 In subsection (f)(2)(ii) of this section, the former word “designated” is
15 deleted as included in the word “shown”.

16 The Land Use Article Review Committee notes, for consideration by the
17 General Assembly, that in subsection (c) of this section, the authority of a
18 municipal corporation to approve subdivisions applies not only to land not
19 previously subdivided in the municipal corporation, but also to land that
20 the municipal corporation annexes.

21 The Land Use Article Review Committee also notes, for consideration by
22 the General Assembly, that in subsection (e)(1) of this section, the
23 statutory requirement that a plat “shall be firmly fixed in a well-bound
24 book” may be unnecessarily restrictive in light of current and evolving
25 technology for preparing and submitting maps and materials and
26 integrating them into public and private geographic information systems.
27 The General Assembly may wish to authorize the Commission, the circuit
28 court, or some other unit to specify the required or permissible means
29 and media for submitting and preserving plats in land records.

30 Defined terms: “Commission” § 14–101
31 “County planning board” § 14–101
32 “District council” § 14–101
33 “Regional district” § 14–101
34 “Subdivision” § 14–101

35 **23–103. DEDICATION OF LAND FOR ROADS.**

36 **(A) IN GENERAL.**

1 **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IN**
2 **CONNECTION WITH THE APPROVAL OF A SUBDIVISION PLAT, THE APPROPRIATE**
3 **COUNTY PLANNING BOARD MAY REQUIRE A DEDICATION OF LAND FOR:**

4 **(1) AN INTERIOR SUBDIVISION ROAD;**

5 **(2) A ROAD THAT ABUTS THE SUBDIVISION FOR THE PURPOSE OF**
6 **CREATING A NEW ROAD AS PART OF THE PLAN OF SUBDIVISION TO PROVIDE FOR**
7 **TRAFFIC ACCESS TO ANOTHER SUBDIVISION ROAD; AND**

8 **(3) THE WIDENING OF AN EXISTING OR PUBLIC ROAD THAT ABUTS**
9 **THE SUBDIVISION FOR THE PURPOSE OF PROVIDING ADDITIONAL**
10 **RIGHT-OF-WAY ADEQUATE TO SERVE ADDITIONAL TRAFFIC THAT WILL BE**
11 **GENERATED BY THE SUBDIVISION.**

12 **(B) EXCEPTIONS.**

13 **THE COUNTY PLANNING BOARD MAY NOT REQUIRE A DEDICATION OF**
14 **LAND UNDER SUBSECTION (A) OF THIS SECTION THAT:**

15 **(1) EXCEEDS THE AREA REQUIRED TO PRODUCE A TOTAL**
16 **RIGHT-OF-WAY FOR:**

17 **(I) A SECONDARY ROAD, AS DEFINED BY LOCAL LAW; OR**

18 **(II) A PRIMARY ROAD IF THE APPLICABLE MASTER PLAN**
19 **DESIGNATES THE ROAD AS A PRIMARY OR ARTERIAL ROAD;**

20 **(2) HAS A WIDTH THAT EXCEEDS THE AREA THAT IS REQUIRED**
21 **FOR A PRIMARY ROAD; AND**

22 **(3) HAS A WIDTH THAT EXCEEDS THE AREA THAT IS REQUIRED**
23 **FOR A SECONDARY ROAD, UNLESS THE APPLICABLE MASTER PLAN DESIGNATES**
24 **THE ROAD AS A PRIMARY OR ARTERIAL ROAD.**

25 **(C) MONTGOMERY COUNTY.**

26 **(1) NOTWITHSTANDING SUBSECTIONS (A) AND (B) OF THIS**
27 **SECTION, IN MONTGOMERY COUNTY, IN CONNECTION WITH THE APPROVAL OF**
28 **A SUBDIVISION PLAT, THE COMMISSION MAY REQUIRE A DEDICATION OF LAND**
29 **IN ACCORDANCE WITH THE STANDARDS AND LIMITATIONS SET FORTH IN THE**
30 **SUBDIVISION REGULATIONS.**

1 **(2) THE STANDARDS ESTABLISHED BY THE SUBDIVISION**
 2 **REGULATIONS SHALL RELATE THE AREA OF DEDICATION TO:**

3 **(I) THE TOTAL SIZE OF THE SUBDIVISION;**

4 **(II) THE MAXIMUM ROAD RIGHT-OF-WAY OR IMPROVEMENT**
 5 **REQUIRED FOR THAT CATEGORY OF LAND USE AS ESTABLISHED BY LOCAL LAW**
 6 **OF THE APPLICABLE JURISDICTION; AND**

7 **(III) THE INCREASED TRAFFIC, LANE, AND RIGHT-OF-WAY**
 8 **REQUIREMENTS THAT WOULD BE CREATED BY THE MAXIMUM UTILIZATION AND**
 9 **DEVELOPMENT OF THE SUBJECT PROPERTY:**

10 **1. IN THE PROPERTY'S PRESENT ZONE**
 11 **CLASSIFICATION; OR**

12 **2. IN THE PROPERTY'S HIGHER USE ZONE**
 13 **CLASSIFICATION, AS SHOWN ON AN ADOPTED AND APPROVED MASTER PLAN OF**
 14 **THE APPLICABLE JURISDICTION.**

15 **(3) (I) IN ACCORDANCE WITH THE STANDARDS ESTABLISHED**
 16 **BY THE SUBDIVISION REGULATIONS AND EXCEPT AS PROVIDED IN**
 17 **SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE SUBDIVISION REGULATIONS MAY**
 18 **REQUIRE DEDICATION OF A ROAD TO PUBLIC USE TO THE FULL EXTENT OF THE**
 19 **REQUIRED RIGHT-OF-WAY.**

20 **(II) IF A ROAD IS CLASSIFIED IN THE SUBDIVISION**
 21 **REGULATIONS AS A LIMITED ACCESS OR CONTROLLED HIGHWAY, A DEDICATION**
 22 **OF A ROAD TO PUBLIC USE MAY BE REQUIRED ONLY FOR ADEQUATE TRAFFIC**
 23 **ACCESS TO THOSE SUBDIVISIONS TO WHICH ACCESS IS ALLOWED.**

24 **(D) PRINCE GEORGE'S COUNTY.**

25 **IN PRINCE GEORGE'S COUNTY, A MASTER PLAN OF TRANSPORTATION**
 26 **SHALL BE APPROVED BY THE DISTRICT COUNCIL.**

27 REVISOR'S NOTE: This section is new language derived without substantive
 28 change from former Art. 28, § 7-115(e).

29 In the introductory language to subsection (a) and in subsection (c)(1) of
 30 this section, the references to the Commission's authority to require a
 31 "dedication of land" for roads are substituted for the former references to
 32 the Commission's authority to require a "dedication[s] of streets and
 33 roads" for brevity and clarity.

1 In subsection (b) of this section, the former references to an “existing and
2 duly adopted” master plan are deleted as surplusage.

3 In subsection (b)(1)(i) of this section, the defined term “local law” is
4 substituted for the former reference to the “duly adopted Road Code or by
5 the appropriate county ordinance or regulation” for clarity. Similarly, in
6 subsection (c)(2)(ii) of this section, the phrase “by local law” is substituted
7 for the former phrase “in the Road Code”.

8 In subsection (b)(1)(ii) of this section, the reference to the “applicable
9 master plan” is substituted for the former reference to the “master plan of
10 highways of the Commission” for brevity and accuracy.

11 In subsection (c)(2)(ii) of this section, the defined term “road” is
12 substituted for the former word “street” to conform to the terminology
13 used throughout this division.

14 In subsection (c)(3) of this section, the references to dedication “of a road”
15 to public use are added for clarity.

16 In subsection (c)(3)(i) of this section, the former phrase “in each case” is
17 deleted as surplusage.

18 In subsection (c)(3)(ii) of this section, the former reference to the “local”
19 subdivision regulations is deleted as unnecessary.

20 In subsection (d) of this section, the reference to a master plan of
21 “transportation” is substituted for the former reference to a master plan
22 of “highways” for clarity.

23 The Land Use Article Review Committee notes, for consideration by the
24 General Assembly, that subsection (d) of this section, which requires the
25 district council to approve a master plan of transportation in Prince
26 George’s County, appears to be redundant of the general provisions
27 required of the master plan under Title 1, Subtitle 4 and § 20–504 of this
28 article.

29 Defined terms: “Commission” § 14–101
30 “County planning board” § 14–101
31 “District council” § 14–101
32 “Local law” § 14–101
33 “Road” § 14–101
34 “Subdivision” § 14–101

35 **23–104. SUBDIVISION REGULATIONS — IN GENERAL.**

1 **(A) AUTHORIZED.**

2 **(1) IN EXERCISING THE SUBDIVISION POWERS UNDER §§ 23-102**
3 **AND 23-103 OF THIS SUBTITLE, THE COMMISSION OR THE GOVERNING BODY OF**
4 **MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY MAY ADOPT**
5 **SUBDIVISION REGULATIONS AND AMENDMENTS GOVERNING A SUBDIVISION IN:**

6 **(I) THE REGIONAL DISTRICT; OR**

7 **(II) THE RESPECTIVE PORTION OF THE REGIONAL DISTRICT**
8 **IN THE COUNTY.**

9 **(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS**
10 **SUBSECTION, THE REGULATIONS AND AMENDMENTS ADOPTED UNDER THIS**
11 **SECTION:**

12 **(I) SHALL BE ADOPTED BY THE RESPECTIVE GOVERNING**
13 **BODY OF THE COUNTY;**

14 **(II) MAY BE AMENDED BY THE RESPECTIVE GOVERNING**
15 **BODY OF THE COUNTY; AND**

16 **(III) SHALL BE EFFECTIVE FROM:**

17 **1. THE DATE OF ADOPTION; OR**

18 **2. THE DATE DESIGNATED BY THE RESPECTIVE**
19 **GOVERNING BODY OF THE COUNTY.**

20 **(3) IF THE GOVERNING BODY OF THE COUNTY DESIGNATES AN**
21 **EFFECTIVE DATE FOR THE SUBDIVISION REGULATIONS, THE EFFECTIVE DATE**
22 **MAY NOT AFFECT:**

23 **(I) THE COUNTY PLANNING BOARD'S ADMINISTRATION OF**
24 **THE REGULATIONS; OR**

25 **(II) THE COUNTY PLANNING BOARD'S FUNCTIONS UNDER §§**
26 **23-102 AND 23-103 OF THIS SUBTITLE.**

27 **(B) MONTGOMERY COUNTY PROCEDURES.**

28 **(1) IN MONTGOMERY COUNTY:**

1 **(I) WITHIN 3 DAYS AFTER ADOPTING A SUBDIVISION**
2 **REGULATION OR AMENDMENT, THE DISTRICT COUNCIL SHALL SUBMIT THE**
3 **REGULATION OR AMENDMENT TO THE COUNTY EXECUTIVE; AND**

4 **(II) WITHIN 10 DAYS AFTER THE SUBDIVISION REGULATION**
5 **OR AMENDMENT IS SUBMITTED, THE COUNTY EXECUTIVE SHALL APPROVE OR**
6 **DISAPPROVE THE REGULATION OR AMENDMENT.**

7 **(2) IF THE COUNTY EXECUTIVE DISAPPROVES THE SUBDIVISION**
8 **REGULATION OR AMENDMENT, THE COUNTY EXECUTIVE SHALL RETURN THE**
9 **REGULATION OR AMENDMENT TO THE DISTRICT COUNCIL WITH THE REASONS**
10 **FOR THE DISAPPROVAL STATED IN WRITING.**

11 **(3) BY THE AFFIRMATIVE VOTE OF SIX OF ITS MEMBERS, THE**
12 **DISTRICT COUNCIL MAY ENACT THE SUBDIVISION REGULATION OR AMENDMENT**
13 **OVER THE DISAPPROVAL OF THE COUNTY EXECUTIVE.**

14 **(4) A SUBDIVISION REGULATION OR AMENDMENT THAT HAS NOT**
15 **BEEN DISAPPROVED BY THE COUNTY EXECUTIVE IN ACCORDANCE WITH THIS**
16 **SUBSECTION IS CONSIDERED TO BE APPROVED.**

17 **(C) CONTENTS.**

18 **(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION AND**
19 **SUBSECTION (D) OF THIS SECTION, THE SUBDIVISION REGULATIONS MAY**
20 **INCLUDE PROVISIONS FOR:**

21 **(I) THE HARMONIOUS DEVELOPMENT OF THE REGIONAL**
22 **DISTRICT;**

23 **(II) THE COORDINATION OF ROADS WITHIN THE**
24 **SUBDIVISION WITH:**

25 **1. EXISTING PLANNED OR PLATTED ROADS;**

26 **2. FEATURES OF THE REGIONAL DISTRICT;**

27 **3. THAT COUNTY'S GENERAL PLAN; OR**

28 **4. A TRANSPORTATION PLAN ADOPTED BY THE**
29 **COMMISSION AS PART OF THAT COUNTY'S GENERAL PLAN;**

1 **(III) 1. ADEQUATE OPEN SPACES FOR TRANSPORTATION,**
2 **RECREATION, LIGHT, AND AIR, BY DEDICATION OR OTHERWISE;**

3 **2. THE DEDICATION TO PUBLIC USE OR**
4 **CONVEYANCE OF AREAS DESIGNATED FOR DEDICATION UNDER THE ZONING**
5 **AND SUBDIVISION REGULATIONS; AND**

6 **3. IN LIEU OF DEDICATION, THE PAYMENT OF A**
7 **MONETARY FEE THAT MEETS THE REQUIREMENTS OF SUBSECTION (D) OF THIS**
8 **SECTION;**

9 **(IV) THE RESERVATION OF LAND FOR:**

10 **1. PUBLIC BUILDINGS, INCLUDING SCHOOLS;**

11 **2. PARKS AND PLAYGROUNDS;**

12 **3. ROADS;**

13 **4. MASS TRANSIT FACILITIES, INCLUDING BUSWAYS**
14 **OR LIGHT RAIL FACILITIES; AND**

15 **5. ANY OTHER PUBLIC PURPOSE;**

16 **(V) THE CONSERVATION OR PRODUCTION OF ADEQUATE**
17 **TRANSPORTATION, WATER DRAINAGE, AND SANITARY FACILITIES;**

18 **(VI) THE PRESERVATION OF THE LOCATION OF, THE**
19 **VOLUME AND FLOW OF WATER IN, AND OTHER CHARACTERISTICS OF NATURAL**
20 **STREAMS AND OTHER WATERWAYS, INCLUDING THE ESTABLISHMENT OF A**
21 **STORMWATER MANAGEMENT PROGRAM IN MONTGOMERY COUNTY FOR THE**
22 **PURPOSE OF:**

23 **1. ALLOWING THE COUNTY TO ACCEPT MONETARY**
24 **CONTRIBUTIONS;**

25 **2. GRANTING AN EASEMENT; OR**

26 **3. DEDICATING LAND;**

27 **(VII) THE AVOIDANCE OF UNDUE POPULATION CONGESTION;**

1 **(VIII) THE AVOIDANCE OF A SCATTERED OR PREMATURE**
2 **SUBDIVISION THAT OTHERWISE MAY:**

3 1. **RESULT IN DANGER OR INJURY TO HEALTH,**
4 **SAFETY, OR WELFARE DUE TO THE LACK OF WATER SUPPLY, DRAINAGE,**
5 **TRANSPORTATION, OR OTHER PUBLIC SERVICES; OR**

6 2. **NECESSITATE AN EXCESSIVE EXPENDITURE OF**
7 **PUBLIC FUNDS FOR THE SUPPLY OF SERVICES;**

8 **(IX) THE CONFORMITY OF RESUBDIVIDED LOTS TO THE**
9 **CHARACTER OF LOTS WITHIN THE EXISTING SUBDIVISION WITH RESPECT TO**
10 **AREA, FRONTAGE, AND ALIGNMENT TO EXISTING LOTS AND ROADS;**

11 **(X) EXCEPT FOR AGRICULTURAL OR RECREATIONAL**
12 **PURPOSES, THE CONTROL OF SUBDIVISION OR BUILDING IN FLOODPLAIN AREAS**
13 **AND IN STREAMS AND DRAINAGE COURSES, AND ON UNSAFE LAND AREAS;**

14 **(XI) THE PRESERVATION OF OUTSTANDING NATURAL OR**
15 **CULTURAL FEATURES AND HISTORIC SITES OR STRUCTURES;**

16 **(XII) ANY BENEFIT TO THE HEALTH, COMFORT, SAFETY, OR**
17 **WELFARE OF THE PRESENT AND FUTURE POPULATION OF THE REGIONAL**
18 **DISTRICT;**

19 **(XIII) THE EXTENT AND MANNER TO WHICH THE FOLLOWING**
20 **ACTIONS SHALL BE TAKEN BEFORE THE APPROVAL OF A PLAT:**

21 1. **THE GRADING AND IMPROVEMENT OF ROADS;**

22 2. **THE BUILDING OF CURBS, GUTTERS, AND**
23 **SIDEWALKS;**

24 3. **THE INSTALLATION OF WATER, SEWER, AND**
25 **OTHER UTILITY MAINS, PIPING, CONNECTIONS, AND FACILITIES; AND**

26 4. **THE PLANTING OR CONSERVATION OF TREES; OR**

27 **(XIV) IN MONTGOMERY COUNTY:**

28 1. **ADEQUATE RECREATIONAL FACILITIES; OR**

1 **2. IN LIEU OF PROVIDING RECREATIONAL**
2 **FACILITIES, THE PAYMENT OF A FEE THAT DOES NOT EXCEED THE COST OF**
3 **PROVIDING ADEQUATE RECREATIONAL FACILITIES TO SERVE THE SUBDIVISION.**

4 **(2) (I) UNLESS EACH PERSON THAT OWNS A LEGAL OR**
5 **EQUITABLE INTEREST IN THE PROPERTY HAS PROVIDED WRITTEN APPROVAL,**
6 **THE SUBDIVISION REGULATIONS MAY NOT PROVIDE FOR A RESERVATION OF**
7 **LAND FOR TRAFFIC, RECREATION, OR ANY OTHER PUBLIC PURPOSE FOR A**
8 **PERIOD LONGER THAN 3 YEARS.**

9 **(II) A PROPERTY THAT IS RESERVED FOR PUBLIC USE**
10 **UNDER THE SUBDIVISION REGULATIONS SHALL BE EXEMPT FROM ALL STATE,**
11 **COUNTY, AND LOCAL TAXES DURING THE PERIOD OF RESERVATION.**

12 **(D) FEE IN LIEU OF DEDICATION OF LAND.**

13 **(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A**
14 **MONETARY FEE THAT IS PAID IN LIEU OF A DEDICATION OF LAND FOR THE USE**
15 **AND BENEFIT OF THE SUBDIVISION IN CASES WHERE DEDICATION WOULD BE**
16 **IMPRACTICAL UNDER SUBSECTION (C)(1)(III) OF THIS SECTION SHALL:**

17 **(I) BE BASED ON THE CURRENT MARKET VALUE OF THE**
18 **LAND AFTER THE LAND IS APPROVED FOR DEVELOPMENT; AND**

19 **(II) 1. BE USED BY THE COMMISSION TO PURCHASE**
20 **OPEN SPACES; OR**

21 **2. BE USED BY THE COMMISSION TO DEVELOP OR**
22 **OTHERWISE IMPROVE LAND OR RECREATIONAL FACILITIES THAT WILL ASSIST**
23 **IN SUPPLYING THE OVERALL RECREATIONAL NEEDS OF THE SUBDIVISION IF:**

24 **A. THE COMMISSION DETERMINES THAT SUITABLE**
25 **LAND IS NOT AVAILABLE FOR ACQUISITION TO SERVE THE SUBDIVISION FROM**
26 **WHICH A FEE HAS BEEN EXACTED; OR**

27 **B. ADEQUATE OPEN SPACE HAS PREVIOUSLY BEEN**
28 **ACQUIRED AND IS AVAILABLE TO SERVE THE SUBDIVISION.**

29 **(2) IF THE SUBDIVISION IS IN A MUNICIPAL CORPORATION IN**
30 **PRINCE GEORGE'S COUNTY THAT IS NOT IN THE METROPOLITAN DISTRICT BUT**
31 **IS IN THE REGIONAL DISTRICT, ON REQUEST BY THE MUNICIPAL CORPORATION,**
32 **THE MANDATORY FEE IN LIEU OF DEDICATION RECEIVED BY THE COMMISSION**
33 **SHALL BE PAID TO AND USED BY THE MUNICIPAL CORPORATION TO:**

1 **(I) PURCHASE OPEN SPACE FOR THE USE AND BENEFIT OF**
2 **THE SUBDIVISION; OR**

3 **(II) DEVELOP OR OTHERWISE IMPROVE LAND OR**
4 **RECREATIONAL FACILITIES THAT WILL ASSIST IN SUPPLYING THE OVERALL**
5 **RECREATIONAL AND OPEN SPACE NEEDS OF THE SUBDIVISION.**

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 28, § 7-116(a) and the first sentence of (b).

8 In the introductory language to subsection (a)(1) of this section, the
9 reference to "adopt[ing]" regulations is substituted for the former
10 reference to "prepar[ing]" regulations for clarity.

11 In subsection (a)(2)(ii) of this section, the former reference to
12 amendments that the governing body "consider[s] appropriate" is deleted
13 as unnecessary.

14 In the introductory language to subsection (a)(3) of this section, the
15 former reference to affecting "in any manner" is deleted as surplusage.

16 In subsection (b)(4) of this section, the reference to a regulation or
17 amendment "that has not been disapproved by the County Executive in
18 accordance with this subsection" is substituted for the former reference to
19 "[f]ailure of the County Executive to act within 10 days" for clarity.

20 In the introductory language to subsection (c)(1) of this section, the
21 phrase "[s]ubject to paragraph (2) of this subsection and subsection (d) of
22 this section" is added for clarity.

23 In subsection (c)(1)(iv)3 of this section, the former word "highways" is
24 deleted as included in the defined term "road[s]".

25 In subsection (c)(1)(ix) of this section, the defined term "road[s]" is
26 substituted for the former word "streets" to conform to the terminology
27 used throughout this division.

28 In subsection (c)(1)(ii)4 of this section, the reference to a "transportation"
29 plan is substituted for the former reference to a "road" plan for
30 consistency within this division.

31 The Land Use Article Review Committee also notes, for consideration by
32 the General Assembly, that in subsection (c)(1)(vii) of this section, the
33 concept of the former reference to simple "avoidance of undue population
34 congestion" may be considered obsolete in relation to more modern,

1 legislatively endorsed policies such as smart growth, preservation of open
 2 space, use of cluster development, and priority funding areas. The
 3 General Assembly may wish to clarify the relationship of this item in
 4 relation to other policies for managing growth while balancing
 5 legislatively endorsed policies.

6 Defined terms: “Commission” § 14–101
 7 “County planning board” § 14–101
 8 “District council” § 14–101
 9 “Metropolitan district” § 14–101
 10 “Park” § 14–101
 11 “Person” § 14–101
 12 “Regional district” § 14–101
 13 “Road” § 14–101
 14 “State” § 14–101
 15 “Subdivision” § 14–101

16 **23–105. NOTICE AND HEARING FOR SUBDIVISION REGULATIONS.**

17 **(A) PUBLIC HEARING REQUIREMENT.**

18 **BEFORE THE COMMISSION OR THE GOVERNING BODY OF MONTGOMERY**
 19 **COUNTY OR PRINCE GEORGE’S COUNTY MAY ADOPT A SUBDIVISION**
 20 **REGULATION OR AN AMENDMENT TO A SUBDIVISION REGULATION OR**
 21 **AMENDMENT, THE RESPECTIVE COUNTY COUNCIL SHALL HOLD A PUBLIC**
 22 **HEARING ON THE REGULATION OR AMENDMENT.**

23 **(B) NOTICE OF PUBLIC HEARING.**

24 **THE COUNTY COUNCIL SHALL PUBLISH NOTICE OF THE TIME AND PLACE**
 25 **OF THE PUBLIC HEARING IN AT LEAST ONE NEWSPAPER OF GENERAL**
 26 **CIRCULATION IN THE REGIONAL DISTRICT IN THE RESPECTIVE COUNTY AT**
 27 **LEAST 30 DAYS BEFORE THE HEARING.**

28 REVISOR’S NOTE: This section is new language derived without substantive
 29 change from former Art. 28, § 7–116(d).

30 In subsection (a) of this section, the former reference to a “substantial”
 31 amendment is deleted as unnecessary.

32 Defined terms: “Commission” § 14–101
 33 “Regional district” § 14–101
 34 “Subdivision” § 14–101

35 **23–106. ADEQUATE PUBLIC FACILITIES REQUIREMENTS.**

1 **(A) IN GENERAL.**

2 **IN ADDITION TO ANY OTHER AUTHORITY GRANTED BY THIS DIVISION, THE**
3 **COUNTY COUNCIL OF MONTGOMERY COUNTY AND THE COUNTY COUNCIL OF**
4 **PRINCE GEORGE’S COUNTY, BY LOCAL LAW, MAY IMPOSE IN THEIR RESPECTIVE**
5 **COUNTIES STANDARDS AND REQUIREMENTS FOR THE PURPOSE OF AVOIDING**
6 **SCATTERED OR PREMATURE SUBDIVISION OR DEVELOPMENT OF LAND BECAUSE**
7 **OF THE INADEQUACY OF TRANSPORTATION, WATER, SEWERAGE, DRAINAGE,**
8 **SCHOOL, OR OTHER PUBLIC FACILITIES.**

9 **(B) PRINCE GEORGE’S COUNTY.**

10 **(1) THIS SUBSECTION DOES NOT APPLY TO ANY PROPERTY**
11 **LOCATED IN AN INFRASTRUCTURE FINANCE DISTRICT APPROVED BEFORE**
12 **JANUARY 1, 2000.**

13 **(2) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, THE**
14 **COUNTY COUNCIL OF PRINCE GEORGE’S COUNTY SHALL IMPOSE ADEQUATE**
15 **PUBLIC FACILITIES STANDARDS AND REQUIREMENTS UNDER SUBSECTION (A)**
16 **OF THIS SECTION WITH RESPECT TO SCHOOLS.**

17 REVISOR’S NOTE: This section is new language derived without substantive
18 change from former Art. 28, § 7–120.

19 Defined terms: “Local law” § 14–101
20 “Subdivision” § 14–101

21 **23–107. RESERVATION OF LAND FOR PUBLIC USE.**

22 **(A) REQUIREMENTS.**

23 **THE APPLICABLE COUNTY PLANNING BOARD SHALL REQUIRE A PLAT OF**
24 **ANY LAND RESERVED FOR PUBLIC USE UNDER THIS SUBTITLE THAT SHOWS:**

25 **(1) THE SURVEY LOCATION OF THE LAND;**

26 **(2) THE NAMES AND ADDRESSES OF THE LANDOWNERS; AND**

27 **(3) ANY OTHER INFORMATION REQUIRED FOR:**

28 **(I) FILING THE PLAT AMONG THE LAND RECORDS OF THE**
29 **COUNTY IN WHICH THE LAND IS LOCATED; AND**

1 **(II) THE PROPER INDEXING OF THE PLAT.**

2 **(B) RECORDATION.**

3 **THE PLAT SHALL:**

4 **(1) COMPLY WITH ALL REQUIREMENTS FOR RECORDING OF**
5 **PLATS AMONG THE LAND RECORDS; AND**

6 **(2) BE RECORDED BY THE CLERK OF THE COURT OF THE COUNTY**
7 **IN WHICH THE LAND IS LOCATED.**

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 28, § 7-116(e).

10 In the introductory language to subsection (a) of this section, the
11 reference to "requir[ing]" a plat is substituted for the former reference to
12 "prepar[ing]" a plat for accuracy.

13 Defined terms: "County" § 14-101
14 "County planning board" § 14-101

15 **23-108. EXISTING SUBDIVISION REGULATIONS.**

16 **THE SUBDIVISION REGULATIONS IN FORCE BEFORE APRIL 28, 1959,**
17 **WITHIN THE RESPECTIVE PORTIONS OF THE REGIONAL DISTRICT IN**
18 **MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY ARE CONSIDERED TO**
19 **HAVE BEEN ADOPTED IN THE MANNER REQUIRED UNDER THIS SUBTITLE.**

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 28, § 7-116(f).

22 The reference to the subdivision regulations "in force before April 28,
23 1959" is substituted for the former reference to the subdivision
24 regulations "heretofore adopted by the Commission and now in effect" for
25 brevity and accuracy.

26 Also the former statement that "[t]hese regulations apply respectively
27 within the portions of the regional district within each county until
28 modified in accordance with this section" is deleted as surplusage.

29 Defined terms: "County" § 14-101
30 "Regional district" § 14-101
31 "Subdivision" § 14-101

1 **(3) SUBDIVISION REGULATIONS MAY INCLUDE PROVISIONS FOR:**

2 **(I) NOTICE TO OWNERS OF PROPERTIES THAT WOULD BE**
 3 **SUBSTANTIALLY AFFECTED BY APPROVAL OF A SUBDIVISION PLAT;**

4 **(II) PUBLIC HEARINGS ON THE APPLICATIONS; AND**

5 **(III) AN APPEAL TO THE DISTRICT COUNCIL FROM A**
 6 **DECISION APPROVING OR DISAPPROVING A SUBDIVISION PLAT.**

7 **(D) GROUNDS FOR DISAPPROVAL.**

8 **THE GROUNDS FOR DISAPPROVAL OF A PLAT SHALL BE STATED ON THE**
 9 **RECORDS OF THE COUNTY PLANNING BOARD.**

10 REVISOR'S NOTE: This section is new language derived without substantive
 11 change from the first, second, seventh, and ninth through thirteenth
 12 sentences of former Art. 28, § 7-117.

13 In the introductory language to subsection (a)(2) of this section, the
 14 phrase "[i]f the county planning board does not take action in accordance
 15 with paragraph (1) of this subsection" is substituted for the former
 16 ambiguous word "[o]therwise" for clarity.

17 In subsection (a)(2)(ii) of this section, the reference to a certificate "of
 18 approval" is substituted for the former reference to a certificate "to that
 19 effect" for clarity.

20 In subsection (a)(3) of this section, the former reference to an applicant
 21 "for the Commission's approval" is deleted as surplusage.

22 Also in subsection (a)(3) of this section, the former reference to an
 23 applicant "waiv[ing] either or both of these requirements" is deleted as
 24 implicit in the authority of an applicant to consent to an extension.

25 Defined terms: "County planning board" § 14-101

26 "District council" § 14-101

27 "Person" § 14-101

28 "Subdivision" § 14-101

29 **23-202. REQUIRED REFERRALS — MONTGOMERY COUNTY.**

30 **(A) SCOPE OF SECTION.**

31 **THIS SECTION APPLIES ONLY IN MONTGOMERY COUNTY.**

1 **(B) TO COUNTY EXECUTIVE.**

2 **(1) THE SUBDIVISION REGULATIONS SHALL PROVIDE THAT**
3 **BEFORE THE COUNTY PLANNING BOARD TAKES ACTION ON A PRELIMINARY**
4 **SUBDIVISION PLAN, THE PLAN SHALL BE REFERRED TO THE COUNTY**
5 **EXECUTIVE FOR A RECOMMENDATION AS TO WHETHER PUBLIC FACILITIES ARE**
6 **ADEQUATE TO SUPPORT AND SERVICE THE AREA OF THE PROPOSED**
7 **SUBDIVISION.**

8 **(2) THE COUNTY EXECUTIVE SHALL RETURN THE PRELIMINARY**
9 **SUBDIVISION PLAN TO THE COUNTY PLANNING BOARD WITH A**
10 **RECOMMENDATION OF APPROVAL OR DISAPPROVAL BASED ON:**

11 **(I) CRITERIA DEVELOPED BY THE COUNTY EXECUTIVE AND**
12 **APPROVED BY THE DISTRICT COUNCIL; AND**

13 **(II) STANDARDS SET FORTH IN THE COUNTY SUBDIVISION**
14 **REGULATIONS.**

15 **(C) TO MUNICIPAL CORPORATION OR GOVERNED SPECIAL TAXING**
16 **DISTRICT — IN GENERAL.**

17 **(1) THIS SUBSECTION APPLIES TO PROPERTY THAT:**

18 **(I) IS LOCATED IN A MUNICIPAL CORPORATION OR**
19 **GOVERNED SPECIAL TAXING DISTRICT; OR**

20 **(II) SHARES A COMMON BOUNDARY LINE, OR A PART OF A**
21 **COMMON BOUNDARY LINE, WITH PROPERTY LOCATED ENTIRELY IN A**
22 **MUNICIPAL CORPORATION OR GOVERNED DISTRICT.**

23 **(2) THIS SUBSECTION DOES NOT APPLY TO A MUNICIPAL**
24 **CORPORATION THAT EXERCISES ZONING, PLANNING, AND SUBDIVISION**
25 **AUTHORITY UNDER DIVISION I OF THIS ARTICLE.**

26 **(3) THE SUBDIVISION REGULATIONS AND ZONING LAW SHALL**
27 **PROVIDE THAT, BEFORE ANY ACTION IS TAKEN BY THE COUNTY PLANNING**
28 **BOARD ON AN APPLICATION FOR A PRELIMINARY SUBDIVISION PLAN, PROJECT**
29 **PLAN, OR SITE PLAN REVIEW FOR PROPERTY DESCRIBED IN PARAGRAPH (1) OF**
30 **THIS SUBSECTION, A COPY OF THE APPLICATION SHALL BE REFERRED**
31 **PROMPTLY TO THE MUNICIPAL CORPORATION OR GOVERNED DISTRICT FOR**
32 **REVIEW AND COMMENT.**

1 (4) IF THE MUNICIPAL CORPORATION OR GOVERNED DISTRICT
2 CHOOSES TO COMMENT, THE MUNICIPAL CORPORATION OR GOVERNED
3 DISTRICT PROMPTLY SHALL FORWARD ITS WRITTEN COMMENTS TO THE
4 COUNTY PLANNING BOARD.

5 (D) TO MUNICIPAL CORPORATION OR GOVERNED SPECIAL TAXING
6 DISTRICT — RESIDENTIAL ZONE.

7 (1) ON REFERRAL OF A PRELIMINARY PLAN PROPOSING THE
8 RESUBDIVISION OF RESIDENTIALLY ZONED PROPERTY LOCATED IN A
9 MUNICIPAL CORPORATION OR GOVERNED SPECIAL TAXING DISTRICT, THE
10 MUNICIPAL CORPORATION OR GOVERNED DISTRICT SHALL MAKE AN INITIAL
11 DETERMINATION WHETHER TO TRANSMIT A RECOMMENDATION CONCERNING
12 THE PLAN TO THE COUNTY PLANNING BOARD.

13 (2) IF THE MUNICIPAL CORPORATION OR GOVERNED DISTRICT
14 CHOOSES TO TRANSMIT A RECOMMENDATION, THE MUNICIPAL CORPORATION
15 OR GOVERNED DISTRICT SHALL:

16 (I) HOLD A HEARING BEFORE IT TRANSMITS THE
17 RECOMMENDATION TO THE COUNTY PLANNING BOARD; AND

18 (II) PROVIDE REASONABLE PUBLIC NOTICE OF THE
19 HEARING.

20 (3) A RECOMMENDATION TRANSMITTED UNDER THIS
21 SUBSECTION SHALL:

22 (I) BE IN WRITING; AND

23 (II) BASED ON THE RECORD OF THE HEARING, INCLUDE ALL
24 PERTINENT FINDINGS OF FACT AND CONCLUSIONS OF LAW SUPPORTING THE
25 RECOMMENDATION.

26 (4) A MUNICIPAL CORPORATION OR GOVERNED DISTRICT MAY
27 RECOMMEND DENIAL OF A PLAN UNDER THIS SUBSECTION ONLY IF THE
28 MUNICIPAL CORPORATION OR GOVERNED DISTRICT DETERMINES THAT THE
29 PLAN DOES NOT COMPLY WITH A PARTICULAR PROVISION OF THE SUBDIVISION
30 REGULATIONS.

31 (5) IF A MUNICIPAL CORPORATION OR GOVERNED DISTRICT
32 RECOMMENDS DENIAL OF A PLAN, IT SHALL TRANSMIT A WRITTEN RECORD OF

1 THE HEARING TO THE COUNTY PLANNING BOARD FOR INCLUSION IN THE
2 RECORD COMPILED BY THE COUNTY PLANNING BOARD.

3 (6) A MUNICIPAL CORPORATION OR GOVERNED DISTRICT SHALL
4 BE CONSIDERED TO HAVE WAIVED ITS RIGHT TO MAKE A RECOMMENDATION
5 UNDER THIS SUBSECTION UNLESS IT TRANSMITS ITS WRITTEN
6 RECOMMENDATION AND COMPLETE RECORD, IF REQUIRED, TO THE COUNTY
7 PLANNING BOARD WITHIN 45 DAYS AFTER THE DELIVERY OF THE PLAN AND
8 APPLICATION BY THE COUNTY PLANNING BOARD.

9 (7) A TWO-THIRDS MAJORITY VOTE OF THE MEMBERS OF THE
10 COUNTY PLANNING BOARD THEN PRESENT AND PARTICIPATING IS REQUIRED
11 TO OVERRIDE A RECOMMENDATION OF A MUNICIPAL CORPORATION OR
12 GOVERNED DISTRICT TO DENY A RESIDENTIAL RESUBDIVISION APPLICATION.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 28, §§ 7-117.1(a) and 7-117.2.

15 Subsection (c)(2) of this section is new language added to state that which
16 was only implied by the former law, *i.e.*, that municipal corporations that
17 exercise subdivision authority under Division I of this article are not
18 subject to the subdivision procedures of this Division II.

19 Former Art. 28, § 7-117.1(b), which applied that section only to
20 subdivisions without preliminary plans of subdivision approval before
21 December 1, 1986, is deleted as obsolete.

22 The Land Use Article Review Committee notes, for consideration by the
23 General Assembly, that the specific procedures for commenting on a
24 resubdivision plan for residential property under subsection (d) of this
25 section seem to be redundant of the general commenting procedures for
26 any subdivision, which includes resubdivision, under subsection (c)(3) of
27 this section.

28 Defined terms: "County" § 14-101
29 "County planning board" § 14-101
30 "District council" § 14-101
31 "Governed special taxing district" § 14-101
32 "Subdivision" § 14-101

33 **23-203. PREAPPLICATION AND PRELIMINARY SUBMISSIONS — IN GENERAL.**

34 THE COUNTY PLANNING BOARD MAY PROVIDE IN THE SUBDIVISION
35 REGULATIONS FOR:

- 1 **(1) A PREAPPLICATION PROCEDURE;**
2 **(2) SUBDIVISION APPROVAL; AND**
3 **(3) TENTATIVE OR CONDITIONAL APPROVAL OR DISAPPROVAL OF**
4 **PRELIMINARY PLANS.**

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from the fifth sentence of former Art. 28, § 7-116(b).

7 In the introductory language to this section, the reference to the
8 “subdivision regulations” is substituted for the former reference to the
9 “regulations of practice of the Commission” for clarity and accuracy.

10 Defined terms: “County planning board” § 14-101
11 “Subdivision” § 14-101

12 **23-204. PREAPPLICATION AND PRELIMINARY SUBMISSIONS — MONTGOMERY**
13 **COUNTY.**

14 **(A) SCOPE OF SECTION.**

15 **THIS SECTION APPLIES ONLY IN MONTGOMERY COUNTY.**

16 **(B) TIME LIMITS.**

17 **THE SUBDIVISION REGULATIONS MAY:**

18 **(1) ESTABLISH A TIME PERIOD WITHIN WHICH THE COUNTY**
19 **PLANNING BOARD SHALL APPROVE OR DISAPPROVE A PREAPPLICATION OR**
20 **PRELIMINARY PLAN SUBMISSION; AND**

21 **(2) PROVIDE THAT AN APPLICANT MAY:**

22 **(I) WAIVE THE TIME PERIOD WITHIN WHICH THE COUNTY**
23 **PLANNING BOARD SHALL TAKE ACTION IN ACCORDANCE WITH ITEM (1) OF THIS**
24 **SUBSECTION; AND**

25 **(II) CONSENT TO AN EXTENSION OF THE TIME PERIOD.**

26 **(C) EFFECT OF FAILURE TO ACT.**

1 **(1) A PREAPPLICATION OR PRELIMINARY PLAN SUBMISSION**
2 **THAT HAS NOT BEEN APPROVED OR DISAPPROVED IN ACCORDANCE WITH THIS**
3 **SECTION IS CONSIDERED APPROVED.**

4 **(2) IF A PREAPPLICATION OR PRELIMINARY PLAN SUBMISSION IS**
5 **CONSIDERED TO HAVE BEEN APPROVED UNDER THIS SUBSECTION, ON DEMAND,**
6 **THE COUNTY PLANNING BOARD SHALL ISSUE A CERTIFICATE OF APPROVAL.**

7 **(D) DISAPPROVAL.**

8 **IF THE COUNTY PLANNING BOARD DISAPPROVES A PREAPPLICATION OR**
9 **PRELIMINARY PLAN SUBMISSION, THE COUNTY PLANNING BOARD SHALL:**

10 **(1) STATE THE GROUNDS FOR DISAPPROVAL IN THE RECORDS OF**
11 **THE COUNTY PLANNING BOARD; AND**

12 **(2) MAIL, POSTAGE PREPAID, A COPY OF THE RECORD STATING**
13 **THE GROUNDS FOR DISAPPROVAL TO ALL PARTIES OF RECORD AT THEIR LAST**
14 **ADDRESS.**

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from the seventh through ninth sentences of former Art. 28, §
17 7-116(b).

18 In subsection (b) of this section, the former reference to an applicant "for
19 the Commission's approval" is deleted as surplusage.

20 In subsection (b)(1) of this section, the phrase "the county planning board
21 shall approve or disapprove a preapplication" is substituted for the
22 former phrase "action must be taken with regard to preapplication
23 submissions" for clarity.

24 In subsection (b)(2)(i) of this section, the reference to "the time period
25 within which the county planning board shall take action in accordance
26 with item (1) of this subsection" is substituted for the former reference to
27 "this requirement" for clarity.

28 In subsection (c)(2) of this section, the reference to a certificate "of
29 approval" is substituted for the former reference to a certificate "to that
30 effect" for clarity.

31 In subsection (d)(2) of this section, the requirement to send a copy of the
32 record to "all parties of record at their last address" is substituted for the
33 former requirement to send the copy to "the last address of record of the
34 applicant" for clarity.

1 Defined terms: "County planning board" § 14-101
2 "Subdivision" § 14-101

3 **23-205. PRELIMINARY SUBDIVISION PLAN — PRINCE GEORGE'S COUNTY.**

4 **(A) SCOPE OF SECTION.**

5 **THIS SECTION APPLIES ONLY IN PRINCE GEORGE'S COUNTY.**

6 **(B) TIME PERIOD FOR APPROVAL PROCESS.**

7 **(1) THE COUNTY PLANNING BOARD SHALL APPROVE OR**
8 **DISAPPROVE A PRELIMINARY SUBDIVISION PLAN WITHIN 70 DAYS AFTER THE**
9 **PLAN IS SUBMITTED TO THE COUNTY PLANNING BOARD.**

10 **(2) IF THE COUNTY PLANNING BOARD DOES NOT TAKE ACTION IN**
11 **ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION:**

12 **(I) THE PLAN SHALL BE CONSIDERED APPROVED; AND**

13 **(II) THE COUNTY PLANNING BOARD SHALL ISSUE A**
14 **CERTIFICATE OF APPROVAL ON DEMAND.**

15 **(3) THE 70-DAY TIME PERIOD UNDER PARAGRAPH (1) OF THIS**
16 **SUBSECTION DOES NOT INCLUDE:**

17 **(I) THE MONTH OF AUGUST; OR**

18 **(II) DECEMBER 20 THROUGH JANUARY 3.**

19 **(C) TIME PERIOD FOR OFFICE APPROVAL PROCESS.**

20 **(1) EACH OFFICE TO WHICH THE COUNTY PLANNING BOARD**
21 **REFERS A PRELIMINARY SUBDIVISION PLAN SHALL RETURN TO THE COUNTY**
22 **PLANNING BOARD ONE COPY OF THE PLAN AND ANY COMMENTS NOTED ON IT**
23 **WITHIN 30 DAYS AFTER THE REFERRAL.**

24 **(2) IF AN OFFICE DOES NOT REPLY IN ACCORDANCE WITH**
25 **PARAGRAPH (1) OF THIS SUBSECTION, THE PLAN SHALL BE CONSIDERED TO BE**
26 **APPROVED BY THE OFFICE.**

27 **(D) WAIVER.**

1 **AN APPLICANT MAY CONSENT TO AN EXTENSION NOT GREATER THAN 70**
2 **DAYS.**

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from the third through eighth sentences of former Art. 28, §
5 7-117.

6 In the introductory language to subsection (b)(2) of this section, the
7 phrase "[i]f the county planning board does not take action in accordance
8 with paragraph (1) of this subsection" is substituted for the former
9 ambiguous phrase "[o]therwise" for clarity.

10 In subsection (b)(2)(ii) of this section, the reference to a certificate "of
11 approval" is substituted for the former reference to a certificate "to that
12 effect" for clarity.

13 In subsection (d) of this section, the former reference to an applicant
14 "waiv[ing] either or both of these requirements" is deleted as implicit in
15 the authority of an applicant to consent to an extension.

16 Also in subsection (d) of this section, the former reference to an applicant
17 "for the Commission's approval" is deleted as surplusage.

18 The Land Use Article Review Committee notes, for consideration by the
19 General Assembly, that in subsection (b) of this section, the
20 70-day limitation period within which the county planning board may
21 disapprove a preliminary subdivision plan is intended to begin only with
22 the submission and acceptance of a complete application. Although the
23 provision is unambiguous as drafted, and is so interpreted by the
24 Commission, the General Assembly may wish to consider making it even
25 more explicit by adding the word "complete" to modify "the plan" in
26 subsection (b)(1) of this section.

27 Defined terms: "County planning board" § 14-101
28 "Subdivision" § 14-101

29 **23-206. MAJOR AND MINOR SUBDIVISIONS — PRINCE GEORGE'S COUNTY.**

30 **IN PRINCE GEORGE'S COUNTY, THE SUBDIVISION REGULATIONS MAY**
31 **PROVIDE FOR:**

32 **(1) THE CLASSIFICATION OF A SUBDIVISION AS A MAJOR OR**
33 **MINOR SUBDIVISION; AND**

34 **(2) A SKETCH PLAN THAT:**

1 **(I) IN THE CASE OF A MINOR SUBDIVISION, MAY BE**
 2 **APPROVED BY THE PLANNING DIRECTOR AND FILED AS THE RECORD PLAT; AND**

3 **(II) IN THE CASE OF A MAJOR SUBDIVISION, MAY BE**
 4 **REQUIRED BEFORE THE SUBMISSION OF A PRELIMINARY PLAN OF SUBDIVISION.**

5 REVISOR'S NOTE: This section is new language derived without substantive
 6 change from the sixth sentence of former Art. 28, § 7-116(b).

7 Defined term: "Subdivision" § 14-101

8 **23-207. PLAT APPROVAL — TENTATIVE.**

9 **(A) IN GENERAL.**

10 **SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE SUBDIVISION**
 11 **REGULATIONS MAY PROVIDE FOR TENTATIVE APPROVAL OF A PLAT BEFORE**
 12 **IMPROVEMENTS AND INSTALLATIONS.**

13 **(B) LIMITATIONS.**

14 **TENTATIVE APPROVAL OF A PLAT MAY NOT:**

15 **(1) BE ENTERED ON THE PLAT; OR**

16 **(2) ENTITLE THE PLAT TO BE FILED OR RECORDED.**

17 **(C) BOND AS SECURITY ACCEPTABLE.**

18 **(1) INSTEAD OF REQUIRING THE COMPLETION OF**
 19 **IMPROVEMENTS OR INSTALLATION OF UTILITIES BEFORE THE APPROVAL OF A**
 20 **PLAT, THE COUNTY PLANNING BOARD OR COUNTY MAY ACCEPT SECURITY TO**
 21 **SECURE THE CONSTRUCTION OF IMPROVEMENTS AND INSTALLATION OF**
 22 **UTILITIES AT A TIME AND ACCORDING TO SPECIFICATIONS SET BY OR IN**
 23 **ACCORDANCE WITH THE SUBDIVISION REGULATIONS.**

24 **(2) THE COUNTY PLANNING BOARD OR COUNTY MAY ENFORCE**
 25 **THE SECURITY BY ANY APPROPRIATE LEGAL OR EQUITABLE REMEDY.**

26 REVISOR'S NOTE: This section is new language derived without substantive
 27 change from the second through fourth sentences of former Art. 28, §
 28 7-116(b).

1 In subsection (a) of this section, the reference to the “subdivision
2 regulations” is substituted for the former reference to the “rules or
3 practice of the Commission for clarity and consistency with § 23–203 of
4 this subtitle.

5 In subsection (c)(1) of this section, the reference to the completion of
6 “improvements or installation of utilities” is substituted for the former
7 reference to the completion of “installation” for clarity and consistency
8 with the corresponding provision of § 5–204 of this article.

9 In subsection (c)(2) of this section, the word “security” is substituted for
10 the former word “bond” for clarity.

11 Defined terms: “County planning board” § 14–101
12 “Subdivision” § 14–101

13 **SUBTITLE 3. UNAPPROVED PLATS AND SUBDIVISIONS.**

14 **23–301. SALE OR TRANSFER OF LOTS IN UNAPPROVED SUBDIVISIONS.**

15 **(A) PENALTY FOR USE OF UNAPPROVED PLAT.**

16 **(1) AN OWNER OR AGENT OF AN OWNER OF LAND LOCATED IN A**
17 **SUBDIVISION MAY NOT TRANSFER OR SELL LAND BY REFERENCE TO,**
18 **EXHIBITION OF, OR OTHER USE OF A PLAT OF A SUBDIVISION BEFORE THE PLAT**
19 **HAS BEEN:**

20 **(I) APPROVED BY THE COUNTY PLANNING BOARD; AND**

21 **(II) RECORDED IN THE OFFICE OF THE CLERK OF THE**
22 **CIRCUIT COURT OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED.**

23 **(2) A PERSON WHO VIOLATES THIS SUBSECTION IS SUBJECT TO A**
24 **PENALTY OF \$100 FOR EACH LOT OR PARCEL TRANSFERRED OR SOLD IN**
25 **VIOLATION TO BE PAID TO THE DISTRICT COUNCIL.**

26 **(B) METES AND BOUNDS DESCRIPTION.**

27 **THE DESCRIPTION OF A LOT OR PARCEL BY METES AND BOUNDS IN THE**
28 **INSTRUMENT OF TRANSFER OR OTHER DOCUMENT USED IN THE PROCESS OF**
29 **TRANSFERRING OR SELLING DOES NOT EXEMPT THE TRANSACTION FROM THE**
30 **PENALTIES OR REMEDIES PROVIDED IN THIS SECTION.**

31 **(C) REMEDIES.**

1 **THE DISTRICT COUNCIL MAY:**

2 **(1) ENJOIN THE TRANSFER, SALE, OR AGREEMENT IN ANY**
3 **CIRCUIT COURT; OR**

4 **(2) RECOVER THE PENALTY BY CIVIL ACTION IN ANY COURT OF**
5 **COMPETENT JURISDICTION.**

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 28, § 7-118.

8 In subsection (a)(1)(ii) of this section, the reference to a "filed" plat is
9 deleted for accuracy.

10 In subsection (a)(2) of this section, the reference to a "transferred" lot or
11 parcel is added for clarity and consistency within this section.

12 In subsection (c)(1) of this section, the reference to a "circuit court" is
13 substituted for the former reference to a "court of equity jurisdiction" to
14 reflect the merger of law and equity effected by Md. Rule 2-301, which
15 mandates "one form of action known as the 'civil action'".

16 Defined terms: "County" § 14-101
17 "County planning board" § 14-101
18 "District council" § 14-101
19 "Person" § 14-101
20 "Subdivision" § 14-101

21 **23-302. RECORDING UNAPPROVED SUBDIVISION PLAT.**

22 **(A) CIRCUIT COURT CLERK RECORDING PROHIBITION.**

23 **(1) THE CLERK OF THE CIRCUIT COURT OF MONTGOMERY**
24 **COUNTY OR PRINCE GEORGE'S COUNTY MAY NOT RECORD A SUBDIVISION PLAT**
25 **IN THE REGIONAL DISTRICT UNLESS THE PLAT HAS BEEN ENDORSED IN**
26 **WRITING BY THE COUNTY PLANNING BOARD.**

27 **(2) A PLAT IS INVALID IF IT IS RECORDED WITHOUT BEING**
28 **ENDORSED BY THE COUNTY PLANNING BOARD.**

29 **(B) POWER TO COMPEL.**

30 **THE COMMISSION MAY INSTITUTE PROCEEDINGS AGAINST THE CLERK OF**
31 **THE CIRCUIT COURT OF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY**
32 **TO COMPEL THE CLERK TO STRIKE FROM THE COUNTY LAND RECORDS A**

1 SUBDIVISION PLAT THAT IS RECORDED BUT NOT APPROVED IN ACCORDANCE
2 WITH SUBSECTION (A) OF THIS SECTION.

3 (C) JURISDICTION.

4 A COURT OF COMPETENT JURISDICTION MAY ISSUE APPROPRIATE
5 ORDERS FOR PURPOSES OF THIS SECTION.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 28, § 7-119.

8 In subsection (a)(1) of this section, the former reference to "receiv[ing]" a
9 plat for recording is deleted as surplusage.

10 In subsection (a)(2) of this section, the former reference to a plat being
11 recorded "after May 24, 1939" is deleted as obsolete.

12 Defined terms: "Commission" § 14-101
13 "County planning board" § 14-101
14 "Regional district" § 14-101
15 "Subdivision" § 14-101

16 SUBTITLE 4. JUDICIAL REVIEW.

17 23-401. AUTHORIZED.

18 (A) BY CIRCUIT COURT.

19 (1) WITHIN 30 DAYS AFTER THE COUNTY PLANNING BOARD
20 TAKES FINAL ACTION ON AN APPLICATION FOR SUBDIVISION APPROVAL,
21 JUDICIAL REVIEW MAY BE REQUESTED BY:

22 (I) A PERSON AGGRIEVED BY THE ACTION; OR

23 (II) A PERSON OR MUNICIPAL CORPORATION THAT
24 APPEARED AT THE HEARING IN PERSON, BY ATTORNEY, OR IN WRITING.

25 (2) A PETITION FOR JUDICIAL REVIEW FILED UNDER THIS
26 SECTION MAY BE MADE TO THE CIRCUIT COURT FOR THE APPROPRIATE
27 COUNTY.

28 (3) THE COURT MAY:

29 (I) AFFIRM OR REVERSE THE ACTION; OR

1 **(II) REMAND THE ACTION TO THE COUNTY PLANNING**
 2 **BOARD FOR FURTHER CONSIDERATION.**

3 **(B) PROCEDURES.**

4 **IF A PETITION FOR JUDICIAL REVIEW IS FILED UNDER THIS SECTION, THE**
 5 **PROCEDURES UNDER § 22-402(B) OF THIS ARTICLE APPLY TO THE COUNTY**
 6 **PLANNING BOARD AND OTHER PARTIES AS APPROPRIATE.**

7 REVISOR'S NOTE: This section is new language derived without substantive
 8 change from former Art. 28, § 7-116(g).

9 In the introductory language to subsection (a)(1) of this section, the
 10 phrase "judicial review may be requested" is substituted for the former
 11 phrase "may be appealed" for accuracy. Similarly, in subsection (b) of
 12 this section, the reference to a "petition for judicial review" is substituted
 13 for the former reference to "an appeal".

14 In subsection (a)(1)(ii) of this section, the former reference to a
 15 "corporation or association, whether or not incorporated" is deleted as
 16 included in the defined term "person".

17 The Land Use Article Review Committee notes, for consideration by the
 18 General Assembly, that under subsection (a)(1)(ii) of this section, a
 19 person may obtain judicial review of an action without showing
 20 aggrievement, so long as the person appeared at the hearing. The
 21 General Assembly may wish to consider whether a different standard
 22 involving some form of aggrivement or impact should be required of one
 23 obtaining judicial review under this section. *See also* § 22-402 of this
 24 article.

25 The Land Use Article Review Committee also notes, for consideration by
 26 the General Assembly, that while this section appears to apply equally to
 27 both Montgomery and Prince George's counties, subsection (b) of this
 28 section requires the use of "procedures under § 20-402(b) of this article",
 29 which on their face apply only in Montgomery County.

30 Defined terms: "County planning board" § 14-101

31 "Person" § 14-101

32 "Subdivision" § 14-101

33 **SUBTITLE 5. ENFORCEMENT.**

34 **PART I. GENERAL PROVISIONS.**

1 **23-501. ENFORCEMENT OF CONDITIONS.**

2 (A) **AUTHORIZED.**

3 THE COUNTY PLANNING BOARD OR THE GOVERNING BODY OF THE
4 APPROPRIATE COUNTY MAY INSTITUTE INJUNCTION, MANDAMUS, OR OTHER
5 APPROPRIATE ACTION OR PROCEEDINGS TO COMPEL THE CONSTRUCTION AND
6 INSTALLATION OF IMPROVEMENTS OR CONSERVATION OF RESOURCES AT A
7 TIME AND ACCORDING TO SPECIFICATIONS SET BY OR IN ACCORDANCE WITH
8 THIS DIVISION.

9 (B) **JURISDICTION.**

10 ANY COURT OF COMPETENT JURISDICTION HAS JURISDICTION TO ISSUE
11 RESTRAINING ORDERS, TEMPORARY OR PERMANENT INJUNCTIONS,
12 MANDAMUS, OR OTHER APPROPRIATE FORMS OF REMEDY OR RELIEF.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 28, § 7-116(c)(2).

15 In subsection (a) of this section, the reference to "the governing body of
16 the appropriate county" is substituted for the former reference to "either
17 county" for clarity.

18 In subsection (b) of this section, the former phrase "[f]or this purpose" is
19 deleted as surplusage.

20 Defined term: "County planning board" § 14-101

21 **23-502. RESERVED.**

22 **23-503. RESERVED.**

23 **PART II. MONTGOMERY COUNTY.**

24 **23-504. SCOPE OF PART.**

25 **THIS PART APPLIES ONLY IN MONTGOMERY COUNTY.**

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 28, § 7-116(h)(1)(i), as it limited the scope of that
28 provision to Montgomery County.

29 **23-505. CIVIL FINES AND PENALTIES.**

1 **(A) SCOPE OF VIOLATIONS.**

2 **IN ADDITION TO ALL OTHER REMEDIES PROVIDED BY LAW, THE DISTRICT**
 3 **COUNCIL MAY AUTHORIZE THE COUNTY PLANNING BOARD TO IMPOSE CIVIL**
 4 **MONETARY FINES OR PENALTIES AND, IF THE PUBLIC HEALTH, SAFETY, OR**
 5 **WELFARE IS THREATENED, ISSUE STOP WORK ORDERS FOR A VIOLATION OF:**

6 **(1) THIS DIVISION;**

7 **(2) COUNTY SUBDIVISION REGULATIONS AND ZONING LAWS;**

8 **(3) ANY LAW OR REGULATION THAT THE COMMISSION OR THE**
 9 **COUNTY PLANNING BOARD IS EXCLUSIVELY AUTHORIZED TO ADMINISTER; OR**

10 **(4) ANY DECISION MADE BY THE COMMISSION OR THE COUNTY**
 11 **PLANNING BOARD UNDER ITS RESPECTIVE AUTHORITY.**

12 **(B) PENALTY; FINE SCHEDULE.**

13 **(1) A FINE NOT TO EXCEED \$500 MAY BE IMPOSED FOR EACH**
 14 **VIOLATION UNDER THIS PART.**

15 **(2) THE DISTRICT COUNCIL MAY ESTABLISH A SCHEDULE OF**
 16 **FINES FOR EACH VIOLATION AND MAY ADOPT PROCEDURES, CONSISTENT WITH**
 17 **THIS PART, FOR IMPOSING AND COLLECTING THE FINES.**

18 **(3) EACH DAY A VIOLATION OCCURS IS A SEPARATE VIOLATION**
 19 **UNDER THIS PART.**

20 REVISOR'S NOTE: This section is new language derived without substantive
 21 change from former Art. 28, § 7–116(h)(2) and (1)(ii) and, except as it
 22 limited the scope of the provision to Montgomery County, (i).

23 In subsection (a)(1) of this section, the reference to “this division” is
 24 substituted for the former reference to “Titles 7 and 8 of this article”. No
 25 substantive change is intended.

26 Defined terms: “Commission” § 14–101
 27 “County planning board” § 14–101
 28 “District council” § 14–101
 29 “Subdivision” § 14–101
 30 “Zoning law” § 14–101

31 **23–506. ENFORCEMENT; PROSECUTION OF VIOLATIONS.**

1 **(A) ENFORCEMENT.**

2 **(1) THE DISTRICT COUNCIL MAY PROVIDE THAT THE COUNTY**
3 **PLANNING BOARD MAY ENFORCE THE IMPOSITION OF FINES AND PENALTIES IN**
4 **A MANNER CONSISTENT WITH THE PROCESS REQUIRING NOTIFICATION AND**
5 **HEARING UNDER TITLE 11, SUBTITLE 2 OF THIS ARTICLE.**

6 **(2) THE IMPOSITION OF FINES AND PENALTIES UNDER THIS PART**
7 **IS NOT SUBJECT TO AN APPEAL TO THE BOARD OF APPEALS.**

8 **(B) PROSECUTION.**

9 **THE DISTRICT COUNCIL MAY PROVIDE FOR THE COUNTY PLANNING**
10 **BOARD, THROUGH COUNSEL, TO PROSECUTE VIOLATIONS FOR WHICH CIVIL**
11 **MONETARY FINES OR PENALTIES ARE IMPOSED.**

12 **(C) FOREST CONSERVATION LAW.**

13 **A VIOLATION OF A LOCAL LAW IMPLEMENTING THE STATE FOREST**
14 **CONSERVATION LAW SHALL BE ENFORCED IN ACCORDANCE WITH TITLE 5,**
15 **SUBTITLE 16 OF THE NATURAL RESOURCES ARTICLE AND NOT IN**
16 **ACCORDANCE WITH THIS PART.**

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 28, § 7-116(h)(3) through (5).

19 Defined terms: "County planning board" § 14-101
20 "District council" § 14-101
21 "Local law" § 14-101

22 **GENERAL REVISOR'S NOTE TO SUBTITLE**

23 Former Art. 28, § 7-116(c)(1), which authorized certain regulatory enforcement
24 agreements in Montgomery County, has never been used and is apparently
25 obsolete. To avoid any unforeseen consequences its repeal might cause, it is
26 transferred to the Session Laws. See § 15 of Ch. __ of the Acts of 2012.

27 **TITLE 24. MONTGOMERY COUNTY PROVISIONS.**

28 **SUBTITLE 1. GENERAL PROVISIONS.**

29 **24-101. SCOPE OF TITLE.**

30 **THIS TITLE APPLIES ONLY IN MONTGOMERY COUNTY.**

1 REVISOR'S NOTE: This section formerly was Art. 28, § 7–121(b).

2 The reference to this “title” is substituted for the former reference to this
3 “section” for clarity because the former law applied only to the
4 development rights and responsibilities agreements in Montgomery
5 County and, as revised, now applies to several other provisions that also
6 apply only in the county. No substantive change is intended.

7 No other changes are made.

8 **SUBTITLE 2. MUNICIPAL ZONING — SPECIFIC MUNICIPALITIES.**

9 **24–201. TOWN OF KENSINGTON.**

10 **(A) CONCURRENT JURISDICTION TO ENFORCE ZONING LAWS.**

11 **THE TOWN OF KENSINGTON HAS CONCURRENT JURISDICTION TO**
12 **ENFORCE THE COUNTY ZONING LAWS WITHIN ITS BOUNDARIES.**

13 **(B) VOTE TO OVERTURN ZONING RESOLUTION.**

14 **A TWO–THIRDS MAJORITY VOTE OF BOTH THE DISTRICT COUNCIL AND**
15 **THE COUNTY PLANNING BOARD IS REQUIRED TO TAKE ANY ACTION RELATING**
16 **TO ZONING WITHIN THE TOWN OF KENSINGTON THAT IS CONTRARY TO A**
17 **RESOLUTION OF THE MAYOR AND TOWN COUNCIL.**

18 **(C) VOTE TO OVERTURN LAND USE RESOLUTION.**

19 **A TWO–THIRDS MAJORITY VOTE OF THE COUNTY PLANNING BOARD IS**
20 **REQUIRED TO TAKE ANY ACTION RELATING TO LAND USE PLANNING WITHIN**
21 **THE TOWN OF KENSINGTON THAT IS CONTRARY TO A RESOLUTION OF THE**
22 **MAYOR AND TOWN COUNCIL.**

23 REVISOR'S NOTE: This section formerly was Art. 28, § 8–112.2, as it related to
24 zoning in the Town of Kensington.

25 The only changes are in style.

26 Defined terms: “County” § 14–101
27 “County planning board” § 14–101
28 “District council” § 14–101
29 “Zoning law” § 14–101

30 **24–202. CITY OF TAKOMA PARK.**

1 **(A) CONCURRENT JURISDICTION TO ENFORCE ZONING LAWS.**

2 **THE CITY OF TAKOMA PARK HAS CONCURRENT JURISDICTION TO**
3 **ENFORCE THE COUNTY ZONING LAWS WITHIN ITS BOUNDARIES.**

4 **(B) VOTE TO OVERTURN ZONING RESOLUTION.**

5 **A TWO-THIRDS MAJORITY VOTE OF BOTH THE DISTRICT COUNCIL AND**
6 **THE COUNTY PLANNING BOARD IS REQUIRED TO TAKE ANY ACTION RELATING**
7 **TO ZONING WITHIN THE CITY OF TAKOMA PARK THAT IS CONTRARY TO A**
8 **RESOLUTION OF THE MAYOR AND CITY COUNCIL.**

9 **(C) VOTE TO OVERTURN LAND USE RESOLUTION.**

10 **A TWO-THIRDS MAJORITY VOTE OF THE COUNTY PLANNING BOARD IS**
11 **REQUIRED TO TAKE ANY ACTION RELATING TO LAND USE PLANNING WITHIN**
12 **THE CITY OF TAKOMA PARK THAT IS CONTRARY TO A RESOLUTION OF THE**
13 **MAYOR AND CITY COUNCIL.**

14 REVISOR'S NOTE: This section formerly was Art. 28, § 8-112.2, as it related to
15 zoning in the City of Takoma Park.

16 The only changes are in style.

17 Defined terms: "County" § 14-101
18 "County planning board" § 14-101
19 "District council" § 14-101
20 "Zoning law" § 14-101

21 **SUBTITLE 3. DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENTS.**

22 **24-301. DEFINITIONS.**

23 **(A) IN GENERAL.**

24 **IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
25 **INDICATED.**

26 REVISOR'S NOTE: This subsection formerly was the introductory language to
27 Art. 28, § 7-121(a).

28 The only other changes are in style.

1 **(B) AGREEMENT.**

2 **“AGREEMENT” MEANS A DEVELOPMENT RIGHTS AND RESPONSIBILITIES**
 3 **AGREEMENT TO ESTABLISH THE CONDITIONS UNDER WHICH DEVELOPMENT OF**
 4 **REAL PROPERTY MAY PROCEED THAT IS:**

5 **(1) OF A SPECIFIED DURATION;**

6 **(2) MADE BETWEEN:**

7 **(I) THE COUNTY PLANNING BOARD OR ITS DESIGNEE;**

8 **(II) A REVIEWING ENTITY; AND**

9 **(III) A PERSON HAVING A LEGAL OR EQUITABLE INTEREST IN**
 10 **THE PROPERTY; AND**

11 **(3) APPROVED BY THE DISTRICT COUNCIL OR THE COUNTY**
 12 **EXECUTIVE.**

13 REVISOR’S NOTE: This subsection is new language derived without
 14 substantive change from former Art. 28, § 7–121(a)(2).

15 In item (1) of this subsection, the word “duration” is substituted for the
 16 former reference to “time” for accuracy and consistency within this
 17 subtitle.

18 In item (3) of this subsection, the former phrase “as appropriate” is
 19 deleted as surplusage.

20 Defined terms: “County planning board” § 14–101

21 “Development” § 24–301

22 “District council” § 14–101

23 “Person” § 14–101

24 “Reviewing entity” § 24–301

25 **(C) DEVELOPMENT.**

26 **(1) “DEVELOPMENT” MEANS ANY ACTIVITY THAT MATERIALLY**
 27 **AFFECTS THE EXISTING CONDITION OR USE OF ANY LAND OR STRUCTURE.**

28 **(2) “DEVELOPMENT” DOES NOT INCLUDE NORMAL**
 29 **AGRICULTURAL ACTIVITY.**

1 REVISOR'S NOTE: This subsection is new language derived without
2 substantive change from former Art. 28, § 7-121(a)(1).

3 **(D) REGULATORY PLAN.**

4 **“REGULATORY PLAN” MEANS AN APPLICATION PROPOSING**
5 **DEVELOPMENT ON PRIVATELY OWNED LAND THAT MUST BE SUBMITTED TO THE**
6 **COUNTY PLANNING BOARD FOR REVIEW AND FINAL APPROVAL UNDER THIS**
7 **DIVISION OR COUNTY LAW OR REGULATION.**

8 REVISOR'S NOTE: This subsection formerly was Art. 28, § 7-121(a)(3).

9 The only changes are in style.

10 Defined terms: “County” § 14-101
11 “County planning board” § 14-101
12 “Development” § 24-301

13 **(E) REVIEWING ENTITY.**

14 **“REVIEWING ENTITY” MEANS THE COUNTY EXECUTIVE OR OTHER LOCAL,**
15 **STATE, OR FEDERAL GOVERNMENT OR UNIT THAT AGREES TO EXECUTE AN**
16 **AGREEMENT.**

17 REVISOR'S NOTE: This subsection is new language derived without
18 substantive change from former Art. 28, § 7-121(a)(4).

19 The former phrase “unless otherwise indicated” is deleted as
20 unnecessary.

21 Defined terms: “Agreement” § 24-301
22 “State” § 14-101

23 **24-302. CONSTRUCTION OF SUBTITLE.**

24 **THIS SUBTITLE DOES NOT:**

- 25 **(1) REQUIRE THE DISTRICT COUNCIL TO ADOPT A LOCAL LAW; OR**
26 **(2) AUTHORIZE THE DISTRICT COUNCIL, THE COMMISSION, OR A**
27 **DESIGNEE OF EITHER UNIT TO REQUIRE A PARTY TO ENTER INTO AN**
28 **AGREEMENT.**

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 28, § 7-121(c)(4).

1 Defined terms: "Agreement" § 24-301
2 "Commission" § 14-101
3 "District council" § 14-101
4 "Local law" § 14-101

5 **24-303. IMPLEMENTING LOCAL LAWS.**

6 **(A) AUTHORITY TO ADOPT.**

7 **IN ACCORDANCE WITH THIS SECTION, THE DISTRICT COUNCIL MAY ADOPT**
8 **LOCAL LAWS THAT ESTABLISH PROCEDURES AND REQUIREMENTS FOR THE**
9 **EXECUTION OF AGREEMENTS.**

10 **(B) REQUIRED CONTENT.**

11 **A LOCAL LAW ADOPTED UNDER THIS SECTION BY THE DISTRICT COUNCIL**
12 **SHALL AUTHORIZE THE COUNTY PLANNING BOARD TO:**

13 **(1) IF APPROVED BY THE DISTRICT COUNCIL OR COUNTY**
14 **EXECUTIVE, EXECUTE AGREEMENTS AFFECTING REAL PROPERTY IN THE**
15 **PORTION OF THE REGIONAL DISTRICT IN MONTGOMERY COUNTY WITH A**
16 **PERSON HAVING A LEGAL OR EQUITABLE INTEREST IN THE PROPERTY; AND**

17 **(2) IF REQUESTED BY ANY PARTY, INCLUDE A REVIEWING ENTITY**
18 **AS AN ADDITIONAL PARTY TO THE AGREEMENT.**

19 **(C) AUTHORIZED CONTENT.**

20 **A LOCAL LAW ADOPTED UNDER THIS SECTION MAY SPECIFY THE**
21 **CIRCUMSTANCES UNDER WHICH A PERSON MAY REQUEST THE NEGOTIATION**
22 **AND EXECUTION OF AN AGREEMENT, INCLUDING:**

23 **(1) THE SIZE, USE, ZONING, OR STAGING PLAN OF THE PROPOSED**
24 **DEVELOPMENT; OR**

25 **(2) OTHER RELEVANT FACTORS, INCLUDING:**

26 **(I) THE PROVISION OF PUBLIC BENEFITS OR AMENITIES;**
27 **OR**

28 **(II) GROWTH MANAGEMENT POLICIES ADOPTED BY THE**
29 **COUNTY.**

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 28, § 7–121(c)(1), (2), and (3).

3 In the introductory language to subsection (b) of this section, the former
4 reference to a local law adopted “by a district council” is deleted as
5 unnecessary.

6 In subsection (b)(1) of this section, the reference to the “portion of the
7 regional district in Montgomery County” is substituted for the former
8 reference to the “boundaries of the planning board’s jurisdiction” for
9 clarity.

10 Also in subsection (b)(1) of this section, the former phrase “as
11 appropriate” is deleted as surplusage.

12 Defined terms: “Agreement” § 24–301

13 “County planning board” § 14–101

14 “Development” § 24–301

15 “District council” § 14–101

16 “Local law” § 14–101

17 “Person” § 14–101

18 “Regional district” § 14–101

19 “Reviewing entity” § 24–301

20 **24–304. REQUEST TO NEGOTIATE AND EXECUTE.**

21 **(A) REQUIRED.**

22 **(1) BEFORE ENTERING INTO AN AGREEMENT, A PERSON HAVING**
23 **A LEGAL OR EQUITABLE INTEREST IN REAL PROPERTY, OR THE PERSON’S**
24 **REPRESENTATIVE, SHALL REQUEST THAT THE COUNTY PLANNING BOARD**
25 **CONSIDER NEGOTIATING AND EXECUTING AN AGREEMENT.**

26 **(2) A REQUEST UNDER PARAGRAPH (1) OF THIS SUBSECTION**
27 **SHALL BE MADE AS PART OF A REGULATORY PLAN AUTHORIZED BY THIS**
28 **DIVISION.**

29 **(B) ACTION BY COUNTY PLANNING BOARD.**

30 **EXCEPT AS PROVIDED UNDER SUBSECTION (C) OF THIS SECTION, THE**
31 **COUNTY PLANNING BOARD MAY AGREE TO NEGOTIATE AND ENTER INTO AN**
32 **AGREEMENT.**

33 **(C) LIMITATION.**

1 **THE COUNTY PLANNING BOARD MAY NOT ENTER INTO AN AGREEMENT**
 2 **UNLESS THE COUNTY PLANNING BOARD HAS:**

3 **(1) HELD A PUBLIC HEARING ON THE PROPOSED AGREEMENT;**
 4 **AND**

5 **(2) DETERMINED THAT THE PROPOSED AGREEMENT IS**
 6 **CONSISTENT WITH THE COMMISSION’S GENERAL PLAN.**

7 **(D) SATISFACTION OF HEARING REQUIREMENT.**

8 **A PUBLIC HEARING FOR A REGULATORY PLAN SATISFIES THE**
 9 **REQUIREMENT FOR A PUBLIC HEARING IN SUBSECTION (C) OF THIS SECTION.**

10 REVISOR’S NOTE: This section is new language derived without substantive
 11 change from former Art. 28, § 7–121(d), (e), and (f).

12 In subsection (a)(1) of this section, the former reference to a county
 13 planning board “in the jurisdiction in which the property is located” is
 14 deleted as surplusage.

15 In subsection (a)(2) of this section, the former reference to “an application
 16 submitted to a planning board” is deleted as included in the reference to a
 17 “regulatory plan”.

18 Also in subsection (a)(2) of this section, the former reference to a
 19 regulatory plan “review on matters” authorized is deleted as surplusage.

20 In subsection (b) of this section, the former phrase “but need not” is
 21 deleted as implicit in the word “may”.

22 In subsection (c)(1) of this section, the reference to holding a public
 23 hearing “on the proposed agreement” is added to state expressly that
 24 which was only implied in the former law.

25 In subsection (c)(2) of this section, the former reference to an
 26 “affirmative” determination is deleted as surplusage.

27 In subsection (d) of this section, the phrase “satisfies the requirement” is
 28 substituted for the former phrase “may satisfy the requirement” for
 29 clarity.

30 Also in subsection (d) of this section, the former reference to “review” is
 31 deleted as unnecessary in light of the reference to a “regulatory plan”.

32 Defined terms: “Agreement” § 24–301

1 “Commission” § 14–101
2 “County planning board” § 14–101
3 “Person” § 14–101
4 “Regulatory plan” § 24–301

5 **24–305. CONTENT.**

6 **(A) REQUIRED.**

7 **AN AGREEMENT SHALL INCLUDE:**

8 **(1) A LEGAL DESCRIPTION OF THE REAL PROPERTY SUBJECT TO**
9 **THE AGREEMENT;**

10 **(2) THE NAMES OF ALL PERSONS HAVING A LEGAL OR EQUITABLE**
11 **INTEREST IN THE PROPERTY;**

12 **(3) THE DURATION OF THE AGREEMENT;**

13 **(4) THE PERMISSIBLE USES OF THE REAL PROPERTY;**

14 **(5) THE PERMISSIBLE DENSITY OR INTENSITY OF USE OF THE**
15 **REAL PROPERTY;**

16 **(6) THE MAXIMUM HEIGHT AND SIZE OF STRUCTURES;**

17 **(7) THE GENERAL LOCATION OF ALL STRUCTURES AND**
18 **SUPPORTING FACILITIES AND FEATURES;**

19 **(8) A DESCRIPTION OF ALL ANTICIPATED PERMITS REQUIRED OR**
20 **ALREADY APPROVED FOR THE DEVELOPMENT OF THE REAL PROPERTY;**

21 **(9) A STATEMENT THAT THE PROPOSED DEVELOPMENT IS**
22 **CONSISTENT WITH:**

23 **(I) THE COMMISSION’S GENERAL PLAN; AND**

24 **(II) ALL APPLICABLE DEVELOPMENT LAWS AND**
25 **REGULATIONS ADMINISTERED BY THE COUNTY PLANNING BOARD;**

26 **(10) A DESCRIPTION OF THE REQUIREMENTS DETERMINED BY A**
27 **COUNTY PLANNING BOARD TO BE NECESSARY TO ENSURE THE PUBLIC HEALTH,**
28 **SAFETY, AND WELFARE; AND**

1 **(11) TO THE EXTENT APPLICABLE, PROVISIONS FOR THE:**

2 **(I) DEDICATION OF A PORTION OF THE REAL PROPERTY**
3 **FOR IMMEDIATE OR FUTURE PUBLIC USE;**

4 **(II) PROTECTION OF SENSITIVE AREAS;**

5 **(III) PRESERVATION AND RESTORATION OF HISTORIC**
6 **STRUCTURES; AND**

7 **(IV) CONSTRUCTION OR FINANCING OF PUBLIC FACILITIES.**

8 **(B) AUTHORIZED.**

9 **AN AGREEMENT MAY:**

10 **(1) ESTABLISH THE TERMS BY WHICH, AND ANY PERIOD OF TIME**
11 **WHEN, DEVELOPMENT OR INDIVIDUAL PHASES SHALL BEGIN AND BE**
12 **COMPLETED;**

13 **(2) INCORPORATE THE TERMS AND CONDITIONS THAT WOULD BE**
14 **INCLUDED IN OTHER ENFORCEABLE AGREEMENTS AND INSTRUMENTS**
15 **BETWEEN THE PARTIES REQUIRED AS PART OF A REGULATORY PLAN; AND**

16 **(3) PROVIDE FOR OTHER MATTERS IN ACCORDANCE WITH THIS**
17 **DIVISION.**

18 **(C) LIMITATION.**

19 **AN AGREEMENT MAY NOT PREVENT A COUNTY PLANNING BOARD,**
20 **DISTRICT COUNCIL, COUNTY EXECUTIVE, OR OTHER LOCAL, STATE, OR**
21 **FEDERAL GOVERNMENT FROM REQUIRING A PERSON TO COMPLY WITH LAWS,**
22 **RULES, REGULATIONS, AND POLICIES ENACTED AFTER THE PARTIES EXECUTED**
23 **THE AGREEMENT IF THE DISTRICT COUNCIL OR THE COUNTY EXECUTIVE**
24 **DETERMINES THAT COMPLIANCE WITH THE LAWS, RULES, REGULATIONS, AND**
25 **POLICIES IS ESSENTIAL TO ENSURE THE PUBLIC HEALTH, SAFETY, OR WELFARE.**

26 **REVISOR'S NOTE:** This section is new language derived without substantive
27 change from former Art. 28, § 7-121(g) and (l).

28 In subsection (a)(5) of this section, the references to the "permissible"
29 density or intensity of use "of the real property" are added for clarity.

1 In subsection (a)(7) of this section, the former reference to “buildings” is
2 deleted as included in the reference to “structures”.

3 In subsection (a)(10) of this section, the former reference to “conditions,
4 terms, restrictions, or other” requirements is deleted as included in the
5 reference to “requirements”.

6 Also in subsection (a)(10) of this section, the former reference to “its
7 citizens” is deleted as included in the word “public”.

8 In subsection (b)(1) of this section, the former reference to “an approved”
9 development is deleted as implicit.

10 In subsection (b)(2) of this section, the former reference to “review” is
11 deleted as unnecessary in light of the reference to a “regulatory plan”.

12 In subsection (c) of this section, the reference to when “the parties
13 executed” the agreement is substituted for the former reference to “the
14 date of” the agreement for clarity and accuracy.

15 Also in subsection (c) of this section, the former words “adopted” and
16 “promulgated” are deleted as included in the word “enacted”.

17 Also in subsection (c) of this section, the former phrase “as appropriate” is
18 deleted as surplusage.

19 Also in subsection (c) of this section, the former reference to the welfare
20 “of residents of all or part of the jurisdiction” is deleted as surplusage.

21 Also in subsection (c) of this section, the former reference to the
22 “imposition” of laws and regulations is deleted as implicit in the reference
23 to “compliance”.

24 Defined terms: “Agreement” § 24–301
25 “Commission” § 14–101
26 “County planning board” § 14–101
27 “Development” § 24–301
28 “District council” § 14–101
29 “Person” § 14–101
30 “Regulatory plan” § 24–301
31 “Sensitive area” § 14–101
32 “State” § 14–101

33 **24–306. TERM.**

34 **(A) IN GENERAL.**

1 **EXCEPT AS OTHERWISE PROVIDED IN THE AGREEMENT UNDER §**
2 **24-305(A)(3) OF THIS SUBTITLE OR EXTENDED BY AMENDMENT UNDER**
3 **SUBSECTION (B) OF THIS SECTION AND § 24-308 OF THIS SUBTITLE, AN**
4 **AGREEMENT IS VOID 5 YEARS AFTER EXECUTION BY THE PARTIES.**

5 **(B) EXTENSION.**

6 **IF APPROVED BY THE DISTRICT COUNCIL OR COUNTY EXECUTIVE, AS**
7 **APPROPRIATE, THE TERM OF AN AGREEMENT MAY BE EXTENDED.**

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 28, § 7-121(h).

10 In subsection (a) of this section, the phrase "execution by the parties" is
11 substituted for the former phrase "the date on which the parties execute
12 the agreement" for brevity.

13 In subsection (b) of this section, the reference to "the term of" an
14 agreement is added for clarity.

15 Defined terms: "Agreement" § 24-301

16 "District council" § 14-101

17 **24-307. ACTIONS AUTHORIZED DURING TERM.**

18 **DURING THE TERM OF AN AGREEMENT:**

19 **(1) DEVELOPMENT MAY OCCUR IN ACCORDANCE WITH THE LAW**
20 **AND REGULATIONS GOVERNING THE USE, DENSITY, OR INTENSITY OF THE REAL**
21 **PROPERTY:**

22 **(I) ENACTED BY THE DISTRICT COUNCIL AND**
23 **ADMINISTERED BY THE COUNTY PLANNING BOARD OR COUNTY; AND**

24 **(II) IF APPLICABLE, ENACTED BY A REVIEWING ENTITY AND**
25 **IN EFFECT WHEN THE PROJECT WAS REVIEWED AND APPROVED BY THE COUNTY**
26 **PLANNING BOARD AND REVIEWING ENTITY; AND**

27 **(2) EXCEPT AS PROVIDED IN § 24-305(C) OF THIS SUBTITLE,**
28 **CHANGES TO THE LAW AND REGULATIONS DESCRIBED IN PARAGRAPH (1) OF**
29 **THIS SECTION ENACTED AFTER THE PARTIES EXECUTE AN AGREEMENT DO NOT**
30 **APPLY TO DEVELOPMENT UNDER THE AGREEMENT.**

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 28, § 7–121(i).

3 In the introductory language to this section, the former reference to the
4 “established” term is deleted as surplusage.

5 In item (1)(i) of this section, the reference to “enacted” is substituted for
6 the former reference to “adopted” for consistency within this subtitle.

7 In item (1)(ii) of this section, the former references to “adopted” and
8 “promulgated” are deleted as included in the reference to “enacted”.

9 In item (2) of this section, the reference to “development under the
10 agreement” is substituted for the former reference to “[t]he project” for
11 clarity.

12 Also in item (2) of this section, the reference to “changes ... enacted after
13 the parties execute an agreement” is substituted for the former reference
14 to “modifications that may subsequently occur” for clarity.

15 Also in item (2) of this section, the reference to “§ 24–305(c) of this
16 subtitle [former Art. 28, § 7–121(l)]” is substituted for the former
17 erroneous reference to “subsection (k) of this section”, revised as § 24–309
18 of this subtitle, for clarity.

19 Defined terms: “Agreement” § 24–301

20 “County” § 14–101

21 “County planning board” § 14–101

22 “Development” § 24–301

23 “District council” § 14–101

24 “Reviewing entity” § 24–301

25 **24–308. AMENDMENT.**

26 **(A) AUTHORIZED.**

27 **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE PARTIES**
28 **TO AN AGREEMENT MAY AMEND THE AGREEMENT BY MUTUAL CONSENT.**

29 **(B) LIMITATIONS.**

30 **(1) THE PARTIES TO AN AGREEMENT MAY NOT AMEND THE**
31 **AGREEMENT UNLESS:**

32 **(I) THERE HAS BEEN A PUBLIC HEARING ON THE**
33 **PROPOSED AMENDMENT; AND**

1 **(II) THE DISTRICT COUNCIL OR COUNTY EXECUTIVE, AS**
2 **APPROPRIATE, APPROVES ANY SUBSTANTIAL AMENDMENT.**

3 **(2) A COUNTY PLANNING BOARD MAY NOT AMEND AN**
4 **AGREEMENT UNLESS THE COUNTY PLANNING BOARD DETERMINES THAT THE**
5 **PROPOSED AMENDMENT IS CONSISTENT WITH THE COMMISSION'S GENERAL**
6 **PLAN.**

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 28, § 7-121(j).

9 In subsection (b)(1)(ii) of this section, the word "amendment" is
10 substituted for the former reference to "modification" for clarity and
11 consistency within this subsection.

12 Defined terms: "Agreement" § 24-301
13 "Commission" § 14-101
14 "County planning board" § 14-101
15 "District council" § 14-101

16 **24-309. TERMINATION.**

17 **(A) BY MUTUAL CONSENT.**

18 **THE PARTIES TO AN AGREEMENT MAY TERMINATE THE AGREEMENT BY**
19 **MUTUAL CONSENT.**

20 **(B) BY COUNTY PLANNING BOARD.**

21 **(1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2) OF THIS**
22 **SUBSECTION, IF THE COUNTY PLANNING BOARD DETERMINES THAT**
23 **SUSPENSION OR TERMINATION OF AN AGREEMENT IS ESSENTIAL TO ENSURE**
24 **THE PUBLIC HEALTH, SAFETY, OR WELFARE, THE COUNTY PLANNING BOARD**
25 **MAY SUSPEND OR TERMINATE THE AGREEMENT.**

26 **(2) THE COUNTY PLANNING BOARD MAY NOT SUSPEND OR**
27 **TERMINATE AN AGREEMENT UNLESS:**

28 **(I) THERE HAS BEEN A PUBLIC HEARING ON THE**
29 **SUSPENSION OR TERMINATION; AND**

30 **(II) THE DISTRICT COUNCIL OR COUNTY EXECUTIVE, AS**
31 **APPROPRIATE, APPROVES THE SUSPENSION OR TERMINATION.**

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 28, § 7-121(k).

3 Defined terms: "Agreement" § 24-301
4 "County planning board" § 14-101
5 "District council" § 14-101

6 **24-310. RECORDATION.**

7 **(A) REQUIRED.**

8 **(1) AN AGREEMENT SHALL BE RECORDED IN THE LAND RECORDS**
9 **OF MONTGOMERY COUNTY.**

10 **(2) IF AN AGREEMENT IS NOT RECORDED AS REQUIRED UNDER**
11 **PARAGRAPH (1) OF THIS SUBSECTION WITHIN 20 DAYS AFTER ITS EXECUTION**
12 **BY ALL PARTIES, THE AGREEMENT IS VOID.**

13 **(B) EFFECT.**

14 **WHEN AN AGREEMENT IS RECORDED UNDER SUBSECTION (A) OF THIS**
15 **SECTION, THE PARTIES TO THE AGREEMENT AND THEIR SUCCESSORS IN**
16 **INTEREST ARE BOUND TO THE AGREEMENT.**

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 28, § 7-121(m).

19 Subsection (a) of this section is revised to state expressly that which was
20 only implied in the former law, *i.e.*, an agreement is required to be
21 recorded in the Montgomery County land records to be effective.

22 In subsection (a)(1) of this section, the reference to "Montgomery County"
23 is substituted for the former reference to "the jurisdiction" for clarity.

24 The Land Use Article Review Committee notes, for consideration by the
25 General Assembly, that under subsection (a)(2) of this section, the time
26 limit for recording an executed agreement, 20 days, is quite short,
27 considering that an unrecorded agreement becomes void after that. The
28 corresponding provision applicable in Prince George's County has a limit
29 of 30 days. The General Assembly may wish to consider whether another
30 period would be more appropriate in light of the complicated nature of
31 the transactions that would be subject to an agreement. *See also* Revisor's
32 Notes to §§ 7-305 and 25-511 of this article.

1 Defined term: “Agreement” § 24–301

2 **24–311. ENFORCEMENT.**

3 **(A) AUTHORIZED.**

4 **UNLESS TERMINATED UNDER § 24–309 OF THIS SUBTITLE, AN**
5 **AGREEMENT MAY BE ENFORCED BY THE PARTIES TO THE AGREEMENT OR THEIR**
6 **SUCCESSORS IN INTEREST USING ALL REMEDIES AVAILABLE BY LAW.**

7 **(B) NO RIGHT TO ADMINISTRATIVE APPEAL.**

8 **NO RIGHT TO AN ADMINISTRATIVE APPEAL ARISES FROM THE**
9 **NEGOTIATION OR ENFORCEMENT OF AN AGREEMENT.**

10 REVISOR’S NOTE: This section formerly was Art. 28, § 7–121(n).

11 The only changes are in style.

12 Defined term: “Agreement” § 24–301

13 **TITLE 25. PRINCE GEORGE’S COUNTY PROVISIONS.**

14 **SUBTITLE 1. GENERAL PROVISIONS.**

15 **25–101. SCOPE OF TITLE.**

16 **THIS TITLE APPLIES ONLY IN PRINCE GEORGE’S COUNTY.**

17 REVISOR’S NOTE: This section formerly was Art. 28, §§ 5–502 and 7–121.1(b).

18 The reference to this “title” is substituted for the former references to this
19 “subtitle” and this “section” for clarity because the former law applied
20 only to the Prince George’s County Agricultural Land Preservation
21 Easement Program and development rights and responsibilities
22 agreements in the county, and as revised now applies to several other
23 provisions that also apply only in Prince George’s County. No substantive
24 change is intended.

25 No other changes are made.

26 **SUBTITLE 2. LAND USE CONTROLS — IN GENERAL.**

27 **25–201. ASSOCIATION REPRESENTED BY NONATTORNEY.**

1 NOTWITHSTANDING ANY OTHER STATE LAW, IN ITS RULES AND
2 PROCEDURES THE DISTRICT COUNCIL MAY ALLOW A DULY ELECTED OFFICER
3 OF A BONA FIDE CIVIC ASSOCIATION OR HOMEOWNERS ASSOCIATION TO
4 REPRESENT THE ASSOCIATION BEFORE THE COUNTY PLANNING BOARD,
5 DISTRICT COUNCIL, ZONING HEARING EXAMINER, OR BOARD OF APPEALS
6 REGARDLESS OF WHETHER THAT INDIVIDUAL IS AN ATTORNEY.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 28, § 8-122.1(a).

9 Defined terms: "County" § 14-101
10 "County planning board" § 14-101
11 "District council" § 14-101
12 "State" § 14-101

13 **25-202. CONTINUANCE OF ZONING HEARING.**

14 (A) **REQUEST OF CONTINUANCE.**

15 **THE PEOPLE'S ZONING COUNSEL OR ANY PARTY OF RECORD MAY**
16 **REQUEST THE CONTINUANCE OF A HEARING IN ACCORDANCE WITH THIS**
17 **SECTION.**

18 (B) **GRANTING OF CONTINUANCE.**

19 **THE ZONING HEARING EXAMINER SHALL GRANT A CONTINUANCE IF A**
20 **REQUIRED TECHNICAL STAFF REPORT HAS NOT BEEN FILED AT LEAST 30 DAYS**
21 **BEFORE THE SCHEDULED HEARING.**

22 (C) **STAY OF HEARING.**

23 **IF A CONTINUANCE IS GRANTED UNDER THIS SECTION, THE ZONING**
24 **HEARING EXAMINER MAY NOT HEAR THE CASE FOR AT LEAST 30 DAYS AFTER**
25 **THE TECHNICAL STAFF REPORT IS FILED.**

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 28, § 8-108.1.

28 In subsection (c) of this section, the phrase "under this section" is
29 substituted for the former phrase "for this reason" for clarity.

30 **25-203. EXAMINATION OF WITNESSES.**

31 (A) **CROSS-EXAMINATION ALLOWED.**

1 **ALL WITNESSES APPEARING IN A HEARING BEFORE THE DISTRICT**
2 **COUNCIL ARE SUBJECT TO CROSS-EXAMINATION.**

3 **(B) RULES FOR OATHS AND CROSS-EXAMINATION.**

4 **(1) THE DISTRICT COUNCIL MAY ESTABLISH RULES FOR THE**
5 **ADMINISTERING OF OATHS TO AND THE CROSS-EXAMINATION OF WITNESSES**
6 **APPEARING TO TESTIFY AT DISTRICT COUNCIL HEARINGS.**

7 **(2) BEFORE ESTABLISHING RULES UNDER THIS SUBSECTION, THE**
8 **DISTRICT COUNCIL SHALL CONDUCT A PUBLIC HEARING ON THE PROPOSED**
9 **RULES.**

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 28, § 8-122.

12 In subsection (b) of this section, the former references to "procedures" are
13 deleted as included in the references to "rules".

14 In subsection (b)(1) of this section, the former reference to "reasonable"
15 rules is deleted as implicit.

16 In subsection (b)(2) of this section, the reference to the "proposed" rules is
17 added for clarity.

18 Defined term: "District council" § 14-101

19 **25-204. WRITTEN FINDINGS AND CONCLUSIONS REQUIRED.**

20 **A CONTESTED APPLICATION FOR A MAP AMENDMENT OR SPECIAL**
21 **EXCEPTION MAY NOT BE GRANTED OR DENIED WITHOUT WRITTEN FINDINGS OF**
22 **MATERIAL FACTS AND CONCLUSIONS.**

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 28, § 8-123.

25 The reference to "material" facts and conclusions is substituted for the
26 former reference to "basic facts and written conclusions" for clarity.

27 **25-205. RECORD OF HEARING.**

28 **THE RECORD OF EVERY DISTRICT COUNCIL HEARING ON A MAP**
29 **AMENDMENT OR SPECIAL EXCEPTION SHALL INCLUDE:**

1 **(1) THE VOTE OF EACH MEMBER;**

2 **(2) WHETHER THE MEMBER ABSTAINED FROM VOTING; OR**

3 **(3) WHETHER THE MEMBER WAS ABSENT.**

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 28, § 8–121.

6 In the introductory language to this section, the word “include” is
7 substituted for the former word “recite” for clarity.

8 In item (2) of this section, the former phrase “stated separately” is deleted
9 as implicit.

10 Defined term: “District council” § 14–101

11 **25–206. PETITION FOR JUDICIAL REVIEW — PEOPLE'S ZONING COUNSEL.**

12 **IF THE PEOPLE'S ZONING COUNSEL HAS A REASONABLE BELIEF THAT A**
13 **FINAL ACTION ON AN APPLICATION FOR A SUBDIVISION, SPECIAL EXCEPTION,**
14 **VARIANCE, OR SITE PLAN IS ARBITRARY AND CAPRICIOUS, THE PEOPLE'S**
15 **ZONING COUNSEL MAY PETITION FOR JUDICIAL REVIEW OF THE FINAL ACTION**
16 **ON BEHALF OF A BONA FIDE CITIZENS ASSOCIATION THAT IS ENTITLED TO**
17 **JUDICIAL REVIEW UNDER THIS DIVISION.**

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 28, § 8–122.1(b).

20 In this section, the references to “judicial review” are substituted for the
21 former references to “appeal” for accuracy.

22 Also in this section, the former reference to subdivision “of land” is
23 deleted as included in the definition of “subdivision”. See § 14–101 of this
24 article.

25 Defined term: “Subdivision” § 14–101

26 **25–207. HEARINGS FOR SUBSEQUENT APPLICATIONS FOR SAME PARCEL.**

27 **(A) DATE OF DISAPPROVAL.**

28 **IN THIS SECTION, “DATE OF DISAPPROVAL” MEANS:**

29 **(1) THE DATE OF THE DECISION OF THE DISTRICT COUNCIL; OR**

1 **(2) IN CASE OF JUDICIAL REVIEW, THE DATE OF THE FINAL**
2 **JUDGMENT OF THE CIRCUIT COURT.**

3 **(B) HEARING FOR SUBSEQUENT APPLICATIONS.**

4 **IF THE DISTRICT COUNCIL WHOLLY OR PARTLY DISAPPROVES AN**
5 **APPLICATION FOR A MAP AMENDMENT, IT MAY NOT ACT ON A SUBSEQUENT**
6 **APPLICATION FOR ANY PORTION OF THE SAME LAND:**

7 **(1) WITHIN 18 MONTHS AFTER THE DATE OF THE FIRST**
8 **DISAPPROVAL; AND**

9 **(2) WITHIN 24 MONTHS AFTER THE DATE OF ANY SUBSEQUENT**
10 **DISAPPROVAL.**

11 **(C) BASIS OF FINDINGS ON SUBSEQUENT APPLICATIONS.**

12 **IN ANY SUBSEQUENT APPLICATION FOR ANY PORTION OF THE SAME LAND**
13 **AND FOR THE SAME ZONING CLASSIFICATION OR THE SAME PURPOSE FOR**
14 **SPECIAL EXCEPTION, BY THE SAME APPLICANT, THE DISTRICT COUNCIL MAY**
15 **NOT BASE ITS FINDINGS SOLELY ON ANY FACT OR CIRCUMSTANCE THAT WAS**
16 **PRESENTED AT THE HEARING ON THE PRIOR APPLICATION.**

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 28, § 8–124.

19 In subsection (a)(2) of this section, the reference to “judicial review” is
20 substituted for the former reference to “appellate review” for accuracy.

21 Also in subsection (a)(2) of this section, the reference to the date of the
22 “final judgment” is substituted for the former reference to the date the
23 Circuit Court “announces its decision” for accuracy.

24 In the introductory language to subsection (b) and in subsection (c) of this
25 section, the references to “any portion of the same land” are substituted
26 for the former references to “the same land or any portion thereof” for
27 brevity.

28 In the introductory language to subsection (b) of this section, the phrase
29 “act on” is substituted for the former word “entertain” for clarity.

30 In subsection (b)(2) of this section, the reference to “any subsequent”
31 disapproval is substituted for the former reference to “the second or
32 further” disapproval for brevity.

1 In subsection (c) of this section, the reference to the hearing “on the prior
2 application” is substituted for the former reference to the “earlier”
3 hearing for clarity.

4 Also in subsection (c) of this section, the former reference to “applicants”
5 is deleted in light of the reference to “applicant” and Art. 1, § 8, which
6 provides that the singular generally includes the plural.

7 Defined term: “District council” § 14–101

8 **25–208. SPECIAL EXCEPTION — RUBBLE LANDFILL.**

9 **THE DISTRICT COUNCIL MAY NOT APPROVE A SPECIAL EXCEPTION TO**
10 **CONSTRUCT OR OPERATE A RUBBLE LANDFILL:**

11 **(1) AT A SITE WITHOUT A THREE–FOURTHS MAJORITY VOTE OF**
12 **THE DISTRICT COUNCIL; OR**

13 **(2) IF AN APPLICATION FOR A SPECIAL EXCEPTION TO**
14 **CONSTRUCT OR OPERATE A RUBBLE LANDFILL AT THE SITE WAS PREVIOUSLY**
15 **DENIED ON OR AFTER OCTOBER 1, 1981.**

16 REVISOR’S NOTE: This section is new language derived without substantive
17 change from former Art. 28, §§ 8–110.1 and 8–110.2.

18 Defined term: “District council” § 14–101

19 **25–209. SPECIAL EXCEPTION — SAND AND GRAVEL MINING.**

20 **(A) REQUIRED REPORT.**

21 **THE COMMISSION SHALL PREPARE A REPORT IN ACCORDANCE WITH THIS**
22 **SECTION BEFORE A ZONING HEARING EXAMINER OR THE DISTRICT COUNCIL**
23 **MAY CONDUCT A HEARING ON A REQUEST FOR A SPECIAL EXCEPTION TO MINE**
24 **SAND OR GRAVEL.**

25 **(B) CONTENTS.**

26 **THE REPORT SHALL COMPREHENSIVELY EVALUATE THE REQUEST BY**
27 **ANALYZING THE IMPACT OF THE PROPOSED MINING ACTIVITIES ON THE**
28 **SURROUNDING AREA, CONSIDERING ONLY:**

29 **(1) NOISE;**

- 1 **(2) WATERSHED AND WATER QUALITY;**
2 **(3) AIRSHED AND AIR QUALITY;**
3 **(4) TRAFFIC AND TRAFFIC SAFETY; AND**
4 **(5) OTHER ENVIRONMENTAL FACTORS RELATING TO THE**
5 **HEALTH, SAFETY, AND WELFARE OF THE RESIDENTS IN THE AFFECTED AREA.**

6 **(c) COST.**

7 **IN ADDITION TO THE INITIAL FILING FEE, THE APPLICANT SHALL PAY A**
8 **FEE NOT TO EXCEED \$8,000 FOR THE SERVICES OF THE COMMISSION TO**
9 **PREPARE THE REPORT.**

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 28, § 8–110(c).

12 Defined terms: "Commission" § 14–101
13 "District council" § 14–101

14 **25–210. SITE PLAN REVIEW — DISTRICT COUNCIL.**

15 **(A) AUTHORIZED; APPEAL.**

16 **(1) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE**
17 **DISTRICT COUNCIL MAY REVIEW A FINAL DECISION OF THE COUNTY PLANNING**
18 **BOARD TO APPROVE OR DISAPPROVE A DETAILED SITE PLAN.**

19 **(2) A PARTY OF RECORD MAY APPEAL TO THE DISTRICT COUNCIL**
20 **A FINAL DECISION BY THE COUNTY PLANNING BOARD TO APPROVE OR**
21 **DISAPPROVE A SITE PLAN.**

22 **(B) INITIAL CONSIDERATION.**

23 **THE DISTRICT COUNCIL MAY ONLY DECIDE WHETHER TO REVIEW THE**
24 **FINAL APPROVAL OR DISAPPROVAL OF A DETAILED SITE PLAN UNDER THIS**
25 **SECTION WITHIN 30 DAYS AFTER THE DATE THE FINAL APPROVAL OR**
26 **DISAPPROVAL WAS ISSUED.**

27 **(C) HEARING.**

28 **(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
29 **SUBSECTION, IF THE DISTRICT COUNCIL DECIDES TO REVIEW AN APPROVAL OR**

1 A DISAPPROVAL UNDER THIS SECTION, THE DISTRICT COUNCIL SHALL HOLD A
2 HEARING WITHIN 70 DAYS AFTER THE DISTRICT COUNCIL ISSUES THE DECISION
3 TO CONDUCT A REVIEW.

4 (2) THE DISTRICT COUNCIL MAY DECIDE TO EXTEND THE TIME TO
5 HOLD A HEARING UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR UP TO 45
6 ADDITIONAL DAYS ON ITS OWN MOTION OR ON REQUEST OF THE APPLICANT.

7 (D) FINAL DECISION.

8 THE DISTRICT COUNCIL SHALL ISSUE A FINAL DECISION WITHIN 60 DAYS
9 AFTER THE DATE OF THE HEARING.

10 (E) REVOCATION OF DELEGATION.

11 THE DISTRICT COUNCIL MAY REVOKE A DELEGATION OF SITE PLAN
12 APPROVAL AUTHORITY TO THE COUNTY PLANNING BOARD ONLY FOR THE
13 PURPOSE OF DELEGATING APPROVAL AUTHORITY OVER DETAILED SITE PLANS
14 TO THE GOVERNING BODY OF A MUNICIPAL CORPORATION IN THE REGIONAL
15 DISTRICT UNDER § 25-301(C)(2)(IX) OF THIS TITLE.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 28, § 8-129.

18 Defined terms: "County" § 14-101
19 "County planning board" § 14-101
20 "District council" § 14-101
21 "Regional district" § 14-101

22 25-211. ZONING CLASSIFICATION OF BELTSVILLE AGRICULTURAL RESEARCH
23 CENTER ON SALE.

24 IF THE UNITED STATES DEPARTMENT OF AGRICULTURE SELLS ANY
25 PORTION OF THE PROPERTY KNOWN AS THE BELTSVILLE AGRICULTURAL
26 RESEARCH CENTER, THE DISTRICT COUNCIL SHALL PLACE AND PERMANENTLY
27 MAINTAIN THE LAND IN A ZONING CLASSIFICATION OF AGRICULTURAL OPEN
28 SPACE IMMEDIATELY AFTER THE TRANSFER OF THE LAND TO THE BUYER.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 28, § 8-126.

31 The reference to "any portion of the property" is substituted for the
32 former reference to "the entire parcel of property or a portion of the parcel
33 of property" for brevity.

1 The former reference to the transfer of the land “from the United States
2 Department of Agriculture” is deleted as unnecessary.

3 Defined term: “District council” § 14–101

4 **SUBTITLE 3. MUNICIPAL DELEGATION.**

5 **25–301. AUTHORIZED.**

6 **(A) IN GENERAL.**

7 **EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE DISTRICT**
8 **COUNCIL MAY PROVIDE THAT THE GOVERNING BODY OF A MUNICIPAL**
9 **CORPORATION MAY EXERCISE THE POWERS OF THE DISTRICT COUNCIL AS**
10 **SPECIFIED IN THIS SUBTITLE.**

11 **(B) SUBSTANTIVE AND PROCEDURAL REQUIREMENTS.**

12 **WHEN EXERCISING AUTHORITY DELEGATED UNDER SUBSECTION (C) OR**
13 **(D) OF THIS SECTION, THE GOVERNING BODY OF A MUNICIPAL CORPORATION:**

14 **(1) SHALL BE SUBJECT TO THE SUBSTANTIVE AND PROCEDURAL**
15 **REQUIREMENTS AND STANDARDS ESTABLISHED BY THE DISTRICT COUNCIL;**
16 **AND**

17 **(2) MAY NOT IMPOSE:**

18 **(I) WITH RESPECT TO GENERAL DELEGATION UNDER**
19 **SUBSECTION (C) OF THIS SECTION, A DIFFERENT REQUIREMENT OR STANDARD**
20 **TAN THE REQUIREMENTS OR STANDARDS THAT WOULD APPLY IF THE**
21 **DISTRICT COUNCIL HAD NOT DELEGATED ITS AUTHORITY TO THE MUNICIPAL**
22 **CORPORATION; OR**

23 **(II) WITH RESPECT TO DELEGATION IN A REVITALIZATION**
24 **OVERLAY ZONE UNDER SUBSECTION (D) OF THIS SECTION, A STRICTER**
25 **REQUIREMENT OR STANDARD THAN THE REQUIREMENTS OR STANDARDS THAT**
26 **WOULD APPLY IF THE DISTRICT COUNCIL HAD NOT DELEGATED ITS AUTHORITY**
27 **TO THE MUNICIPAL CORPORATION.**

28 **(C) GENERAL DELEGATION TO MUNICIPAL CORPORATION.**

29 **(1) THIS SUBSECTION APPLIES TO LAND IN A MUNICIPAL**
30 **CORPORATION IN THE REGIONAL DISTRICT.**

1 **(2) THE DISTRICT COUNCIL MAY DELEGATE TO THE GOVERNING**
2 **BODY OF A MUNICIPAL CORPORATION THE POWERS OF THE DISTRICT COUNCIL**
3 **REGARDING:**

4 **(I) DESIGN STANDARDS;**

5 **(II) PARKING AND LOADING STANDARDS;**

6 **(III) SIGN DESIGN STANDARDS;**

7 **(IV) LOT SIZE VARIANCES AND SETBACK AND SIMILAR**
8 **REQUIREMENTS;**

9 **(V) LANDSCAPING REQUIREMENTS;**

10 **(VI) CERTIFICATION, REVOCATION, AND REVISION OF**
11 **NONCONFORMING USES;**

12 **(VII) MINOR CHANGES TO APPROVED SPECIAL EXCEPTIONS;**

13 **(VIII) VACATION OF MUNICIPAL RIGHTS-OF-WAY; AND**

14 **(IX) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS**
15 **SUBSECTION, ALL DETAILED SITE PLANS.**

16 **(3) THE AUTHORITY TO DELEGATE WITH REGARD TO DETAILED**
17 **SITE PLANS DOES NOT APPLY TO DETAILED SITE PLANS:**

18 **(I) FOR A ZONE THAT REQUIRES DETAILED SITE PLAN**
19 **APPROVAL BY THE DISTRICT COUNCIL;**

20 **(II) THAT ARE REQUIRED AS A CONDITION OF APPROVAL OF**
21 **A ZONING MAP AMENDMENT OR A PRELIMINARY PLAN OF SUBDIVISION;**

22 **(III) FOR WHICH THE APPROVAL OF A CONCEPTUAL SITE**
23 **PLAN OR A PRELIMINARY PLAN OF CLUSTER SUBDIVISION IS REQUIRED; OR**

24 **(IV) THAT ARE REQUIRED FOR DESIGNATED PARCELS AS A**
25 **SPECIFIC CONDITION OF A SECTIONAL MAP AMENDMENT.**

26 **(D) DELEGATION IN REVITALIZATION OVERLAY ZONE; AUTHORITY OF**
27 **COUNTY PLANNING BOARD.**

1 **(1) THIS SUBSECTION APPLIES TO A REVITALIZATION OVERLAY**
2 **ZONE CREATED BY THE DISTRICT COUNCIL.**

3 **(2) FOR ANY PORTION OF A REVITALIZATION OVERLAY ZONE IN A**
4 **MUNICIPAL CORPORATION, THE DISTRICT COUNCIL MAY DELEGATE TO THE**
5 **GOVERNING BODY OF A MUNICIPAL CORPORATION THE POWERS OF THE**
6 **DISTRICT COUNCIL REGARDING:**

7 **(I) DESIGN STANDARDS;**

8 **(II) PARKING AND LOADING STANDARDS;**

9 **(III) SIGN DESIGN STANDARDS;**

10 **(IV) LOT SIZE VARIANCES AND SETBACK AND SIMILAR**
11 **REQUIREMENTS; AND**

12 **(V) LANDSCAPING REQUIREMENTS.**

13 **(3) THE DELEGATION OF POWERS UNDER PARAGRAPH (2) OF**
14 **THIS SUBSECTION MAY NOT IMPEDE A DEVELOPMENT THAT MEETS THE**
15 **REQUIREMENTS THE DISTRICT COUNCIL SETS FOR THE REVITALIZATION**
16 **OVERLAY ZONE.**

17 **(4) FOR ANY PORTION OF A REVITALIZATION OVERLAY ZONE NOT**
18 **WITHIN A MUNICIPAL CORPORATION, THE DISTRICT COUNCIL MAY AUTHORIZE**
19 **THE COUNTY PLANNING BOARD TO APPROVE:**

20 **(I) DEPARTURES FROM PARKING AND LOADING**
21 **STANDARDS;**

22 **(II) DEPARTURES FROM DESIGN STANDARDS; AND**

23 **(III) ANY VARIANCE FROM THE ZONING LAWS.**

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 28, §§ 8–112.3(a) through (c) and 8–112.4(a) and
26 (b).

27 In subsection (a) of this section, the phrase “as specified in this subtitle”
28 is added for clarity.

1 In subsection (b)(1) of this section, the former reference to “a
2 revitalization overlay zone” is deleted as unnecessary.

3 Defined terms: “County planning board” § 14–101

4 “District council” § 14–101

5 “Regional district” § 14–101

6 “Subdivision” § 14–101

7 “Zoning law” § 14–101

8 **25–302. JUDICIAL REVIEW.**

9 **(A) BY CIRCUIT COURT.**

10 **(1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,**
11 **ANY PARTY OF RECORD TO AN ACTION OF THE GOVERNING BODY OF A**
12 **MUNICIPAL CORPORATION EXERCISED UNDER § 25–301(C) OF THIS SUBTITLE**
13 **SHALL HAVE THE SAME RIGHT TO JUDICIAL REVIEW BY THE CIRCUIT COURT AS**
14 **THE PARTY WOULD HAVE IF THE DISTRICT COUNCIL HAD TAKEN THE ACTION.**

15 **(2) ANY PARTY TO AN ACTION OF THE GOVERNING BODY OF A**
16 **MUNICIPAL CORPORATION OR THE COUNTY PLANNING BOARD EXERCISED**
17 **UNDER § 25–301(D) OF THIS SUBTITLE SHALL HAVE THE SAME RIGHT TO**
18 **JUDICIAL REVIEW BY THE CIRCUIT COURT AS THE PARTY WOULD HAVE IF THE**
19 **DISTRICT COUNCIL HAD TAKEN THE ACTION.**

20 **(B) ACTIONS REQUIRED BEFORE JUDICIAL REVIEW.**

21 **(1) WITH RESPECT TO AN ACTION TAKEN UNDER THE GENERAL**
22 **DELEGATION AUTHORIZED UNDER § 25–301(C) OF THIS SUBTITLE, BEFORE**
23 **EXERCISING THE RIGHT TO JUDICIAL REVIEW UNDER SUBSECTION (A)(1) OF**
24 **THIS SECTION, A PARTY OF RECORD SHALL APPEAL THE ACTION OF THE**
25 **GOVERNING BODY OF THE MUNICIPAL CORPORATION TO THE DISTRICT**
26 **COUNCIL FOR REVIEW ON THE RECORD IF THE ACTION CONCERNS:**

27 **(I) CERTIFICATION, REVOCATION, OR REVISION OF**
28 **NONCONFORMING USES; OR**

29 **(II) DETAILED SITE PLANS.**

30 **(2) ON APPEAL, THE DISTRICT COUNCIL MAY:**

31 **(I) APPROVE THE ACTION OF THE MUNICIPAL**
32 **CORPORATION BY A MAJORITY VOTE OF ITS MEMBERS; OR**

1 **(II) APPROVE THE ACTION OF THE MUNICIPAL**
2 **CORPORATION WITH CONDITIONS OR OVERRULE THE ACTION BY A VOTE OF AT**
3 **LEAST SIX MEMBERS.**

4 **(3) (I) A PERSON AGGRIEVED BY THE ACTION OF THE**
5 **DISTRICT COUNCIL UNDER THIS SUBSECTION MAY REQUEST JUDICIAL REVIEW**
6 **OF THE ACTION BY THE CIRCUIT COURT.**

7 **(II) THE MUNICIPAL CORPORATION WHOSE ACTION IS**
8 **AFFECTED BY THE ACTION OF THE DISTRICT COUNCIL SHALL BE CONSIDERED**
9 **AN AGGRIEVED PERSON.**

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 28, §§ 8–112.3(d) and 8–112.4(c).

12 Throughout this section, the references to “judicial review” are
13 substituted for the former references to “appeal” for accuracy.

14 In subsection (b) of this section, the phrase “with respect to an action
15 taken under the general delegation authorized under § 25–301(c) of this
16 subtitle” is added for clarity.

17 Defined terms: “County planning board” § 14–101

18 “District council” § 14–101

19 “Person” § 14–101

20 **25–303. STRICTER STANDARDS AUTHORIZED IN METROPOLITAN DISTRICT.**

21 **(A) SCOPE OF SECTION.**

22 **THIS SECTION APPLIES TO LAND IN A MUNICIPAL CORPORATION THAT IS**
23 **IN THE METROPOLITAN DISTRICT AND IS:**

24 **(1) ZONED FOR RESIDENTIAL OR COMMERCIAL USE; OR**

25 **(2) ADJACENT TO RESIDENTIAL OR COMMERCIAL ZONES.**

26 **(B) STRICTER STANDARDS AUTHORIZED.**

27 **(1) NOTWITHSTANDING ANY OTHER LAW, AND FOR THE PURPOSE**
28 **OF PRESERVING, IMPROVING, OR PROTECTING THE GENERAL CHARACTER AND**
29 **DESIGN OF LANDS AND IMPROVEMENTS IN A MUNICIPAL CORPORATION, THE**
30 **LEGISLATIVE BODY OF THE MUNICIPAL CORPORATION, BY LOCAL LAW, MAY**
31 **IMPOSE STRICTER OR ADDITIONAL CONDITIONS, RESTRICTIONS, OR**

1 LIMITATIONS THAN ARE OTHERWISE REQUIRED BY STATE, REGIONAL, OR
2 COUNTY ZONING LAWS OR AGENCIES EXERCISING ZONING AND PLANNING
3 JURISDICTION OVER THE MUNICIPAL CORPORATION.

4 (2) THE STRICTER OR ADDITIONAL CONDITIONS, RESTRICTIONS,
5 OR LIMITATIONS MAY APPLY ONLY TO:

6 (I) FENCES;

7 (II) RESIDENTIAL PARKING; AND

8 (III) RESIDENTIAL STORAGE.

9 (C) PUBLIC HEARING REQUIRED.

10 THE LEGISLATIVE BODY OF A MUNICIPAL CORPORATION MAY NOT ENACT
11 A LOCAL LAW UNDER THIS SECTION WITHOUT HOLDING A PUBLIC HEARING ON
12 ALL ISSUES.

13 (D) DELIVERY OF LOCAL LAW TO COUNTY.

14 A MUNICIPAL CORPORATION THAT ENACTS A ZONING LAW IN
15 ACCORDANCE WITH THIS SECTION SHALL DELIVER A CERTIFIED COPY OF THE
16 LOCAL LAW TO THE DISTRICT COUNCIL WITHIN 5 DAYS AFTER THE ENACTMENT
17 AND AT LEAST 30 DAYS BEFORE THE EFFECTIVE DATE OF THE LOCAL LAW.

18 (E) APPROVAL REQUIRED.

19 (1) IF THE DISTRICT COUNCIL DOES NOT APPROVE THE LOCAL
20 LAW BEFORE THE EFFECTIVE DATE OF THE LOCAL LAW, THE LOCAL LAW SHALL
21 BE CONSIDERED DISAPPROVED AND MAY NOT TAKE EFFECT.

22 (2) THE LOCAL LAW MAY NOT TAKE EFFECT UNLESS APPROVED
23 BY THE DISTRICT COUNCIL.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 28, § 8-112.1.

26 In subsection (b)(1) of this section, the former reference to "any other
27 section of this article" is deleted as included in the reference to "any other
28 law".

29 Also in subsection (b)(1) of this section, the former reference to
30 "authorities" is deleted as included in the reference to "agencies".

1 In subsection (e)(1) of this section, the phrase “does not approve” is
 2 substituted for the former phrase “upon which no decision is rendered”
 3 for clarity.

4 Also in subsection (e)(1) of this section, the former phrase “enacted in
 5 accordance with the authority of this section” is deleted as surplusage.

6 In subsection (e)(2) of this section, the reference to the “district council” is
 7 substituted for the former reference to the “Prince George’s County
 8 Council” for accuracy.

9 Defined terms: “District council” § 14–101
 10 “Local law” § 14–101
 11 “Metropolitan district” § 14–101
 12 “State” § 14–101
 13 “Zoning law” § 14–101

14 **SUBTITLE 4. REVITALIZATION AND REDEVELOPMENT.**

15 **25–401. LOCAL LAWS AUTHORIZED.**

16 **THE COUNTY, BY LOCAL LAW, MAY PROVIDE FOR:**

17 **(1) THE REVITALIZATION AND REDEVELOPMENT ACTIVITIES OF**
 18 **THE COMMISSION IN THE COUNTY, INCLUDING:**

19 **(I) THE ORGANIZATION OR MANAGEMENT OF ANY**
 20 **REVITALIZATION OR REDEVELOPMENT ACTIVITIES OF THE COMMISSION; AND**

21 **(II) CONSOLIDATION OF COMMISSION ACTIVITIES WITH THE**
 22 **REDEVELOPMENT AUTHORITY OF THE COUNTY; AND**

23 **(2) THE MANAGEMENT AND MARKETING OF ENTERPRISE**
 24 **OPERATIONS BY THE COMMISSION IN THE COUNTY, INCLUDING**
 25 **CONSOLIDATION OF COMMISSION ACTIVITIES WITH THE REVENUE AUTHORITY**
 26 **OF THE COUNTY.**

27 **REVISOR’S NOTE:** This section formerly was Art. 28, § 5–401(a).

28 The only changes are in style.

29 Defined terms: “Commission” § 14–101
 30 “County” § 14–101
 31 “Local law” § 14–101

1 **25-402. LIMITATIONS.**

2 **A LOCAL LAW ENACTED UNDER THIS SUBTITLE MAY NOT IMPAIR OR**
3 **ABROGATE:**

4 **(1) ANY RIGHT, INCLUDING MERIT SYSTEM AND PENSION SYSTEM**
5 **RIGHTS, OR BENEFIT OF ANY EMPLOYEE OF THE COMMISSION; OR**

6 **(2) ANY PENSION OBLIGATION OF THE COMMISSION FOR ANY**
7 **COMMISSION EMPLOYEE.**

8 REVISOR'S NOTE: This section formerly was Art. 28, § 5-401(b).

9 The only changes are in style.

10 Defined terms: "Commission" § 14-101
11 "Local law" § 14-101

12 **SUBTITLE 5. DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENTS.**

13 **25-501. DEFINITIONS.**

14 **(A) IN GENERAL.**

15 **IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
16 **INDICATED.**

17 REVISOR'S NOTE: This subsection formerly was the introductory language to
18 Art. 28, § 7-121.1(a).

19 In this subsection and throughout this subtitle the word "subtitle" is
20 substituted for the former word "section" to reflect the reorganization of
21 material derived from former Art. 28, § 7-121.1 in this subtitle.

22 No other changes are made.

23 **(B) AGREEMENT.**

24 **"AGREEMENT" MEANS A DEVELOPMENT RIGHTS AND RESPONSIBILITIES**
25 **AGREEMENT NEGOTIATED AND EXECUTED BY THE COUNTY EXECUTIVE OR THE**
26 **COUNTY EXECUTIVE'S DESIGNEE, WITH THE APPROVAL OF THE DISTRICT**
27 **COUNCIL, TO ESTABLISH CONDITIONS FOR ADVANCING SCHOOL CAPACITY.**

1 REVISOR'S NOTE: This subsection is new language derived without
2 substantive change from former Art. 28, § 7-121.1(a)(3).

3 Defined term: "District council" § 14-101

4 **(C) DEVELOPER.**

5 **"DEVELOPER" MEANS A PERSON WITH A LEGAL OR EQUITABLE INTEREST**
6 **IN REAL PROPERTY LOCATED IN PRINCE GEORGE'S COUNTY.**

7 REVISOR'S NOTE: This subsection formerly was Art. 28, § 7-121.1(a)(1).

8 The only changes are in style.

9 Defined term: "Person" § 14-101

10 **(D) DEVELOPMENT.**

11 **(1) "DEVELOPMENT" MEANS ANY ACTIVITY THAT MATERIALLY**
12 **AFFECTS THE EXISTING CONDITION OR USE OF ANY LAND OR STRUCTURE.**

13 **(2) "DEVELOPMENT" DOES NOT INCLUDE NORMAL**
14 **AGRICULTURAL ACTIVITY.**

15 REVISOR'S NOTE: This subsection is new language derived without
16 substantive change from former Art. 28, § 7-121.1(a)(2).

17 **25-502. PETITION TO REQUEST EXECUTION.**

18 **A DEVELOPER OR DEVELOPER'S REPRESENTATIVE MAY PETITION THE**
19 **COUNTY EXECUTIVE TO REQUEST THAT AN AGREEMENT BE EXECUTED.**

20 REVISOR'S NOTE: This section formerly was Art. 28, § 7-121.1(c).

21 The only changes are in style.

22 Defined terms: "Agreement" § 25-501
23 "Developer" § 25-501

24 **25-503. POWERS OF COUNTY EXECUTIVE.**

25 **(A) IN GENERAL.**

26 **EXCEPT AS PROVIDED UNDER SUBSECTION (B) OF THIS SECTION, THE**
27 **COUNTY EXECUTIVE MAY:**

1 **(1) NEGOTIATE AGREEMENTS WITH A DEVELOPER FOR REAL**
 2 **PROPERTY LOCATED IN THE COUNTY;**

3 **(2) INCLUDE A FEDERAL, STATE, OR LOCAL GOVERNMENT OR**
 4 **UNIT AS AN ADDITIONAL PARTY TO THE AGREEMENT; AND**

5 **(3) EXECUTE AN AGREEMENT.**

6 **(B) LIMITATION.**

7 **THE COUNTY EXECUTIVE MAY NOT ENTER INTO AN AGREEMENT UNLESS:**

8 **(1) THE AGREEMENT IS APPROVED BY THE DISTRICT COUNCIL;**
 9 **AND**

10 **(2) THE COUNTY PLANNING BOARD DETERMINES THAT THE**
 11 **PROPOSED AGREEMENT IS CONSISTENT WITH THE COMMISSION'S GENERAL**
 12 **PLAN.**

13 REVISOR'S NOTE: This section is new language derived without substantive
 14 change from former Art. 28, § 7–121.1(d) and (g).

15 The Land Use Article Review Committee notes, for consideration by the
 16 General Assembly, that in subsection (b)(2) of this section, the county
 17 executive may not enter into an agreement unless the county planning
 18 board, an unelected body not a party to the agreement, determines “that”
 19 the agreement is consistent with the Commission’s general plan. This
 20 places the county planning board in an unusual position with respect to
 21 the prerogative of the county executive. In the corresponding provision in
 22 Montgomery County, § 24–304(c) of this article, the county planning
 23 board is an executing party to the agreement, and so there is no such
 24 problem in that jurisdiction. *Cf.* Revisor’s Note to § 7–305 of this article.

25 Defined terms: “Agreement” § 25–501

26 “Commission” § 14–101

27 “County planning board” § 14–101

28 “Developer” § 25–501

29 “District council” § 14–101

30 “State” § 14–101

31 **25–504. POWERS OF DISTRICT COUNCIL.**

32 **(A) IN GENERAL.**

1 **THE DISTRICT COUNCIL MAY:**

2 **(1) ESTABLISH PROCEDURES AND REQUIREMENTS FOR THE**
3 **CONSIDERATION AND EXECUTION OF AGREEMENTS, INCLUDING PROVISIONS**
4 **FOR NEGOTIATION AND APPROVAL IN ACCORDANCE WITH THIS SUBTITLE; AND**

5 **(2) APPROVE AGREEMENTS NEGOTIATED BY THE COUNTY**
6 **EXECUTIVE.**

7 **(B) LIMITATION.**

8 **THE DISTRICT COUNCIL SHALL REQUIRE A PUBLIC HEARING BEFORE**
9 **APPROVING AN AGREEMENT.**

10 REVISOR'S NOTE: This section formerly was Art. 28, § 7–121.1(e).

11 The only changes are in style.

12 Defined terms: “Agreement” § 25–501

13 “District council” § 14–101

14 **25–505. EFFECTIVE.**

15 **AN AGREEMENT EXECUTED BY THE COUNTY EXECUTIVE TAKES EFFECT**
16 **WITHOUT ANY FURTHER ACTION BY THE DISTRICT COUNCIL.**

17 REVISOR'S NOTE: This section formerly was Art. 28, § 7–121.1(f).

18 No changes are made.

19 Defined terms: “Agreement” § 25–501

20 “District council” § 14–101

21 **25–506. CONTENT.**

22 **(A) REQUIRED.**

23 **AN AGREEMENT SHALL INCLUDE:**

24 **(1) A DESCRIPTION OF THE REAL PROPERTY SUBJECT TO THE**
25 **AGREEMENT;**

26 **(2) THE PARTIES INVOLVED;**

1 **(3) THE SPECIFIC PURPOSES OF THE AGREEMENT;**

2 **(4) THE DURATION OF THE AGREEMENT;**

3 **(5) A PHYSICAL DESCRIPTION AND LOCATION OF THE**
4 **STRUCTURES AND SUPPORTING FACILITIES AND FEATURES ON THE REAL**
5 **PROPERTY;**

6 **(6) A DESCRIPTION OF ALL ANTICIPATED PERMITS REQUIRED OR**
7 **ALREADY APPROVED FOR THE DEVELOPMENT OF THE REAL PROPERTY;**

8 **(7) PROVISIONS FOR THE CONSTRUCTION OR FINANCING OF**
9 **ADEQUATE PUBLIC FACILITIES FOR SCHOOLS;**

10 **(8) A STATEMENT THAT THE PROPOSED DEVELOPMENT IS**
11 **CONSISTENT WITH:**

12 **(I) THE COMMISSION'S GENERAL PLAN; AND**

13 **(II) ALL APPLICABLE DEVELOPMENT LAWS AND**
14 **REGULATIONS; AND**

15 **(9) A DESCRIPTION OF THE REQUIREMENTS DETERMINED BY THE**
16 **COUNTY PLANNING BOARD TO BE NECESSARY TO ENSURE THE PUBLIC HEALTH,**
17 **SAFETY, AND WELFARE.**

18 **(B) AUTHORIZED.**

19 **AN AGREEMENT MAY:**

20 **(1) ESTABLISH THE TERMS BY WHICH AND A PERIOD OF TIME**
21 **WHEN DEVELOPMENT, OR INDIVIDUAL PHASES, SHALL BEGIN AND BE**
22 **COMPLETED; AND**

23 **(2) PROVIDE FOR OTHER MATTERS IN ACCORDANCE WITH THIS**
24 **DIVISION.**

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 28, § 7-121.1(h).

27 In subsection (a)(5) of this section, the former reference to "buildings" is
28 deleted as included in the reference to "structures".

1 In subsection (a)(9) of this section, the former reference to “conditions,
2 terms, restrictions, or other” requirements is deleted as included in the
3 reference to “requirements”.

4 In subsection (b)(1) of this section, the former reference to “an approved”
5 development is deleted as implicit.

6 Defined terms: “Agreement” § 25–501
7 “Commission” § 14–101
8 “County planning board” § 14–101
9 “Development” § 25–501

10 **25–507. TERM.**

11 **(A) IN GENERAL.**

12 **EXCEPT AS OTHERWISE PROVIDED IN THE AGREEMENT OR EXTENDED BY**
13 **AMENDMENT UNDER § 25–509 OF THIS SUBTITLE, AN AGREEMENT IS VOID 15**
14 **YEARS AFTER EXECUTION BY THE PARTIES.**

15 **(B) EXTENSION.**

16 **ANY EXTENSION TO AN AGREEMENT IS SUBJECT TO APPROVAL BY THE**
17 **DISTRICT COUNCIL.**

18 REVISOR’S NOTE: This section is new language derived without substantive
19 change from former Art. 28, § 7–121.1(i).

20 In subsection (a) of this section, the phrase “is void 15 years after
21 execution by the parties” is substituted for the former phrase “shall
22 contain a definite period of duration ... not exceeding 15 years” for clarity
23 and brevity. The Land Use Article Review Committee brings this
24 substitution to the attention of the General Assembly. No substantive
25 change is intended.

26 Also in subsection (a) of this section, the former phrase “that is
27 determined by the parties” is deleted as unnecessary.

28 Defined terms: “Agreement” § 25–501
29 “District council” § 14–101

30 **25–508. LAW GOVERNING AGREEMENT.**

31 **THE LAWS, RULES, REGULATIONS, AND POLICIES IN FORCE AT THE TIME**
32 **THE PARTIES EXECUTE AN AGREEMENT SHALL GOVERN THE USE, DENSITY, OR**
33 **INTENSITY OF DEVELOPMENT OF THE REAL PROPERTY SUBJECT TO THE**

1 AGREEMENT UNLESS THE DISTRICT COUNCIL OR STATE OR FEDERAL
 2 GOVERNMENT DETERMINES THAT COMPLIANCE WITH LAWS, RULES,
 3 REGULATIONS, AND POLICIES ENACTED AFTER THE PARTIES EXECUTED THE
 4 AGREEMENT IS ESSENTIAL TO ENSURE PUBLIC HEALTH, SAFETY, OR WELFARE.

5 REVISOR'S NOTE: This section is new language derived without substantive
 6 change from former Art. 28, § 7-121.1(j).

7 The reference to intensity "of development" is added for clarity.

8 The reference to "public health, safety, or welfare" is substituted for the
 9 former reference to "the health, safety, or welfare of the residents of all or
 10 part of the jurisdiction" for brevity and consistency within this article.

11 The former word "adopted" is deleted as included in the word "enacted".

12 Defined terms: "Agreement" § 25-501

13 "Development" § 25-501

14 "District council" § 14-101

15 "State" § 14-101

16 **25-509. AMENDMENT.**

17 **THE PARTIES TO AN AGREEMENT MAY AMEND THE AGREEMENT BY**
 18 **MUTUAL CONSENT IF THE DISTRICT COUNCIL:**

19 **(1) APPROVES ANY SUBSTANTIVE AMENDMENT; AND**

20 **(2) DETERMINES THAT THE PROPOSED AMENDMENT TO THE**
 21 **AGREEMENT IS CONSISTENT WITH THE COMMISSION'S GENERAL PLAN.**

22 REVISOR'S NOTE: This section is new language derived without substantive
 23 change from former Art. 28, § 7-121.1(k).

24 In item (1) of this section, the word "substantive" is substituted for the
 25 former word "substantial" for clarity. The Land Use Article Review
 26 Committee brings this substitution to the attention of the General
 27 Assembly. No substantive change is intended.

28 Also in item (1) of this section, the word "amendment" is substituted for
 29 the former reference to "modification" for clarity and consistency within
 30 this section.

31 Defined terms: "Agreement" § 25-501

32 "Commission" § 14-101

33 "District council" § 14-101

1 **25-510. TERMINATION.**

2 (A) **BY MUTUAL CONSENT.**

3 **THE PARTIES TO AN AGREEMENT MAY TERMINATE THE AGREEMENT BY**
4 **MUTUAL CONSENT.**

5 (B) **BY COUNTY EXECUTIVE.**

6 **IF THE COUNTY EXECUTIVE DETERMINES THAT SUSPENSION OR**
7 **TERMINATION OF AN AGREEMENT IS ESSENTIAL TO ENSURE THE PUBLIC**
8 **HEALTH, SAFETY, OR WELFARE, THE COUNTY EXECUTIVE MAY SUSPEND OR**
9 **TERMINATE THE AGREEMENT.**

10 REVISOR'S NOTE: This section formerly was Art. 28, § 7-121.1(l).

11 The only changes are in style.

12 Defined term: "Agreement" § 25-501

13 **25-511. RECORDATION.**

14 (A) **REQUIRED.**

15 (1) **AN AGREEMENT SHALL BE RECORDED IN THE LAND RECORDS**
16 **OF PRINCE GEORGE'S COUNTY.**

17 (2) **IF AN AGREEMENT IS NOT RECORDED AS REQUIRED UNDER**
18 **PARAGRAPH (1) OF THIS SUBSECTION WITHIN 30 DAYS AFTER ITS EXECUTION**
19 **BY ALL PARTIES, THE AGREEMENT IS VOID.**

20 (B) **EFFECT.**

21 **WHEN AN AGREEMENT IS RECORDED UNDER SUBSECTION (A) OF THIS**
22 **SECTION, THE PARTIES TO THE AGREEMENT AND THEIR SUCCESSORS IN**
23 **INTEREST ARE BOUND TO THE AGREEMENT.**

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 28, § 7-121.1(m).

26 Subsection (a) of this section is revised to state expressly that which was
27 only implied in the former law, *i.e.*, that an agreement is required to be
28 recorded in the Prince George's County land records office to be effective.

1 Defined term: "Agreement" § 25-501

2 **25-512. ENFORCEMENT.**

3 **(A) AUTHORIZED.**

4 **UNLESS TERMINATED UNDER § 25-510 OF THIS SUBTITLE, AN**
5 **AGREEMENT MAY BE ENFORCED BY THE PARTIES TO THE AGREEMENT OR THEIR**
6 **SUCCESSORS IN INTEREST USING ALL REMEDIES AVAILABLE AT LAW OR IN**
7 **EQUITY.**

8 **(B) NO RIGHT TO ADMINISTRATIVE APPEAL.**

9 **NO RIGHT TO AN ADMINISTRATIVE APPEAL ARISES FROM THE**
10 **NEGOTIATION OR ENFORCEMENT OF AN AGREEMENT.**

11 REVISOR'S NOTE: This section formerly was Art. 28, § 7-121.1(n).

12 The only changes are in style.

13 Defined term: "Agreement" § 25-501

14 **SUBTITLE 6. AGRICULTURAL PRESERVATION EASEMENT PROGRAM.**

15 **25-601. DEFINITIONS.**

16 **(A) IN GENERAL.**

17 **IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
18 **INDICATED.**

19 REVISOR'S NOTE: This subsection formerly was Art. 28, § 5-501(a).

20 No changes are made.

21 **(B) AGRICULTURAL PROPERTY.**

22 **"AGRICULTURAL PROPERTY" MEANS PROPERTY THAT IS USED FOR:**

23 **(1) AGRICULTURE, VITICULTURE, AQUACULTURE, SILVICULTURE,**
24 **HORTICULTURE, OR LIVESTOCK AND EQUINE ACTIVITIES;**

1 **(2) TEMPORARY OR SEASONAL OUTDOOR ACTIVITIES THAT DO**
2 **NOT PERMANENTLY ALTER THE PROPERTY'S PHYSICAL APPEARANCE AND THAT**
3 **DO NOT DIMINISH THE PROPERTY'S RURAL CHARACTER; OR**

4 **(3) ACTIVITIES THAT ARE INTRINSICALLY RELATED TO THE**
5 **ONGOING AGRICULTURAL ENTERPRISE ON THE PROPERTY.**

6 REVISOR'S NOTE: This subsection formerly was Art. 28, § 5-501(b).

7 The only changes are in style.

8 **(C) DISTRICT.**

9 **"DISTRICT" MEANS THE PRINCE GEORGE'S COUNTY SOIL**
10 **CONSERVATION DISTRICT.**

11 REVISOR'S NOTE: This subsection is new language added to avoid repetition of
12 the full title "Prince George's County Soil Conservation District".

13 **(D) FUND.**

14 **"FUND" MEANS THE PRINCE GEORGE'S COUNTY AGRICULTURAL**
15 **PRESERVATION EASEMENT FUND.**

16 REVISOR'S NOTE: This subsection formerly was Art. 28, § 5-501(d).

17 No changes are made.

18 **(E) PRESERVATION.**

19 **"PRESERVATION" MEANS THE LIMITATION OF THE USE OF**
20 **AGRICULTURAL PROPERTY TO THOSE USES CONSISTENT WITH, AND NOT**
21 **ADVERSELY AFFECTING:**

22 **(1) THE AGRICULTURAL CHARACTER OF THE PROPERTY;**

23 **(2) THE SCENIC VALUES ENJOYED BY THE PUBLIC; OR**

24 **(3) THE GOVERNMENTAL PRESERVATION POLICIES FURTHERED**
25 **BY THE EASEMENT ACQUISITION.**

26 REVISOR'S NOTE: This subsection formerly was Art. 28, § 5-501(e).

27 The only changes are in style.

1 **(F) PROGRAM.**

2 **“PROGRAM” MEANS THE PRINCE GEORGE’S COUNTY AGRICULTURAL**
3 **PRESERVATION EASEMENT PROGRAM.**

4 REVISOR’S NOTE: This subsection formerly was Art. 28, § 5–501(f).

5 No changes are made.

6 REVISOR’S NOTE TO SECTION:

7 Former Art. 28, § 5–501(c), which defined “Board” to mean the Prince
8 George’s County Planning Board, is deleted because it is not used in this
9 revision. The defined term “county planning board” is used wherever the
10 former term “Board” was used.

11 **25–602. ESTABLISHED.**

12 **(A) IN GENERAL.**

13 **THERE IS A PRINCE GEORGE’S COUNTY AGRICULTURAL PRESERVATION**
14 **EASEMENT PROGRAM.**

15 **(B) PURPOSES.**

16 **THE PURPOSES OF THE PROGRAM ARE TO:**

17 **(1) IMPLEMENT THE POLICIES OF THE COUNTY’S GENERAL PLAN**
18 **AND THE GREEN INFRASTRUCTURE PLAN TO PRESERVE, PROTECT, AND**
19 **ENHANCE AGRICULTURAL PROPERTIES, PARTICULARLY THOSE IN THE RURAL**
20 **TIER;**

21 **(2) PRESERVE ECOLOGICALLY FRAGILE AND AESTHETICALLY**
22 **VALUABLE ENVIRONMENTS OF THE COUNTY, INCLUDING STREAMS, STREAM**
23 **VALLEYS, FLOODPLAINS, WETLANDS, GROUNDWATER, STEEP SLOPES,**
24 **WOODLANDS, HABITATS, SCENIC VISTAS, AND SCENIC CORRIDORS;**

25 **(3) RETAIN AGRICULTURAL LAND AND AUGMENT OTHER LOCAL**
26 **AND STATE PROGRAMS CERTIFIED IN ACCORDANCE WITH THE CODE OF**
27 **MARYLAND REGULATIONS FOR THE PRESERVATION OF AGRICULTURAL LAND;**

1 **(4) RECOGNIZE THE PUBLIC VALUE IN PROTECTING**
2 **AGRICULTURE AND AGRICULTURAL VIEWSHEDS, VISTAS, RURAL CULTURE AND**
3 **CHARACTER, AND LONGSTANDING AGRICULTURAL ENTERPRISES;**

4 **(5) LIMIT NONAGRICULTURAL USES;**

5 **(6) CONSERVE AND PROTECT BIODIVERSITY AND WILDLIFE AND**
6 **AQUATIC HABITATS;**

7 **(7) PROMOTE INTEREST IN AND THE STUDY OF AGRICULTURE**
8 **AND AGRICULTURAL PRESERVATION; AND**

9 **(8) PROMOTE TOURISM THROUGH THE PRESERVATION OF SCENIC**
10 **RESOURCES.**

11 REVISOR'S NOTE: This section formerly was Art. 28, § 5-503.

12 The only changes are in style.

13 Defined terms: "Agricultural property" § 25-601

14 "Preservation" § 25-601

15 "Program" § 25-601

16 "State" § 14-101

17 **25-603. ADMINISTRATION.**

18 **THE DISTRICT SHALL ADMINISTER THE PROGRAM IN ACCORDANCE WITH**
19 **REGULATIONS THAT THE COUNTY PLANNING BOARD AND THE DISTRICT ADOPT**
20 **UNDER THIS SUBTITLE.**

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 28, § 5-504(a).

23 Defined terms: "County planning board" § 14-101

24 "District" § 25-601

25 "Program" § 25-601

26 **25-604. LOCAL LAWS.**

27 **(A) AUTHORIZED.**

28 **THE COUNTY COUNCIL MAY ENACT LOCAL LAWS TO PROVIDE FOR:**

29 **(1) AGRICULTURAL PRESERVATION, OUTREACH, AND**
30 **MARKETING;**

1 **(2) MAINTENANCE OF ACTIVITIES ON AGRICULTURAL**
2 **PROPERTIES OF THE COMMISSION; AND**

3 **(3) THE PRESERVATION OF THE AGRICULTURAL INDUSTRY.**

4 **(B) CONSISTENCY.**

5 **A LOCAL LAW ENACTED UNDER SUBSECTION (A) OF THIS SECTION MAY**
6 **NOT BE INCONSISTENT WITH THIS DIVISION.**

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 28, § 5-504(b).

9 Defined terms: "Agricultural property" § 25-601

10 "Commission" § 14-101

11 "Local law" § 14-101

12 "Preservation" § 25-601

13 **25-605. REGULATIONS.**

14 **(A) IN GENERAL.**

15 **THE COUNTY PLANNING BOARD AND THE DISTRICT SHALL ADOPT**
16 **REGULATIONS TO CARRY OUT THIS SUBTITLE.**

17 **(B) REQUIRED CONTENTS.**

18 **THE REGULATIONS SHALL:**

19 **(1) ESTABLISH AN APPLICATION PROCESS FOR THE PROGRAM;**

20 **(2) ESTABLISH CRITERIA FOR ASSIGNING PRIORITIES TO**
21 **APPLICATIONS FOR EASEMENTS TO PURCHASE;**

22 **(3) ESTABLISH A PROCESS FOR NEGOTIATING THE PURCHASE OF**
23 **EASEMENTS;**

24 **(4) ALLOW THE DISTRICT TO PROCURE ANY APPRAISALS**
25 **NECESSARY FOR VALUATION OF EACH EASEMENT; AND**

26 **(5) SPECIFY A METHOD FOR APPRAISING AND VALUING**
27 **EASEMENTS TO ENCOURAGE LANDOWNERS TO PARTICIPATE IN THE PROGRAM**
28 **AND MAXIMIZE THE ACREAGE FOR EASEMENTS TO BE PURCHASED.**

1 **(C) PERMISSIBLE CONTENTS.**

2 **THE REGULATIONS MAY PROVIDE FOR THE ADJUDICATION AND APPEAL**
3 **OF ANY DISPUTED EASEMENT VALUATION BY THE COUNTY PROPERTY TAX**
4 **ASSESSMENT APPEAL BOARD IN ACCORDANCE WITH § 2-511 OF THE**
5 **AGRICULTURE ARTICLE.**

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 28, § 5-505.

8 Defined terms: "County planning board" § 14-101

9 "District" § 25-601

10 "Program" § 25-601

11 **25-606. PRINCE GEORGE'S COUNTY AGRICULTURAL PRESERVATION**
12 **EASEMENT FUND.**

13 **(A) ESTABLISHED.**

14 **THERE IS A PRINCE GEORGE'S COUNTY AGRICULTURAL PRESERVATION**
15 **EASEMENT FUND.**

16 **(B) ADMINISTRATION.**

17 **THE COUNTY PLANNING BOARD SHALL ADMINISTER THE FUND.**

18 **(C) CONTENTS.**

19 **THE FUND CONSISTS OF REVENUES FROM COUNTY METROPOLITAN**
20 **DISTRICT TAXES OR COUNTY REGIONAL DISTRICT TAXES.**

21 **(D) PURPOSES.**

22 **THE PURPOSES OF THE FUND ARE TO:**

23 **(1) PRESERVE, PROTECT, AND ENHANCE AGRICULTURAL**
24 **PROPERTIES; AND**

25 **(2) IMPLEMENT THE PURPOSES OF THE PROGRAM.**

26 **(E) AUTHORIZED USES.**

1 **(1) THE FUND SHALL BE USED TO PURCHASE EASEMENTS TO**
2 **IMPLEMENT THE PROGRAM.**

3 **(2) IN DECIDING WHICH EASEMENTS TO PURCHASE USING THE**
4 **FUND, THE COUNTY PLANNING BOARD SHALL:**

5 **(I) EXERCISE PRUDENCE AND DUE DILIGENCE; AND**

6 **(II) CONSIDER THE RECOMMENDATIONS OF THE DISTRICT.**

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 28, § 5–506(a) through (d).

9 In subsection (c) of this section, the phrase “[t]he Fund consists of
10 revenues” is substituted for the former phrase “[t]he Board shall deposit
11 in the Fund revenues” for clarity and consistency with standard language
12 establishing a fund.

13 Also in subsection (c) of this section, the former reference to taxes
14 “authorized in accordance with § 2–118 of this article” is deleted as
15 implicit.

16 Defined terms: “Agricultural property” § 25–601

17 “County planning board” § 14–101

18 “District” § 25–601

19 “Fund” § 25–601

20 “Metropolitan district” § 14–101

21 “Program” § 25–601

22 “Regional district” § 14–101

23 **25–607. EASEMENT PURCHASE IN REGIONAL DISTRICT.**

24 **(A) AUTHORIZED.**

25 **THE COUNTY PLANNING BOARD MAY PURCHASE AN EASEMENT ON**
26 **AGRICULTURAL PROPERTY IN THE COUNTY THAT IS OUTSIDE THE**
27 **METROPOLITAN DISTRICT BUT IS IN THE REGIONAL DISTRICT.**

28 **(B) AVAILABLE FUNDS.**

29 **TO FURTHER THE PURPOSES OF THE PROGRAM, THE COUNTY PLANNING**
30 **BOARD MAY EXPEND ANY CURRENT MONEY THAT IS AUTHORIZED UNDER THIS**
31 **DIVISION TO BE USED TO PURCHASE EASEMENTS IN THE COUNTY IN THE**
32 **METROPOLITAN DISTRICT.**

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 28, § 5–506(e).

3 Defined terms: “Agricultural property” § 25–601
4 “County planning board” § 14–101
5 “Metropolitan district” § 14–101
6 “Program” § 25–601
7 “Regional district” § 14–101

8 **25–608. CONVEYANCE AND RECORDATION.**

9 **(A) CONVEYANCE.**

10 **WHEN AN AGRICULTURAL PRESERVATION EASEMENT IS PURCHASED IN**
11 **ACCORDANCE WITH THIS SUBTITLE, THE PROPERTY OWNER SHALL CONVEY A**
12 **PERPETUAL PRESERVATION EASEMENT TO THE COUNTY PLANNING BOARD AT**
13 **THE TIME OF SETTLEMENT.**

14 **(B) RECORDATION.**

15 **THE EASEMENT SHALL BE RECORDED IN THE COUNTY LAND RECORDS.**

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 28, § 5–506(f).

18 Defined terms: “County planning board” § 14–101
19 “Preservation” § 25–601

20 **25–609. CONTESTED CASES.**

21 **TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE DOES NOT**
22 **APPLY TO THIS SUBTITLE.**

23 REVISOR'S NOTE: This section formerly was Art. 28, § 5–507.

24 The only change is in style.

25 **SUBTITLE 7. ANACOSTIA RIVER FLOOD CONTROL.**

26 **25–701. IN GENERAL.**

27 **THE COUNTY SHALL COOPERATE OR CONTRACT WITH THE UNITED**
28 **STATES IN ANY MATTER RELATING TO ANY PROJECT FOR FLOOD CONTROL OR**
29 **NAVIGATION IN THE VALLEYS OF THE ANACOSTIA RIVER AND ITS TRIBUTARIES**
30 **IN THE COUNTY.**

1 REVISOR'S NOTE: This section formerly was Art. 28, § 9–101(a)(1).

2 The only changes are in style.

3 Defined term: "County" § 14–101

4 **25–702. APPROVAL.**

5 **(A) REQUIRED SUBMISSIONS.**

6 **BEFORE THE COUNTY ENTERS INTO ANY CONTRACT OR AGREEMENT WITH**
7 **THE UNITED STATES AND BEFORE ANY PLAN RELATING TO A FLOOD CONTROL**
8 **OR NAVIGATION PROJECT OR THE MAINTENANCE OR OPERATION OF A FLOOD**
9 **CONTROL OR NAVIGATION PROJECT IS APPROVED, THE COUNTY SHALL SUBMIT**
10 **FOR CONSIDERATION EACH CONTRACT, AGREEMENT, OR PLAN AFFECTING A**
11 **STATE ROAD OR LAND IN A PARK OR PARKWAY UNDER THE JURISDICTION OF**
12 **THE COMMISSION TO:**

13 **(1) THE STATE HIGHWAY ADMINISTRATION; AND**

14 **(2) THE COMMISSION.**

15 **(B) LIMITATION.**

16 **THE COUNTY MAY NOT APPROVE A PLAN OR ENTER INTO A CONTRACT OR**
17 **AN AGREEMENT THAT IS INCONSISTENT WITH:**

18 **(1) THE PURPOSES OF THE CAPPER–CRAMTON ACT, PUBLIC LAW**
19 **71–284, 46 STAT. 482; OR**

20 **(2) ANY AGREEMENT BETWEEN THE COMMISSION AND THE**
21 **NATIONAL CAPITAL PLANNING COMMISSION RELATED TO THE PARK AND**
22 **PARKWAY SYSTEM AUTHORIZED BY THAT ACT.**

23 REVISOR'S NOTE: This section formerly was Art. 28, § 9–101(b) and (a)(2).

24 In the introductory language to subsection (a) of this section and
25 throughout this subtitle, the references to a flood control "or navigation"
26 project are added for clarity and consistency throughout this subtitle.

27 The only other changes are in style.

28 Defined terms: "Commission" § 14–101

29 "Park" § 14–101

1 “Road” § 14–101
2 “State” § 14–101

3 **25–703. COSTS.**

4 **(A) IN GENERAL.**

5 **EXCEPT FOR COSTS BORNE BY THE UNITED STATES OR THE STATE**
6 **HIGHWAY ADMINISTRATION, THE COUNTY SHALL PAY ALL COSTS OF A FLOOD**
7 **CONTROL OR NAVIGATION PROJECT FROM THE STORMWATER MANAGEMENT**
8 **FUND.**

9 **(B) COVERED EXPENSES.**

10 **THE COUNTY SHALL APPLY THE FUND TO THE COST OF:**

11 **(1) CONSTRUCTING AND RELOCATING ALL COUNTY ROADS AND**
12 **BRIDGES RELATED TO THE FLOOD CONTROL OR NAVIGATION PROJECT;**

13 **(2) CONSTRUCTING NECESSARY INTERNAL DRAINAGE**
14 **FACILITIES;**

15 **(3) RELOCATING UTILITY STRUCTURES; AND**

16 **(4) ACQUIRING LAND AND BUILDINGS NECESSARY FOR THE**
17 **FLOOD CONTROL OR NAVIGATION PROJECTS.**

18 **(C) CONTRIBUTIONS.**

19 **THE COUNTY MAY ACCEPT CONTRIBUTIONS FROM THE UNITED STATES,**
20 **THE DISTRICT OF COLUMBIA, THE STATE, MONTGOMERY COUNTY, ANY**
21 **MUNICIPAL CORPORATION OR SPECIAL TAXING DISTRICT, OR ANY OTHER**
22 **PERSON IF THE COUNTY DETERMINES THAT THE CONTRIBUTION MAY ASSIST IN**
23 **THE CONSTRUCTION OF ANY PROJECT UNDER THIS SUBTITLE.**

24 **REVISOR’S NOTE:** This section formerly was Art. 28, § 9–101(c) and (d).

25 In subsection (c) of this section, the reference to a special taxing “district”
26 is substituted for the former reference to a special taxing “area” for
27 clarity.

28 The only other changes are in style.

29 Defined terms: “County” § 14–101

1 "Person" § 14-101
2 "Road" § 14-101
3 "State" § 14-101

4 **25-704. RECREATIONAL FACILITIES; USE OF ACQUIRED LANDS.**

5 **THE COMMISSION:**

6 **(1) MAY USE THE LANDS ACQUIRED FOR FLOOD CONTROL OR**
7 **NAVIGATION PROJECTS FOR PARK PURPOSES IF THE USE DOES NOT INTERFERE**
8 **WITH THE CONSTRUCTION, MAINTENANCE, AND OPERATION OF THE PROJECTS;**
9 **AND**

10 **(2) SHALL CONTROL AND OPERATE RECREATIONAL FACILITIES**
11 **WITHIN THE PROJECTS.**

12 REVISOR'S NOTE: This section formerly was Art. 28, § 9-102.

13 The only changes are in style.

14 Defined terms: "Commission" § 14-101
15 "Park" § 14-101

16 **GENERAL REVISOR'S NOTE TO SUBTITLE**

17 Former Art. 28, § 9-101(e), which provided for the continuity of a certain
18 obligation of the City of Bowie to pay certain outstanding bonds and interest,
19 applies only to a limited and diminishing class of obligations. It is transferred to
20 the Session Laws to avoid any inadvertent substantive effect its repeal might
21 have. See § 16 of Ch. __, Acts of 2012.

22 **SUBTITLE 8. PRINCE GEORGE'S COUNTY RECREATION PROGRAM.**

23 **25-801. POWERS AND DUTIES OF COUNTY PLANNING BOARD.**

24 **(A) RECREATION PROGRAM IN GENERAL.**

25 **THE COUNTY PLANNING BOARD SHALL:**

26 **(1) PROVIDE AN ADEQUATE AND BALANCED PROGRAM OF**
27 **RECREATION TO SERVE THE NEEDS AND INTERESTS OF VARIOUS AGE GROUPS**
28 **AMONG THE RESIDENTS OF THE COUNTY; AND**

29 **(2) COORDINATE THE PROGRAM WITH THE COMMISSION'S PARK**
30 **FUNCTIONS.**

1 **(B) PROGRAM FACILITIES.**

2 **THE COUNTY PLANNING BOARD MAY DEVELOP A PROGRAM OF**
3 **RECREATION THAT MAY INCLUDE PHYSICAL, SOCIAL, MENTAL, AND CREATIVE**
4 **OPPORTUNITIES THAT THE COUNTY PLANNING BOARD CONSIDERS**
5 **APPROPRIATE TO OFFER IN:**

6 **(1) MAJOR RECREATION CENTERS, PLAYFIELDS, ATHLETIC**
7 **FIELDS, PLAYGROUNDS, TENNIS COURTS, BASEBALL DIAMONDS, SWIMMING**
8 **POOLS, GOLF COURSES, COMMUNITY CENTERS, AND SOCIAL CENTERS ON**
9 **PUBLICLY OR PRIVATELY OWNED LAND OR BUILDINGS MADE AVAILABLE FOR**
10 **THESE PURPOSES OR OVER WHICH THE COUNTY PLANNING BOARD HAS SOLE OR**
11 **JOINT JURISDICTION; OR**

12 **(2) LAND OR BUILDINGS OF A MUNICIPAL CORPORATION OR**
13 **POLITICAL SUBDIVISION IN THE COUNTY, IF THE MUNICIPAL CORPORATION OR**
14 **POLITICAL SUBDIVISION REQUESTS THE SERVICES OF THE COUNTY PLANNING**
15 **BOARD.**

16 **(C) INCORPORATION OF ACTIVITIES OF SPORTS GROUPS.**

17 **THE COUNTY PLANNING BOARD MAY CONTRACT WITH RECREATION OR**
18 **SPORTS GROUPS OR ASSOCIATIONS TO INCORPORATE THE ACTIVITIES OF THE**
19 **GROUPS OR ASSOCIATIONS INTO THE PROGRAM ESTABLISHED BY THE COUNTY**
20 **PLANNING BOARD UNDER THIS SUBTITLE.**

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 28, §§ 5–201 and 5–202.

23 In the introductory language to subsection (b) of this section, the word
24 “develop” is substituted for the former phrase “initiate, adopt, conduct,
25 direct, or cause to be conducted or directed under its supervision” for
26 brevity.

27 Also in the introductory language to subsection (b) of this section, the
28 former reference to a “comprehensive” program is deleted as surplusage.

29 Also in the introductory language to subsection (b) of this section, the
30 former reference to “the operation and direction of games, sports, arts
31 and crafts, hobby shops, music, drama, dancing, [and] nursery play” is
32 deleted as included in the reference to “physical, social, mental, and
33 creative opportunities”.

1 Also in the introductory language to subsection (b) of this section, the
2 former reference to “leisure–time participation” is deleted as unnecessary
3 in light of the reference to “recreation”.

4 In subsection (b)(1) of this section, the reference to “land or buildings” is
5 substituted for the former reference to “lands and buildings or other
6 facilities” for brevity. Similarly, in subsection (b)(2) of this section, the
7 former reference to “other facilities” is deleted.

8 In subsection (c) of this section, the former reference to “negotiat[ing] by”
9 contract is deleted as implicit in the reference to “contract[ing]”.

10 For provisions relating to park employees, *see* Title 16, Subtitle 5 of this
11 article.

12 Defined terms: “Commission” § 14–101
13 “County planning board” § 14–101
14 “Park” § 14–101

15 **25–802. COOPERATION WITH OTHER AGENCIES AND ORGANIZATIONS.**

16 **THE COUNTY PLANNING BOARD, IN THE DEVELOPMENT AND CONDUCT OF**
17 **ITS RECREATION PROGRAM AND IN SCHEDULING THE USE OF PUBLICLY OWNED**
18 **LAND OR BUILDINGS FOR THE CONDUCT OF THE PROGRAM, SHALL COOPERATE**
19 **WITH RECOGNIZED AND GENERALLY ACCEPTED AGENCIES, GROUPS, AND**
20 **ORGANIZATIONS THAT MAY REQUEST TO USE THE LAND OR BUILDINGS.**

21 REVISOR’S NOTE: This section is new language derived without substantive
22 change from the first sentence of former Art. 28, § 5–204.

23 The former reference to “planning” the program of recreation is deleted as
24 unnecessary in light of the reference to “development” of the program.

25 The former phrase “to the fullest extent possible” is deleted as
26 surplusage.

27 The former reference to “duly” recognized organizations is deleted as
28 unnecessary.

29 Defined term: “County planning board” § 14–101

30 **25–803. GRANTS AND GIFTS.**

31 **THE COUNTY PLANNING BOARD MAY ACCEPT GRANTS AND GIFTS FROM**
32 **ANY SOURCE TO CARRY OUT THIS SUBTITLE.**

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from the second sentence of former Art. 28, § 5–204.

3 The phrase “any source” is substituted for the former phrase
4 “governmental or private sources” for brevity and clarity.

5 The phrase “carry[ing] out this subtitle” is substituted for the former
6 phrase “us[ing] [funds] in furtherance of the functions and programs
7 provided herein” for clarity and brevity.

8 Defined term: “County planning board” § 14–101

9 **25–804. REGULATIONS.**

10 **THE COUNTY PLANNING BOARD MAY ADOPT REGULATIONS TO CARRY OUT**
11 **THIS SUBTITLE.**

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 28, § 5–205.

14 The reference to the county planning board adopting “regulations to carry
15 out this subtitle” is substituted for the former reference to the board
16 adopting “whatever rules and regulations as it may deem necessary for
17 the conduct of the programs as authorized and prescribed for it under
18 this article” for clarity and brevity.

19 Defined term: “County planning board” § 14–101

20 **25–805. ADVISORY COMMITTEES ON RECREATION.**

21 **(A) STANDING ADVISORY COMMITTEE.**

22 **SUBJECT TO CONFIRMATION BY THE COUNTY COUNCIL, THE COUNTY**
23 **EXECUTIVE:**

24 **(1) SHALL APPOINT A STANDING ADVISORY COMMITTEE ON**
25 **RECREATION, WHICH SHALL BE REPRESENTATIVE OF THE RESIDENTS OF THE**
26 **COUNTY; AND**

27 **(2) MAY APPOINT ADDITIONAL ADVISORY COMMITTEES ON**
28 **RECREATION AS NECESSARY.**

29 **(B) COUNTY PLANNING BOARD RECOMMENDATIONS.**

1 **THE COUNTY PLANNING BOARD MAY MAKE RECOMMENDATIONS**
2 **REGARDING THE FUNCTIONS AND MEMBERSHIP OF THE ADVISORY**
3 **COMMITTEES.**

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 28, § 5–206.

6 The Land Use Article Review Committee notes, for consideration by the
7 General Assembly, that in subsection (a)(1) of this section, the word
8 “residents” is substituted for the former word “citizens” because the
9 relationship between recreation programs and the status of citizenship is
10 unclear.

11 In subsections (a)(2) and (b) of this section, the former phrase “from time
12 to time” is deleted as surplusage.

13 Defined terms: “County” § 14–101
14 “County planning board” § 14–101

15 **25–806. ANNUAL BUDGET; RECREATION SCHEDULE.**

16 **(A) ANNUAL BUDGET.**

17 **THE COUNTY PLANNING BOARD SHALL PREPARE AND SUBMIT TO THE**
18 **COUNTY COUNCIL AN ANNUAL BUDGET, INCLUDING A SCHEDULE OF**
19 **RECREATION ACTIVITIES AND PROGRAMS.**

20 **(B) APPROVAL OF RECREATION SCHEDULE.**

21 **THE COUNTY COUNCIL'S APPROVAL OF THE RECREATION SCHEDULE IS**
22 **CONCURRENCE IN THE RECREATION ACTIVITIES AND PROGRAMS PROPOSED**
23 **FOR ANY FISCAL YEAR.**

24 **(C) MODIFICATION OF SCHEDULE.**

25 **THE COUNTY COUNCIL MAY:**

26 **(1) MODIFY THE RECREATION SCHEDULE; AND**

27 **(2) DIRECT THE COUNTY PLANNING BOARD TO INITIATE ANY**
28 **RECREATION ACTIVITY OR PROGRAM.**

29 **(D) INITIATION OF ACTIVITY OR PROGRAM.**

1 **THE COUNTY PLANNING BOARD SHALL INITIATE ANY ACTIVITY OR**
 2 **PROGRAM DIRECTED BY THE COUNTY COUNCIL WITH REASONABLE**
 3 **PROMPTNESS TO THE EXTENT FUNDS ARE AVAILABLE FOR THAT PURPOSE.**

4 REVISOR'S NOTE: This section is new language derived without substantive
 5 change from former Art. 28, § 5–207.

6 Throughout this section, the references to the “County Council” are
 7 substituted for the former obsolete references to the “County
 8 Commissioners” to accurately reflect the current form of government in
 9 Prince George’s County.

10 In subsection (b) of this section, the former reference to “[r]eview of the
 11 Board’s proposed budget” is deleted as implicit in the approval of the
 12 recreation schedule, which is included in the budget.

13 In subsection (c)(1) of this section, the reference to “recreation schedule”
 14 is substituted for the former reference to the “schedule contained in the
 15 proposed budget” for clarity and consistency with the terminology used in
 16 subsection (b).

17 Also in subsection (c)(1) of this section, the former reference to a “change”
 18 in the schedule is deleted as included in a “modif[ication]” of the schedule.

19 In subsection (d) of this section, the reference to “any activity or program
 20 directed by the County Council” is substituted for the former reference to
 21 “such activity or program” for clarity.

22 Defined term: “County planning board” § 14–101

23 **25–807. BLADENSBURG MARINA AND BOAT BASIN.**

24 **(A) DEFINITIONS.**

25 **(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
 26 **MEANINGS INDICATED.**

27 **(2) “ENTERPRISE FUND” MEANS THE MARYLAND–NATIONAL**
 28 **CAPITAL PARK AND PLANNING COMMISSION ENTERPRISE FUND.**

29 **(3) “MARINA” MEANS THE BLADENSBURG MARINA AND BOAT**
 30 **BASIN ESTABLISHED BY CHAPTER 618 OF THE ACTS OF 1959, AND ALL**
 31 **IMPROVEMENTS, FACILITIES, AND APPURTENANCES OF THE BLADENSBURG**
 32 **MARINA AND BOAT BASIN.**

1 **(B) ADMINISTRATION, MAINTENANCE, AND OPERATION.**

2 **THE COMMISSION SHALL ADMINISTER, MAINTAIN, AND OPERATE THE**
3 **MARINA.**

4 **(C) POWERS AND DUTIES OF COMMISSION.**

5 **THE COMMISSION:**

6 **(1) SHALL ADOPT REGULATIONS FOR THE USE AND ENJOYMENT**
7 **OF THE MARINA TO ASSURE THAT THE IMPROVEMENTS AND FACILITIES ARE**
8 **OPEN TO ALL RESIDENTS ON EQUAL TERMS;**

9 **(2) SHALL SET THE FEES FOR THE USE OF THE PUBLIC AND**
10 **COMMERCIAL NAVIGATION FACILITIES; AND**

11 **(3) MAY CONTRACT WITH THE WASHINGTON SUBURBAN**
12 **SANITARY COMMISSION FOR DREDGING ACTIVITIES RELATING TO THE**
13 **MAINTENANCE AND OPERATION OF THE MARINA.**

14 **(D) MARYLAND–NATIONAL CAPITAL PARK AND PLANNING**
15 **COMMISSION ENTERPRISE FUND.**

16 **(1) THERE IS A MARYLAND–NATIONAL CAPITAL PARK AND**
17 **PLANNING COMMISSION ENTERPRISE FUND.**

18 **(2) THE ENTERPRISE FUND SHALL FINANCE AND ACCOUNT FOR**
19 **THE MAINTENANCE AND OPERATION OF THE MARINA.**

20 **(3) THE COMMISSION SHALL RECORD REVENUES FROM THE**
21 **MAINTENANCE AND OPERATION OF THE MARINA IN THE ENTERPRISE FUND.**

22 **(4) THE COMMISSION SHALL USE THE REVENUES OF THE**
23 **ENTERPRISE FUND:**

24 **(I) TO OFFSET EXPENDITURES RELATING TO THE MARINA;**
25 **OR**

26 **(II) FOR OTHER ENTERPRISE FUNDS OF THE COMMISSION’S**
27 **PARK AND RECREATIONAL FACILITIES LOCATED IN THE REGIONAL DISTRICT IN**
28 **THE COUNTY.**

29 **(E) PRINCE GEORGE’S COUNTY TAX.**

1 **(1) EACH YEAR THE COUNTY COUNCIL SHALL IMPOSE ON ALL**
2 **PROPERTY ASSESSED FOR COUNTY TAX PURPOSES IN THE COUNTY AN AD**
3 **VALOREM TAX AT A RATE THAT THE COMMISSION CERTIFIES AS NECESSARY TO**
4 **PRODUCE THE AMOUNT REQUIRED TO PAY THE ANNUAL COST OF THE MARINA,**
5 **LESS THE PROCEEDS OF THE ENTERPRISE FUND.**

6 **(2) THE ANNUAL COST INCLUDES THE COST OF DREDGING**
7 **OPERATIONS RELATING TO THE MAINTENANCE AND OPERATION OF THE**
8 **MARINA.**

9 **(F) MONTGOMERY COUNTY NOT LIABLE.**

10 **(1) MONTGOMERY COUNTY IS NOT LIABLE FOR ANY COST, DEBT,**
11 **EXPENSE, OR OBLIGATION RELATING TO THE ADMINISTRATION, OPERATION, OR**
12 **MAINTENANCE OF THE MARINA.**

13 **(2) FUNDS FOR THE ADMINISTRATION, OPERATION, OR**
14 **MAINTENANCE OF THE MARINA MAY NOT BE OBTAINED FROM:**

15 **(I) MONTGOMERY COUNTY'S PORTION OF THE BUDGET; OR**

16 **(II) MONTGOMERY COUNTY'S PORTION OF UNBUDGETED**
17 **FUNDS OF THE COMMISSION.**

18 REVISOR'S NOTE: Subsections (b) through (f) and (a)(3) of this section are new
19 language derived without substantive change from former Art. 28, §
20 5-208.

21 Subsection (a)(1) of this section is new language added as the standard
22 introduction to a definition subsection.

23 Subsection (a)(2) of this section is new language added to avoid repetition
24 of the full title "Maryland-National Capital Park and Planning
25 Commission Enterprise Fund".

26 In subsection (c)(1) of this section, the former reference to "rules" is
27 deleted for consistency within this article. *See* General Revisor's Note to
28 article.

29 In subsection (e)(1) of this section, the reference to "impos[ing]" a tax is
30 substituted for the former reference to "levy[ing] and collect[ing]" a tax
31 for consistency with other similar terminology throughout the Code.

1 The Land Use Article Review Committee notes, for consideration by the
2 General Assembly, that in subsection (c)(1) of this section, the word
3 “residents” is substituted for the former word “citizens” because the
4 relationship between open access to the Marina and the status of
5 citizenship is unclear.

6 Defined terms: “Commission” § 14–101
7 “Park” § 14–101
8 “Regional district” § 14–101

9 **TITLE 26. MISCELLANEOUS PROVISIONS.**

10 **SUBTITLE 1. HISTORIC GRANT PROGRAMS.**

11 **26–101. DEFINITIONS.**

12 **(A) IN GENERAL.**

13 **IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
14 **INDICATED.**

15 REVISOR’S NOTE: This subsection formerly was Art. 28, § 5–301(a).

16 No changes are made.

17 **(B) FUND.**

18 **“FUND” MEANS:**

19 **(1) IN MONTGOMERY COUNTY, THE MONTGOMERY COUNTY**
20 **HISTORIC PRESERVATION GRANT FUND; AND**

21 **(2) IN PRINCE GEORGE’S COUNTY, THE PRINCE GEORGE’S**
22 **COUNTY HISTORIC PROPERTY GRANT FUND.**

23 REVISOR’S NOTE: This subsection formerly was Art. 28, § 5–301(c).

24 The only change is in style.

25 Defined terms: “Historic property” § 26–101
26 “Preservation” § 26–101

27 **(C) HISTORIC PROPERTY.**

1 **(1) “HISTORIC PROPERTY” MEANS A DISTRICT, SITE, BUILDING,**
2 **STRUCTURE, OR OBJECT SIGNIFICANT IN THE HISTORY, UPLAND OR**
3 **UNDERWATER ARCHAEOLOGY, ARCHITECTURE, ENGINEERING, OR CULTURE OF**
4 **THE STATE.**

5 **(2) “HISTORIC PROPERTY” INCLUDES REMAINS RELATED TO A**
6 **DISTRICT, SITE, BUILDING, STRUCTURE, OR OBJECT DESCRIBED IN PARAGRAPH**
7 **(1) OF THIS SUBSECTION.**

8 REVISOR’S NOTE: This subsection formerly was Art. 28, § 5–301(d).

9 In paragraph (2) of this subsection, the phrase “described in paragraph
10 (1) of this subsection” is added for clarity.

11 The only other changes are in style.

12 Defined term: “State” § 14–101

13 **(D) PRESERVATION.**

14 **“PRESERVATION” MEANS THE IDENTIFICATION, EVALUATION,**
15 **RECORDATION, DOCUMENTATION, ACQUISITION, PROTECTION, MANAGEMENT,**
16 **REHABILITATION, RESTORATION, STABILIZATION, MAINTENANCE, OR**
17 **RECONSTRUCTION OF A HISTORIC PROPERTY.**

18 REVISOR’S NOTE: This subsection formerly was Art. 28, § 5–301(e).

19 The only change is in style.

20 Defined term: “Historic property” § 26–101

21 **(E) PROGRAM.**

22 **“PROGRAM” MEANS:**

23 **(1) IN MONTGOMERY COUNTY, THE MONTGOMERY COUNTY**
24 **HISTORIC PRESERVATION GRANT PROGRAM; AND**

25 **(2) IN PRINCE GEORGE’S COUNTY, THE PRINCE GEORGE’S**
26 **COUNTY HISTORIC PROPERTY GRANT PROGRAM.**

27 REVISOR’S NOTE: This subsection formerly was Art. 28, § 5–301(f).

28 The only change is in style.

1 Defined terms: “Historic property” § 26–101
2 “Preservation” § 26–101

3 REVISOR’S NOTE TO SECTION:

4 Former Art. 28, § 5–301(b), which defined “Board” to mean the
5 Montgomery County Planning Board or the Prince George’s County
6 Planning Board, is deleted because the term is not used in this revision.

7 **26–102. ESTABLISHED; PURPOSE.**

8 **(A) ESTABLISHED.**

9 **(1) THERE IS A MONTGOMERY COUNTY HISTORIC**
10 **PRESERVATION GRANT PROGRAM.**

11 **(2) THERE IS A PRINCE GEORGE’S COUNTY HISTORIC PROPERTY**
12 **GRANT PROGRAM.**

13 **(B) PURPOSES.**

14 **THE PURPOSES OF EACH PROGRAM ARE TO:**

15 **(1) PRESERVE, PROTECT, AND ENHANCE HISTORIC PROPERTIES;**

16 **(2) ENCOURAGE OTHERS TO PRESERVE, PROTECT, AND ENHANCE**
17 **HISTORIC PROPERTIES; AND**

18 **(3) PROMOTE INTEREST IN AND THE STUDY OF HISTORIC**
19 **PROPERTIES.**

20 REVISOR’S NOTE: This section formerly was Art. 28, § 5–302.

21 In the introductory language to subsection (b) of this section, the
22 reference to the “purposes of each Program” is substituted for the former
23 reference to the “purpose of the Program” for clarity and accuracy.

24 The only other changes are in style.

25 Defined terms: “Historic property” § 26–101
26 “Preservation” § 26–101
27 “Program” § 26–101

28 **26–103. NATURE OF PROGRAMS.**

1 **EACH PROGRAM IS OF GENERAL BENEFIT TO THE RESIDENTS OF THE**
2 **STATE AND IS CHARITABLE IN NATURE.**

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 28, § 5–303.

5 The Land Use Article Review Committee notes, for consideration by the
6 General Assembly, that the reference to “residents” is substituted for the
7 former reference to “citizens” because the relationship between the
8 Program benefits and the proximity of residents is clear, whereas the
9 relationship between the benefits and citizenship, including its attendant
10 rights and duties such as voting and jury service, is unclear. No
11 substantive change is intended.

12 The former phrase “declared to be” is deleted as unnecessary.

13 Defined terms: “Program” § 26–101
14 “State” § 14–101

15 **26–104. POWERS AND DUTIES.**

16 **(A) IN GENERAL.**

17 **THE POWERS AND DUTIES OF EACH PROGRAM ARE VESTED IN AND**
18 **EXERCISED BY:**

19 **(1) IN MONTGOMERY COUNTY, THE COUNTY PLANNING BOARD IN**
20 **CONSULTATION WITH THE MONTGOMERY COUNTY HISTORIC PRESERVATION**
21 **COMMISSION; AND**

22 **(2) SUBJECT TO SUBSECTION (B) OF THIS SECTION, IN PRINCE**
23 **GEORGE'S COUNTY, THE COUNTY PLANNING BOARD.**

24 **(B) PRINCE GEORGE'S COUNTY.**

25 **(1) IN PRINCE GEORGE'S COUNTY, THE COUNTY, BY LOCAL LAW,**
26 **MAY PROVIDE FOR THE HISTORIC PRESERVATION, OUTREACH AND MARKETING,**
27 **AND MAINTENANCE OF HISTORIC PROPERTIES ACTIVITIES OF THE**
28 **COMMISSION.**

29 **(2) A LOCAL LAW ENACTED UNDER PARAGRAPH (1) OF THIS**
30 **SUBSECTION SHALL BE CONSISTENT WITH THE PROVISIONS OF THIS DIVISION.**

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from former Art. 28, § 5–304.

1 Defined terms: "Commission" § 14-101
2 "County planning board" § 14-101
3 "Historic property" § 26-101
4 "Local law" § 14-101
5 "Preservation" § 26-101
6 "Program" § 26-101

7 **26-105. FUNDING.**

8 **(A) FUNDS ESTABLISHED.**

9 **(1) THERE IS A MONTGOMERY COUNTY HISTORIC**
10 **PRESERVATION GRANT FUND.**

11 **(2) THERE IS A PRINCE GEORGE'S COUNTY HISTORIC PROPERTY**
12 **GRANT FUND.**

13 **(B) ADMINISTRATION.**

14 **EACH COUNTY PLANNING BOARD ADMINISTERS ITS FUND.**

15 **(C) DEPOSITS.**

16 **EACH COUNTY PLANNING BOARD SHALL DEPOSIT IN ITS FUND THOSE**
17 **AMOUNTS AUTHORIZED IN ACCORDANCE WITH TITLE 18, SUBTITLE 1 OF THIS**
18 **ARTICLE TO:**

19 **(1) IMPLEMENT AND ENCOURAGE RESTORATION AND**
20 **PRESERVATION OF HISTORIC PROPERTIES; AND**

21 **(2) IMPLEMENT THE PURPOSES OF ITS PROGRAM.**

22 **(D) EXPENDITURES.**

23 **(1) EACH COUNTY PLANNING BOARD SHALL EXPEND THE**
24 **AMOUNTS IN ITS FUND TO MAKE GRANTS TO NONPROFIT ORGANIZATIONS OR**
25 **FOUNDATIONS.**

26 **(2) IN MONTGOMERY COUNTY:**

27 **(I) GRANTS MAY ALSO BE MADE FOR RESEARCH,**
28 **DEVELOPING EDUCATIONAL MATERIALS, AND GENERALLY PROMOTING**
29 **HISTORIC PRESERVATION; AND**

1 (II) IN MAKING GRANTS, THE COUNTY PLANNING BOARD, IF
2 PRACTICAL TO DO SO, SHALL OBTAIN AND IMPLEMENT THE RECOMMENDATIONS
3 OF THE MONTGOMERY COUNTY HISTORIC PRESERVATION COMMISSION.

4 (3) IN PRINCE GEORGE'S COUNTY:

5 (I) GRANTS MAY ALSO BE MADE TO POLITICAL
6 SUBDIVISIONS OR INDIVIDUALS TO ACQUIRE, PRESERVE, RESTORE, OR
7 REHABILITATE HISTORIC PROPERTIES; AND

8 (II) IN MAKING GRANTS, THE COUNTY PLANNING BOARD
9 SHALL SOLICIT AND CONSIDER THE RECOMMENDATIONS OF THE PRINCE
10 GEORGE'S COUNTY HISTORIC PRESERVATION COMMISSION.

11 (E) GRANT OF PERPETUAL EASEMENT.

12 WHEN A COUNTY PLANNING BOARD AWARDS A GRANT, THE GRANT
13 RECIPIENT SHALL CONVEY A PERPETUAL PRESERVATION EASEMENT TO THE
14 COUNTY PLANNING BOARD.

15 (F) MATCHING FUNDS.

16 (1) DECISIONS BY A COUNTY PLANNING BOARD CONCERNING
17 GRANTS SHALL BE MADE WITHOUT REGARD TO THE FINANCIAL STATUS OR
18 ANNUAL INCOME OF THE APPLICANT.

19 (2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, A
20 COUNTY PLANNING BOARD MAY REQUIRE MATCHING FUNDS IN WHATEVER
21 PROPORTION THE COUNTY PLANNING BOARD CONSIDERS APPROPRIATE.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 28, § 5-306.

24 Defined terms: "County planning board" § 14-101

25 "Fund" § 26-101

26 "Historic property" § 26-101

27 "Preservation" § 26-101

28 "Program" § 26-101

29 **26-106. ADOPTION OF REGULATIONS.**

30 EACH COUNTY PLANNING BOARD SHALL ADOPT REGULATIONS TO CARRY
31 OUT THIS SUBTITLE.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 28, § 5–305.

3 Defined term: “County planning board” § 14–101

4 **26–107. APPLICABILITY OF ADMINISTRATIVE PROCEDURE ACT.**

5 **TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE DOES NOT**
6 **APPLY TO THIS SUBTITLE.**

7 REVISOR'S NOTE: This section formerly was Art. 28, § 5–307.

8 The only change is in style.

9 **TITLE 27. ENFORCEMENT.**

10 **27–101. VIOLATION; PENALTY.**

11 **(A) CHARGE OF VIOLATION.**

12 **A CHARGE ALLEGING A VIOLATION OF THIS DIVISION MAY BE BROUGHT**
13 **BY WARRANT OR INDICTMENT ON THE OATH OR INFORMATION OF A MEMBER OR**
14 **EMPLOYEE OF THE COMMISSION OR ANY OTHER PERSON.**

15 **(B) JURISDICTION.**

16 **EXCEPT AS OTHERWISE PROVIDED, A MISDEMEANOR UNDER THIS**
17 **DIVISION MAY BE ADJUDICATED BEFORE THE DISTRICT COURT OR THE**
18 **CIRCUIT COURT OF THE COUNTY IN WHICH THE VIOLATION IS COMMITTED.**

19 **(C) PENALTY.**

20 **(1) EXCEPT AS OTHERWISE PROVIDED IN THIS DIVISION, A**
21 **PERSON WHO VIOLATES THIS DIVISION IS GUILTY OF A MISDEMEANOR AND ON**
22 **CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 90 DAYS OR A**
23 **FINE NOT EXCEEDING \$500 OR BOTH.**

24 **(2) EACH DAY THAT A VIOLATION OF THIS DIVISION CONTINUES**
25 **IS A SEPARATE VIOLATION.**

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 28, § 2–120.

1 In subsection (a) of this section, the reference to “[a] charge alleging a
2 violation of this division” is substituted for the former reference to “[i]t”
3 for clarity.

4 In subsection (b) of this section, the reference to “a misdemeanor under
5 this division” is substituted for the former reference to “[e]very act or
6 omission designated as a misdemeanor in this article” for brevity.

7 Also in subsection (b) of this section, the phrase “may be adjudicated” is
8 substituted for the former phrase “shall be punished” for accuracy.

9 Also in subsection (b) of this section, the reference to a “violation” is
10 substituted for the former reference to an “offense” for consistency with
11 the Criminal Law Article and other recently revised articles.

12 In subsection (c)(1) of this section, the former phrase “in the county jail”
13 is deleted for consistency with the Criminal Law Article. Currently,
14 inmates are sentenced to the custody of a unit such as the Division of
15 Correction and then are placed in a particular facility. *See* CS § 9–103.

16 Also in subsection (c)(1) of this section, the former reference to a fine or
17 imprisonment or both “in the discretion of the court” is deleted as implicit
18 in the court’s authority.

19 In subsection (c)(2) of this section, the reference to “a violation of this
20 division” is substituted for the former reference to “the act or omission ...
21 in violation of the provisions of this article, or of any regulation enacted
22 or decision made under the powers granted in this article” for brevity.

23 Defined terms: “Commission” § 14–101

24 “County” § 14–101

25 “Person” § 14–101

26 **27–102. INTERFERENCE WITH ENTRY INTO BUILDINGS AND PRIVATE PREMISES.**

27 **(A) PROHIBITED.**

28 **AN OWNER OR TENANT OF A BUILDING OR PRIVATE PREMISES OR AN**
29 **AGENT OF THE OWNER OR TENANT MAY NOT RESTRAIN OR HINDER THE ENTRY,**
30 **EXAMINATION, SURVEY, OR PLACING OR MAINTENANCE OF MONUMENTS OR**
31 **MARKS BY A COMMISSIONER OR AN EMPLOYEE OR AGENT OF THE COMMISSION**
32 **UNDER § 15–118 OF THIS ARTICLE.**

33 **(B) PENALTY.**

1 **A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR**
2 **AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 90 DAYS**
3 **OR A FINE NOT EXCEEDING \$500 OR BOTH.**

4 **(c) CONTINUING VIOLATION.**

5 **EACH DAY A VIOLATION CONTINUES IS A SEPARATE VIOLATION.**

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from the second sentence of former Art. 28, § 2-116 and the third
8 and fourth sentences, and, as it related to misdemeanor offenses, the first
9 sentence of § 2-120.

10 In subsection (a) of this section, the reference to an owner or tenant "of a
11 building or private premises" is added for clarity.

12 In subsection (b) of this section, the specific reference to "imprisonment
13 not exceeding 90 days or a fine not exceeding \$500 or both" is substituted
14 for the former reference to "the general penalty provisions of this article"
15 for clarity.

16 Defined terms: "Commission" § 14-101
17 "Commissioner" § 14-101
18 "Person" § 14-101

19 **GENERAL REVISOR'S NOTE TO ARTICLE**

20 The Department of Legislative Services is charged with revising the law in a
21 clear, concise, and organized manner, without changing the effect of the law. One
22 precept of revision has been that, once something is said, it should be said in the same
23 way every time. To that end, the Land Use Article Review Committee conformed the
24 language and organization of this article to that of previously enacted revised articles
25 to the extent possible.

26 It is the manifest intent both of the General Assembly and the Land Use Article
27 Review Committee that this bulk revision of the substantive land use law of the State
28 render no substantive change. The guiding principle of the preparation of this article
29 is that stated in *Welch v. Humphrey*, 200 Md. 410, 417 (1952):

30 [T]he principal function of a Code is to reorganize the statutes and state them
31 in simpler form. Consequently, any changes made in them by a Code are presumed to
32 be for the purpose of clarity rather than change of meaning. Therefore, even a change
33 in the phraseology of a statute by a codification thereof will not ordinarily modify the
34 law, unless the change is so radical and material that the intention of the Legislature
35 to modify the law appears unmistakably from the language of the Code. (citations
36 omitted)

1 Accordingly, except to the extent that changes, which are noted in Revisor’s
2 Notes, clarify the former law, the enactment of this article in no way is intended to
3 make any change to the substantive law of Maryland. This intent is further stated in
4 uncodified language included in the enactment of this article. *See* § 17 of Ch.____, Acts
5 of 2012.

6 Throughout this article, as in other revised articles, for consistency and to avoid
7 unnecessary confusion, the singular verb “adopt” is used in relation to rules or
8 regulations, and verbs such as “prescribe” and “promulgate” are deleted.

9 Also throughout this article, the defined term “local law” is substituted for the
10 former terms “ordinance”, “resolution”, and in some cases, “regulation”. The definition
11 of local law as “an enactment of the legislative body of a local jurisdiction, whether by
12 ordinance, resolution, or otherwise” is intended to unify the terminology used for local
13 enactments, without altering how each local jurisdiction is procedurally authorized to
14 adopt the local law under its express powers as a charter county, code county,
15 commissioner county, municipal corporation, or Baltimore City. *See* §§ 1–101(j) and
16 14–101(g) of this article. The definition specifically excludes a “public local law” in
17 order to avoid confusion with a provision that might otherwise newly become subject
18 to referendum. *Cf. Kent Island Defense League v. Queen Anne’s Co. Bd. of Elections*,
19 145 Md. App. 684 (2002). In order to clarify that the substitution of the comprehensive
20 term “local law” for the former references to “ordinances” and “resolutions” does not in
21 any manner alter the form or mechanism by which a local jurisdiction adopts a local
22 law that a provision of this article requires or authorizes, the Land Use Article Review
23 Committee added rules of interpretation to that effect in each division of this article.
24 *See* §§ 1–205 and 14–203 of this article. No substantive change is intended.

25 Also throughout this article, for clarity and consistency with other recently
26 revised articles, references to “the public”, “members of the public”, and “residents” are
27 commonly substituted for former phrases such as “the citizens of this State” and “the
28 citizens of Maryland” because the meaning of the word “citizen” in such contexts is
29 unclear.

30 Also throughout this article, for consistency with other recently revised articles,
31 the term “municipal corporation” is generally substituted for former references such as
32 “municipality”, “incorporated city”, “incorporated town”, and “incorporated
33 municipality” to conform to Article XI–E of the Maryland Constitution. However,
34 wherever the former law used the term “incorporated municipality” as defined in
35 former Art. 28, § 8–104(c), revised in part in § 14–101 of this article as “governed
36 special taxing district” or “governed district”, the term “incorporated municipality” has
37 been replaced by the phrase “municipal corporation or governed special taxing district”
38 or “municipal corporation or governed district” for accuracy and clarity. The term
39 “governed special taxing district” includes special taxing areas and similar entities
40 “hav[ing] an elected local governing body and perform[ing] general municipal
41 functions”. No substantive change is intended.

1 Also throughout this article, for consistency, the former phrase “real or
2 personal”, which formerly modified the comprehensive term “property”, is deleted to
3 avoid the implication that there is any other form of property which is neither real nor
4 personal. Similarly, former references to “land or other” property, and “interests in”
5 property, in conjunction with references to “property”, are deleted as implicit in the
6 comprehensive references to “property”. Unless otherwise qualified by specific terms
7 such as “real” or “personal”, any reference to “property” in this article means property
8 of any sort, real or personal, tangible or intangible, or with any permissible mixture of
9 those attributes, even in conjunction with a phrase such as an “interest in land”.

10 Also throughout this article, in the context of acquisition of property for
11 consideration, the references to acquisition “by condemnation or purchase” and similar
12 phrases are deleted as implicit in the comprehensive reference to “acquisition”, which
13 is not limited as to the mechanism of transfer of title.

14 Also throughout this article, references to the “chair” and “vice chair”,
15 respectively, are substituted for former references to the “chairman” and
16 “vice-chairman”, respectively, because § 2-1238 of the State Government Article
17 requires, to the extent practicable, the use of words that are neutral as to gender.
18 Similar substitutions are made to other former gender-specific terms.

19 In some provisions in this article, as in other revised articles, the term “unit” is
20 substituted for former references to State entities such as “agency”, “department”,
21 “division”, “office”, “commission”, “board”, “committee”, and “council”. In revised
22 articles of the Code, the term “unit” is used as the general term for an organization in
23 the State government because it is broad enough to include all such entities.

24 In Division I of this article, references to “this division” are substituted for the
25 former references to “this article” to reflect the reorganization of former Article 66B –
26 Land Use in Division I of this article. Similarly, in Division II of this article, references
27 to “this division” are substituted for the former references to “this article” to reflect the
28 reorganization of material derived from former Article 28 – Maryland–National
29 Capital Park and Planning Commission in Division II of this article.

30 In provisions governing bonding authority, principally in Title 18, Subtitle 2 of
31 this article, references to a trust “agreement” are substituted for the former references
32 to a trust “indenture” to reflect current terminology in bond practice. Similarly,
33 references to a “competitive or negotiated” sale of bonds are substituted for former
34 references to a “public or private” sale to reflect current terminology.

35 References to current units and positions are substituted for obsolete references
36 to entities and positions that have been abolished or have otherwise ceased to exist.

37 Some apparently obsolete provisions allocated to the Land Use Article are
38 transferred to the Session Laws for historical purposes or to avoid any inadvertent
39 substantive effect their repeal might have.

1 In some instances, the staff of the Department of Legislative Services may
2 create “Special Revisor’s Notes” to reflect the substantive effect of legislation enacted
3 during the 2012 Session on some provisions of this article.

4 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
5 read as follows:

6 **Article 1 – Rules of Interpretation**

7 25.

8 (a) Unnumbered revised articles of the Annotated Code of Maryland may be
9 cited as stated in this section.

10 (b) A section of the Agriculture Article may be cited as: “§__ of the
11 Agriculture Article”.

12 (c) A section of the Business Occupations and Professions Article may be
13 cited as: “§__ of the Business Occupations and Professions Article”.

14 (d) A section of the Business Regulation Article may be cited as: “§__ of the
15 Business Regulation Article”.

16 (e) A section of the Commercial Law Article may be cited as: “§__ of the
17 Commercial Law Article”.

18 (f) A section of the Corporations and Associations Article may be cited as:
19 “§__ of the Corporations and Associations Article”.

20 (g) A section of the Correctional Services Article may be cited as: “§__ of the
21 Correctional Services Article”.

22 (h) A section of the Courts and Judicial Proceedings Article may be cited as:
23 “§__ of the Courts Article”.

24 (i) A section of the Criminal Law Article may be cited as: “§__ of the
25 Criminal Law Article”.

26 (j) A section of the Criminal Procedure Article may be cited as: “§__ of the
27 Criminal Procedure Article”.

28 (k) A section of the Economic Development Article may be cited as: “§__ of
29 the Economic Development Article”.

30 (l) A section of the Education Article may be cited as: “§__ of the Education
31 Article”.

1 (m) A section of the Election Law Article may be cited as: “§__ of the Election
2 Law Article”.

3 (n) A section of the Environment Article may be cited as: “§__ of the
4 Environment Article”.

5 (o) A section of the Estates and Trusts Article may be cited as: “§__ of the
6 Estates and Trusts Article”.

7 (p) A section of the Family Law Article may be cited as: “§__ of the Family
8 Law Article”.

9 (q) A section of the Financial Institutions Article may be cited as: “§__ of the
10 Financial Institutions Article”.

11 (r) A section of the Health – General Article may be cited as: “§__ of the
12 Health – General Article”.

13 (s) A section of the Health Occupations Article may be cited as: “§__ of the
14 Health Occupations Article”.

15 (t) A section of the Housing and Community Development Article may be
16 cited as: “§__ of the Housing and Community Development Article”.

17 (u) A section of the Human Services Article may be cited as: “§__ of the
18 Human Services Article”.

19 (v) A section of the Insurance Article may be cited as: “§__ of the Insurance
20 Article”.

21 (w) A section of the Labor and Employment Article may be cited as: “§__ of
22 the Labor and Employment Article”.

23 (x) **A SECTION OF THE LAND USE ARTICLE MAY BE CITED AS: “§__ OF
24 THE LAND USE ARTICLE”.**

25 (y) A section of the Natural Resources Article may be cited as: “§__ of the
26 Natural Resources Article”.

27 [(y)] (z) A section of the Public Safety Article may be cited as: “§__ of the
28 Public Safety Article”.

29 [(z)] (AA) A section of the Public Utilities Article may be cited as: “§ __ of
30 the Public Utilities Article”.

1 [D.] 4. New classrooms;

2 [E.] 5. Equipment;

3 [F.] 6. Interest on bond principal; and

4 [G.] 7. Bond issuance.

5 [2.] (II) "All county costs" includes the total square
6 footage of new public school facilities multiplied by the State square foot construction
7 allowance, minus the State funding share.

8 [(iii)] (3) "Dwelling type" means single family detached home,
9 town house, or multifamily housing unit.

10 [(iv)] (4) "New residential development" means the
11 development of land that results in the issuance of a use and occupancy permit for a
12 residential dwelling unit.

13 [(v)] (5) "New school capacity construction bonds" means
14 10-year bonds issued by the County Commissioners under this [subsection] SECTION.

15 [(vi)] (6) "Public school facilities" means elementary, middle,
16 and high school facilities.

17 [(vii)] (7) "Pupil generation rate" means the average number of
18 students in the county by dwelling type attending elementary, middle, and high
19 school.

20 (B) THIS SECTION APPLIES ONLY IN CHARLES COUNTY.

21 [(2) (i)] (C) (1) The County Commissioners may issue 10-year
22 new school capacity construction bonds at any time and from time to time on the full
23 faith and credit of the county to fund all county costs in providing new school capacity.

24 [(ii)] (2) The new school capacity construction bonds shall
25 constitute securities:

26 [1.] (I) In which all public officers, public bodies of the
27 State and its political subdivisions, all insurance companies, State banks and trust
28 companies, national banking associations, savings banks, savings and loan
29 associations, investment companies, executors, administrators, trustees, and other
30 fiduciaries may properly and legally invest funds including capital in their control or
31 belonging to them; and

1 [2.] (II) Which may be properly and legally deposited
2 with and received by any State or county officer, any State agency, or political
3 subdivision of the State for any purpose for which the deposit of bonds or obligations of
4 the State may be authorized by law.

5 [(iii)] (3) The issuance and sale of new school capacity
6 construction bonds under this [subsection] SECTION is exempt from the provisions of
7 Article 31, §§ 9 through 11 of the Code.

8 [(iv)] (4) The transfer of, interest on, and any income derived
9 from new school capacity construction bonds shall be exempt from State and local
10 taxation.

11 [(3) (i)] (D) (1) The County Commissioners, by [ordinance]
12 LOCAL LAW, may fix and impose a fair share school construction excise tax levied
13 against the owner of real property located in the county that is improved by new
14 residential development.

15 [(ii) 1.] (2) (I) For fiscal year 2003, the fair share school
16 construction excise tax may not exceed the following amounts:

17 [A.] 1. For a single-family detached home, \$9,700;

18 [B.] 2. For a town house, \$9,200; and

19 [C.] 3. For a multifamily housing unit, \$7,000.

20 [2.] (II) For fiscal year 2004 and succeeding fiscal years,
21 the limits set forth in [subsubparagraph 1] SUBPARAGRAPH (I) of this
22 [subparagraph] PARAGRAPH shall be altered by the same percentage as the change
23 in the producer price index for the materials and components for construction, as
24 reported by the United States Department of Labor, for the fiscal year preceding the
25 year for which the amount is being calculated.

26 [(iii)] (3) Prior to the sale or transfer of real property in
27 Charles County that is improved by new residential development, the seller or
28 transferor shall provide notice to the buyer or transferee that includes:

29 [1.] (I) A statement that the fair share school
30 construction excise tax may be levied on the property; and

31 [2.] (II) The amount of the tax for the dwelling type on
32 the property.

33 [(iv)] (4) The fair share school construction excise tax shall be:

1 [1.] (I) Collected and secured in the same manner as
2 general ad valorem taxes unless otherwise provided by [ordinance] LOCAL LAW; and

3 [2.] (II) Subject to the same penalties and the same
4 procedure, sale, and lien priority in case of delinquency as provided in general ad
5 valorem taxes.

6 [(v) 1.] (5) (I) The fair share school construction excise
7 tax shall be collected annually over a period of 10 years at level amortized payments of
8 principal and interest.

9 [2.] (II) The rate of interest payable by a property
10 owner shall be set at the rate of interest paid by the county on the new school capacity
11 construction bonds issued in the first year the excise tax is levied on that property
12 owner.

13 [(vi)] (6) The fair share school construction excise tax shall
14 constitute a lien on all taxable real or personal property of the taxpayer for a period of
15 10 years or until the lien is satisfied by repayment.

16 [(vii)] (7) The revenues from the fair share school construction
17 excise tax shall be used to pay the principal and interest as it becomes due on the new
18 school capacity construction bonds issued under [paragraph (2)] SUBSECTION (C) of
19 this [subsection] SECTION.

20 [(viii)] (8) The County Commissioners shall conduct an annual
21 study to determine the current amount of all county costs and the current pupil
22 generation rate by dwelling type in the county before setting the rate of the fair share
23 school construction excise tax.

24 [(4)] (E) The County Commissioners shall hold a public hearing and
25 provide reasonable notice of the hearing prior to:

26 [(i)] (1) Issuing new school capacity construction bonds; and

27 [(ii)] (2) Enacting [an ordinance] A LOCAL LAW to provide the
28 necessary and appropriate procedures and measures to implement the fair share
29 school construction excise tax.

30 [(5)] (F) The Charles County Commissioners shall report to the
31 General Assembly on or before August 1 each year, subject to § 2-1246 of the State
32 Government Article, on the following items, for the preceding fiscal year:

33 [(i)] (1) The amount of the tax set by the Charles County
34 Commissioners for each dwelling type;

1 [(ii)] (2) The amount of proceeds derived from the issuance
2 and sale of the county’s new school capacity construction bonds;

3 [(iii)] (3) The number of parcels of real property improved by
4 new residential development in Charles County; and

5 [(iv)] (4) The number of square feet of new public school
6 capacity approved for construction in Charles County by the Interagency Committee
7 on School Construction.

8 REVISOR’S NOTE: Chapter___, Acts of 2012, which enacted the Land Use
9 Article, also enacted this section, of which subsections (a) and (c) through
10 (f) formerly were Art. 66B, § 14.05(f).

11 Subsection (b) of this section is new language patterned after former Art.
12 66B, § 14.05(a).

13 The only changes are in style.

14 SECTION 5. AND BE IT FURTHER ENACTED, That the Laws of Maryland
15 read as follows:

16 **Article 2B – Alcoholic Beverages**

17 9–216.

18 **(G) (1) THE MONTGOMERY COUNTY BOARD OF LICENSE**
19 **COMMISSIONERS MAY ISSUE AND RENEW AN ALCOHOLIC BEVERAGES LICENSE**
20 **THAT THE BOARD PREVIOUSLY ISSUED FOR PREMISES ON WHICH A LAWFUL**
21 **NONCONFORMING USE EXISTS.**

22 **(2) THE BOARD OF LICENSE COMMISSIONERS MAY NOT ISSUE A**
23 **LICENSE THAT IS LESS RESTRICTIVE THAN ANY LICENSE THAT THE BOARD**
24 **PREVIOUSLY ISSUED FOR THE PREMISES.**

25 REVISOR’S NOTE: Chapter___, Acts of 2012, which enacted the Land Use
26 Article, also enacted this subsection, which is new language derived
27 without substantive change from former Art. 28, § 8–109(c).

28 In paragraph (1) of this subsection, the former phrase “within its
29 discretion” is deleted as surplusage.

30 SECTION 6. AND BE IT FURTHER ENACTED, That Section(s) 1–101 through
31 1–105 and 2–121 of Article 28 – Maryland–National Capital Park and Planning
32 Commission of the Annotated Code of Maryland be repealed and reenacted, with
33 amendments, and transferred to the Session Laws, to read as follows:

1 **Maryland–National Capital Park and Planning Commission**

2 [1–101.] 1.

3 The Maryland–National Capital Park and Planning Commission is continued as
4 a body corporate, to have and exercise the powers, duties, and functions provided in
5 [this article] **FORMER ARTICLE 28 OF THE CODE AND IN DIVISION II OF THE**
6 **LAND USE ARTICLE**. It is the same agency as that with the same name created by
7 Chapter 448 of the Acts of the General Assembly of Maryland of 1927, as subsequently
8 amended from time to time. Hereafter in this [article] **SUBHEADING** it may be
9 referred to as “the Commission” or as “Commission”.

10 [1–102.] 2.

11 All property of every kind belonging to or in the possession of the Commission
12 immediately prior to July 1, 1975 is not abated, but is continued in the name of the
13 Commission herein continued with the same effect as if so originally brought or begun.
14 All subsisting liabilities, obligations, contracts, claims, or demands at law or in equity
15 accrued or to accrue against the Commission or in favor of the Commission without
16 further formality or action of any kind shall be and become on July 1, 1975 the
17 liabilities, obligations, contracts, claims, or demands at law or in equity of the
18 Commission herein continued. No criminal action, prosecution, or indictment arising
19 under the laws of the Commission at any time prior to July 1, 1975 is affected by the
20 enactment of [this article] **FORMER ARTICLE 28 OF THE CODE**. Any such criminal
21 action, prosecution, or indictment shall be prosecuted under the laws in force prior to
22 July 1, 1975.

23 [1–103.] 3.

24 Nothing in [this article] **FORMER ARTICLE 28 OF THE CODE OR IN DIVISION**
25 **II OF THE LAND USE ARTICLE** may be construed to affect or impair the validity or
26 obligation of any bonds, notes, or certificates of indebtedness heretofore issued and
27 sold by the Commission under any previous statute which is amended or repealed by
28 [this article] **THOSE PROVISIONS**. All such bonds, notes, or certificates of
29 indebtedness are ratified and confirmed as the valid and binding obligations of the
30 Commission herein continued in accordance with the terms thereof, as issued upon the
31 full faith and credit of the Commission and of the county or counties guaranteeing
32 them.

33 [1–104.] 4.

34 **(A)** Nothing in [this article] **FORMER ARTICLE 28 OF THE CODE OR IN**
35 **DIVISION II OF THE LAND USE ARTICLE** may impair the continued and entire
36 effectiveness of any ordinance, order, regulation, resolution, adoption, certification,
37 decision, determination, plan, map, plat, or other action duly and validly enacted,

1 adopted, made, or taken by the County [Commissioners] **COUNCIL** or district council
2 of Prince George's County, or by the County Council or district council of Montgomery
3 County, or by the Commission, or by the board of zoning appeals of Prince George's
4 County, or by the county board of appeals of Montgomery County, or by any other body
5 or official under the authority of any law previously repealed, prior to the effective
6 date of the repeal, unless the ordinance, order, regulation, resolution, adoption,
7 certification, decision, determination, plan, map, plat, or other action may be
8 amended, repealed, revoked, or otherwise changed under and in accordance with the
9 provisions of [this article] **FORMER ARTICLE 28 OF THE CODE OR OF DIVISION II**
10 **OF THE LAND USE ARTICLE.**

11 **(B)** Nothing contained in [this article] **FORMER ARTICLE 28 OF THE CODE**
12 **OR IN DIVISION II OF THE LAND USE ARTICLE** may be deemed or construed to
13 validate, ratify, legalize, or make conforming any building, structure, or use which
14 was, is, or may hereafter be unlawful or prohibited under the provisions of any
15 ordinance, order, regulation, resolution, adoption, certification, decision,
16 determination, plan, map, plat, or other action enacted, adopted, made, or taken by
17 the County Council or district council of Montgomery County or by the County
18 [Commissioners] **COUNCIL** or district council of Prince George's County, or by the
19 Commission, or by the board of zoning appeals of Prince George's County, or by the
20 county board of appeals of Montgomery County, or by any other body or official under
21 the authority of any law previously repealed, previous to the time the repeal took
22 effect.

23 **[1-105.] 5.**

24 Any zoning ordinance, regulation, resolution, amendment or change, report,
25 zoning map, or other zoning action enacted, adopted, made, or taken prior to April 29,
26 1977, by the County Council of Montgomery County or the County Council of Prince
27 George's County, acting respectively as the district councils of the regional district, or
28 by the Commission under any applicable laws, are approved, ratified, validated, and
29 confirmed, notwithstanding any defect in the procedure followed in the enactment,
30 adoption, making, or taking of such ordinance, regulation, resolution, amendment or
31 change, report, zoning map, or other zoning action, or any failure strictly to conform to
32 or comply with the procedure specified in the applicable laws; any zoning map
33 amendment enacted by resolution prior to April 29, 1977, by the County Council of
34 Montgomery County or the County Council of Prince George's County, acting
35 respectively as the district councils of the regional district are hereby ratified,
36 confirmed and validated.

37 **[2-121.] 6.**

38 All laws or parts of laws inconsistent with or contrary to the provisions in [this
39 article] **FORMER ARTICLE 28 OF THE CODE OR IN DIVISION II OF THE LAND USE**
40 **ARTICLE** are repealed to the extent of the inconsistency.

1 REVISOR'S NOTE: These sections are new language derived without
2 substantive change from former Art. 28, §§ 1-101, 1-102, 1-103, 1-104,
3 1-105, and 2-121.

4 Former Art. 28, § 1-101, which provided for the continuity of the
5 Maryland-National Capital Park and Planning Commission in the
6 recodification of the Public Local Laws governing the Commission as
7 Article 66D of the Annotated Code of Maryland in 1975, and the
8 renumbering of that article as Article 28 in 1983, is not retained in the
9 Code because it is apparently obsolete. It is transferred to the Session
10 Laws to avoid any inadvertent substantive effect that its repeal might
11 have. *See* Ch. 892 of 1975 and Ch. 57 of 1983.

12 Former Art. 28, § 1-102, which provided for the continuity of certain
13 property, rights, and actions, is not retained in the Code because it
14 applies, if at all, to a diminishing class of legal rights, liabilities,
15 responsibilities, and actions arising before July 1, 1975, and July 1, 1983.
16 It is transferred to the Session Laws to avoid any inadvertent substantive
17 effect that its repeal might have. *See* Ch. 892 of 1975 and Ch. 57 of 1983.

18 Former Art. 28, § 1-103, which provided for the continuity of certain
19 bonds, is not retained in the Code because it applies, if at all, only to a
20 small class of outstanding bonds issued by the Commission before July 1,
21 1975, or July 1, 1983. It is transferred to the Session Laws to avoid any
22 inadvertent substantive effect that its repeal might have. *See* Ch. 892 of
23 1975 and Ch. 57 of 1983.

24 Former Art. 28, § 1-104, which provided for the continuity of certain
25 actions, is not retained in the Code because it applies, if at all, to a
26 diminishing number of outstanding ordinances, resolutions, decisions,
27 and related actions taken by the local governing bodies of Montgomery
28 County and Prince George's County before the recodification of the Public
29 Local Laws governing the Commission as Article 66D of the Annotated
30 Code of Maryland in 1975, and the renumbering of that article as Article
31 28 in 1983. It is transferred to the Session Laws to avoid any inadvertent
32 substantive effect that its repeal might have. *See* Ch. 892 of 1975 and Ch.
33 57 of 1983.

34 Former Art. 28, § 1-105, which validated certain zoning actions, is not
35 retained in the Code because it applied only to the recodification of the
36 Public Local Laws governing the Commission as Article 66D of the
37 Annotated Code of Maryland in 1975, and the renumbering of that article
38 as Article 28 in 1983, with a technical correction in 1977. It is transferred
39 to the Session Laws to avoid any inadvertent substantive effect that its
40 repeal might have. *See* Ch. 892 of 1975, Ch. 283 of 1977, and Ch. 57 of
41 1983.

1 Former Art. 28, § 2–121, which provided that all laws or parts of laws
 2 inconsistent with or contrary to the provisions in Article 28 were repealed
 3 to the extent of the inconsistency, is not retained in the Code because it
 4 applied to the recodification of the Public Local Laws governing the
 5 Commission as Article 66D of the Annotated Code of Maryland in 1975,
 6 and the renumbering of that article as Article 28 in 1983. It is transferred
 7 to the Session Laws to avoid any inadvertent substantive effect that its
 8 repeal might have. *See* Ch. 892 of 1975 and Ch. 57 of 1983.

9 SECTION 7. AND BE IT FURTHER ENACTED, That Section(s) 4–105(b) of
 10 Article 28 – Maryland–National Capital Park and Planning Commission of the
 11 Annotated Code of Maryland be repealed and reenacted, with amendments, and
 12 transferred to the Session Laws, to read as follows:

13 **Prior Acquisition Contracts**

14 **[4–105.] 1.**

15 **[(b)]** Any contract or commitment with respect to the acquisition of park lands
 16 within the **[metropolitan district] MARYLAND–WASHINGTON METROPOLITAN**
 17 **DISTRICT**, entered into by the **MARYLAND–NATIONAL CAPITAL PARK AND**
 18 **PLANNING** Commission prior to the year 1947 pursuant to any act of the General
 19 Assembly of Maryland enacted prior thereto, is validated and approved and declared
 20 to be binding, in accordance with its terms, upon the State of Maryland, the
 21 Commission, and Montgomery County or **[the County Commissioners of]** Prince
 22 George’s County.

23 REVISOR’S NOTE: This section is new language derived without substantive
 24 change from former Art. 28, § 4–105(b).

25 Former Art. 28, § 4–105(b), which provided for the continuity of certain
 26 contracts entered into before 1947, is not retained in the Code because it
 27 is apparently obsolete. It is transferred to the Session Laws to avoid any
 28 inadvertent substantive effect its repeal might have.

29 SECTION 8. AND BE IT FURTHER ENACTED, That Section(s) 5–110(a) of
 30 Article 28 – Maryland–National Capital Park and Planning Commission of the
 31 Annotated Code of Maryland be repealed and reenacted, with amendments, and
 32 transferred to the Session Laws, to read as follows:

33 **Long–Term Leases**

34 **[5–110.] 1.**

35 **[(a)]** The Commission may (1) lease for a term not exceeding 40 years and
 36 renew the lease from time to time for additional terms not exceeding ten years each, to

1 any responsible individual, partnership or corporation, any portion of the lands within
2 the metropolitan district, acquired for park purposes under any of the provisions of
3 this article. The Commission may not enter into any lease agreement in excess of 20
4 years duration without the prior approval of the provisions of the lease by legislative
5 enactment of the county in which the lease property is located in whole or in part.
6 Further, all such lease agreements shall contain provisions for reversion without cost
7 to the Commission of the property and its improvements regardless of whether the
8 improvements were added to the property by the lessee during the term of the lease or
9 any extension of the lease; and/or (2) grant privileges, permits, and/or concessions,
10 and/or enter into contracts relating to the same, with any responsible individual,
11 partnership, or corporation, to engage in any business or enterprise on lands acquired
12 for park purposes within the metropolitan district under any of the provisions of this
13 article; all on terms and conditions the Commission deems advantageous to the
14 development of the park system as a part of the plan for the physical development of
15 the metropolitan district and the plan of the Maryland–Washington Regional District
16 within the metropolitan district. The purpose for which the property is leased, and/or
17 the privileges, permits, and/or concessions are granted, may not be inconsistent with
18 the use of the property for park purposes. Any lease and/or contract executed under
19 the authority of this section shall contain a condition, stating specifically the purposes
20 for which the property is leased, and/or the privilege, permit, or concession is granted.
21 All agreements entered into by the Commission pursuant to this article shall contain
22 provisions forbidding the assignment of the agreement without the consent of the
23 Commission. This article may not be interpreted as a limitation on the Commission’s
24 authority to require in any agreement more restrictive provisions deemed by the
25 Commission to be in the public interest.] The provisions of [this article] **FORMER**
26 **ARTICLE 28 OF THE CODE OR OF DIVISION II OF THE LAND USE ARTICLE** may
27 not be construed to validate any lease or agreement executed prior to July 1, 1972,
28 which provides for an initial term beyond 20 years duration, nor to permit the
29 renegotiation of any lease or agreement executed prior to July 1, 1972, for the purpose
30 of extending the initial term of the lease beyond 20 years duration. This limitation
31 does not apply to any lease with a nonprofit, service–oriented organization.

32 REVISOR’S NOTE: This section is new language derived without substantive
33 change from the eighth and ninth sentences of former Art. 28, § 5–110(a).

34 The eighth and ninth sentences of former Art. 28, §
35 5–110(a), which limited the validation and renegotiation of certain leases
36 and agreements executed before July 1, 1972, are not retained in the
37 Code because they are apparently obsolete. They are transferred to the
38 Session Laws to avoid any inadvertent substantive effect their repeal
39 might have.

40 SECTION 9. AND BE IT FURTHER ENACTED, That Section(s) 5–106(d) of
41 Article 28 – Maryland–National Capital Park and Planning Commission of the
42 Annotated Code of Maryland be repealed and reenacted, with amendments, and
43 transferred to the Session Laws, to read as follows:

Jesup Blair Park

[5-106.] 1.

[(d)] The **MARYLAND-NATIONAL CAPITAL PARK AND PLANNING** Commission may have a proper survey made and ascertain and determine the boundaries of the land referred to in the devise **OF JESUP BLAIR PARK**; and record the survey and the boundaries in the land records of Montgomery County; and mark the boundaries in a suitable manner.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5-106(d).

Former Art. 28, § 5-106(d), which required the Commission to have a survey made and mark certain boundaries, is not retained in the Code because it is apparently obsolete, the survey and marks having already been completed. It is transferred to the Session Laws to avoid any inadvertent substantive effect its repeal might have.

SECTION 10. AND BE IT FURTHER ENACTED, That Section(s) 2-118(a)(1) of Article 28 – Maryland-National Capital Park and Planning Commission of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to the Session Laws, to read as follows:

Budget Programs and Procedures

[2-118.] 1.

[(a)] None of the provisions of any public general law governing the preparation and filing of budgets by agencies of the State of Maryland are applicable to the budgetary procedure of the Commission.] Except as hereinafter provided, the budget programs and procedures heretofore followed by the Commission are ratified and confirmed and approved for use by the **MARYLAND-NATIONAL CAPITAL PARK AND PLANNING** Commission hereafter, together with such improvements therein as, in the discretion of the **MARYLAND-NATIONAL CAPITAL PARK AND PLANNING** Commission, be deemed necessary or appropriate in the public interest.

[(1)] For each fiscal year, beginning on July 1 and ending on June 30 of the subsequent year, the Commission shall prepare an annual capital and operating budget which shall contain, separately for each county where items are so allocable for which a tax is levied, the proposed expenditures and estimates of revenue anticipated. The proposed budget shall be established as hereinafter set forth. The Commission's budget shall include for each county within the regional district a complete planning work program including a schedule for the production of all plans and amendments, hereinafter called the planning schedule of the Commission. The budget shall contain items allocable to both counties including provisions for the operation of the

1 departments of the Commission established pursuant to law and the regional planning
 2 program. The budget shall also contain a schedule of recreation activities and
 3 programs for Prince George's County in accordance with § 5–207 of this article.]

4 REVISOR'S NOTE: This section is new language derived without substantive
 5 change from former Art. 28, § 2–118(a)(1).

6 The second sentence of the introductory language to former Art. 28, §
 7 2–118(a), which provided for the continuity of certain budget programs
 8 and procedures, is not retained in the Code because it applies, if at all, to
 9 a diminishing number of programs and procedures of the
 10 Maryland–National Capital Park and Planning Commission as of July 1,
 11 1975. It is transferred to the Session Laws to avoid any inadvertent
 12 substantive effect that its repeal might have. *See* Ch. 892 of 1975 and Ch.
 13 57 of 1983.

14 For the revision of the first sentence of the introductory language to
 15 former Art. 28, § 2–118(a), *see* LU § 18–101.

16 SECTION 11. AND BE IT FURTHER ENACTED, That Section(s) 3–102
 17 through 3–107 of Article 28 – Maryland–National Capital Park and Planning
 18 Commission of the Annotated Code of Maryland be repealed and reenacted, with
 19 amendments, and transferred to the Session Laws, to read as follows:

20 **Maryland–Washington Metropolitan District Boundaries**

21 [3–102.] 1.

22 (a) The boundaries of the [metropolitan district]
 23 MARYLAND–WASHINGTON METROPOLITAN DISTRICT are as follows:

24 Beginning at a point where the Maryland–District of Columbia boundary line,
 25 in Montgomery County, intersects with the Maryland–Virginia boundary line on the
 26 southwest side of the Potomac River and running thence in a northwesterly direction
 27 about 12.5 miles along the said boundary line to its intersection with a straight line
 28 produced southwesterly from the intersection of the centers of Falls Road and the road
 29 running westerly and northwesterly from Scotland, at Wayside School, through Oak
 30 Spring Lock Triangulation Station; thence northeasterly about 5.3 miles along the
 31 aforesaid straight line extended to its intersection with a line 300 feet east of and
 32 parallel to the center of Seven Locks Road; thence southerly about 0.1 mile along the
 33 aforesaid line to its intersection with a line 300 feet north of and parallel to the center
 34 of the Montrose Road, which road runs generally easterly from Seven Locks Road to
 35 Randolph; thence easterly about 2.7 miles along the aforesaid line to its intersection
 36 with a line 300 feet southwest of and parallel to the center of the
 37 Rockville–Washington Road; thence northwesterly about 2.3 miles along the aforesaid
 38 line to its intersection with the southern boundary of the Town of Rockville, as defined
 39 by §§ 902, 903, 904 and 905 of Article 16 of the Code of Public Local Laws of Maryland

1 (1939 Edition) and amended by Chapters 203 and 204 of the Laws of Maryland of
2 1941; thence easterly, southeasterly and northwesterly about 1.9 miles along the
3 aforesaid boundary to its intersection with a line 300 feet north of and parallel to the
4 center of the Rockville–Norbeck Road; thence northeasterly about 4.2 miles along the
5 aforesaid line to its intersection with a line 300 feet west of and parallel to the center
6 of the Norbeck–Olney Road; thence northerly about 0.1 mile along the aforesaid line to
7 its intersection with the prolongation of a line 300 feet northwest of and parallel to the
8 center of the Norbeck–Ednor Road; thence northeasterly and easterly about 3.1 miles
9 along the aforesaid line to its intersection with a line 300 feet northeast of and parallel
10 to the center of the Olney–Norwood–Beltsville Road; thence southeasterly about 2.0
11 miles along the aforesaid line to its intersection with a line 300 feet northwest of and
12 parallel to the center of the Colesville–Ednor Road; thence northeasterly about 0.3
13 mile along the aforesaid line to its intersection with the prolongation of a line 300 feet
14 northeast of and parallel to the center of the continuation of the
15 Olney–Norwood–Beltsville Road, also known as the Briggs–Chaney Road; thence
16 southeasterly about 2.2 miles along the aforesaid line extended to its intersection with
17 a line 300 feet southeast of and parallel to the center of the Columbia Road; thence
18 southerly about 0.1 mile along the aforesaid line to its intersection with a line 300 feet
19 northeast of and parallel to the center of the continuation of the
20 Olney–Norwood–Beltsville Road; thence southeasterly about 1.6 miles along the
21 aforesaid line to its intersection with the Montgomery–Prince George’s County line;
22 thence southwesterly about 2.9 miles along the aforesaid county line to its intersection
23 with the present dividing line between Election District No. 1 (Vansville) and Election
24 District No. 21 (Berwyn) in Prince George’s County; thence southeasterly about 1.7
25 miles along the aforesaid line to its intersection with the centerline of Little Paint
26 Branch; thence northerly about 2.6 miles along the aforesaid line to its intersection
27 with the original centerline of the Colesville–Beltsville Road, also known as the Odell
28 Road; thence easterly and southeasterly about 2.0 miles along the aforesaid line to its
29 intersection at Vansville with the centerline of the Old Washington–Baltimore Road;
30 thence southwesterly about 0.2 mile along the aforesaid line to its intersection with
31 the original centerline of a road running southerly to Edmonston Road; thence
32 southerly about 1.3 miles along the aforesaid line to its intersection with the
33 centerline of Sunnyside Avenue; thence westerly about 0.1 mile along the aforesaid
34 line to its intersection with the centerline of Indian Creek; thence southerly about 1.2
35 miles along the aforesaid line to its intersection with the centerline of a small branch
36 running easterly to Edmonston Road, approximately 0.7 mile south of the entrance to
37 Beaverdam Creek; thence easterly about 0.7 mile along the aforesaid line to its
38 intersection with the centerline of Edmonston Road; thence northeasterly about 0.1
39 mile along the aforesaid line to its intersection with a line drawn due north from the
40 point of intersection of the centers of Good Luck Road and Jefferson Avenue,
41 approximately 1.2 miles east of Edmonston Road; thence due south about 2.3 miles
42 along the aforesaid line to its intersection with a line 300 feet north of and parallel to
43 the center of the Branchville–Glendale Road; thence easterly about 2.2 miles along the
44 aforesaid line to its intersection with the centerline of a road running northerly from
45 Lanham; thence southerly about 1.0 mile along the aforesaid line to its intersection
46 with the centerline of National Defense Highway, thence easterly about 0.4 mile along
47 the aforesaid line to its intersection with the centerline of Bald Hill Branch; thence

1 southeasterly about 1.4 miles along the aforesaid line to its intersection with the
2 centerline of the George N. Palmer Highway; thence southwesterly about 1.3 miles
3 along the aforesaid line to its intersection with the centerline of the
4 Ardmore–Brightseat Road; thence southerly about 1.5 miles along the aforesaid line to
5 its intersection with the centerline of the Landover–Brightseat Road; thence
6 southeasterly about 0.4 mile along the aforesaid line to its intersection with the
7 centerline of the C. M. Roberts private road; thence southerly about 1.8 miles along
8 the aforesaid line to its intersection with the centerline of Central Avenue; thence
9 westerly about 0.5 mile along the aforesaid line to its intersection with the centerline
10 of the Ritchie Road, which road forms the eastern boundary line of Election District
11 No. 18 (Seat Pleasant); thence southerly, southwesterly, and westerly about 4.3 miles
12 along the aforesaid boundary line to its intersection at Oakland with the centerline of
13 the Washington and Marlboro Road; thence due southwest about 300 feet to a line 300
14 feet southwest of and parallel to the aforesaid road; thence northeasterly about 1.2
15 miles along the aforesaid line to its intersection with the Maryland–District of
16 Columbia boundary line; thence due northeast about 1.7 miles along the aforesaid
17 boundary line to the eastern corner of the District of Columbia; thence due northwest
18 10.0 miles along the aforesaid boundary line to the northern corner of the District of
19 Columbia; thence due southwest about 6.0 miles along the aforesaid boundary line to
20 the place of beginning.

21 (b) (1) The [metropolitan district] **MARYLAND–WASHINGTON**
22 **METROPOLITAN DISTRICT** shall include all of Prince George’s County except for
23 those areas excluded under this subsection.

24 (2) The [metropolitan district] **MARYLAND–WASHINGTON**
25 **METROPOLITAN DISTRICT** does not include the following municipal corporations, as
26 the municipal corporations’ boundaries were defined as of July 1, 1995:

27 (i) District Heights; and

28 (ii) Greenbelt.

29 (3) The [metropolitan district] **MARYLAND–WASHINGTON**
30 **METROPOLITAN DISTRICT** does not include the City of Laurel as its municipal
31 corporate boundaries existed on July 1, 1997.

32 (4) The [metropolitan district] **MARYLAND–WASHINGTON**
33 **METROPOLITAN DISTRICT** does not include the following election districts, as the
34 election districts’ boundaries were defined as of July 1, 1966:

35 (i) Election District No. 4; and

36 (ii) Election District No. 8.

1 (c) Notwithstanding the provisions of subsection (b) of this section, in Prince
2 George's County, a public service company, as defined in § 8–401 of the Tax – General
3 Article, may not be excluded from the [metropolitan district]
4 **MARYLAND–WASHINGTON METROPOLITAN DISTRICT.**

5 REVISOR'S NOTE: This section formerly was Art. 28, § 3–102.

6 It is not retained in the Code because the boundaries of the metropolitan
7 district rarely change and having them in the Session Laws will be
8 adequate to maintain their legal status while not confusing users of the
9 Annotated Code. It is transferred to the Session Laws to avoid any
10 inadvertent substantive effect that its repeal might have.

11 The only changes are in style.

12 [3–103.] 2.

13 (a) All of the area of Montgomery County not included within the
14 Maryland–Washington Metropolitan District as it is now or may hereafter be defined,
15 with the exception of the area now or hereafter located within the boundaries of
16 municipal corporations as defined in Article 23A, § 9 of the Code, is hereby added to
17 the Maryland–Washington Metropolitan District and is designated the “Upper
18 Montgomery County Metropolitan District”. For purposes of taxation, this shall
19 constitute a special taxing district in which the Montgomery County Council is
20 authorized to levy annually a tax of not to exceed 2 cents on each \$100 of assessable
21 real property within the Upper Montgomery County Metropolitan District and 5 cents
22 on each \$100 of assessable personal property and operating real property described in
23 § 8–109(c) of the Tax – Property Article within the Upper Montgomery County
24 Metropolitan District, which tax shall be collected and paid over to the
25 Maryland–National Capital Park and Planning Commission and shall be expended by
26 the Commission for the acquisition, maintenance and development of parks and
27 playgrounds in the Upper Montgomery County Metropolitan District, provided that no
28 part of the revenue derived from such tax shall be expended for the amortization of
29 bonds or other certificates of indebtedness.

30 (b) That portion of the Maryland–Washington Metropolitan District in
31 Montgomery County existing prior to April 28, 1959, and including any extensions
32 that may be made to it from time to time, for purposes of distinction is designated and
33 shall be known as the “Lower Montgomery County Metropolitan District” and shall in
34 all other respects be unaffected by the provisions of this section.

35 REVISOR'S NOTE: This section formerly was Art. 28, § 3–103.

36 It is not retained in the Code because the boundaries of the metropolitan
37 district rarely change and having them in the Session Laws will be
38 adequate to maintain their legal status while not confusing users of the

1 Annotated Code. It is transferred to the Session Laws to avoid any
2 inadvertent substantive effect that its repeal might have.

3 No changes are made.

4 **[3-104.] 3.**

5 All that area located within the corporate limits of the City of Rockville is
6 excluded from the [metropolitan district] **MARYLAND-WASHINGTON**
7 **METROPOLITAN DISTRICT**, any other provisions of this [title] **SUBHEADING** to the
8 contrary notwithstanding.

9 REVISOR'S NOTE: This section formerly was Art. 28, § 3-104.

10 It is not retained in the Code because the boundaries of the metropolitan
11 district rarely change and having them in the Session Laws will be
12 adequate to maintain their legal status while not confusing users of the
13 Annotated Code. It is transferred to the Session Laws to avoid any
14 inadvertent substantive effect that its repeal might have.

15 The only changes are in style.

16 **[3-105.] 4.**

17 (a) The following described areas within Montgomery County are hereby
18 added to the Lower Montgomery County Metropolitan District:

19 Beginning at a point on the Rockville Pike (Md. Route 355) lying 0.72 mile north
20 of the intersection of said Rockville Pike and Norris Street, and continuing in a
21 northwesterly direction 1.57 miles along Rockville Pike (Md. Route 355) to Shady
22 Grove Road.

23 Thence northerly along Shady Grove Road .80 mile to the grade crossing over
24 the B & O Railroad.

25 Thence crossing the B & O Railroad and continuing northeasterly .10 mile to
26 the corporate limits of Washington Grove.

27 Thence along the eastern and northern corporate limits of Washington Grove
28 1.00 mile to the intersection with the Gaithersburg-Laytonsville Road (Md. Route
29 124).

30 Thence northerly on the Gaithersburg-Laytonsville Road (Md. Route 124) 2.59
31 miles to the intersection with Warfield Road.

32 Thence northeasterly along the Warfield Road 1.10 miles to the Laytonsville
33 corporate limits (at Claysville Road).

1 Thence southeasterly along the Claysville Road (Md. Route 108) 5.48 miles to
2 the intersection with Georgia Avenue (Md. Route 97) at Olney.

3 Thence southerly along Georgia Avenue (Md. Route 97) 3.03 miles to the
4 intersection with the existing Maryland–Washington Metropolitan District line
5 approximately 300 feet north of the intersection with the Norwood Road (Md. Route
6 609).

7 Thence southwesterly along the existing Maryland–Washington Metropolitan
8 District line which is parallel to, and 300 feet north of, the Norbeck Road (Md. Route
9 28), approximately 2.66 miles to a point where the existing [metropolitan district]
10 **MARYLAND–WASHINGTON METROPOLITAN DISTRICT** line intersects the
11 maximum expansion line of Rockville, said point lying approximately 1200 feet
12 southwest along the existing Maryland–Washington Metropolitan District line from
13 the easterly 1010.63 foot line of the property of J. B. and M. C. Shapiro as recorded at
14 Liber 1827, Folio 82 of the land records of Montgomery County, Maryland.

15 Thence proceeding with the said Rockville and Maryland–Washington
16 Metropolitan District expansion line N 37° 30' W, 1930 feet to a point.

17 Thence turning and continuing with said Rockville and Maryland–Washington
18 Metropolitan District expansion line N 66° W, 2250 feet to a point.

19 Thence turning and continuing in a northerly direction with said Rockville and
20 Maryland–Washington Metropolitan District expansion line, said line being also the
21 west boundary of the Francis Horner property as recorded at Liber 624, Folio 148 of
22 the land records of Montgomery County, Maryland, 1848 feet to a point.

23 Thence turning and leaving said Francis Horner property and with said
24 Rockville and Maryland–Washington Metropolitan District expansion line in a
25 northwesterly direction, 565 feet, said line being also the south property line of the A.
26 H. Lagasse property as recorded at Liber 1031, Folio 233 of the land records of
27 Montgomery County, Maryland.

28 Thence turning and continuing with said Rockville and Maryland–Washington
29 Metropolitan District expansion line and leaving the A. H. Lagasse property line, S 46°
30 30' W, 710 feet to a point on the northerly line of the Daisy P. Hull property as
31 recorded at Liber 916, Folio 225 of the land records of Montgomery County, Maryland.

32 Thence turning and continuing with said Rockville and Maryland–Washington
33 Metropolitan District expansion line along said northerly property line of said Daisy P.
34 Hull property N 44° 30' W, 1110 feet to a point lying within the boundary of Michael
35 Pakneck property as recorded at Liber 1230, Folio 577 of the land records of
36 Montgomery County, Maryland.

1 Thence turning and continuing with said Rockville and Maryland–Washington
2 Metropolitan District expansion line in a southwesterly direction 2650 feet to a point
3 on the east property line of A. Gude Sons Company as recorded at Liber 382, Folio 371
4 of the land records of Montgomery County, Maryland.

5 Thence turning and continuing with said Rockville and Maryland–Washington
6 Metropolitan District expansion line along said easterly line of A. Gude Sons property
7 in a southerly direction, 264 feet to the southeast corner of said A. Gude Sons
8 property.

9 Thence turning and continuing with said Rockville and Maryland–Washington
10 Metropolitan District expansion line with the southerly property line of said A. Gude
11 Sons property in a northwesterly direction, 1619 feet to a point.

12 Thence turning and continuing with said Rockville and Maryland–Washington
13 Metropolitan District expansion line and still with A. Gude Sons southerly property
14 line in a northerly direction 757.30 feet to a point.

15 Thence turning and continuing with said Rockville and Maryland–Washington
16 Metropolitan District expansion line and still with A. Gude Sons southerly property
17 line, in a westerly direction crossing the Baltimore and Ohio Railroad right-of-way,
18 2450 feet to a point of intersection of the Maryland–Washington Metropolitan District
19 expansion line, said point being the point of beginning, lying on the Rockville Pike
20 (Maryland Route 355).

21 (b) No municipal corporation within the areas added by this section to the
22 Maryland–Washington Metropolitan District shall be authorized, by means of an
23 amendment to its charter or otherwise, to exercise any of the powers relating to
24 planning, subdivision control and/or zoning now or hereafter granted to the
25 Maryland–National Capital Park and Planning Commission or the County Council of
26 Montgomery County. If this section shall for any reason be held by any court of
27 competent jurisdiction to be invalid, it is hereby declared to be the intention of the
28 General Assembly that this section would have been enacted without the invalid
29 portion.

30 REVISOR'S NOTE: This section formerly was Art. 28, § 3–105.

31 It is not retained in the Code because the boundaries of the metropolitan
32 district rarely change and having them in the Session Laws will be
33 adequate to maintain their legal status while not confusing users of the
34 Annotated Code. It is transferred to the Session Laws to avoid any
35 inadvertent substantive effect that its repeal might have.

36 The only change is in style.

37 [3–106.] 5.

1 The boundaries of Lower Montgomery County Metropolitan District are
2 extended by the addition thereto of the three (3) following described areas which said
3 areas shall hereafter become integral portions of the [metropolitan district]
4 **MARYLAND-WASHINGTON METROPOLITAN DISTRICT:**

5 (1) All of the Rockville Election District (No. 4) not previously included
6 within said district, excepting therefrom however all the area located within the
7 corporate limits of the City of Rockville as of October 1, 2007, and any area annexed
8 into the City of Rockville on any subsequent date in accordance with Article 23A, § 19
9 of the Code.

10 (2) All of the Gaithersburg Election District (No. 9) not previously
11 included within said district, excepting therefrom however all the area located within
12 the corporate limits of the City of Gaithersburg and the Town of Washington Grove as
13 of October 1, 2007, and any area annexed into the City of Gaithersburg or the Town of
14 Washington Grove on any subsequent date in accordance with Article 23A, § 19 of the
15 Code.

16 (3) All of the Colesville Election District (No. 5) not previously
17 included within said district.

18 REVISOR'S NOTE: This section formerly was Art. 28, § 3-106.

19 It is not retained in the Code because the boundaries of the metropolitan
20 district rarely change and having them in the Session Laws will be
21 adequate to maintain their legal status while not confusing users of the
22 Annotated Code. It is transferred to the Session Laws to avoid any
23 inadvertent substantive effect that its repeal might have.

24 The only change is in style.

25 [3-107.] **6.**

26 The boundaries of the Lower Montgomery County Metropolitan District are
27 extended by the addition thereto of all of that area within Montgomery County which,
28 until May 4, 1965, was in the Upper Montgomery County Metropolitan District.

29 REVISOR'S NOTE: This section formerly was Art. 28, § 3-107.

30 It is not retained in the Code because the boundaries of the metropolitan
31 district rarely change and having them in the Session Laws will be
32 adequate to maintain their legal status while not confusing users of the
33 Annotated Code. It is transferred to the Session Laws to avoid any
34 inadvertent substantive effect that its repeal might have.

1 For the incorporation of the Upper Montgomery County Metropolitan
2 District into the Lower Montgomery County Metropolitan District, *see*
3 Ch. 365, Acts of 1965.

4 No changes are made.

5 SECTION 12. AND BE IT FURTHER ENACTED, That Section(s) 8–115(c) of
6 Article 28 – Maryland–National Capital Park and Planning Commission of the
7 Annotated Code of Maryland be repealed and reenacted, with amendments, and
8 transferred to the Session Laws, to read as follows:

9 **Prince George’s County Building Codes**

10 [8–115.] 1.

11 [(c)] [Following the adoption of any rules or regulations, the County
12 Commissioners of Prince George’s County shall cause the rules and regulations
13 adopted by it to be recorded in a book or books kept by it for that purpose in its office,
14 and when recorded all persons shall be deemed and taken to have notice thereof, and
15 no actual notice need be proven. It is further the duty of the County Commissioners to
16 cause to be printed for general distribution a sufficient number of copies of the rules
17 and regulations when adopted and recorded, and the printed copy of the rules and
18 regulations shall be prima facie evidence thereof whenever it may be necessary to
19 prove their existence in any judicial proceedings.] The rules and regulations [now] in
20 force in that portion of the regional district within Prince George’s County **BEFORE**
21 **MAY 7, 1943**, shall be deemed to have been adopted as aforesaid.

22 REVISOR’S NOTE: This section is new language derived without substantive
23 change from the third sentence of former Art. 28, § 8–115(c).

24 The third sentence of former Art. 28, § 8–115(c), which provided for the
25 continuity of certain rules and regulations in force in Prince George’s
26 County before May 7, 1943, is not retained in the Code because it is
27 apparently obsolete. It is transferred to the Session Laws to avoid any
28 inadvertent substantive effect its repeal might have. *See* Ch. 714, Acts of
29 1939; § 2HH of Ch. 992, Acts of 1943.

30 SECTION 13. AND BE IT FURTHER ENACTED, That Section(s) 7–108(d)(2)(i)
31 and (3) of Article 28 – Maryland–National Capital Park and Planning Commission of
32 the Annotated Code of Maryland be repealed and reenacted, with amendments, and
33 transferred to the Session Laws, to read as follows:

34 **Prior Plans and Laws**

35 [7–108.] 1.

1 [(d) (2) (i)] (A) [The district council shall establish by ordinance or
2 subsequent amendment thereto, after public hearing, (30 days' notice of the time and
3 place of which shall be given by at least one publication in a newspaper of general
4 circulation in the county), procedures for the submission, adoption, approval, and
5 amendment of any plan or part thereof by the Commission. The procedures may
6 include requirements for submission to and approval by the district council of
7 preliminary concepts, guidelines, goals, or plans. The procedures shall include
8 provision for adoption and amendment of plans by the Commission after at least one
9 public hearing thereon, 30 days' notice of the time and place which shall be given by at
10 least one publication in a newspaper of general circulation in the county. They may
11 also include procedures for the approval of each plan or amendment thereto by the
12 district council; and shall include a method for the certification and filing of the plan
13 by the Commission in the office of the clerk of the Circuit Court of Montgomery County
14 and provisions for publication by the Commission of adopted and approved plans.] Any
15 plans [heretofore] adopted **BEFORE OCTOBER 1, 1959**, shall remain in effect
16 according to present provisions unless or until amended or superseded pursuant to
17 procedures established under the provisions of [this article] **FORMER ARTICLE 28 OF**
18 **THE CODE OR OF DIVISION II OF THE LAND USE ARTICLE**. The existing
19 provisions of the Maryland–Washington Regional District Law (§ 63 of Chapter 780 of
20 the Laws of Maryland 1959, as amended) repealed by Chapter 711 of the Laws of
21 Maryland 1969 relating to procedural matters shall remain in full force and effect
22 unless or until specifically superseded or amended in accordance with the power and
23 authority granted herein. [This subsection is intended to vest control over planning
24 procedures in the respective district councils, to the extent that control is not
25 inconsistent with other provisions of the Regional District Act, and nothing contained
26 herein shall be deemed to authorize any transfer or dilution of planning authority and
27 responsibility now vested in the Commission, planning boards, and district councils.]

28 [(3)] (B) [The district council shall establish by ordinance or
29 subsequent amendment thereto after public hearing (30 days' notice of the time and
30 place of which shall be given by at least one publication in a newspaper of general
31 circulation in the county), procedures for initiation, submission and adoption, and
32 amendment of any plan or part thereof by the Commission, and for the approval or
33 amendment of any plan or part thereof by the district council. The procedures shall
34 include requirements for approval by the district council of preliminary concepts,
35 guidelines, and goals. The procedures shall include review of preliminary plans by the
36 district council and the County Executive, to identify any inconsistencies between the
37 plan and existing or proposed State or county facilities including roads, highways, or
38 other public facilities. In the event any inconsistencies are revealed, the district
39 council shall direct the Commission on how the inconsistencies shall be eliminated or
40 accommodated within the plan. The procedures shall provide for one or more public
41 hearings on the plan to be held jointly by the Commission and the district council, at
42 the direction of the district council, after 30 days' notice by publication in a newspaper
43 of general circulation in the county. The procedures shall include provision for
44 adoption and amendment of plans by the Commission after the hearing, and for the
45 amendment and approval of the plan by the district council. The procedures shall

1 include a method for the certification and filing of an approved plan in the office of the
 2 clerk of the Circuit Court for Prince George's County, and provisions for publication by
 3 the Commission of adopted and approved plans.]

4 Any plans [heretofore] adopted **BEFORE OCTOBER 1, 1959**, shall remain in
 5 effect according to present provisions unless or until amended or superseded pursuant
 6 to procedures established under the provisions of [this article] **FORMER ARTICLE 28**
 7 **OF THE CODE OR OF DIVISION II OF THE LAND USE ARTICLE**. The existing
 8 provisions of the Maryland–National Regional District Law (§ 63 of Chapter 780 of the
 9 Laws of Maryland 1959, as amended) repealed by Chapter 711 of the Laws of
 10 Maryland 1969 relating to procedural matters shall remain in full force and effect
 11 unless or until specifically superseded or amended in accordance with the power and
 12 authority granted herein. [This subsection is intended to vest control over planning
 13 procedures in the respective district councils, to the extent that control is not
 14 inconsistent with other provisions of the Regional District Act, and nothing contained
 15 herein shall be deemed to authorize any transfer or dilution of planning authority and
 16 responsibility now vested in the Commission planning boards, and district council.]

17 **REVISOR'S NOTE:** This section is new language derived without substantive
 18 change from the fifth and sixth sentences of former Art. 28, §
 19 7–108(d)(2)(i) and the eighth and ninth sentences of (3).

20 The fifth and sixth sentences of former Art. 28, § 7–108(d)(2)(i) and the
 21 eighth and ninth sentences of (3), which provided for the continuity of
 22 certain plans and laws in effect on October 1, 1959, are not retained in
 23 the Code because they are apparently obsolete. They are transferred to
 24 the Session Laws to avoid any inadvertent substantive effect their repeal
 25 might have.

26 **SECTION 14. AND BE IT FURTHER ENACTED,** That Section(s) 8–113 of
 27 Article 28 – Maryland–National Capital Park and Planning Commission of the
 28 Annotated Code of Maryland be repealed and reenacted, with amendments, and
 29 transferred to the Session Laws, to read as follows:

30 **Prior Zoning Regulations Continued**

31 **[8–113.] 1.**

32 [The] **ANY** zoning [regulations duly and validly] **REGULATION** enacted by the
 33 County Commissioners of Montgomery [and] **COUNTY OR THE COUNTY**
 34 **COMMISSIONERS OF** Prince George's [Counties and in force] **COUNTY AND IN**
 35 **EFFECT** on May 24, 1939, including the maps [which at that date] **THAT** accompanied
 36 and were a part of the regulations [shall be] **ON THAT DATE:**

1 **(1)** ARE deemed to have been made, enacted, and in force under [this
2 title] **TITLE 22, SUBTITLE 1 OF THE LAND USE ARTICLE**; and

3 **(2)** shall continue in [force and] effect until they are amended by the
4 **APPLICABLE** district [councils respectively as authorized by this title] **COUNCIL IN**
5 **ACCORDANCE WITH TITLE 22 OF THE LAND USE ARTICLE.**

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 28, § 8–113.

8 It is not retained in the Code because it is obsolete. It is transferred to the
9 Session Laws to avoid any inadvertent substantive effect its repeal might
10 have.

11 SECTION 15. AND BE IT FURTHER ENACTED, That Section(s) 7–116(c)(1) of
12 Article 28 – Maryland–National Capital Park and Planning Commission of the
13 Annotated Code of Maryland be repealed and reenacted, with amendments, and
14 transferred to the Session Laws, as follows:

15 **Subdivision Regulatory Enforcement Agreements**

16 [7–116.] 1.

17 [(c) (1)] In Montgomery County, the planning board of the
18 **MARYLAND–NATIONAL CAPITAL PARK AND PLANNING** Commission or its
19 designee may enter into regulatory plan enforcement agreements, declarations,
20 easements, covenants, and other instruments, with appropriate persons or entities
21 regarding any action it is authorized to take under [this article] **FORMER ARTICLE**
22 **28 OF THE CODE OR UNDER DIVISION II OF THE LAND USE ARTICLE.** The
23 agreement may establish terms and conditions required to implement the action and
24 provide for enforcement and appropriate remedies. A regulatory enforcement
25 agreement, or instrument, is not a development rights and responsibilities agreement
26 as provided in [§ 7–121 of this article] **TITLE 24, SUBTITLE 3 OF THE LAND USE**
27 **ARTICLE**, unless the parties agree that some or all terms of the regulatory
28 enforcement agreement should be incorporated into a development rights and
29 responsibilities agreement.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 28, § 7–116(c)(1).

32 Former Art. 28, § 7–116(c), which authorized certain regulatory
33 enforcement agreements in Montgomery County, has never been used
34 and is apparently obsolete. It is transferred to the Session Laws to avoid
35 any unforeseen consequences its repeal might have.

1 SECTION 16. AND BE IT FURTHER ENACTED, That Section(s) 9–101(e) of
2 Article 28 – Maryland–National Park and Planning Commission of the Annotated
3 Code of Maryland be repealed and reenacted, with amendments, and transferred to
4 the Session Laws, to read as follows:

5 **Anacostia River Flood Control Bonds**

6 [9–101.] 1.

7 [(e) This section] **TITLE 25, SUBTITLE 7 OF THE LAND USE ARTICLE** does
8 not affect the obligation of the City of Bowie with respect to the payment of
9 [outstanding] Anacostia River basin flood control bonds **OUTSTANDING ON**
10 **OCTOBER 1, 2012**, or the interest on those bonds.

11 REVISOR’S NOTE: This section is new language derived without substantive
12 change from former Art. 28, § 9–101(e).

13 It is not retained in the Code because it applies only to a limited and
14 diminishing class of obligations. It is transferred to the Session Laws to
15 avoid any inadvertent substantive effect its repeal might have.

16 SECTION 17. AND BE IT FURTHER ENACTED, That it is the intention of the
17 General Assembly that, except as expressly provided in this Act, this Act shall be
18 construed as a nonsubstantive revision, and may not otherwise be construed to render
19 any substantive change in the law of the State.

20 SECTION 18. AND BE IT FURTHER ENACTED, That the catchlines, captions,
21 Revisor’s Notes, Special Revisor’s Notes, and General Revisor’s Notes contained in this
22 Act are not law and may not be considered to have been enacted as a part of this Act.

23 SECTION 19. AND BE IT FURTHER ENACTED, That nothing in this Act
24 affects the term of office of an appointed or elected member of any commission, board,
25 office, department, agency, or other unit. An individual who is a member of a unit on
26 the effective date of this Act shall remain a member for the balance of the term to
27 which appointed or elected, unless the member sooner dies, resigns, or is removed
28 under provisions of law.

29 SECTION 20. AND BE IT FURTHER ENACTED, That, except as expressly
30 provided to the contrary in this Act, any transaction or employment status affected by
31 or flowing from any change of nomenclature or any statute amended, repealed, or
32 transferred by this Act and validly entered into or existing before the effective date of
33 this Act and every right, duty, or interest flowing from a statute amended, repealed, or
34 transferred by this Act remains valid after the effective date of this Act and may be
35 terminated, completed, consummated, or enforced as required or allowed by any
36 statute amended, repealed, or transferred by this Act as though the repeal,
37 amendment, or transfer had not occurred. If a change in nomenclature involves a

1 change in name or designation of any State unit, the successor unit shall be considered
2 in all respects as having the powers and obligations granted the former unit.

3 SECTION 21. AND BE IT FURTHER ENACTED, That the continuity of every
4 commission, board, office, department, agency, or other unit is retained. The
5 personnel, records, files, furniture, fixtures, and other properties and all
6 appropriations, credits, assets, liabilities, and obligations of each retained unit are
7 continued as the personnel, records, files, furniture, fixtures, properties,
8 appropriations, credits, assets, liabilities, and obligations of the unit under the laws
9 enacted by this Act.

10 SECTION 22. AND BE IT FURTHER ENACTED, That, except as expressly
11 provided to the contrary in this Act, any person licensed, registered, certified, or issued
12 a permit or certificate by any commission, office, department, agency, or other unit
13 established or continued by any statute amended, repealed, or transferred by this Act
14 is considered for all purposes to be licensed, registered, certified, or issued a permit or
15 certificate by the appropriate unit continued under this Act for the duration of the
16 term for which the license, registration, certification, or permit was issued, and may
17 renew that authorization in accordance with the appropriate renewal provisions of this
18 Act.

19 SECTION 23. AND BE IT FURTHER ENACTED, That this Act does not
20 rescind, supersede, change, or modify any rule adopted by the Court of Appeals that is
21 or was in effect on the effective date of this Act concerning the practice and procedure
22 in and the administration of the appellate courts and the other courts of this State.

23 SECTION 24. AND BE IT FURTHER ENACTED, That the publisher of the
24 Annotated Code of Maryland, in consultation with and subject to the approval of the
25 Department of Legislative Services, shall correct, with no further action required by
26 the General Assembly, cross-references and terminology rendered incorrect by this
27 Act or by any other Act of the General Assembly of 2012 that affects provisions
28 enacted by this Act. The publisher shall adequately describe any such correction in an
29 editor's note following the section affected.

30 SECTION 25. AND BE IT FURTHER ENACTED, That Title 15, Subtitle 2 of
31 the Land Use Article and the subtitle "Subtitle 2. Minority Business Enterprise
32 Utilization Program", as enacted by Section 2 of this Act, shall remain effective until
33 the taking effect of the termination provision specified in Section 2 of Chapter 256 of
34 the Acts of the General Assembly of 1995, as amended. If that termination provision
35 takes effect, Title 15, Subtitle 2 of the Land Use Article and the subtitle "Subtitle 2.
36 Minority Business Enterprise Utilization Program", as enacted by Section 2 of this
37 Act, shall be abrogated and of no further force and effect. This Act may not be
38 interpreted to have any effect on that termination provision.

39 SECTION 26. AND BE IT FURTHER ENACTED, That, subject to the
40 provisions of Section 25 of this Act, this Act shall take effect October 1, 2012.