

SENATE BILL 624

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HB 658/99 - CGM

2000 Regular Session
0lr0484
CF 0lr1823

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

A BILL ENTITLED

1 AN ACT concerning

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

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

7 BY renumbering

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

18 BY repealing and reenacting, with amendments,

19 Article 66B - Zoning and Planning
20 Section 1.00, 2.01 through 2.06, 2.08 through 2.12, 3.01(a) and (b), 3.03, 3.05(a),
21 (b)(2) through (4), and (c), 3.06, 3.07, 3.08, 3.09, 4.02, 4.03, 4.04, 4.06, 4.08,
22 5.01 through 5.04, 5.06, 5.07, 6.01 through 6.03, 8.01 through 8.14, 8.15
23 through 8.17, 10.01, 11.01, 12.01, and 13.01
24 Annotated Code of Maryland
25 (1998 Replacement Volume and 1999 Supplement)

26 BY adding to

27 Article 66B - Zoning and Planning
28 Section 1.01 through 1.03 and 2.13
29 Annotated Code of Maryland
30 (1998 Replacement Volume and 1999 Supplement)

1 BY repealing

2 Article 66B - Zoning and Planning
3 Section 3.05(d) and (e), 7.03, and 4.09(b)
4 Annotated Code of Maryland
5 (1998 Replacement Volume and 1999 Supplement)

6 BY repealing and reenacting, with amendments,

7 Article 66B - Zoning and Planning
8 Section 3.02, 3.04, 4.01, 4.05, 4.07, 4.09(a), 5.05, 7.01, 7.02 through 7.06, and
9 14.01 through 14.09
10 Annotated Code of Maryland
11 (1998 Replacement Volume and 1999 Supplement)
12 (As enacted by Section 1 of this Act)

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

14 Laws
15 Article 66B - Zoning and Planning
16 Section 3.01(c), and 3.05(b)(1)
17 Annotated Code of Maryland
18 (1998 Replacement Volume and 1999 Supplement)

19 BY renaming

20 Article 66B - Zoning and Planning
21 to be Article 66B - Land Use
22 Annotated Code of Maryland
23 (1998 Replacement Volume and 1999 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
25 MARYLAND, That Section(s) 7.01(c), 7.02, 3.02(b)(1), 7.01(a)(2), 3.02(b)(2), 5.05(c),
26 3.02(b)(4), 3.04(b), 4.07(b-3), 3.02(b)(3), 4.07(b-2) and (e), 5.05(b), 5.08, 3.08.1,
27 4.07(b-1), 4.01(c), 5.05(d), 7.01(d), 4.05(d), (f), and (g), respectively, of Article 66B -
28 Zoning and Planning of the Annotated Code of Maryland be renumbered to be
29 Section(s) 7.02, 7.03, 14.01, 14.02, 14.03(b) and (c), 14.04(b) through (d), 14.05(b) and
30 (d) through (g), 14.06(b) and (c), 14.07(b), (c), (f), and (g), 14.08, and 14.09(b) and (c),
31 respectively, to be under the new subtitle "Miscellaneous Local Provisions".

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

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

35 1.00. Definitions.

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

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

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

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

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

12 (2) "LOCAL EXECUTIVE" INCLUDES:

13 (I) A COUNTY EXECUTIVE;

14 (II) A BOARD OF COUNTY COMMISSIONERS;

15 (III) AN EXECUTIVE HEAD; OR

16 (IV) A MAYOR.

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

20 (2) "LOCAL LEGISLATIVE BODY" INCLUDES:

21 (I) A BOARD OF COUNTY COMMISSIONERS;

22 (II) A COUNTY COUNCIL; OR

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

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

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

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

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

- 1 (I) "SENSITIVE AREAS" INCLUDES:
- 2 (1) STREAMS AND THEIR BUFFERS;
- 3 (2) 100-YEAR FLOOD PLAINS;
- 4 (3) HABITATS OF THREATENED AND ENDANGERED SPECIES;
- 5 (4) STEEP SLOPES; AND
- 6 (5) OTHER AREAS IN NEED OF SPECIAL PROTECTION, AS DETERMINED
7 IN THE PLAN.

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

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

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

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

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

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

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

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

1 1.01. VISIONS.

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

5 (1) DEVELOPMENT IS CONCENTRATED IN SUITABLE AREAS.

6 (2) SENSITIVE AREAS ARE PROTECTED.

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

9 (4) STEWARDSHIP OF THE CHESAPEAKE BAY AND THE LAND IS A
10 UNIVERSAL ETHIC.

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

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

16 (7) FUNDING MECHANISMS ARE ADDRESSED TO ACHIEVE THESE
17 VISIONS.

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

20 1.02. CHARTER COUNTIES - LIMITED APPLICATION OF ARTICLE.

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

23 (B) THE FOLLOWING SECTIONS OF THIS ARTICLE APPLY TO A CHARTER
24 COUNTY:

25 (1) § 1.00(I) (DEFINITION OF "SENSITIVE AREAS");

26 (2) § 1.01 (VISIONS);

27 (3) § 1.03 (CHARTER COUNTY - COMPREHENSIVE PLANS);

28 (4) § 4.01(B)(2) (REGULATION OF BICYCLE PARKING);

29 (5) § 5.03(D) (EASEMENTS FOR BURIAL SITES);

30 (6) § 7.02 (CIVIL PENALTY FOR ZONING VIOLATION);

31 (7) § 10.01 (ADEQUATE PUBLIC FACILITIES ORDINANCES);

1 (8) § 11.01 (TRANSFER OF DEVELOPMENT RIGHTS);

2 (9) § 12.01 (INCLUSIONARY ZONING);

3 (10) EXCEPT IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY, §
4 13.01 (DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENTS); AND

5 (11) FOR BALTIMORE COUNTY ONLY, § 14.02.

6 (C) THIS SECTION SUPERSEDES ANY INCONSISTENT PROVISION OF ARTICLE
7 28 OF THE CODE.

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

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

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

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

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

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

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

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

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

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

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

29 1.03. SAME - COMPREHENSIVE PLANS.

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

32 (I) A TRANSPORTATION PLAN ELEMENT WHICH SHALL:

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

6 2. PROVIDE FOR BICYCLE AND PEDESTRIAN ACCESS AND
7 TRAVELWAYS; AND

8 3. INCLUDE AN ESTIMATE OF THE PROBABLE UTILIZATION
9 OF ANY PROPOSED IMPROVEMENT;

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

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

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

18 3. INCORPORATES LAND USE POLICIES AND
19 RECOMMENDATIONS FOR REGULATIONS:

20 A. TO BALANCE MINERAL RESOURCE EXTRACTION WITH
21 OTHER LAND USES; AND

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

24 4. HAS BEEN REVIEWED BY THE DEPARTMENT OF THE
25 ENVIRONMENT TO DETERMINE WHETHER THE PROPOSED COMPREHENSIVE PLAN IS
26 CONSISTENT WITH THE PROGRAMS AND GOALS OF THE DEPARTMENT;

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

30 1. STREAMLINED REVIEW OF APPLICATIONS FOR
31 DEVELOPMENT, INCLUDING PERMIT REVIEW AND SUBDIVISION PLAT REVIEW
32 WITHIN THE AREAS DESIGNATED FOR GROWTH IN THE COMPREHENSIVE PLAN;

33 2. THE USE OF FLEXIBLE DEVELOPMENT REGULATIONS TO
34 PROMOTE INNOVATIVE AND COST-SAVING SITE DESIGN AND PROTECT THE
35 ENVIRONMENT; AND

1 3. ECONOMIC DEVELOPMENT IN AREAS DESIGNATED FOR
2 GROWTH IN THE COMPREHENSIVE PLAN THROUGH THE USE OF INNOVATIVE
3 TECHNIQUES; AND

4 (IV) A SENSITIVE AREAS ELEMENT THAT CONTAINS GOALS,
5 OBJECTIVES, PRINCIPLES, POLICIES, AND STANDARDS DESIGNED TO PROTECT
6 SENSITIVE AREAS FROM THE ADVERSE EFFECTS OF DEVELOPMENT.

7 (2) THE CHANNELS, ROUTES, TRAVELWAYS, AND TERMINALS REQUIRED
8 UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION MAY INCLUDE ALL TYPES OF
9 HIGHWAYS OR STREETS, BICYCLE WAYS, SIDEWALKS, RAILWAYS, WATERWAYS,
10 AIRWAYS, ROUTINGS FOR MASS TRANSIT, AND TERMINALS FOR PEOPLE, GOODS, AND
11 VEHICLES RELATED TO HIGHWAYS, AIRWAYS, WATERWAYS, AND RAILWAYS.

12 (3) THE MINERAL RESOURCES PLAN ELEMENT REQUIRED UNDER
13 PARAGRAPH (1)(II) OF THIS SUBSECTION SHALL BE INCORPORATED IN:

14 (I) ANY NEW COMPREHENSIVE PLAN ADOPTED AFTER JULY 1, 1986
15 FOR ALL OR ANY PART OF A JURISDICTION; AND

16 (II) ANY AMENDMENT OR ADDITION THAT IS ADOPTED AFTER JULY
17 1, 1986 TO A COMPREHENSIVE PLAN THAT WAS IN EFFECT ON JULY 1, 1985.

18 (B) (1) A PLANNING COMMISSION SHALL INCLUDE IN ITS COMPREHENSIVE
19 PLAN ALL ELEMENTS REQUIRED IN SUBSECTION (A) OF THIS SECTION AND THE
20 VISIONS SET FORTH IN § 1.01 OF THIS ARTICLE.

21 (2) AT LEAST ONCE EVERY 6 YEARS, THE PLANNING COMMISSION SHALL
22 REVIEW AND, IF NECESSARY, REVISE OR AMEND A COMPREHENSIVE PLAN TO
23 INCLUDE ALL ELEMENTS REQUIRED IN SUBSECTION (A) OF THIS SECTION AND THE
24 VISIONS SET FORTH IN § 1.01 OF THIS ARTICLE.

25 (3) IF THE COMPREHENSIVE PLAN FOR EACH GEOGRAPHIC SECTION OR
26 DIVISION IS REVIEWED AND, IF NECESSARY, REVISED OR AMENDED AT LEAST ONCE
27 EVERY 6 YEARS, THE PLANNING COMMISSION MAY PREPARE COMPREHENSIVE
28 PLANS FOR ONE OR MORE MAJOR GEOGRAPHIC SECTIONS OR DIVISIONS OF THE
29 LOCAL JURISDICTION.

30 (C) (1) A PLANNING COMMISSION SHALL IMPLEMENT THE VISIONS SET
31 FORTH IN § 1.01 OF THIS ARTICLE THROUGH THE COMPREHENSIVE PLAN ELEMENTS
32 REQUIRED UNDER SUBSECTION (A) OF THIS SECTION.

33 (2) A LOCAL LEGISLATIVE BODY THAT HAS ADOPTED A
34 COMPREHENSIVE PLAN MAY ADOPT REGULATIONS IMPLEMENTING THE VISIONS
35 STATED IN § 1.01 OF THIS ARTICLE IN A COMPREHENSIVE PLAN.

36 (D) ON OR BEFORE JULY 1, 1997, AND SUBSEQUENTLY AT INTERVALS OF NOT
37 MORE THAN 6 YEARS WHICH CORRESPOND TO THE COMPREHENSIVE PLAN REVISION
38 UNDER SUBSECTION (B) OF THIS SECTION, A CHARTER COUNTY SHALL ENSURE THAT
39 THE IMPLEMENTATION OF THE PROVISIONS OF THE COMPREHENSIVE PLAN THAT

1 COMPLY WITH § 1.01 OF THIS ARTICLE AND SUBSECTION (A)(1)(III) AND (IV) OF THIS
2 SECTION ARE ACHIEVED THROUGH THE ADOPTION OF:

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

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

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

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

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

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

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

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

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

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

28 Zoning in Baltimore City

29 2.01. Grant of powers; statement of policy; construction of powers.

30 [(a) For the purpose of promoting the health, security, general welfare, and
31 morals of the community, the Mayor and City Council of Baltimore City are hereby
32 empowered to regulate and restrict the height, number of stories, and size of
33 buildings and other structures, the percentage of lot that may be occupied, off-street
34 parking, the size of yards, courts, and other open spaces, the density of population,

1 and the location and use of buildings, signs, structures, and land for trade, industry,
2 residence, or other purposes.]

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

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

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

11 [(3)] (2) To achieve the public purposes of this regulatory scheme, the
12 General Assembly recognizes that local government action will limit free business
13 enterprise and competition by owners and users of property[.

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

19 (B) TO PROMOTE THE HEALTH, SECURITY, GENERAL WELFARE, AND MORALS
20 OF THE COMMUNITY, THE MAYOR AND CITY COUNCIL OF BALTIMORE MAY
21 REGULATE AND RESTRICT, FOR TRADE, INDUSTRY, RESIDENCE, OR OTHER
22 PURPOSES:

23 (1) THE HEIGHT, NUMBER OF STORIES, AND SIZE OF BUILDINGS AND
24 OTHER STRUCTURES;

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

26 (3) OFF-STREET PARKING;

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

28 (5) THE DENSITY OF POPULATION; AND

29 (6) THE LOCATION AND USE OF BUILDINGS, SIGNS, STRUCTURES, AND
30 LAND.

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

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

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

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

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

10 2.02. Districts.

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

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

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

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

22 (2) THE regulations in one district may differ from those in other
23 districts.

24 2.03. Purposes.

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

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

30 (1) CONTROL congestion in the streets;

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

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

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

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

1 (6) [to prevent] PREVENT environmental pollution;

2 (7) [to avoid] AVOID AN undue concentration of population; AND

3 (8) [to facilitate] FACILITATE the adequate provision [for] OF
4 transportation, water, sewerage, schools, recreation, parks, and other public
5 requirements.

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

9 (1) THE character of the district and its suitability for particular [uses,
10 and with a view to conserving] USES;

11 (2) THE CONSERVATION OF the value of [buildings and encouraging the]
12 BUILDINGS; AND

13 (3) ENCOURAGEMENT FOR orderly development and the most
14 appropriate use of land throughout the City of Baltimore.

15 2.04. Method of procedure.

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

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

25 (2) (I) At least [fifteen days'] 15 DAYS BEFORE A PUBLIC HEARING IS
26 HELD UNDER THIS SECTION, THE MAYOR AND CITY COUNCIL OF BALTIMORE SHALL
27 PUBLISH notice of the time and place of [such] THE hearing [shall be published] in
28 an official paper[,], or a paper of general circulation[,], in Baltimore [City and, in
29 case of the] CITY.

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

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

36 2. MAIL notice of the proposed change [shall be sent] by first
37 class United States mail to [the] ANY person [or persons] whose name last appeared

1 [among] IN the tax records of Baltimore City as the owner of the property proposed to
2 be changed.

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

6 2.05. Amendment, [modification, repeal] REPEAL, and reclassification.

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

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

19 (II) THE FINDINGS OF FACT SHALL INCLUDE:

- 20 1. POPULATION CHANGES;
- 21 2. THE AVAILABILITY OF PUBLIC FACILITIES;
- 22 3. PRESENT AND FUTURE TRANSPORTATION PATTERNS;
- 23 4. COMPATIBILITY WITH EXISTING AND PROPOSED
24 DEVELOPMENT FOR THE AREA;
- 25 5. THE RECOMMENDATIONS OF THE PLANNING
26 COMMISSION AND THE BOARD OF MUNICIPAL AND ZONING APPEALS; AND
- 27 6. THE RELATION OF THE PROPOSED AMENDMENT TO THE
28 CITY'S PLAN.

29 (3) THE CITY COUNCIL MAY grant the amendment based [upon] ON a
30 finding that there [was a] WAS:

31 (I) A substantial change in the character of the neighborhood
32 where the property is [located or that there was a] LOCATED; OR

33 (II) A mistake in the existing zoning classification. [The provisions
34 of subsection (d) of this section relative to public hearings and official notice shall
35 apply equally to all changes or amendments.]

1 (b) (1) The Mayor and City Council OF BALTIMORE shall refer proposed
 2 changes to [the district] A DISTRICT'S [boundary lines] BOUNDARIES to the
 3 Baltimore City planning commission and to the board of municipal AND zoning
 4 [appeals, and the] APPEALS.

5 (2) THE PLANNING commission and [board shall study] THE BOARD OF
 6 MUNICIPAL AND ZONING APPEALS SHALL:

7 (I) STUDY the proposed changes [with respect to the plan, the] IN
 8 RELATION TO:

9 1. THE PLAN;

10 2. THE needs of Baltimore [City, and the] CITY; AND

11 3. THE needs of the particular neighborhood in the vicinity of
 12 the proposed [changes, and shall report] CHANGES; AND

13 (II) REPORT to the Mayor and City Council their findings and
 14 recommendations.

15 (3) [Where the planning commission and board] IF THE PLANNING
 16 COMMISSION AND THE BOARD OF MUNICIPAL AND ZONING APPEALS recommend
 17 disapproval of the proposed changes TO A DISTRICT'S BOUNDARIES, [they shall
 18 require a favorable vote of] a majority of [all] the members of the City Council
 19 SHALL VOTE TO APPROVE THE CHANGES before [such] THE changes [in the district
 20 boundary lines shall become effective] CAN TAKE EFFECT.

21 (c) [An] WITHIN THE 12 MONTHS FOLLOWING A DENIAL ON THE MERITS OF
 22 AN APPLICATION FOR A RECLASSIFICATION OF A TRACT OR PARCEL OF LAND, THE
 23 CITY COUNCIL MAY NOT ACCEPT A NEW application for a reclassification [shall not be
 24 accepted for filing by the City Council if the application is for the reclassification] of
 25 the SAME tract or parcel of land [the reclassification of which has been opposed or
 26 denied by the City Council on its merits within twelve (12) months from the date of
 27 the City Council's decision].

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

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

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

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

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

4 2.06. Hearing examiners.

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

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

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

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

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

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

25 (2) A RECOMMENDATION BY A HEARING EXAMINER SHALL BE IN
26 WRITING.

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

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

32 2.08. Board of MUNICIPAL AND zoning appeals.

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

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

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

5 2. THE TERMS OF THE MEMBERS OF THE BOARD OF
6 MUNICIPAL AND ZONING APPEALS SHALL BE STAGGERED.

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

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

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

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

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

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

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

27 2. THE MINUTES SHALL INCLUDE the vote of each member
28 [upon] ON each question, or[, if absent or failing to vote, indicating such fact, and]
29 THE MEMBER'S ABSENCE OR FAILURE TO VOTE.

30 3. THE BOARD OF MUNICIPAL AND ZONING APPEALS shall
31 keep records of its examinations and other official actions, all of which shall be
32 immediately filed in the office of the [Board and shall be a public record] BOARD.

33 4. THE RECORDS OF THE BOARD OF MUNICIPAL AND ZONING
34 APPEALS SHALL BE OPEN TO THE PUBLIC.

35 (c) (1) The [Board of Zoning Appeals shall have the following powers]
36 BOARD OF MUNICIPAL AND ZONING APPEALS MAY:

1 [(1)] (I) [To hear] HEAR and decide appeals [where] IF it is alleged
2 THAT there [is] WAS an error in any order, requirement, decision, or determination
3 made by an administrative official in the enforcement of this article or of any
4 ordinance adopted [pursuant thereto.] UNDER THIS ARTICLE;

5 [(2)] (II) [To hear] HEAR and decide special exceptions to the terms of
6 [the] AN ordinance [upon] ON which the [Board] BOARD is required to [pass] ACT
7 under [such ordinance. Nothing in this section shall be construed to prevent the
8 Mayor and City Council of Baltimore from granting variances, special exceptions, or
9 conditional uses by ordinance, when so authorized by the general zoning ordinance of
10 Baltimore City.] THE ORDINANCE;

11 [(3)] (III) [To authorize upon] AUTHORIZE, ON appeal in specific [cases]
12 CASES, a variance from the terms of [the ordinance.] AN ORDINANCE;

13 [(4)] (IV) [To approve] APPROVE buildings[,] and uses limited as to
14 location [under such rules and regulations as may be provided] by ANY REGULATION
15 ADOPTED UNDER AN ordinance [of the local legislative body.] PASSED BY THE CITY
16 COUNCIL; and

17 [(5)] (V) [To take into consideration, as a factor] CONSIDER, when acting
18 [upon] ON a zoning application, the availability of schools and other public facilities
19 in the area, including flood plain facilities, under [rules and] regulations [provided
20 by] ADOPTED UNDER A CITY [ordinance of the local legislative body] ORDINANCE.

21 (2) IF OTHERWISE AUTHORIZED BY THE GENERAL ZONING ORDINANCE
22 OF BALTIMORE CITY, THIS SECTION DOES NOT PREVENT THE MAYOR AND CITY
23 COUNCIL OF BALTIMORE FROM GRANTING VARIANCES, SPECIAL EXCEPTIONS, OR
24 CONDITIONAL USES BY ORDINANCE.

25 (d) (1) Appeals to the [Board of Zoning Appeals] BOARD OF MUNICIPAL AND
26 ZONING APPEALS may be [taken by any] FILED BY:

27 (I) ANY person aggrieved BY A DECISION OF THE ADMINISTRATIVE
28 OFFICER; or

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

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

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

38 (II) The ADMINISTRATIVE officer from whom the appeal is taken
39 [shall forthwith] SHALL, ON RECEIVING THE NOTICE OF APPEAL, transmit to the

1 [Board] BOARD OF MUNICIPAL AND ZONING APPEALS all [the] papers constituting
 2 the record [upon which] OF the action appealed [from was taken].

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

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

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

20 (I) ON APPLICATION;

21 (II) FOR GOOD CAUSE SHOWN; AND

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 Throughout this section, the reference to "the board of municipal and
 25 zoning appeals" is substituted for the former reference to the "board of
 26 zoning appeals" to conform to current practice.

27 In subsection (a)(2)(iv) of this section, a reference to "the Mayor" is
 28 substituted for the former reference to "the appointing authority" for
 29 consistency within the subtitle.

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

33 2.09. Appeals to courts.

34 (a) (1) [Any] AN APPEAL TO THE CIRCUIT COURT OF BALTIMORE CITY MAY
 35 BE FILED JOINTLY OR SEVERALLY BY ANY person [or persons], [or any] taxpayer, or

1 [any] officer, department, board, OR bureau of the [jurisdiction, jointly or severally]

2 CITY aggrieved [by any] BY:

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

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

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

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

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

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

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

20 (I) REVERSE IN WHOLE OR PART;

21 (II) AFFIRM IN WHOLE OR PART;

22 (III) MODIFY; OR

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

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

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

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

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

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

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

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

8 In subsection (a)(1)(i) of this section, the reference to "the board of
9 municipal and zoning appeals" is substituted for the former reference to
10 the "board of appeals" to conform to current practice and for consistency
11 throughout this subtitle.

12 2.10. Enforcement and remedies.

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

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

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

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

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

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

27 (2) [The] A CIVIL ZONING violation shall be enforced as provided in [§
28 7.01(c)] § 7.02 of this article.

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

36 (1) PREVENT [such] THE unlawful erection, construction,
37 reconstruction, alteration, repair, conversion, maintenance, or use[, to restrain,] OF A

1 SIGN, A BUILDING, A STRUCTURE, OR LAND IN VIOLATION OF THIS ARTICLE OR OF
2 ANY ORDINANCE ENACTED OR REGULATION ADOPTED UNDER THIS ARTICLE;

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

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

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

9 2.11. Conflict with other laws.

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

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

24 2.12. Historic and landmark zoning and preservation.

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

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

31 2.13. SCOPE.

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

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

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

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

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

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

13 One additional substantive change is recommended. In subsection (b), the
 14 reference to "§§ 2.01 through 2.11" should probably be amended to
 15 reference "§§ 2.01 through 2.12", to reflect the 1975 amendment adding §
 16 2.12 to Subtitle 2 of the article.

17 Planning Commission Generally

18 3.01. Grant of power.

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

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

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

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

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

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

1 3.02. Composition of commission; appointment, compensation, [term] TERM, and
2 removal of members; vacancies; special provisions as to Allegany, Carroll, Charles,
3 and Cecil Counties].

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

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

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

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

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

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

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

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

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

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

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

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

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

6 3.03. Organization; meetings; rules; records.

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

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

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

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

15 (C) (1) [It] A PLANNING COMMISSION shall adopt rules for [transactions of]
16 TRANACTING business and shall keep [a record] RECORDS of its resolutions,
17 transactions, findings, and [determinations, which record shall be a public record]
18 DETERMINATIONS.

19 (2) THE RECORDS OF THE RESOLUTIONS, TRANSACTIONS, FINDINGS,
20 AND DETERMINATIONS OF A PLANNING COMMISSION SHALL BE OPEN TO THE
21 PUBLIC.

22 3.04. [Staff; consultants; expenditures; director of planning and zoning for Cecil
23 County] GENERAL POWERS OF THE PLANNING COMMISSION.

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

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

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

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

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

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

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

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

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

17 3.05. [General powers and duties] THE PLAN.

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

22 (2) THE PLAN SHALL:

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

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

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

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

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

35 [(1)] (4) The plan shall contain at a minimum the following elements:

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

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

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

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

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

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

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

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

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

31 1. SHALL PROPOSE the most appropriate and desirable
32 patterns for the general location, character, and extent of public and semipublic
33 buildings, land, and facilities [for specified times as far into the future as is
34 reasonable. Such facilities may] ON A SCHEDULE THAT EXTENDS AS FAR INTO THE
35 FUTURE AS IS REASONABLE; AND

36 2. MAY include[, without being limited to,] parks and
37 recreation areas, schools and other educational and cultural facilities, libraries,
38 churches, hospitals, social welfare and medical facilities, institutions, fire stations,
39 police stations, jails, or other public office or administrative facilities;

1 (v) If current geological information is available, a mineral
2 resources plan element that:

3 1. Identifies undeveloped land that should be kept in its
4 undeveloped state until the land can be used to provide or assist in providing a
5 continuous supply of minerals, as defined in § 15-801(i) of the Environment Article;

6 2. Identifies appropriate post-excavation uses for [this] THE
7 land that are consistent with the county's land planning process;

8 3. Incorporates land use policies and recommendations for
9 regulations:

10 A. [to] TO balance mineral resource extraction with other
11 land [uses and, to] USES; AND

12 B. TO the extent feasible, to prevent the preemption of
13 mineral resources extraction by other uses; and

14 4. Has been reviewed by the Department of the Environment
15 to determine whether the proposed plan is consistent with the programs and goals of
16 the Department;

17 (vi) An element which shall contain the planning commission's
18 recommendation for land development regulations to implement the plan and which
19 encourages the following:

20 1. Streamlined review of applications for development,
21 including permit review and subdivision plat review within the areas designated for
22 growth in the plan;

23 2. The use of flexible development regulations to promote
24 innovative and cost-saving site design and protect the environment; and

25 3. Economic development in areas designated for growth in
26 the plan through the use of innovative techniques;

27 (vii) Recommendations for the determination, identification, and
28 designation of areas within the county [which] THAT are of critical State concern;
29 and

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

33 1. Streams and their buffers;

34 2. 100-year floodplains;

35 3. Habitats of threatened and endangered species; and

1 4. Steep slopes].

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

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

10 [(4) (5) (I) THE TRANSPORTATION ELEMENT MAY INCLUDE ALL
11 TYPES OF HIGHWAYS AND STREETS, BICYCLE WAYS, SIDEWALKS, RAILWAYS,
12 WATERWAYS, AIRWAYS, ROUTINGS FOR MASS TRANSIT, AND TERMINALS FOR
13 PEOPLE, GOODS, AND VEHICLES RELATED TO HIGHWAYS, AIRWAYS, WATERWAYS,
14 AND RAILWAYS.

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

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

18 [(ii) 2. Any amendment or addition that is adopted after July 1,
19 1986 to a plan that was in effect on July 1, 1985.

20 (6) (I) THE PLAN MAY INCLUDE ANY ADDITIONAL ELEMENTS WHICH,
21 IN THE JUDGMENT OF THE PLANNING COMMISSION, WILL FURTHER ADVANCE THE
22 PURPOSES OF THE PLAN.

23 (II) THE ADDITIONAL PLAN ELEMENTS MAY INCLUDE:

24 1. COMMUNITY RENEWAL ELEMENTS;

25 2. HOUSING ELEMENTS;

26 3. FLOOD CONTROL ELEMENTS;

27 4. POLLUTION CONTROL ELEMENTS;

28 5. CONSERVATION ELEMENTS;

29 6. NATURAL RESOURCES ELEMENTS; AND

30 7. THE GENERAL LOCATION AND EXTENT OF PUBLIC
31 UTILITIES.

32 [(5) (7) (i) [As a component of its plan, each] EACH planning
33 commission of a county that is located on the tidal waters of the State and that
34 exercises authority under this article shall [amend or] include in its plan [by

1 January 1, 1988] the designation of areas on the tidal water or in close proximity to
2 the tidal water for the following purposes:

- 3 1. Loading and unloading finfish and shellfish;
- 4 2. Processing finfish and shellfish; and
- 5 3. Docking and mooring commercial fishing boats and
6 vessels.

7 (ii) The designated areas under subparagraph (i) of this paragraph
8 shall be geographically located [in order] TO:

- 9 1. [To facilitate] FACILITATE the commercial harvesting of
10 finfish and shellfish; and
- 11 2. [To assure] ASSURE reasonable access to the waterways
12 of the State by commercial watermen.

13 (b) [(2)] (1) [On or before July 1, 1997 all local jurisdictions] EACH LOCAL
14 JURISDICTION shall adopt and include in their plans all OF THE elements required in
15 subsection (a) of this section and ALL OF the visions set forth in [§ 3.06(b)] § 1.01 of
16 this article.

17 [(3)] (2) [The] AT LEAST ONCE EVERY 6 YEARS, EACH planning
18 commission[, at intervals of no more than 6 years,] shall review and if necessary
19 revise or amend [a] THE LOCAL plan to include all OF THE elements required in
20 subsection (a) of this section and ALL OF the visions set forth in [§ 3.06(b)] § 1.01 of
21 this article.

22 [(4)] (3) [A] IF THE PLAN FOR EACH GEOGRAPHIC SECTION OR
23 DIVISION IS REVIEWED AND, IF NECESSARY, REVISED OR AMENDED AT LEAST ONCE
24 EVERY 6 YEARS, THE planning commission may [elect to] prepare plans for [1] ONE
25 or more major geographic sections or divisions of the jurisdiction[, provided that the
26 plan for each geographic section or division is reviewed and if necessary revised or
27 amended within each 6-year interval].

28 (C) (1) IN PREPARING A PLAN, A PLANNING COMMISSION SHALL
29 CAREFULLY AND COMPREHENSIVELY SURVEY AND STUDY:

- 30 (I) PRESENT CONDITIONS;
- 31 (II) PROJECTIONS OF FUTURE GROWTH OF THE LOCAL
32 JURISDICTION; AND
- 33 (III) THE RELATION OF THE LOCAL JURISDICTION TO NEIGHBORING
34 JURISDICTIONS.

35 (2) THE PLANNING COMMISSION SHALL MAKE THE PLAN WITH THE
36 GENERAL PURPOSE OF GUIDING AND ACCOMPLISHING THE COORDINATED,

1 ADJUSTED, AND HARMONIOUS DEVELOPMENT OF THE LOCAL JURISDICTION AND ITS
2 ENVIRONS.

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

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

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

8 (4) A PLAN SHALL PROVIDE FOR:

9 (I) TRANSPORTATION NEEDS;

10 (II) THE PROMOTION OF PUBLIC SAFETY;

11 (III) LIGHT AND AIR;

12 (IV) THE CONSERVATION OF NATURAL RESOURCES;

13 (V) THE PREVENTION OF ENVIRONMENTAL POLLUTION;

14 (VI) THE PROMOTION OF A HEALTHFUL AND CONVENIENT
15 DISTRIBUTION OF POPULATION;

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

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

18 (IX) ADEQUATE PUBLIC UTILITIES; AND

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

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

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

25 (I) PERIODICALLY RECOMMEND TO THE APPROPRIATE PUBLIC
26 OFFICIALS PROGRAMS FOR:

27 1. PUBLIC STRUCTURES, IMPROVEMENTS, AND LAND
28 ACQUISITIONS; AND

29 2. THE FINANCING OF PUBLIC STRUCTURES,
30 IMPROVEMENTS, AND LAND ACQUISITIONS; AND

1 (II) [consult] CONSULT WITH public officials and agencies, public
 2 utility companies, civic, educational, [professional] PROFESSIONAL, and other
 3 organizations, and citizens [with relation to the] ABOUT protecting or [execution of]
 4 EXECUTING the plan. [The commission shall have the right to accept and use gifts
 5 and public or private grants for the exercise of its functions. All public officials shall,
 6 upon request, furnish to the commission within a reasonable time that available
 7 information as it may require for its program. The commission, its members, officers,
 8 and employees, in the performance of their functions may enter upon any land and
 9 make examinations and surveys. In general, the commission shall have those powers
 10 as may be necessary to enable it to fulfill its functions, promote planning, or execute
 11 the purposes of this article.]

12 [(d) In order that a county or municipal corporation may avail itself of the
 13 zoning powers conferred by this article, it shall be the duty of the planning
 14 commission to recommend the boundaries of the various original districts and
 15 appropriate regulations to be enforced therein. Such commission shall make a
 16 preliminary report and hold at least one public hearing thereon before submitting its
 17 final report and the local legislative body shall not hold its public hearings or take
 18 action until it has received the final report of such commission.]

19 [(e) By January 1, 1993, each jurisdiction that exercises planning and zoning
 20 authority shall provide to the Governor a schedule for complying with the
 21 requirements of §§ 3.05, 3.06(b), and 4.09 of this article, including a schedule for the
 22 adoption and implementation of a sensitive areas element and the visions and the
 23 achievement of consistency in local zoning, subdivision, and other regulations.]

24 DRAFTER'S NOTE: This section is derived without substantive changes from
 25 former §§ 3.05(a)(1)(i) through (v), (vii), (2) through (5), (b)(2) through (4),
 26 and (c) and 3.06(a) of this subtitle.

27 Former subsection (a)(2) and the latter portion of (1)(viii) is transferred
 28 without substantive change to § 1.00(i) of this article.

29 Former subsection (b)(1) of this section is transferred without substantive
 30 change to the Session Laws.

31 Subsection (c) of this section is transferred without substantive change
 32 from former § 3.06(a) of this subtitle.

33 The second sentence of former subsection (c) of this section is transferred
 34 without substantive change to § 3.06(b) of this subtitle. The last three
 35 sentences of former subsection (c) of this section is transferred without
 36 substantive change to § 3.04(a) of this subtitle.

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

39 Former subsection (e) of this section, relating to notification of projected
 40 compliance by local jurisdictions with implementation of the plan revision
 41 schedule under the Economic Growth, Resource Protection, and Planning

1 Act of 1992, is deleted as obsolete.

2 3.06. [Purpose of plan; visions] FIRST ACTIONS BY LOCAL JURISDICTION;
3 IMPLEMENTING THE PLAN.

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

17 (b) In addition to the requirements of subsection (a) of this section, the
18 commission shall implement the following visions through the plan described in §
19 3.05 of this article:

20 (1) Development is concentrated in suitable areas;

21 (2) Sensitive areas are protected;

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

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

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

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

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

31 (A) (1) WHEN A LOCAL JURISDICTION FIRST ADOPTS THE ZONING POWERS
32 CONFERRED BY THIS ARTICLE, THE PLANNING COMMISSION SHALL RECOMMEND
33 THE BOUNDARIES OF THE VARIOUS ORIGINAL DISTRICTS AND APPROPRIATE
34 REGULATIONS TO BE ENFORCED IN THOSE DISTRICTS.

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

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

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

6 (1) PROGRAMS FOR PUBLIC STRUCTURES, IMPROVEMENTS, AND LAND
 7 ACQUISITIONS; AND

8 (2) FINANCING PROGRAMS.

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

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

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

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

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

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

29 3.07. Procedure for recommending adoption, amendment, etc., of plan; resolution of
 30 approval.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 3.08. Legal status of plan; adoption.

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

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

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

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

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

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

38 3.09. Annual reports.

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

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

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

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

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

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

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

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

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

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

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

22 (D) (1) THE ANNUAL REPORT SHALL BE MADE AVAILABLE FOR PUBLIC
23 INSPECTION.

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

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

28 General Development Regulations and Zoning

29 4.01. Grant of powers; [certain restrictions in St. Mary's County;] statement of policy;
30 construction of powers.

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

32 (I) THE ORDERLY DEVELOPMENT AND USE OF LAND AND
33 STRUCTURES REQUIRES COMPREHENSIVE REGULATION THROUGH THE
34 IMPLEMENTATION OF PLANNING AND ZONING CONTROLS; AND

1 (II) PLANNING AND ZONING CONTROLS SHALL BE IMPLEMENTED
2 BY LOCAL GOVERNMENT.

3 (2) TO ACHIEVE THE PUBLIC PURPOSES OF THIS REGULATORY SCHEME,
4 IT IS THE POLICY OF THE GENERAL ASSEMBLY AND THIS STATE THAT LOCAL
5 GOVERNMENT ACTION WILL DISPLACE OR LIMIT ECONOMIC COMPETITION BY
6 OWNERS AND USERS OF PROPERTY THROUGH THE PLANNING AND ZONING
7 CONTROLS SET FORTH IN THIS ARTICLE AND ELSEWHERE IN THE PUBLIC LOCAL
8 AND PUBLIC GENERAL LAWS.

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

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

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

18 (III) OFF-STREET PARKING;

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

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

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

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

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

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

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

1 (II) THE surrounding or adjacent lands and [improvements, and]
2 IMPROVEMENTS.

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

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

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

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

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

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

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

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

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

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

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

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

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

5 4.02. Districts.

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

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

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

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

20 4.03. Purposes.

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

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

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

27 (3) WITH A VIEW TO CONSERVING THE VALUE OF BUILDINGS AND
28 ENCOURAGING ORDERLY DEVELOPMENT AND THE MOST APPROPRIATE USE OF
29 LAND.

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

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

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

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

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

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

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

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

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

12 4.04. Method of procedure.

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

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

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

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

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

32 4.05. Amendment, [modification,] repeal and reclassification.

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

35 (2) (I) Where the purpose and effect of the proposed amendment is to
36 change the zoning classification, the local legislative body shall make findings of fact
37 [in each specific case including, but not limited to,] THAT INCLUDE the following
38 matters: [population change, availability of public facilities, present and future

1 transportation patterns, compatibility with existing and proposed development for
 2 the area, the recommendation of the planning commission, and the relationship of
 3 such proposed amendment to the jurisdiction's plan; and]

- 4 1. POPULATION CHANGE;
- 5 2. THE AVAILABILITY OF PUBLIC FACILITIES;
- 6 3. PRESENT AND FUTURE TRANSPORTATION PATTERNS;
- 7 4. COMPATIBILITY WITH EXISTING AND PROPOSED
 8 DEVELOPMENT FOR THE AREA;
- 9 5. THE RECOMMENDATION OF THE PLANNING COMMISSION;
- 10 AND
- 11 6. THE RELATIONSHIP OF THE PROPOSED AMENDMENT TO
 12 THE LOCAL JURISDICTION'S PLAN.

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

- 16 1. A substantial change in the character of the neighborhood
 17 where the property is located; OR
- 18 2. [or that there was a] A mistake in the existing zoning
 19 classification.

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

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

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

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

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

1 Former § 4.05(d) of this section as it related to Washington County is
2 transferred without substantive change to § 14.08 of this article. Former §
3 4.05(d) of this section as it related to Charles County is added without
4 substantive change to § 14.05(c) of this article.

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

7 4.06. Hearing examiners.

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

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

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

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

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

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

27 4.07. Board of appeals.

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

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

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

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

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

1 (I) FOR CAUSE;

2 (II) ON WRITTEN CHARGES; AND

3 (III) AFTER a public hearing.

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

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

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

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

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

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

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

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

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

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

31 2. A TRANSCRIPT shall be a public record.

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

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

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

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

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

8 (I) ANY person aggrieved BY ANY DECISION OF THE
9 ADMINISTRATIVE OFFICER; or

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

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

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

19 [(g)] (F) (1) [An] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
20 SUBSECTION, AN appeal TO A BOARD OF APPEALS stays all proceedings in
21 furtherance of the action appealed [from, unless the officer from whom the appeal is
22 taken certifies to the board of appeals after notice of appeal shall have been filed with
23 him that by reason of the facts stated in the certificate a stay would, in his opinion,
24 cause imminent peril to life or property].

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

33 (I) ONLY FOR DUE CAUSE SHOWN; AND

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

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

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

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

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

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

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

14 (IV) ISSUE A NEW ORDER, REQUIREMENT, DECISION, OR
15 DETERMINATION.

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

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

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

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

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

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

29 4.08. Appeals to courts.

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

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

36 (II) ANY TAXPAYER; or

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

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

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

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

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

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

18 (1) [with] WITH gross negligence;

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

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

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

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

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

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

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

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

3 4.09. Implementation of economic growth and resource protection provisions.

4 [(a)] On or before July 1, 1997, and subsequently at intervals of no more than 6
5 years which correspond to the plan revision under ARTICLE 66B, § 3.05(b) of [this
6 article] THE CODE, a local jurisdiction shall ensure that the implementation of the
7 provisions of the plan that comply with ARTICLE 66B, [§§ 3.05(a)(1)(vi) and (viii) and
8 3.06(b)] §§ 1.01, 3.05(A)(4)(VII), AND 3.06(C) of [this article] THE CODE are achieved
9 through the adoption of applicable zoning ordinances and regulations, planned
10 development ordinances and regulations, subdivision ordinances and regulations, and
11 other land use ordinances and regulations that are consistent with the plan.

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

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

17 Subdivision Control

18 5.01. Jurisdiction of planning commission.

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

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

28 5.02. When approval of plat by planning commission required.

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

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

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

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

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

8 5.03. Regulations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (3) THE PUBLISHED NOTICE SHALL CONTAIN:

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

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

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

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

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

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

11 5.04. Plat approval and disapproval generally.

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

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

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

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

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

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

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

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

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

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

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

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

18 DRAFTER'S NOTE: In subsection (b)(1)(i) and (3) of this section, the former
 19 references to "addition" and "additions" are deleted as included within the
 20 references to "amendment" and "amendments".

21 5.05. Sale or transfer of lots in unapproved subdivisions[; special provisions as to
 22 Charles, St. Mary's, Frederick, and Carroll Counties].

23 (a) Except as provided in [subsections (b) through (d) of this section] §§
 24 14.03(C), 14.05(F), 14.06(D), AND 14.07(E) AND (F) OF THIS ARTICLE, [whoever, being the]
 25 AN owner or agent of [the] AN owner of [any] land located within a subdivision WHO
 26 transfers or sells or agrees to sell or negotiate to sell any land by reference [to or] TO,
 27 exhibition [of] OF, or [by] other use of a plat of a subdivision[,], before the plat has
 28 been approved by the planning commission and recorded or filed in the office of the
 29 appropriate county clerk, shall [forfeit and pay] BE SUBJECT TO a civil penalty of not
 30 less than \$200 and not [more than] EXCEEDING \$1,000 [in the discretion of the
 31 court,] for each lot or parcel [so] transferred or sold or agreed or negotiated to be
 32 sold[; and the].

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

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

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

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

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

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

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

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

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

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

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

21 5.06. Recording unapproved subdivision plat.

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

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

28 5.07. Status of existing platting statutes.

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

34 (B) TO THE EXTENT THAT STATUTORY CONTROL IS IN CONFORMITY WITH THE
 35 PROVISIONS OF THIS ARTICLE, ALL statutory control over plats or subdivisions of land
 36 granted by other statutes shall [, insofar as in harmony with the provisions of this

1 article] be [deemed] CONSIDERED transferred to the planning commission of [such]
2 THE LOCAL jurisdiction.

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

7
8 Development in Mapped Streets

8 6.01. Reservation of locations of mapped streets, etc., for future dedication or
9 acquisition for public use.

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

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

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

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

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

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

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

38 (1) APPROVE and adopt THE PLAT;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (II) [, which releases or agreements] A NEGOTIATED RELEASE OR
36 AGREEMENT shall [be binding upon] BIND the [owner or owners] LANDOWNER

1 executing the [same] RELEASE OR AGREEMENT and [their] THE LANDOWNER'S
2 successors in title.

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

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

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

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

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

20 (H) At any [time] TIME, the local legislative body may, by resolution, abandon
21 any reservation and [shall] certify [any such] THE abandonment to the [said] clerk
22 of the circuit court OF THE COUNTY IN WHICH THE LOCAL JURISDICTION IS
23 LOCATED.

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

27 6.02. Control of development in bed of mapped streets.

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

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

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

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

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

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

13 [(b)] (II) [that, balancing] AFTER BALANCING the interest of the [county or
14 municipal corporation] LOCAL JURISDICTION in preserving the integrity of [such]
15 THE street plat and [of] the municipal plan and the interest of the owner of the
16 property in the use of [his] THE property and in the benefits of [the] PROPERTY
17 ownership [thereof], the grant of [such] THE permit is required by [consideration
18 of] reasonable justice and equity.

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

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

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

29 2. PUBLISH A NOTICE OF THE HEARING IN A NEWSPAPER OF
30 GENERAL CIRCULATION IN THE LOCAL JURISDICTION.

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

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

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

4 6.03. Municipal utilities or improvements in streets; development not on mapped
 5 street.

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

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

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

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

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

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

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

29 General Provisions

30 7.01. Enforcement and remedies.

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (3) [Further provided, that any] ANY property subdivided in violation of
28 §§ 5.05 and 5.06 of this article shall remain subject to the adopted subdivision
29 regulations.

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

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

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

36 Former § 7.01(d) is transferred without substantive change to § 14.07(g) of

1 this article.

2 7.02. CIVIL PENALTY FOR ZONING VIOLATION.

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

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

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

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

10 (II) A COUNTY COUNCIL; OR

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

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

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

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

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

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

23 (3) The citation shall contain:

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

25 (ii) The nature of the violation;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 7.03. Conflict with other laws.

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

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

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

1 (2) WITHIN the limits of the Maryland-Washington regional district [as
2 said district is now or shall hereafter be defined by law], in Montgomery and Prince
3 George's Counties [-- in which district] WHERE there is [now in effect] city and
4 regional planning and zoning[, which are being] administered by [existing agencies
5 under existing law --] LOCAL AGENCIES, this article [shall not be construed as
6 supplemental to] DOES NOT SUPPLEMENT Chapter 992 of the Laws of Maryland of
7 1943, as amended[; and within the said].

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

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

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

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

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

34 [7.03. Article not applicable to chartered counties.

35 (a) (1) Except as provided in §§ 3.05(a)(1)(iii), (v), (vi), and (viii), (4), and (b),
36 3.06(b) and (c), 4.01(a)(2), 4.09, 5.03(d), 7.01(c), 10.01, 11.01, 12.01, and 13.01 of this
37 article, and subject to subsection (b) of this section, this article does not apply to the
38 chartered counties of Maryland.

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

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

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

5 7.04. Severability.

6 If any clause, sentence, part or [parts] PROVISION of this article[, or of any
7 section thereof shall be] IS held unconstitutional, [such] THE unconstitutionality
8 [shall] MAY not affect the validity of the remaining [parts] PROVISIONS of this
9 article [or of any section thereof. The legislature hereby declares that it would have
10 passed the remaining parts of this article or any section thereof, if it had known such
11 clause, sentence, part or parts of any section thereof should be declared
12 unconstitutional].

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

15 7.05. Repeal of inconsistent laws.

16 Except as otherwise provided [herein] IN THIS ARTICLE, [all acts and parts of
17 acts, laws and parts of laws, ordinances and parts of ordinances, inconsistent
18 herewith or contrary hereto, are] ANY LAW OR ORDINANCE THAT IS INCONSISTENT
19 WITH OR CONTRARY TO THE PROVISIONS OF THIS ARTICLE IS [hereby] repealed to
20 the extent of [such inconsistency, provided, however, that §§ 2.01-2.11 and all laws
21 and ordinances passed pursuant thereto shall not be affected hereby, and that this
22 article shall be deemed to be in addition to said §§ 2.01-2.11 and not in substitution
23 therefor.] THE INCONSISTENCY.

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

26 **Historic Area Zoning**

27 8.01. Declaration of public purpose; power to regulate sites, structures and districts;
28 definitions; purpose of ordinance or resolution.

29 (A) (1) IN THIS SUBHEADING THE FOLLOWING WORDS HAVE THE
30 MEANINGS INDICATED.

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

32 (I) PAVED OR UNPAVED WALKWAYS AND DRIVEWAYS;

33 (II) TREES;

34 (III) LANDSCAPING;

35 (IV) PASTURES;

1 (V) CROPLANDS;

2 (VI) WATERWAYS; AND

3 (VII) ROCKS.

4 (3) "DEMOLITION" INCLUDES ANY WILLFUL NEGLIGENCE IN THE
5 MAINTENANCE AND REPAIR OF A STRUCTURE, OTHER THAN THE STRUCTURE'S
6 APPURTENANCES AND ENVIRONMENTAL SETTINGS, THAT:

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

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

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

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

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

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

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

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

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

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

35 (2) [The] EXCEPT FOR THE MAYOR AND CITY COUNCIL OF BALTIMORE,
36 THE LOCAL LEGISLATIVE BODY OF [board of county commissioners of every county in

1 the State and the mayor and city council, by whatever name known, of every
2 municipal corporation, except the Mayor and City Council of Baltimore City] EVERY
3 LOCAL JURISDICTION may, by ordinance or [resolution regulate the] RESOLUTION,
4 REGULATE:

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

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

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

15 [(3) (i) In this subtitle the following words have the meanings
16 indicated.

17 (ii) "Structure" means a combination of material to form a
18 construction that is stable; including among other things, buildings, stadiums,
19 reviewing stands, platforms, stagings, observation towers, radio towers, water tanks
20 and towers, trestles, bridges, piers, paving, bulkheads, wharves, sheds, coal bins,
21 shelters, fences and display signs visible or intended to be visible from a public way.
22 The term also includes natural land formations and appurtenances and
23 environmental settings. The term shall be construed as if followed by the words "or
24 part thereof".

25 (iii) "Appurtenances" and "environmental settings" include
26 walkways and driveways (whether paved or not), trees, landscaping, pastures,
27 croplands, waterways, and rocks.

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

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

34 (vi) "Demolition" includes any wilful neglect in maintenance and
35 repair of a structure, not including any appurtenances and environmental settings,
36 that does not result from financial inability to maintain and repair the structure and
37 that threatens to result in any substantial deterioration of the exterior features of the
38 structure.

39 (vii) "Routine maintenance" means work that does not alter the
40 exterior fabric or features of a site or structure and has no material effect on the

1 historical, archeological, or architectural significance of the historical site or
2 structure.]

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

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

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

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

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

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

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

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

21 8.02. Power to designate boundaries for sites, structures, or districts.

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

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

31 8.03. Historic district commissions generally; report by Maryland Historical Trust.

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

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

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

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

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

18 (3) (I) [The members] EACH MEMBER OF A HISTORIC DISTRICT
19 COMMISSION OR HISTORIC PRESERVATION COMMISSION shall be appointed for A
20 3-YEAR [terms of three years each except that in making the initial appointments
21 some appointments shall be established for less than three years in order that as
22 these initial terms expire all subsequent appointments shall be for three years and
23 shall not expire at the same time] TERM.

24 (II) THE TERMS OF THE MEMBERS OF THE COMMISSION SHALL BE
25 STAGGERED.

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

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

32 [(6)] (4) Subject to any requirements of [a county or municipal
33 corporation] THE LOCAL JURISDICTION governing the acceptance and use of gifts by
34 public officials, [the] A HISTORIC DISTRICT COMMISSION OR HISTORIC
35 PRESERVATION commission shall have the right to accept and use gifts [for the
36 exercise of its functions] AS NEEDED TO PERFORM ITS DUTIES.

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

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

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

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

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

11 8.04. Easements to preserve historic, archeological or architectural significance.

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

17 (B) [Such] THE easements ACQUIRED BY A HISTORIC DISTRICT COMMISSION
18 OR HISTORIC PRESERVATION COMMISSION may grant to the commission, the
19 residents of the historic district, and the general public the right to ensure that any
20 [site or any structure and] SITE, STRUCTURE, OR surrounding property [upon which
21 it] ON WHICH THE EASEMENT is applied is protected, in perpetuity, from changes
22 [which] THAT would affect [its] THE historic, archeological, or architectural
23 significance OF THE SITE, STRUCTURE, OR SURROUNDING PROPERTY.

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

27 8.05. Application for permission to construct, alter, reconstruct, move or demolish.

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

39 (B) [Every such] AN application FILED UNDER SUBSECTION (A) OF THIS
40 SECTION shall [be referred to and considered] BE CONSIDERED by the HISTORIC

1 DISTRICT COMMISSION OR HISTORIC PRESERVATION commission and [accepted]
 2 APPROVED or rejected by the commission.

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

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

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

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

17 8.06. Guidelines for construction or change; review of application.

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

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

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

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

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

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

36 (1) The historic, archeological, or architectural significance of the site or
 37 structure and its relationship to the historic, archeological, or architectural
 38 significance of the surrounding area;

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

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

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

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

11 8.07. Only exterior features to be considered.

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

15 (B) [Also, the] A HISTORIC DISTRICT COMMISSION OR HISTORIC
16 PRESERVATION commission [shall] MAY not disapprove an application except [with
17 respect to] AS BASED ON the [several factors specified] CONSIDERATIONS LISTED in
18 § 8.06 [above] OF THIS SUBTITLE.

19 8.08. Strictness [and leniency] in judgment of plans; limiting architectural style to
20 one period.

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

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

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

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

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

1 8.09. Application for construction, reconstruction, alteration, moving or demolition of
2 structure of unusual importance -- Preservation of site or structure.

3 (a) (1) If an application is submitted for construction, reconstruction, or
4 alteration affecting a site or the exterior of a structure or for the moving or demolition
5 of a structure, [the preservation of which the] AND A HISTORIC DISTRICT
6 COMMISSION OR HISTORIC PRESERVATION commission considers PRESERVATION OF
7 THE SITE OR STRUCTURE to be of unusual importance to the [county or municipal
8 corporation or unusual importance to the entire State] LOCAL JURISDICTION, THE
9 STATE, or THE nation, the commission shall [attempt] ATTEMPT, with the owner of
10 the [structure] STRUCTURE, to formulate an economically feasible plan [for the
11 preservation of] TO PRESERVE the site or structure.

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

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

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

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

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

32 8.10. Same -- Approval under certain circumstances.

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

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

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

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

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

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

9 8.11. Rules and regulations for HISTORIC DISTRICT commission meetings; meetings to
10 be public; right to appear and be heard.

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

14 (B) Any interested person or [a person's] representative OF AN INTERESTED
15 PERSON [is entitled to] MAY appear and be heard at any public hearing conducted by
16 [the] A HISTORIC DISTRICT COMMISSION OR HISTORIC PRESERVATION commission.
17 8.12. Certificate of approval, modification or rejection of application and plans.

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

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

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

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

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

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

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

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

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

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

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

22 8.13. Routine maintenance, customary farming, or landscaping not affected;
23 completion of work under prior permit.

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

30 8.14. Enforcement.

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

35 8.15. Appeal from decision of HISTORIC DISTRICT commission OR HISTORIC
36 PRESERVATION COMMISSION.

37 Any person [or persons, firm, or corporation] aggrieved by a decision of [the] A
38 HISTORIC DISTRICT COMMISSION OR HISTORIC PRESERVATION commission [has a
39 right of appeal therefrom similar to that] MAY APPEAL THE DECISION IN THE

1 MANNER provided FOR AN APPEAL from the decision of the zoning board or
 2 commission [within the county or municipal corporation] OF THE LOCAL
 3 JURISDICTION.

4 DRAFTER'S NOTE: The former reference to "persons, firm, or corporation" is
 5 deleted as included within the defined term "person".

6 The defined term "local jurisdiction" is substituted for the former reference
 7 to "county or municipal corporation" for consistency throughout the article.

8 8.16. Underground placement of overhead utility lines and facilities.

9 (a) (1) Every [county, municipal corporation and Baltimore City] LOCAL
 10 JURISDICTION in which a district is designated[,] may enact laws requiring [that
 11 utility] THAT:

12 (I) UTILITY companies relocate underground existing overhead
 13 lines and facilities within the defined part of the district or the entire [district, and
 14 requiring the] DISTRICT; AND

15 (II) IF NECESSARY, PRIVATE OWNERS RECEIVING SERVICE FROM
 16 THE RELOCATED LINES AND FACILITIES PLACE ANY connection [thereto to be
 17 placed] underground [if necessary by private owners then receiving service from the
 18 overhead lines and facilities].

19 (2) [The] A law ENACTED UNDER THIS SECTION [shall provide] SHALL:

20 [(1)] (I) [The] REQUIRE THAT THE estimated cost to property owners
 21 for work [to be] performed on private property be determined and made available to
 22 affected property owners;

23 [(2)] (II) [Financing of] PROVIDE FINANCING FOR these costs to private
 24 [owners be provided] OWNERS, including FINANCING FOR any charges for the
 25 amortization of the bonds issued to initially cover [such] private costs[. The county,
 26 municipal corporation, or Baltimore City may enter into agreement with individual
 27 property owners whereupon it will advance funds to cover the property owner's costs
 28 involved in the conversion of the overhead lines and facilities and may appropriate
 29 funds, levy taxes or borrow funds to pay and advance the costs of such conversion. The
 30 county or municipal corporation and Baltimore City also may impose a benefit
 31 assessment against the property in the district for which the conversion is made in
 32 order to recapture such expended costs and make appropriate provisions for the
 33 collection thereof]; and

34 [(3)] (III) [Any] INCLUDE ANY other provisions reasonably related to
 35 [the objective of] placing [underground] overhead lines and facilities
 36 UNDERGROUND[,] and the administration of [such] UNDERGROUND RELOCATION
 37 projects.

38 (b) (1) Notwithstanding any other provision [in] OF this [section]
 39 SECTION, the Public Service Commission [shall prescribe] SHALL:

1 (I) PRESCRIBE the amount of the monthly surcharge required to
 2 support the net capital costs OF AN UNDERGROUND RELOCATION and determine
 3 which customers of the applicable utility are subject to the [surcharge, or the
 4 Commission shall include] SURCHARGE;

5 (II) INCLUDE the related net capital costs in the rate [base, or shall
 6 adopt] BASE; OR

7 (III) ADOPT any other method to appropriately apportion the [said]
 8 costs.

9 (2) [However, in no event shall the utility] A UTILITY MAY NOT be
 10 required to pay more than [50 percent] ONE-HALF of the net capital costs OF
 11 UNDERGROUND RELOCATION.

12 (3) [The county, municipal corporation, or Baltimore City is authorized
 13 to make appropriations] A LOCAL JURISDICTION MAY APPROPRIATE MONEY for
 14 [such] UNDERGROUND relocation projects from any appropriate federal, State, and
 15 local funds it receives for [this] THE purpose.

16 (C) (1) IN IMPLEMENTING SUBSECTION (A)(2)(II) OF THIS SECTION, THE
 17 LOCAL JURISDICTION MAY ENTER INTO AN AGREEMENT WITH INDIVIDUAL
 18 PROPERTY OWNERS UNDER WHICH THE LOCAL JURISDICTION AGREES TO ADVANCE
 19 FUNDS TO COVER THE PROPERTY OWNER'S COSTS FOR THE RELOCATION OF THE
 20 OVERHEAD LINES AND FACILITIES.

21 (2) (I) THE LOCAL JURISDICTION MAY APPROPRIATE FUNDS, LEVY
 22 TAXES, OR BORROW FUNDS TO PAY AND ADVANCE THE COSTS OF AN UNDERGROUND
 23 RELOCATION.

24 (II) THE LOCAL JURISDICTION ALSO MAY:

25 1. IN ORDER TO RECAPTURE EXPENDED COSTS, IMPOSE A
 26 BENEFIT ASSESSMENT AGAINST PROPERTY IN THE DISTRICT ON BEHALF OF WHICH
 27 THE UTILITY IS RELOCATED UNDERGROUND; AND

28 2. PROVIDE FOR THE COLLECTION OF THE ASSESSMENT.

29 [(c)] (D) [The provisions of § 7.03] SECTION 7.04 of this article [do] DOES not
 30 apply to [the provisions of] this section.

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

34 In subsection (b) of this section, the defined term "local jurisdiction" is
 35 substituted for the former reference to "county, municipal corporation, or
 36 Baltimore City".

37 Subsection (c) of this section is transferred from the latter portion of

1 former subsection (a)(2)(ii) of this section.

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

5 8.17. Severability.

6 (A) The provisions of this subtitle are [severable, and if any of their provisions
7 are] SEVERABLE.

8 (B) IF ANY PROVISION OF THIS SUBTITLE IS held unconstitutional by [any] A
9 court of competent jurisdiction, the decision of [such court shall] THE COURT DOES
10 not affect or impair any of the remaining provisions.

11 Adequate Public Facilities Ordinances

12 10.01. Authority to enact.

13 (a) [In order to] TO encourage the preservation of natural resources or the
14 provision of affordable housing and to facilitate orderly development and growth,
15 [any county or municipal corporation, including Baltimore City.] A LOCAL
16 JURISDICTION that exercises authority granted by this article may [enact] ENACT,
17 and is encouraged to [enact] ENACT, ordinances or [other] laws providing for or
18 requiring:

19 (1) The planning, [staging] STAGING, or provision of adequate public
20 facilities and affordable housing;

21 (2) Off-site improvements or THE dedication of land for public facilities
22 essential for a development;

23 (3) Moderately priced dwelling unit programs;

24 (4) Mixed use developments;

25 (5) Cluster developments;

26 (6) Planned unit developments;

27 (7) Alternative subdivision requirements [that meet] THAT:

28 (I) MEET minimum performance standards set by the [county or
29 municipal corporation and that reduce] LOCAL JURISDICTION; AND

30 (II) REDUCE infrastructure costs;

31 (8) Floating zones;

32 (9) Incentive zoning; and

1 (10) Performance zoning.

2 (b) Notwithstanding any other provision of law, [the] A LOCAL legislative
3 body [of a county or municipal corporation, including Baltimore City,] that exercises
4 authority granted by this article may enact ordinances or [other] laws providing for
5 the [transfer] TRANSFER, WITH OR WITHOUT CONSIDERATION, of real property
6 belonging to the [county or municipal corporation, with or without consideration,]
7 LOCAL JURISDICTION to a public or private [entity for use in the development or
8 preservation of] ENTITY, TO USE IN DEVELOPING OR PRESERVING affordable housing.

9 (c) The authority provided [for in] UNDER this section is not intended to limit
10 a [county's or municipal corporation's] LOCAL JURISDICTION'S authority to:

11 (1) Exercise any [existing] planning and zoning powers not expressly
12 authorized [in] UNDER this section; or

13 (2) Adopt other methods [for facilitating] TO:

14 (I) FACILITATE orderly development and [growth and
15 encouraging] GROWTH;

16 (II) ENCOURAGE the preservation of natural [resources or the
17 provision of] RESOURCES; OR

18 (III) PROVIDE affordable housing.

19 DRAFTER'S NOTE: In subsection (a) of this section, the defined term "local
20 jurisdiction" is substituted for the former reference to "any county or
21 municipal corporation, including Baltimore City" for consistency
22 throughout the article.

23 In subsection (b) of this section, the former reference to "of a county or
24 municipal corporation, including Baltimore City" is deleted as included
25 within the defined term "local legislative body".

26 Also in subsection (b) of this section, the defined term "local jurisdiction" is
27 substituted for the former reference to "county or municipal corporation"
28 for consistency throughout the article.

29 In subsection (c) of this section, the derivation of the defined term "local
30 jurisdiction", or "local jurisdiction's" is substituted for the former reference
31 to "county's or municipal corporation's" for consistency throughout the
32 article.

33 Transfer of Development Rights

34 11.01. Establishment of programs for transfer of development rights.

35 [In order to encourage the preservation of natural resources and to facilitate
36 orderly growth and development in the State, the] A LOCAL legislative body [of a

1 county or municipal corporation, including Baltimore City,] that exercises authority
2 granted by this article may establish a program for the transfer of development rights
3 TO:

4 (1) ENCOURAGE THE PRESERVATION OF NATURAL RESOURCES; AND

5 (2) FACILITATE ORDERLY GROWTH AND DEVELOPMENT IN THE STATE.

6 DRAFTER'S NOTE: The former reference to "of a county or municipal
7 corporation" is deleted as included within the defined term "local
8 legislative body".

9 Inclusionary Zoning

10 12.01. Affordable housing.

11 (a) To promote the creation of housing that is affordable to persons and
12 families who have low or moderate incomes, [the legislative body of a county or
13 municipal corporation, including Baltimore City,] A LOCAL LEGISLATIVE BODY that
14 exercises authority granted by this article may enact ordinances or [other] laws that:

15 (1) Impose inclusionary zoning and award density bonuses to create
16 affordable housing units; and

17 (2) Impose restrictions on the use, cost, and resale of housing that is
18 created under this subtitle to ensure that the purposes of this subtitle are carried out.

19 (b) The authority GRANTED under this subtitle is in addition to any [existing]
20 OTHER zoning and planning powers.

21 DRAFTER'S NOTE: In subsection (a)(1) of this section, the former reference to
22 "of a county or municipal corporation, including Baltimore City," is deleted
23 as included within the defined term "local legislative body".

24 Development Rights and Responsibilities Agreements

25 13.01. Agreements.

26 (a) (1) In this section[,] the following words have the meanings indicated.

27 (2) "Agreement" means A development rights and responsibilities
28 agreement.

29 [(3) "Commission" means a planning and zoning commission or similar
30 body.]

31 [(4)] (3) "Governing body" means the local legislative body, the local
32 executive, or other elected governmental body that has zoning powers under this
33 article.

1 [(5)] (4) "Public principal" means the governmental entity of a LOCAL
2 jurisdiction that has been granted the authority to enter agreements under
3 subsection (b)(1) of this section.

4 (b) (1) Subject to subsections (c) through (l) of this section, the governing
5 body of a LOCAL jurisdiction may:

6 (i) By ordinance, establish procedures and requirements for the
7 consideration and execution of agreements; and

8 (ii) Delegate all or part of the authority established under the
9 ordinance to a public principal within the jurisdiction of the governing body.

10 (2) The public principal may:

11 (i) Execute agreements for real property located within jurisdiction
12 of the governing body with a person having a legal or equitable interest in the real
13 property; and

14 (ii) Include a federal, State, or local government or unit as an
15 additional party to the agreement.

16 (c) Before entering an agreement, a person having a legal or equitable interest
17 in real property or the [representative of a person having a legal or equitable interest
18 in real property] PERSON'S REPRESENTATIVE shall petition [to] the public principal
19 of the LOCAL jurisdiction in which the property is located.

20 (d) (1) After receiving a petition and before entering an agreement, the
21 public principal shall conduct a public hearing.

22 (2) [If a] A public hearing THAT is [already] required for approval of the
23 development[, that public hearing may satisfy] SATISFIES the public hearing
24 [provisions under paragraph (1) of this subsection] REQUIREMENTS.

25 (e) The public principal of a LOCAL jurisdiction may not enter an agreement
26 unless the PLANNING commission of the LOCAL jurisdiction determines whether the
27 proposed agreement is consistent with the plan of the LOCAL jurisdiction.

28 (f) (1) An agreement shall include:

29 (i) A legal description of the real property subject to the agreement;

30 (ii) The names of the persons having a legal or equitable interest in
31 the real property subject to the agreement;

32 (iii) The duration of the agreement;

33 (iv) The permissible uses of the real property;

34 (v) The density or intensity of use OF THE REAL PROPERTY;

1 (vi) The maximum height and size of structures TO BE LOCATED ON
2 THE REAL PROPERTY;

3 (vii) A description of the permits required or already approved for
4 the development of the real property;

5 (viii) A statement that the proposed development is consistent with
6 the plan and development regulations of the LOCAL jurisdiction;

7 (ix) A description of the conditions, terms, restrictions, or other
8 requirements determined by the governing body of the LOCAL jurisdiction [as] TO BE
9 necessary to ensure the public health, safety, or welfare; and

10 (x) To the extent applicable, provisions for the:

11 1. Dedication of a portion of the real property for public use;

12 2. Protection of sensitive areas;

13 3. Preservation and restoration of historic structures; and

14 4. Construction or financing of public facilities.

15 (2) An agreement may:

16 (i) Fix the [period in and terms by which development and
17 construction may commence or be completed] TIME FRAME AND TERMS FOR
18 DEVELOPMENT AND CONSTRUCTION ON THE REAL PROPERTY; and

19 (ii) Provide for other matters consistent with this article.

20 (g) [Unless otherwise established under subsection (f)(1)(iii) and (2)(i) of this
21 section or extended by amendment under subsection (h) of this section, an] AN
22 agreement shall be void 5 years after the day on which the parties [executed]
23 EXECUTE the agreement UNLESS:

24 (1) OTHERWISE ESTABLISHED UNDER SUBSECTION (F)(1)(III) OR (2)(I) OF
25 THIS SECTION; OR

26 (2) EXTENDED BY AMENDMENT UNDER SUBSECTION (H) OF THIS
27 SECTION.

28 (h) (1) Subject to paragraph (2) of this subsection and after a public hearing,
29 the parties to an agreement may amend the agreement by mutual consent.

30 (2) [The] UNLESS THE PLANNING COMMISSION OF THE LOCAL
31 JURISDICTION DETERMINES THAT THE PROPOSED AMENDMENT IS CONSISTENT
32 WITH THE PLAN OF THE LOCAL JURISDICTION, THE parties may not amend an
33 agreement[, unless the commission of the jurisdiction determines whether the
34 proposed amendment is consistent with the plan of the jurisdiction].

1 (i) (1) The parties to an agreement may terminate the agreement by mutual
2 consent.

3 (2) [After a public hearing,] IF THE PUBLIC PRINCIPAL OR THE
4 GOVERNING BODY DETERMINES THAT SUSPENSION OR TERMINATION IS ESSENTIAL
5 TO ENSURE THE PUBLIC HEALTH, SAFETY, OR WELFARE, the public principal or its
6 governing body may suspend or terminate an agreement [if the public principal or
7 the governing body determines that suspension or termination is essential to ensure
8 the public health, safety, or welfare] AFTER A PUBLIC HEARING.

9 (j) (1) Except as provided in paragraph (2) of this subsection, the laws,
10 rules, regulations, and policies governing the use, density, or intensity of the real
11 property subject to the agreement shall be the laws, rules, regulations, and policies in
12 force at the time the parties execute the agreement.

13 (2) [An] IF THE LOCAL JURISDICTION DETERMINES THAT COMPLIANCE
14 WITH LAWS, RULES, REGULATIONS, AND POLICIES ENACTED OR ADOPTED AFTER
15 THE EFFECTIVE DATE OF THE AGREEMENT IS ESSENTIAL TO ENSURE THE HEALTH,
16 SAFETY, OR WELFARE OF RESIDENTS OF ALL OR PART OF THE JURISDICTION, AN
17 agreement may not prevent a local government from requiring a person to comply
18 with [the laws, rules, regulations, and policies enacted after the date of the
19 agreement, if the local government determines that imposition and compliance with
20 these laws and regulations is essential to ensure the public health, safety, or welfare
21 of residents of all or part of the jurisdiction] THOSE LAWS, RULES, REGULATIONS,
22 AND POLICIES.

23 (k) (1) An agreement [shall be void if] THAT IS not recorded in the land
24 records office of the LOCAL jurisdiction within 20 days after the day on which the
25 parties execute the agreement IS VOID.

26 (2) [When an agreement is recorded, the] THE parties to [the] AN
27 agreement and their successors in interest are bound to the agreement AFTER THE
28 AGREEMENT IS RECORDED.

29 (l) Unless THE AGREEMENT IS terminated under subsection (i) of this section,
30 the parties to an agreement or their successors in interest may enforce the
31 agreement.

32 (m) [Nothing in this section may be construed to] THIS SECTION DOES NOT
33 require the adoption of an ordinance by a governing body or [to] authorize a
34 governing body to require a party to enter into an agreement.

35 DRAFTER'S NOTE: Throughout this section, the defined term "local
36 jurisdiction" is substituted for the former references to "jurisdiction" for
37 consistency throughout the article.

38 In subsection (j)(2) of this section, the defined term "local jurisdiction" is
39 substituted for the former reference to "local government" for consistency
40 throughout the article.

MISCELLANEOUS LOCAL PROVISIONS

14.01. ALLEGANY COUNTY.

[The following counties are excepted from the provisions of subsection (a) to the extent provided in this subsection:]

(A) THIS SECTION APPLIES TO ALLEGANY COUNTY.

(B) [In Allegany County, the] THE PLANNING commission may consist of seven members.

(C) (1) The term of each member [shall be five years] IS 5 YEARS.

(2) EACH MEMBER SHALL SERVE [or] until [his] A successor [takes office, except that the respective terms of the sixth and seventh members first appointed may be less than five years] IS APPOINTED AND QUALIFIES.

(3) THE TERMS OF TWO OF THE MEMBERS OF THE PLANNING COMMISSION SHALL BE STAGGERED.

DRAFTER'S NOTES: This section is transferred from former § 3.02(b)(1) of this article.

Subsection (a) of this section is new language added to define the scope of this section.

Subsection (c)(3) of this section is derived from the former second clause of subsection (c)(2) of this section, which is otherwise obsolete.

14.02. BALTIMORE COUNTY.

(A) THIS SECTION APPLIES TO BALTIMORE COUNTY.

(B) In addition to the jurisdiction [as defined in subsection (c) of this section] GRANTED IN § 7.02 OF THIS ARTICLE, the legislative body of Baltimore County may provide by ordinance for an administrative proceeding to enforce its zoning [regulations, including the imposition of] REGULATIONS.

(C) THE ORDINANCE MAY INCLUDE THE AUTHORITY TO IMPOSE civil fines and penalties for zoning violations.

DRAFTER'S NOTE: Subsection (a) of this section is new language added to define the scope of this section.

Subsections (b) and (c) of this section are transferred without substantive change from former § 7.01(a)(2) of this article.

14.03. CARROLL COUNTY.

(A) THIS SECTION APPLIES TO CARROLL COUNTY.

1 (b) (1) [In Carroll County, the] THE County Commissioners [have the
2 discretion to determine whether or not one of the appointive members of the planning
3 and zoning commission is a member] MAY APPOINT ONE OF THE MEMBERS of the
4 Board of County Commissioners TO THE PLANNING AND ZONING COMMISSION.

5 (2) (I) The County Commissioners shall designate one alternate
6 member of the PLANNING commission who may [be empowered to] sit on the
7 PLANNING AND ZONING commission in the absence of [any] A member of the
8 PLANNING AND ZONING commission.

9 (II) When the alternate is absent, the County Commissioners may
10 designate a temporary alternate [who shall sit on the commission].

11 (c) [In Frederick and Carroll Counties, this section] IF A PLAT IS APPROVED
12 AND RECORDED IN ACCORDANCE WITH THIS ARTICLE BEFORE THE TRANSFER OF
13 THE LAND, § 5.05 OF THIS ARTICLE does not apply to [the] A contract for sale or
14 negotiation for sale of property zoned industrial, commercial, or both industrial and
15 commercial[, if a plat is approved and recorded in accordance with this article prior to
16 the transfer of land].

17 DRAFTER'S NOTE: Subsection (a) of this section is new language added to
18 define the scope of this section.

19 Subsections (b) and (c) of this section are transferred without substantive
20 change from former §§ 3.02(b)(2) and 5.05(c) of this article.

21 14.04. CECIL COUNTY.

22 (A) THIS SECTION APPLIES TO CECIL COUNTY.

23 (b) [(i)] (1) [In Cecil County, the] THE planning commission has six
24 regular members and one alternate member.

25 [(ii)] (2) (I) Members of the planning commission serve for
26 3-year [staggered] terms.

27 (II) THE TERMS OF THE MEMBERS OF THE PLANNING COMMISSION
28 SHALL BE STAGGERED.

29 [(iii)] (3) At the end of a term, an appointed member continues to
30 serve until a successor is appointed and qualifies.

31 [(iv)] (4) An ex officio member serves a term concurrent with the
32 member's term of office.

33 [(v)] (5) A member who is appointed after a term has begun serves
34 only for the rest of the term and until a successor is appointed and qualifies.

35 (c) [(1)] In Cecil County, the commission may not appoint a director of
36 planning and zoning.]

1 [(2)] (1) (I) The Board of County Commissioners [of Cecil County]
2 shall appoint a director of planning and zoning for the [County and the] COUNTY.

3 (II) THE director shall serve at the pleasure of the County
4 Commissioners.

5 (2) THE PLANNING COMMISSION MAY NOT APPOINT A DIRECTOR OF
6 PLANNING AND ZONING.

7 (d) (1) Notwithstanding [subsection (a) of this section, in Cecil County] §
8 4.07(A) OF THIS ARTICLE, the [board] BOARD OF APPEALS has five regular members
9 and one alternate member.

10 (2) (I) Board members serve for 3-year [staggered] terms.

11 (II) THE TERMS OF THE MEMBERS OF THE BOARD OF APPEALS
12 SHALL BE STAGGERED.

13 (3) At the end of a term, a member continues to serve until a successor is
14 appointed and qualifies.

15 (4) A member who is appointed after a term has begun serves only for
16 the rest of the term and until a successor is appointed and qualifies.

17 DRAFTER'S NOTE: Subsection (a) of this section is new language added to
18 define the scope of this section.

19 Subsections (b) through (d) of this section are transferred without
20 substantive change from former §§ 3.02(b)(4), 3.04(b), and 4.07(b-3),
21 respectively, of this article.

22 14.05. CHARLES COUNTY.

23 (A) THIS SECTION APPLIES TO CHARLES COUNTY.

24 (b) [(i)] (1) The [Charles County] planning commission is [comprised of 7]
25 COMPOSED OF SEVEN members [and] WHO shall represent as many different
26 geographical areas of Charles County as is possible.

27 [(ii)] (2) [Members] A MEMBER OF THE PLANNING COMMISSION
28 may receive [such] THE compensation [as deemed] CONSIDERED appropriate by the
29 [Charles] County Commissioners.

30 [(iii)] (3) (I) [The members serve] A MEMBER OF THE PLANNING
31 COMMISSION SERVES for [four-year terms] A 4-YEAR TERM or until [their
32 successors are] A SUCCESSOR IS appointed and [qualified] QUALIFIES.

33 (II) The [respective] terms of the members shall be [on a]
34 staggered [basis].

1 [(iv)] (4) [The] EACH YEAR, THE COUNTY COMMISSIONERS SHALL
 2 APPOINT THE chairperson [shall be appointed annually by the Charles County
 3 Commissioners] OF THE PLANNING COMMISSION.

4 [(v)] A member of the Charles County Commissioners may sit on the
 5 Charles County planning commission in an ex officio capacity through December 31,
 6 1988. The member shall have voting privileges on all matters except matters on
 7 which the member would be called on to vote again in the capacity as a member of the
 8 Charles County Commissioners, such as zoning and rezoning matters. This member
 9 shall be counted as one of the 7 members.]

10 [(vi)] (5) [Beginning January 1, 1989, a] A member of the
 11 [Charles] County Commissioners may not sit on the [Charles County] planning
 12 commission.

13 (C) (1) THE LOCAL LEGISLATIVE BODY MAY AUTHORIZE THE PLANNING
 14 DIRECTOR OR OTHER DESIGNEE TO GRANT ADMINISTRATIVE ADJUSTMENTS FROM
 15 HEIGHT, SETBACK, BULK, PARKING, LOADING, DIMENSIONAL, AREA, OR SIMILAR
 16 REQUIREMENTS OF THE ZONING ORDINANCE.

17 (2) THE LOCAL LEGISLATIVE BODY SHALL:

18 (I) CONSULT WITH THE PLANNING COMMISSION AND THE BOARD
 19 OF APPEALS IN DEVELOPING CRITERIA AND PROCEDURES FOR ADMINISTRATIVE
 20 ADJUSTMENTS UNDER THIS SUBSECTION; AND

21 (II) ADOPT THE CRITERIA AND PROCEDURES AFTER REASONABLE
 22 PUBLIC NOTICE, PUBLIC HEARING, AND AN OPPORTUNITY FOR REVIEW AND
 23 COMMENT BY THE PUBLIC.

24 (3) CRITERIA FOR ADMINISTRATIVE ADJUSTMENTS SHALL INCLUDE:

25 (I) STANDARDS FOR ACTIONS ON REQUESTS;

26 (II) STANDARDS FOR CLASSES OF DEVELOPMENT ELIGIBLE FOR
 27 ADMINISTRATIVE ADJUSTMENTS; AND

28 (III) THE MAXIMUM VARIATION FROM A ZONING REQUIREMENT
 29 ALLOWABLE UNDER AN ADMINISTRATIVE ADJUSTMENT.

30 (4) PROCEDURES FOR ADMINISTRATIVE ADJUSTMENTS MAY INCLUDE:

31 (I) APPLICATIONS;

32 (II) NOTICE TO THE PUBLIC AND PARTIES IN INTEREST;

33 (III) OPPORTUNITY FOR PUBLIC HEARING;

34 (IV) TAKING OF TESTIMONY AND EVIDENCE; AND

35 (V) DECISION MAKING.

1 (5) A DECISION ON AN APPLICATION FOR AN ADMINISTRATIVE
2 ADJUSTMENT SHALL INCLUDE WRITTEN FINDINGS OF FACT.

3 (6) BY ORDINANCE OR OTHER ADOPTED PROCEDURE, THE LOCAL
4 LEGISLATIVE BODY MAY ALLOW AN APPEAL TO THE BOARD OF APPEALS OF A
5 DECISION TO APPROVE OR DENY AN ADMINISTRATIVE ADJUSTMENT.

6 (d) (1) Notwithstanding [subsection (a) of this section, in Charles County] §
7 4.07(A) OF THIS ARTICLE, [board members] A MEMBER OF THE BOARD OF APPEALS
8 shall be appointed to A 4-YEAR [staggered terms of 4 years] TERM.

9 (2) THE TERMS OF THE MEMBERS OF THE BOARD OF APPEALS SHALL BE
10 STAGGERED.

11 (e) (1) This subsection applies only:

12 (i) In Charles County; and

13 (ii) To] TO an application for a special exception for surface mining,
14 an asphalt plant, concrete plant, or sand and gravel washing, crushing, or screening.

15 (2) (I) Notwithstanding [any other provision of this section] § 4.07 OF
16 THIS ARTICLE, the County Commissioners may hear and decide a special exception
17 under an appeal filed by a property owner WHO IS aggrieved by a decision of the board
18 of appeals on the special [exception, in] EXCEPTION.

19 (II) THE COUNTY COMMISSIONERS SHALL HEAR AND DECIDE AN
20 APPEAL OF A SPECIAL EXCEPTION IN accordance with rules and procedures adopted
21 by the County Commissioners.

22 (3) If the County Commissioners adopt rules and procedures for
23 considering a special exception under this subsection, the decision of the [county
24 commissioners] COUNTY COMMISSIONERS to grant, deny, modify, or remand the
25 application for the special exception is a final decision from which an appeal may be
26 taken to the circuit court under § 4.08 of this [subtitle] ARTICLE.

27 (f) [In Charles and St. Mary's Counties this section] SECTION 5.05 OF THIS
28 ARTICLE does not apply to the sale or negotiation for sale of industrial property.

29 (g) [(a)] (1) Notwithstanding any other provision of this article, if [an
30 application or permit or series of applications or permits] A PERMIT is granted
31 [within Charles County] to an owner [or owners] of land [which allows the
32 applicant] to proceed with the development of land for [purposes of constructing]
33 residential dwelling units, [whether single or multiple, detached or attached, in a
34 manner] SO that the County or the State will have to provide additional school sites
35 or school facilities for the use and benefit of new residents [who will populate] OF the
36 developed land, the owner [or owners] of the land, in accordance with regulations or
37 procedures [which may be promulgated] ADOPTED by the County Commissioners,
38 shall [compensate the County for] PAY THE COUNTY FOR THE COSTS OF the burden
39 the development will impose in terms of the additional public school facilities which

1 will have to be provided in an amount equal to the cost attributable to the proposed
2 development of the land involved.

3 [(b) (1)] (2) (I) 1. [The] AFTER A PUBLIC HEARING, THE COUNTY
4 COMMISSIONERS SHALL ANNUALLY SET THE costs to be compensated by the land
5 owner or owners [shall be determined annually by the County Commissioners after a
6 public hearing].

7 2. THE COSTS ASSESSED UNDER THIS SUBSECTION MAY NOT
8 EXCEED \$5,000 PER RESIDENTIAL UNIT.

9 (II) 1. Proportionate division and provisions for payment of these
10 costs shall be made according to reasonable schedules approved by the County
11 Commissioners.

12 2. THE PAYMENT SCHEDULES SHALL REFLECT THE IMPACT
13 OF THE DEVELOPMENT OVER TIME AND PROVIDE FOR THE TIMELY ACQUISITION OF
14 LAND AND OTHER FACILITIES BY THE COUNTY, THE STATE, OR THE LAND OWNER, AS
15 NEEDED TO SERVE THE RESIDENTS OF THE DEVELOPMENT. [However, in no case
16 may this exceed \$5,000 per unit.]

17 [(2) (i)] (III) 1. [The] EACH YEAR, BEFORE THE PUBLIC HEARING TO
18 SET THE IMPACT FEES, THE County Commissioners shall conduct [an annual] A
19 study to determine the reasonableness of [these costs before] THE FEES TO BE
20 PROPOSED AT the public hearing.

21 [(ii)] 2. The study shall include an analysis of the effect of the
22 impact [fee] FEES on the cost of housing in the County.

23 3. The analysis shall be made available to the public at the
24 time of the public hearing.

25 [(iii)] (IV) Any new or increased [costs] IMPACT FEES may not take
26 effect until at least 90 days after the public hearing.

27 [(3)] These schedules shall reflect the impact of the development over time
28 and provide for the timely acquisition of land and other facilities by the County, State,
29 or the land owners, as the case may be, designed to serve residents of the
30 development.]

31 [(4)] (V) 1. [Up to] THE COUNTY COMMISSIONERS MAY REQUIRE
32 THAT NOT EXCEEDING 20% of any fee imposed [under this section] for any
33 residential dwelling unit UNDER THIS SUBSECTION [may be required to] be paid
34 [at] ON or after the approval of a preliminary subdivision plan for lots that include
35 the residential dwelling unit.

36 2. The LANDOWNER SHALL PAY THE balance of the fee [shall
37 be paid] before the [issuance of] COUNTY COMMISSIONERS MAY ISSUE the
38 occupancy permit for the residential dwelling unit.

1 [(c) (3) (I) [Moneys] THE COUNTY COMMISSIONERS SHALL PLACE THE
 2 IMPACT FEES received by the County [for compensation] under this [section shall be
 3 placed] SUBSECTION in a [separate] SPECIAL fund.

4 (II) The [funds shall be used] COUNTY COMMISSIONERS SHALL
 5 USE THE MONEYS IN THE SPECIAL FUND for public school facilities.

6 (III) [This] THE special fund shall be administered by the County
 7 [Commissioners and is subject to investment or expenditure by the County
 8 Commissioners, in their absolute discretion solely for the purposes of this section]
 9 COMMISSIONERS, WHO MAY, IN THEIR ABSOLUTE DISCRETION, INVEST OR SPEND
 10 THE MONEY IN THE FUND SOLELY FOR THE PURPOSES LISTED IN THIS SUBSECTION.

11 [(d) (1)] (4) (I) On or before October 1, 1998, the County Commissioners
 12 shall adopt an impact fee ordinance on impact fees for public school facilities.

13 [(2)] (II) The ordinance shall include regulations and procedures
 14 necessary to establish an impact fee program and to allow applications for impact fee
 15 credits for designated residential dwelling units.

16 [(3)] (III) The impact fee program shall [include] REFLECT the 5-year
 17 capital improvement needs of the County Board of Education.

18 DRAFTER'S NOTE: Subsection (a) of this section is new language added to
 19 define the scope of the section.

20 Subsections (b) and (d) through (g) of this section are transferred without
 21 substantive change from former §§ 3.02(b)(3), 4.07(b-2) and (e), 5.05(b),
 22 and 5.08, respectively, of this article.

23 In subsection (b) of this section, the former provision relating to a member
 24 of the County Commissioners sitting on the planning commission is
 25 deleted as obsolete.

26 Subsection (c) of this section is derived without substantive change from
 27 former § 4.05(d) of this article.

28 14.06. FREDERICK COUNTY.

29 (A) THIS SECTION APPLIES TO FREDERICK COUNTY.

30 (b) Notwithstanding any other provision [in] OF this article, [in Frederick
 31 County,] the Board of County Commissioners may overrule [the] AN action of the
 32 Frederick County planning commission by a majority vote of the membership of the
 33 Board of County Commissioners.

34 (c) (1) Notwithstanding [subsection (a) of this section, in Frederick County
 35 and St. Mary's County] § 4.07(A) OF THIS ARTICLE, the [board] members OF THE
 36 BOARD OF APPEALS may be appointed to [staggered] terms [varying from one to
 37 three] OF 1 TO 3 years.

1 (2) THE TERMS OF THE BOARD OF APPEALS SHALL BE STAGGERED.

2 (D) IF A PLAT IS APPROVED AND RECORDED IN ACCORDANCE WITH THIS
3 ARTICLE BEFORE THE TRANSFER OF LAND, § 5.05 OF THIS ARTICLE DOES NOT APPLY
4 TO THE CONTRACT FOR SALE OR NEGOTIATION FOR SALE OF PROPERTY ZONED
5 INDUSTRIAL, COMMERCIAL, OR BOTH INDUSTRIAL AND COMMERCIAL.

6 DRAFTER'S NOTE: Subsection (a) of this section is new language added to
7 define the scope of the section.

8 Subsections (b) and (c) of this section are transferred without substantive
9 change from former §§ 3.08.1 and 4.07(b-1) of this article, as they related
10 to Frederick County.

11 Subsection (d) of this section is derived without substantive change from
12 former § 5.05(c) of this article as it related to Frederick County.

13 14.07. ST. MARY'S COUNTY.

14 (A) THIS SECTION APPLIES TO ST. MARY'S COUNTY.

15 (b) (1) [(i) In St. Mary's County, land] LAND and buildings may not be
16 used for chemical or catalytic manufacturing, chemical fabrication, gasoline
17 processing, or refining of petroleum or petroleum products.

18 [(ii) (2) This prohibition does not apply to land [and] OR buildings
19 [if they were] used:

20 [1.] (I) On or before July 23, 1974, for chemical or catalytic
21 manufacturing, chemical fabrication, gasoline fabrication, gasoline processing, or
22 refining of petroleum or petroleum products; or

23 [2.] (II) On or after July 1, 1980, for manufacturing alcohol
24 fuel.

25 (c) [(2) (i) (1) [In St. Mary's County, except] EXCEPT as provided in
26 [subparagraph (ii) of this] paragraph (2) OF THIS SUBSECTION, any land [and
27 buildings that are] OR BUILDING used for races or speed contests involving
28 automobiles or other vehicles, as defined in § 11-176 of the Transportation Article,
29 shall be restricted to hours of operation that cease:

30 [1.] (I) At 12:30 a.m.; or

31 [2.] (II) If a race or speed contest is in progress at 12:30 a.m.,
32 within 30 minutes after the conclusion of that race or speed contest.

33 [(ii) (2) The required closing time for land and buildings under
34 [subparagraph (i) of this] paragraph (1) OF THIS SUBSECTION does not apply to areas
35 used for the operation of concessions or to [passages used for ingress and egress to
36 these] A PASSAGE USED AS AN ENTRANCE TO OR EXIT FROM THE concession areas.

1 (D) (1) NOTWITHSTANDING § 4.07(A) OF THIS ARTICLE, THE MEMBERS OF
2 THE BOARD OF APPEALS MAY BE APPOINTED TO TERMS OF 1 TO 3 YEARS.

3 (2) THE TERMS OF THE MEMBERS OF THE BOARD OF APPEALS SHALL BE
4 STAGGERED.

5 (E) SECTION 5.05 OF THIS ARTICLE DOES NOT APPLY TO THE SALE OR
6 NEGOTIATION FOR SALE OF INDUSTRIAL PROPERTY.

7 (f) (1) Notwithstanding [the provisions of subsection (a)] § 5.05(A) of this
8 [section] ARTICLE, [in St. Mary's County] the [county commissioners] COUNTY
9 COMMISSIONERS may provide a civil penalty for a subdivision violation.

10 (2) In a proceeding before the district court, [the] A subdivision violation
11 shall be enforced in the same manner and to the same extent as [set forth for] A
12 municipal [infractions in] INFRACTION UNDER Article 23A, § 3(b) of the Code.

13 (g) (1) Notwithstanding [the provisions of subsection (c)] § 7.02 of this
14 [section] ARTICLE, [in St. Mary's County] the County Commissioners may provide a
15 civil penalty for a zoning violation.

16 (2) In a proceeding before the District Court, [the] A zoning violation
17 shall be enforced in the same manner and to the same extent as [set forth for] A
18 municipal [infractions in] INFRACTION UNDER Article 23A, § 3(b) of the Code.

19 DRAFTER'S NOTE: Subsection (a) of this section is new language added to
20 define the scope of the section.

21 Subsections (b), (c), (f), and (g) of this section are transferred without
22 substantive change from former §§ 4.01(c)(1) and (2), 5.05(d), and 7.01(d) of
23 this article.

24 Subsection (d) of this section is derived without substantive change from
25 former § 4.07(b-1) of this article, as that provision related to St. Mary's
26 County.

27 Subsection (e) of this section is derived without substantive change from
28 former § 5.05(b) of this article, as that provision related to St. Mary's
29 County.

30 14.08. WASHINGTON COUNTY.

31 [(1)] (A) [This subsection applies to Charles County and Washington
32 County.] THIS SECTION APPLIES TO WASHINGTON COUNTY.

33 [(2)] (B) The local legislative body may authorize the planning director
34 or other designee to grant administrative adjustments from height, setback, bulk,
35 parking, loading, dimensional, area, or similar requirements of the zoning ordinance.

36 [(3)] (C) The local legislative body [shall consult] SHALL:

1 (1) CONSULT with the planning commission and the board of appeals in
 2 developing criteria and procedures for administrative adjustments under this
 3 subsection[.]; AND

4 [(4)] (2) [The local legislative body shall adopt] ADOPT the criteria and
 5 procedures after reasonable public notice, public hearing, and AN opportunity for
 6 review and comment by the public.

7 [(5)] (D) Criteria for administrative adjustments shall include:

8 [(i)] (1) Standards for actions on requests;

9 [(ii)] (2) Standards for classes of development eligible for
 10 administrative adjustments; and

11 [(iii)] (3) [Maximum] THE MAXIMUM variation from a zoning
 12 requirement allowable under an administrative adjustment.

13 [(6)] (E) Procedures for administrative adjustments may include:

14 [(i)] (1) Applications;

15 [(ii)] (2) Notice to the public and parties in interest;

16 [(iii)] (3) Opportunity for public hearing;

17 [(iv)] (4) Taking of testimony and evidence; and

18 [(v)] (5) Decision making.

19 [(7)] (F) A decision on an application for an administrative adjustment
 20 shall include written findings of fact.

21 [(8)] (G) [The] BY ORDINANCE OR OTHER ADOPTED PROCEDURE, THE
 22 local legislative body may [provide, by ordinance or other adopted procedure, for the]
 23 ALLOW AN appeal TO THE BOARD OF APPEALS of a decision to approve or deny an
 24 administrative adjustment [to the board of appeals].

25 DRAFTER'S NOTE: Subsections (b) through (g) of this section are transferred
 26 from former § 4.05(d) of this article.

27 14.09. WORCESTER COUNTY.

28 (A) THIS SECTION APPLIES TO WORCESTER COUNTY.

29 (b) (1) [In Worcester County, notwithstanding] NOTWITHSTANDING any
 30 other [provisions of the] PROVISION OF law, ON THE ZONING OR REZONING OF ANY
 31 LAND, the County Commissioners[, upon the zoning or rezoning of any land or
 32 lands,] may impose [such] restrictions, [conditions] CONDITIONS, or limitations [as
 33 may be deemed by them] CONSIDERED BY THE COUNTY COMMISSIONERS to be

1 appropriate to preserve, [improve] IMPROVE, or protect the general character and
 2 design [of the lands] OF:

3 (I) THE LAND and improvements being zoned or [rezoned, or of
 4 the] REZONED; OR

5 (II) THE surrounding or adjacent lands and improvements[, and].

6 (2) ON THE ZONING OR REZONING OF ANY LAND, THE COMMISSIONERS
 7 may[, upon the zoning or rezoning of any land or lands,] retain or reserve the power
 8 [and authority] to approve or disapprove the design of buildings, construction,
 9 [landscaping] LANDSCAPING, or other improvements, alterations, and changes made
 10 [or to be made] on the [subject] land [or lands] to assure conformity with the intent
 11 and [purpose] PURPOSES of this article and of the county zoning ordinance.

12 (3) The COUNTY COMMISSIONERS MAY EXERCISE THE powers [in]
 13 GRANTED UNDER this subsection [shall be applicable] only if the County
 14 Commissioners adopt an ordinance [which shall include enforcement procedures]
 15 THAT INCLUDES:

16 (I) ENFORCEMENT PROCEDURES; and

17 (II) [requirements] REQUIREMENTS for adequate notice of public
 18 hearings and conditions sought to be imposed.

19 (c) [In Worcester County, notwithstanding] NOTWITHSTANDING any other
 20 provisions [to] OF this article or of the local laws of Worcester County, [any] AN
 21 application for zoning classification or reclassification [must] SHALL contain the
 22 following information:

23 (1) If the applicant is a corporation, the names and residences of the
 24 officers, directors, and all stockholders owning more than [20 percent] 20% of the
 25 capital stock of the corporation;

26 (2) If the applicant is a GENERAL OR LIMITED partnership[, whether a
 27 general or limited partnership], the names and residences of all partners who own
 28 more than [twenty percent] 20% of the interest of the partnership;

29 (3) If the applicant is an individual, [his] THE APPLICANT'S name and
 30 residence; OR

31 (4) If the applicant is a joint venture, unincorporated association, real
 32 estate investment trust, or other business trust, the names and residences of all
 33 persons holding an interest of more than [twenty percent] 20% in the joint venture,
 34 unincorporated association, real estate investment trust, or other business [trust]
 35 TRUST, RESPECTIVELY.

36 DRAFTER'S NOTE: Subsection (a) of this section is new language added to
 37 define the scope of the section.

1 Subsections (b) and (c) of this section are transferred without substantive
2 change from former § 4.05(f) and (g) of this article.

3 SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 3.01(c),
4 3.05(b)(1), and 4.09(a) of Article 66B - Zoning and Planning of the Annotated Code of
5 Maryland be repealed and reenacted, with amendments, and transferred to the
6 Session Laws, to read as follows:

7 IMPLEMENTATION OF THE LAND USE LAWS

8 [3.01.] 1.

9 [(c)] (A) The PLANNING commission appointed under this article shall have
10 all powers PREVIOUSLY granted by law [heretofore] to any planning or zoning
11 commission of the [jurisdiction, and from and after] LOCAL JURISDICTION.

12 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AFTER the
13 creation of a planning commission [hereunder in such jurisdiction] UNDER THIS
14 ARTICLE, all powers and records of the [then] PREVIOUS planning and zoning
15 commission shall be transferred to [this] THE NEW planning [commission, provided,
16 however, that in the event that any] COMMISSION.

17 (C) IF AN existing planning and zoning commission [shall be] IS nearing the
18 completion of its zoning plan, the local legislative body may, by resolution, postpone
19 the [said] transfer of the PLANNING AND zoning commission's powers [but such
20 postponement shall not exceed a period of six] FOR A PERIOD NOT EXCEEDING 6
21 months.

22 DRAFTER'S NOTE: This section is transferred from the last former sentence of
23 Article 66B, § 3.01(c) of the Code.

24 [3.05.] 2.

25 [(b) (1)] Any plan whose preparation or revision begins or is required to begin
26 after October 1, 1992 shall include all elements required [in subsection (a) of this
27 section] UNDER ARTICLE 66B, § 3.05(A) OF THE CODE and the visions set forth in [§
28 3.06(b) of this article] ARTICLE 66B, § 1.01 OF THE CODE.

29 DRAFTER'S NOTE: This section is transferred from the last former sentence of
30 Article 66B, § 3.05(b)(1) of the Code.

31 SECTION 4. AND BE IT FURTHER ENACTED, That Article 66B - Zoning and
32 Planning of the Annotated Code of Maryland be renamed to be Article 66B - Land
33 Use.

34 SECTION 5. AND BE IT FURTHER ENACTED, That the catchlines and
35 drafter's notes contained in this Act are not law and may not be considered to have
36 been enacted as a part of this Act.

1 SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2000.