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#### By: **Delegates Brinkley, Bartlett, Elliott, Hecht, Snodgrass, and Stull** Introduced and read first time: February 22, 2002

Assigned to: Rules and Executive Nominations Re-referred to: Commerce and Government Matters, March 6, 2002

Committee Report: Favorable with amendments House action: Adopted Read second time: March 23, 2002

CHAPTER\_\_\_\_\_

1 AN ACT concerning

#### 2

## Frederick County - Zoning - Referendum

3 FOR the purpose of requiring certain zoning ordinances adopted or amended by the

- 4 Board of County Commissioners of Frederick County to be submitted to a
- 5 referendum under certain circumstances; establishing standards and
- 6 procedures for a referendum on a county zoning ordinance; authorizing a special
- 7 election for a county zoning referendum; providing for the effective date of a
- 8 county zoning ordinance; providing for the effective date for certain provisions of
- 9 <u>this Act</u>; providing that certain adoptions or amendments of certain zoning
- 10 ordinances may not take effect until after they have been submitted to
- 11 referendum; making the provisions of this Act severable; providing for the
- 12 termination of this Act; and generally relating to the submission of certain
- 13 zoning ordinances in Frederick County to referendum.

14 BY repealing and reenacting, with amendments,

- 15 Article 33 Election Code
- 16 <u>Section 8-401(a)</u>
- 17 Annotated Code of Maryland
- 18 (1997 Replacement Volume and 2001 Supplement)

19 BY repealing and reenacting, with amendments,

- 20 Article 66B Land Use
- 21 Section 14.06
- 22 Annotated Code of Maryland
- 23 (1998 Replacement Volume and 2001 Supplement)

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- 2 <u>Article Election Law</u>
- 3 <u>Section 8-401(a)</u>
- 4 <u>Annotated Code of Maryland</u>
- 5 (As enacted by Chapter (S.B. 1) of the Acts of the General Assembly of 2002)

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

7 MARYLAND, That the Laws of Maryland read as follows:

8

## Article 33 - Election Code

9 <u>8-401.</u>

10	<u>(a)</u>	A special	orimary	election	and a s	special	general	election m	ay be held at a	L
11	time other th	an the date	of a reg	ular prin	nary el	ection	and a re	gular gene	ral election:	

12 (1) <u>To fill a vacancy in the office of Representative in Congress; [or]</u>

13 (2) <u>To fill a vacancy in the county council if the charter of that county</u>

14 provides for such special elections; OR

# 15(3)FOR A FREDERICK COUNTY ZONING REFERENDUM UNDER ARTICLE1666B, § 14.06 OF THE CODE.

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

19

# Article 66B - Land Use

20 14.06.

21 (a) This section applies to Frederick County.

22 (b) Notwithstanding any other provision of this article, the Board of County 23 Commissioners may overrule an action of the Frederick County planning commission 24 under §§ 3.05, 3.06, 3.07, and 3.08 of this article by a majority vote of the membership 25 of the Board of County Commissioners.

26 (c) (1) Notwithstanding § 4.07(a) of this article, the members of the board of 27 appeals may be appointed to terms of 1 to 3 years.

28 (2) The terms of the board of appeals shall be staggered.

29 (d) If a plat is approved and recorded in accordance with this article before the

30 transfer of land, § 5.05 of this article does not apply to the contract for sale or

31 negotiation for sale of property zoned industrial, commercial, or both industrial and

32 commercial.

(E) AN ORDINANCE OR AMENDMENT TO AN EXISTING ORDINANCE THAT 1 (1)2 EFFECTS A COMPREHENSIVE CHANGE IN ZONING LAWS ADOPTED BY THE BOARD OF 3 COUNTY COMMISSIONERS MAY NOT TAKE EFFECT UNLESS THE ORDINANCE OR 4 AMENDMENT HAS BEEN SUBMITTED TO, AND APPROVED BY, THE VOTERS OF 5 FREDERICK COUNTY AT A REFERENDUM HELD AT A GENERAL OR SPECIAL ELECTION 6 EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN ORDINANCE OR 7 AN AMENDMENT TO AN EXISTING ORDINANCE THAT ENACTS A SUBSTANTIAL 8 REWRITE, REPLACEMENT, OR REPEAL OF THE FREDERICK COUNTY ZONING 9 ORDINANCE OF 1977-78 SHALL TAKE EFFECT 30 DAYS AFTER THE DATE OF 10 ENACTMENT. AN ORDINANCE OR AN AMENDMENT TO AN EXISTING 11 (2)(I) 12 ORDINANCE THAT ENACTS A SUBSTANTIAL REWRITE, REPLACEMENT, OR REPEAL OF 13 THE FREDERICK COUNTY ZONING ORDINANCE OF 1977-78 MAY BE PETITIONED TO A 14 COUNTY REFERENDUM WITHIN 60 DAYS OF THE DATE OF ENACTMENT. 15 (II) BEFORE IT IS EFFECTIVE, A PETITION SUBMITTED UNDER 1. 16 THIS PARAGRAPH SHALL BE SIGNED BY AT LEAST 3% OF THE NUMBER OF QUALIFIED 17 VOTERS OF FREDERICK COUNTY WHO VOTED FOR GOVERNOR IN THE LAST 18 PRECEDING GUBERNATORIAL ELECTION. 19 IF MORE THAN ONE-THIRD BUT LESS THAN THE FULL 20 NUMBER OF SIGNATURES REQUIRED FOR A REFERENDUM PETITION TO BE 21 EFFECTIVE IS FILED WITH THE SECRETARY OF STATE BEFORE 30 DAYS AFTER THE 22 DATE OF ENACTMENT, THE TIME FOR THE ORDINANCE TO TAKE EFFECT SHALL BE 23 EXTENDED TO 60 DAYS AFTER THE DATE OF ENACTMENT. THE SUBSTANTIAL REWRITE, REPLACEMENT, OR REPEAL OF 24 <u>(III)</u> 25 THE ZONING ORDINANCE SHALL BE SUSPENDED AFTER A PETITION IS SUBMITTED 26 AND UNTIL: 27 A COURT OF COMPETENT JURISDICTION DECLARES THE <u>1.</u> 28 PETITION INVALID; OR 29 <u>2.</u> THE PETITION IS DISAPPROVED BY THE VOTERS OF 30 FREDERICK COUNTY. A PETITION SHALL CONFORM TO THE REQUIREMENTS UNDER 31 (IV)32 ARTICLE 16, § 4 OF THE MARYLAND CONSTITUTION. THE BOARD OF SUPERVISORS OF ELECTIONS OF THE COUNTY 33  $(\mathbf{V})$ 34 SHALL VERIFY THE REGISTRATION OF THE INDIVIDUALS SIGNING THE PETITION 35 AND, IF THE REQUIRED NUMBER OF QUALIFIED VOTERS IS VERIFIED, PLACE THE 36 SUBSTANTIAL REWRITE, REPLACEMENT, OR REPEAL OF THE ZONING ORDINANCE ON 37 THE BALLOT IN FREDERICK COUNTY AT A SPECIAL ELECTION OR AT THE NEXT 38 GENERAL ELECTION FOR APPROVAL OR REJECTION.

39(3)THE COST OF THE REFERENDUM, IF ANY, SHALL BE PAID BY THE40BOARD OF COUNTY COMMISSIONERS.

3

4	HOUSE BILL 1374				
1 2	(3) (4) THE BOARD OF COUNTY COMMISSIONERS AND THE BOARD OF SUPERVISORS OF ELECTIONS SHALL PROVIDE FOR AND HOLD THE REFERENDUM.				
	(4) (5) (I) IF A MAJORITY OF THE VOTES CAST ON THE QUESTION ARE "FOR THE REFERRED LAW", THE ENACTMENT BECOMES EFFECTIVE ON THE DATE SPECIFIED IN THE ENACTMENT.				
6 7 8	(II) IF A MAJORITY OF THE VOTES CAST ON THE QUESTION ARE "AGAINST THE REFERRED LAW", THE PROVISIONS OF THE ENACTMENT ARE OF NO EFFECT.				
9 10	SECTION 3. AND BE IT FURTHER ENACTED, That the laws of Maryland read as follows:				
11	Article - Election Law				
12	<u>8-401.</u>				
13 14	(a) A special primary election and a special general election may be held at a time other than the date of a regular primary election and a regular general election:				
15	(1) To fill a vacancy in the office of Representative in Congress; [or]				
16 17	(2) To fill a vacancy in the county council if the charter of that county provides for special elections; OR				
18 19	(3) FOR A FREDERICK COUNTY ZONING REFERENDUM UNDER ARTICLE 66B, § 14.06 OF THE CODE.				
20 SECTION 2. <u>4.</u> AND BE IT FURTHER ENACTED, That if any provision of 21 this Act or the application thereof to any person or circumstance is held invalid for 22 any reason in a court of competent jurisdiction, the invalidity does not affect other 23 provisions or any other application of this Act which can be given effect without the 24 invalid provision or application, and for this purpose the provisions of this Act are 25 declared severable.					
28	SECTION 5. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take effect on the taking effect of Chapter (SB 1) of the Acts of the General Assembly of 2002. If Section 3 of this Act takes effect, Section 1 of this Act shall be abrogated and of no further force and effect.				
30	SECTION 2.6 AND BE IT FURTHER ENACTED That subject to the				

30 SECTION 3. 6. AND BE IT FURTHER ENACTED, That, subject to the

31 provisions of Section 5 of this Act, this Act shall take effect June 1, 2002. It shall 32 remain effective for a period of 5 years 1 year and 6 months and, at the end of May 31,

33 2007 November 30, 2003, with no further action required by the General Assembly,

34 this Act shall be abrogated and of no further force and effect.