Chapter 426

(House Bill 1290)

AN ACT concerning

Land Use

FOR the purpose of adding a new article to the Annotated Code of Maryland, to be designated and known as the "Land Use Article", to revise, restate, and recodify the laws of the State relating to zoning, planning, subdivision, and other land use mechanisms, including definitions, visions, consistency, requirements for home–rule counties, planning commissions, the comprehensive plan and its required elements, plan development and implementation, zoning powers and procedures, boards of appeals, subdivision powers and procedures, procedures for judicial review of certain actions, street planning and reservation, development mechanisms, transfer of development rights, development rights and responsibilities agreements, inclusionary zoning, historic preservation, single–county provisions, zoning powers and implementation in Baltimore City, and enforcement mechanisms and civil penalties; revising, restating, and recodifying the laws of the State relating to the Maryland–National Capital Park and Planning Commission, including definitions, the organization and powers of the Commission, minority business enterprise utilization, intergovernmental cooperation, employment, merit system, collective bargaining for certain employees, service contracts, property acquisition and management, relocation expenses, park police, budget procedures and requirements, bonding authority for certain purposes, taxes, the Advance Land Acquisition Fund, payment of obligations, the Maryland–Washington Metropolitan District, the Maryland–Washington Regional District, county planning boards, review of public projects, road grades, building codes and permits, annexation, municipal planning and zoning, the regional district plan and related plans, procedures for plan development and implementation, zoning authority and procedures, district councils, nonconforming uses, zoning amendments, boards of appeal, subdivision powers and procedures, procedures for judicial review of certain actions, enforcement actions, and historic grant programs; restating certain single–county provisions on municipal zoning and development rights and responsibilities agreements in Montgomery and Prince George's counties; restating provisions in Prince George's County relating to revitalization, agricultural preservation easements, flood control, and recreation; restating certain enforcement provisions; repealing certain obsolete provisions; transferring certain obsolete provisions to the Session laws; defining certain terms; providing for the construction and application of this Act; providing for the continuity of certain units and terms of certain officials; providing for the continuity of the status of certain transactions, employees, rights, duties, titles, interests, licenses, registrations, certifications, and

permits; providing for the termination of certain provisions of this Act; and generally relating to the laws of the State concerning land use.

BY repealing
Article 28 – Maryland–National Capital Park and Planning Commission
Section 2–101 through 2–112, 2–112.1, 2–112.2, 2–113 through 2–117, 2–118(a)(2) through (7) and (b), 2–119, 2–120, 2–120.1, and 2–122 and the title "Title 2. Commission Organization and General Functions", and the subtitle "Subtitle 1. General Provisions"; 2–201 through 2–204 and the subtitle "Subtitle 2. Payment of Commission Obligations"; 2–301 through 2–304 and the subtitle "Subtitle 3. Minority Business Enterprise Utilization Program"; 3–101 and the title "Title 3. Maryland–Washington Metropolitan District"; 4–101 through 4–104 and 4–105(a) and (c) through (h) and the title "Title 4. Intergovernmental Relations"; 5–101 through 5–105, 5–105.1, 5–106(a) through (c), 5–107 through 5–109, 5–110(b), 5–111 through 5–113, 5–113.1, 5–114, 5–114.1, and 5–115 through 5–118, the title "Title 5. Property; Powers; Recreation Program" and the subtitle "Subtitle 1. Metropolitan District Property and Powers Generally"; 5–201 through 5–507 and the subtitles "Subtitle 2. Prince George's County Recreation Program", "Subtitle 3. Prince George's County and Montgomery County Historic Property Grant Program", "Subtitle 4. Revitalization and Redevelopment Activities", and "Subtitle 5. Prince George's County Agricultural Preservation Easement Program"; 6–101 through 6–111 and the title "Title 6. Fiscal Authority"; 7–101 through 7–107, 7–108(a) through (c), (d)(1), (2)(ii), and (4), and (e), 7–108.1, 7–109 through 7–115, 7–116(a), (b), (c)(2), and (d) through (h), 7–117, 7–117.1, 7–117.2, 7–118 through 7–121, and 7–121.1 and the title "Title 7. Maryland–Washington Regional District"; 8–101 through 8–108, 8–108.1, 8–109, 8–110, 8–110.1, 8–110.2, 8–111, 8–111.1, 8–112, 8–112.1 through 8–112.4, 8–114, 8–115(a), (b), and (d) through (h), 8–115.1, 8–115.2, 8–116 through 8–119, 8–119.1, 8–120 through 8–122, 8–122.1, and 8–123 through 8–129 and the title "Title 8. District Councils for Regional District"; 9–101 (a) through (d) and 9–102 and the title "Title 9. Flood Control"; the article designation "Article 28 – Maryland–National Capital Park and Planning Commission"; and the title designation "Title 1. Park and Planning Commission Continued"
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

BY repealing
Article 66B – Land Use
Section 1.00 through 1.04 and the subtitle "General Provisions"; 2.01 through 2.13 and the subtitle "Zoning in Baltimore City"; 3.01 through 3.10 and the subtitle "Planning Commission Generally"; 4.01 through 4.09 and the subtitle "General Development Regulations and Zoning"; 5.01 through 5.07 and the subtitle "Subdivision Control"; 6.01 through 6.03 and the

subtitle "Development in Mapped Streets"; 7.01 through 7.05 and the subtitle "Miscellaneous Provisions"; 8.01 through 8.17 and the subtitle "Historic Area Zoning"; 10.01 and the subtitle "Adequate Public Facilities Ordinances"; 11.01 and the subtitle "Transfer of Development Rights"; 12.01 and the subtitle "Inclusionary Zoning"; 13.01 and the subtitle "Development Rights and Responsibilities Agreements"; 14.01 through 14.04, 14.05(a) through (e), 14.06, 14.06.1, and 14.07 through 14.09 and the subtitle "Miscellaneous Local Provisions"; and the article designation "Article 66B – Land Use"
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

BY adding
New Article – Land Use
Section 1–101 through 27–102, inclusive, and the various titles
Annotated Code of Maryland

BY repealing and reenacting, with amendments,
Article 1 – Rules of Interpretation
Section 25
Annotated Code of Maryland
(2011 Replacement Volume)

BY repealing and reenacting, with amendments, and transferring
Article 66B – Land Use
Section 14.05(f)
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)
to be
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 9–10B–01 to be under the new subtitle "Subtitle 10B. Charles County New School Capacity Financing"
Annotated Code of Maryland
(2011 Replacement Volume)

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

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

Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

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

Article 28 – Maryland–National Capital Park and Planning Commission
Section 2–101 through 2–112, 2–112.1, 2–112.2, 2–113 through 2–117, 2–118(a)(2) through (7) and (b), 2–119, 2–120, 2–120.1, and 2–122 and the title "Title 2. Commission Organization and General Functions", and the subtitle "Subtitle 1. General Provisions"; 2–201 through 2–204 and the subtitle "Subtitle 2. Payment of Commission Obligations"; 2–301 through 2–304 and the subtitle "Subtitle 3. Minority Business Enterprise Utilization Program"; 3–101 and the title "Title 3. Maryland–Washington Metropolitan District"; 4–101 through 4–104 and 4–105(a) and (c) through (h) and the title "Title 4. Intergovernmental Relations"; 5–101 through 5–105, 5–105.1, 5–106(a) through (c), 5–107 through 5–109, 5–110(b), 5–111 through 5–113, 5–113.1, 5–114, 5–114.1, and 5–115 through 5–118, the title "Title 5. Property; Powers; Recreation Program" and the subtitle "Subtitle 1. Metropolitan District Property and Powers Generally"; 5–201 through 5–507 and the subtitles "Subtitle 2. Prince George's County Recreation Program", "Subtitle 3. Prince George's County and Montgomery County Historic Property Grant Program", "Subtitle 4. Revitalization and Redevelopment Activities", and "Subtitle 5. Prince George's County Agricultural Preservation Easement Program"; 6–101 through 6–111 and the title "Title 6. Fiscal Authority"; 7–101 through 7–107, 7–108(a) through (c), (d)(1), (2)(ii), and (4), and (e), 7–108.1, 7–109 through 7–115, 7–116(a), (b), (c)(2), and (d) through (h), 7–117, 7–117.1, 7–117.2, 7–118 through 7–121, and 7–121.1 and the title "Title 7. Maryland–Washington Regional District"; 8–101 through 8–108, 8–108.1, 8–109, 8–110, 8–110.1, 8–110.2, 8–111, 8–111.1, 8–112, 8–112.1 through 8–112.4, 8–114, 8–115(a), (b), and (d) through (h), 8–115.1, 8–115.2, 8–116 through 8–119, 8–119.1, 8–120 through 8–122, 8–122.1, 8–123 through 8–129 and the title "Title 8. District Councils for Regional District"; and 9–101 (a) through (d) and 9–102 and the title "Title 9. Flood Control"

Article 66B – Land Use
Section 1.00 through 1.04 and the subtitle "General Provisions"; 2.01 through 2.13 and the subtitle "Zoning in Baltimore City"; 3.01 through 3.10 and the subtitle "Planning Commission Generally"; 4.01 through 4.09 and the subtitle "General Development Regulations and Zoning"; 5.01 through 5.07 and the subtitle "Subdivision Control"; 6.01 through 6.03 and the

subtitle "Development in Mapped Streets"; 7.01 through 7.05 and the subtitle "Miscellaneous Provisions"; 8.01 through 8.17 and the subtitle "Historic Area Zoning"; 10.01 and the subtitle "Adequate Public Facilities Ordinances"; 11.01 and the subtitle "Transfer of Development Rights"; 12.01 and the subtitle "Inclusionary Zoning"; 13.01 and the subtitle "Development Rights and Responsibilities Agreements"; and 14.01 through 14.04, 14.05(a) through (e), 14.06, 14.06.1, and 14.07 through 14.09 and the subtitle "Miscellaneous Local Provisions"

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

The article designation "Article 66B – Land Use"

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

ARTICLE – LAND USE

DIVISION I. SINGLE–JURISDICTION PLANNING AND ZONING.

TITLE 1. DEFINITIONS; GENERAL PROVISIONS.

SUBTITLE 1. DEFINITIONS.

1–101. DEFINITIONS.

(A) IN GENERAL.

IN THIS DIVISION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

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

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

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

(B) ADAPTIVE REUSE.

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

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

The only changes are in style.

Defined term: "Legislative body" § 1–101

(C) CHARTER COUNTY.

"CHARTER COUNTY" MEANS A COUNTY THAT HAS ADOPTED CHARTER HOME RULE UNDER ARTICLE XI–A OF THE MARYLAND CONSTITUTION AND ARTICLE 25A OF THE CODE.

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

Defined term: "County" § 1–101

(D) CODE COUNTY.

"CODE COUNTY" MEANS A COUNTY THAT HAS ADOPTED CODE HOME RULE UNDER ARTICLE XI–F OF THE MARYLAND CONSTITUTION AND ARTICLE 25B OF THE CODE.

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

Defined term: "County" § 1–101

(E) COUNTY.

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

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

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

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

See also, § 14–101 of this article.

Defined term: "State" § 1–101

(F) DEVELOPMENT.

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

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

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

(G) LEGISLATIVE BODY.

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

(2) "LEGISLATIVE BODY" INCLUDES:

(I) THE BOARD OF COUNTY COMMISSIONERS;

(II) THE COUNTY COUNCIL; AND

(III) THE GOVERNING BODY OF A MUNICIPAL CORPORATION.

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

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

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

The only other changes are in style.

Defined terms: "County" § 1–101
"Local jurisdiction" § 1–101

(H) LOCAL EXECUTIVE.

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

(2) "LOCAL EXECUTIVE" INCLUDES:

(I) THE BOARD OF COUNTY COMMISSIONERS;

(II) THE COUNTY EXECUTIVE;

(III) THE EXECUTIVE HEAD; AND

(IV) THE MAYOR.

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

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

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in paragraph (2)(iii) of this subsection, it is unclear whether the term "executive head" would include an official with the power to bind a local jurisdiction, such as the county administrator of Garrett County, or only an elected official. The General Assembly may wish to clarify its intention with regard to the term "executive head", or perhaps redefine the term "local executive" by reference to specific functions rather than titles.

Defined terms: "County" § 1–101

"Local jurisdiction" § 1–101

(I) LOCAL JURISDICTION.

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

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

No changes are made.

Defined term: "County" § 1–101

(J) LOCAL LAW.

(1) "LOCAL LAW" MEANS AN ENACTMENT OF THE LEGISLATIVE BODY OF A LOCAL JURISDICTION, WHETHER BY ORDINANCE, RESOLUTION, OR OTHERWISE.

(2) "LOCAL LAW" DOES NOT INCLUDE A PUBLIC LOCAL LAW.

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

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

Defined terms: "Legislative body" § 1–101
"Local jurisdiction" § 1–101

(K) PERSON.

"PERSON" MEANS AN INDIVIDUAL, RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, REPRESENTATIVE OF ANY KIND, PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, LIMITED LIABILITY COMPANY, OR OTHER ENTITY.

REVISOR'S NOTE: This subsection is new language added to provide an express definition of the term "person".

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

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

See also, § 14–101 of this article.

As to the term "personal representative", *see* Art. 1, § 5.

(L) PLAN.

(1) "PLAN" MEANS THE POLICIES, STATEMENTS, GOALS, AND INTERRELATED PLANS FOR PRIVATE AND PUBLIC LAND USE, TRANSPORTATION, AND COMMUNITY FACILITIES DOCUMENTED IN TEXTS AND MAPS THAT CONSTITUTE THE GUIDE FOR AN AREA'S FUTURE DEVELOPMENT.

(2) "PLAN" INCLUDES A GENERAL PLAN, MASTER PLAN, COMPREHENSIVE PLAN, FUNCTIONAL PLAN, OR COMMUNITY PLAN ADOPTED IN ACCORDANCE WITH SUBTITLE 4 OF THIS TITLE AND TITLE 3 OF THIS ARTICLE.

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

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

The only other changes are in style.

Defined term: "Development" § 1–101

(M) PRIORITY FUNDING AREA.

"PRIORITY FUNDING AREA" HAS THE MEANING STATED IN § 5–7B–02 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

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

The only changes are in style.

(N) REGULATION.

(1) "REGULATION" MEANS A RULE OF GENERAL APPLICABILITY AND FUTURE EFFECT.

(2) "REGULATION" INCLUDES A MAP OR PLAN.

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

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

Defined term: "Plan" § 1–101

(O) SENSITIVE AREA.

"SENSITIVE AREA" INCLUDES:

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

(2) A 100–YEAR FLOOD PLAIN;

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

(4) A STEEP SLOPE;

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

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

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

The only changes are in style.

Defined term: "Plan" § 1–101

(P) SPECIAL EXCEPTION.

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

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

(2) SHALL BE BASED ON A FINDING THAT:

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

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

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

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

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

Defined terms: "Plan" § 1–101
"Zoning law" § 1–101

(Q) STATE.

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

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

(II) THE DISTRICT OF COLUMBIA.

(2) WHEN CAPITALIZED, "STATE" MEANS MARYLAND.

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

See also, § 14–101 of this article.

(R) SUBDIVISION.

(1) "SUBDIVISION" MEANS:

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

(II) THE LAND SO SUBDIVIDED.

(2) "SUBDIVISION" INCLUDES RESUBDIVISION.

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

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

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

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

The Land Use Article Review Committee notes, for consideration by the General Assembly, that this subsection is patterned after the revision of the same term defined in § 14–101(p) of this article for clarity and consistency within this article. This revision recognizes that land may be

subdivided for several purposes, including both conveyance and development, not necessarily involving an immediate sale. No substantive change is intended.

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

Defined terms: "Legislative body" § 1–101
"Local jurisdiction" § 1–101

(S) VARIANCE.

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

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

The reference to "dimensional" requirements is added for clarity.

The former reference to the "local governing body" is deleted as surplusage.

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

Defined term: "Zoning law" § 1–101

(T) ZONING LAW.

(1) "ZONING LAW" MEANS THE LEGISLATIVE IMPLEMENTATION OF REGULATIONS FOR ZONING BY A LOCAL JURISDICTION.

(2) "ZONING LAW" INCLUDES A ZONING ORDINANCE, ZONING REGULATION, ZONING CODE, AND ANY SIMILAR LEGISLATIVE ACTION TO IMPLEMENT ZONING CONTROLS IN A LOCAL JURISDICTION.

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

Defined terms: "Local jurisdiction" § 1–101
"Regulation" § 1–101

SUBTITLE 2. GENERAL PROVISIONS.

1–201. VISIONS.

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

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

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

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

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

(5) INFRASTRUCTURE: GROWTH AREAS HAVE THE WATER RESOURCES AND INFRASTRUCTURE TO ACCOMMODATE POPULATION AND BUSINESS EXPANSION IN AN ORDERLY, EFFICIENT, AND ENVIRONMENTALLY SUSTAINABLE MANNER;

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

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

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

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

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

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

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

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

Defined terms: "Development" § 1–101
"Plan" § 1–101
"State" § 1–101

1–202. CONFLICT WITH OTHER LAWS.

(A) REGULATIONS ADOPTED UNDER THIS DIVISION GOVERN.

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

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

(2) REQUIRES A LOWER HEIGHT OF BUILDINGS;

(3) REQUIRES A REDUCED NUMBER OF STORIES;

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

(5) IMPOSES A MORE RESTRICTIVE STANDARD.

(B) STATUTES OR LOCAL LAWS GOVERN.

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

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

(2) REQUIRES A LOWER HEIGHT OF BUILDINGS;

(3) REQUIRES A REDUCED NUMBER OF STORIES;

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

(5) IMPOSES A MORE RESTRICTIVE STANDARD.

(C) APPLICATION TO MARYLAND–WASHINGTON REGIONAL DISTRICT.

(1) THIS SUBSECTION APPLIES TO THE MARYLAND–WASHINGTON REGIONAL DISTRICT ESTABLISHED UNDER CHAPTER 992 OF THE ACTS OF THE GENERAL ASSEMBLY OF 1943.

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

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

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

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

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

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

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

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

In subsection (c)(2) of this section, the former reference to "Montgomery and Prince George's counties" is deleted as implicit in the reference to the "Maryland–Washington Regional District".

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

Defined terms: "County" § 1–101
"Legislative body" § 1–101
"Local law" § 1–101
"Regulation" § 1–101

1–203. REPEAL OF INCONSISTENT LAWS.

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

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

The only changes are in style.

1–204. OTHER POTENTIALLY APPLICABLE LAWS.

(A) IN GENERAL.

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

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

(2) ARTICLE 25, § 3 OF THE CODE;

(3) ARTICLE 25A, § 5 OF THE CODE; AND

(4) ARTICLE 25B, § 13 OF THE CODE.

(B) LIST NOT EXCLUSIVE.

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

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

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

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

Defined term: "Local jurisdiction" § 1–101

1–205. ADOPTION OF LOCAL LAW.

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

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

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

Defined terms: "Local jurisdiction" § 1–101
"Local law" § 1–101

1–206. REQUIRED EDUCATION.

(A) PLANNING COMMISSIONS.

(1) IN THIS SUBSECTION, "PLANNING COMMISSION" INCLUDES A PLANNING COMMISSION OR BOARD ESTABLISHED UNDER:

(I) TITLE 2 OF THIS ARTICLE;

(II) DIVISION II OF THIS ARTICLE; OR

(III) ARTICLE 25A OF THE CODE.

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

(I) THE ROLE OF THE COMPREHENSIVE PLAN;

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

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

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

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

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

(B) BOARDS OF APPEALS.

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

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

(II) § 10–403 OF THIS ARTICLE;

(III) DIVISION II OF THIS ARTICLE; OR

(IV) ARTICLE 25A OF THE CODE.

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

(I) THE ROLE OF THE COMPREHENSIVE PLAN;

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

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

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

(I) INVALIDATE A DECISION OF THE BOARD; OR

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

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

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

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

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

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

Defined terms: "Development" § 1–101
"Local jurisdiction" § 1–101
"Local law" § 1–101
"Person" § 1–101
"Plan" § 1–101
"Regulation" § 1–101
"Special exception" § 1–101
"Subdivision" § 1–101
"Variance" § 1–101

1–207. ANNUAL REPORT — IN GENERAL.

(A) "PLANNING COMMISSION" DEFINED.

IN THIS SECTION, "PLANNING COMMISSION" INCLUDES A PLANNING COMMISSION OR BOARD ESTABLISHED UNDER:

(1) TITLE 2 OF THIS ARTICLE;

(2) DIVISION II OF THIS ARTICLE; OR

(3) ARTICLE 25A OF THE CODE.

(B) REQUIRED.

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

(C) CONTENTS.

THE ANNUAL REPORT SHALL:

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

(I) LAND USE;

(II) TRANSPORTATION;

(III) COMMUNITY FACILITIES PATTERNS;

(IV) ZONING MAP AMENDMENTS; AND

(V) SUBDIVISION PLATS;

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

(I) EACH OTHER;

(II) THE RECOMMENDATIONS OF THE LAST ANNUAL REPORT;

(III) THE ADOPTED PLANS OF THE LOCAL JURISDICTION;

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

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

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

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

(5) CONTAIN THE MEASURES AND INDICATORS REQUIRED UNDER § 1–208(C) OF THIS SUBTITLE.

(D) REVIEW.

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

(E) PUBLIC AVAILABILITY.

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

(F) DEPARTMENT OF PLANNING.

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

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

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

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

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

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

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

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

Defined terms: "Development" § 1–101
"Legislative body" § 1–101
"Local jurisdiction" § 1–101
"Local law" § 1–101
"Plan" § 1–101
"Regulation" § 1–101
"State" § 1–101
"Subdivision" § 1–101

1–208. ANNUAL REPORT — MEASURES AND INDICATORS.

(A) "NATIONAL CENTER" DEFINED.

IN THIS SECTION, "NATIONAL CENTER" MEANS THE NATIONAL CENTER FOR SMART GROWTH RESEARCH AND EDUCATION AT THE UNIVERSITY OF MARYLAND, COLLEGE PARK.

(B) LEGISLATIVE INTENT.

(1) THE GENERAL ASSEMBLY FINDS THAT:

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

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

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

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

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

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

(C) REQUIRED MEASURES AND INDICATORS.

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

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

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

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

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

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

1. THE LOCAL GOAL;

2. THE TIME FRAME FOR ACHIEVING THE LOCAL GOAL;

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

4. ANY INCREMENTAL PROGRESS MADE TOWARDS ACHIEVING THE LOCAL GOAL.

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

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

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

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

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

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

(D) REGULATIONS.

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

(2) THE DEPARTMENT OF PLANNING SHALL:

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

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

(E) ANNUAL REPORT BY DEPARTMENT OF PLANNING.

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

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

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

The only other changes are in style.

Defined terms: "County" § 1–101
"Development" § 1–101
"Local jurisdiction" § 1–101
"Priority funding area" § 1–101

GENERAL REVISOR'S NOTE TO SUBTITLE

Former Art. 66B, § 7.04, which provided that the provisions of former Article 66B were severable, is deleted in light of Art. 1, § 23, which provides that all legislation enacted after July 1, 1979, is presumed to be severable absent specific language to the contrary, and in light of the standard rule of judicial

construction favoring severability even in the absence of a severability clause in the statute. *See, e.g., Muskin v. State Dep't of Assessments and Taxation*, 422 Md. 544 (2011): "We have held that, even in the absence of an express severability clause in legislation that is found defective in some severable part, there "is a strong presumption that if a portion of an enactment is found to be invalid, the intent is that such portion be severed." *Bd. v. Smallwood*, 327 Md. 220, 245, 608 A.2d 1222, 1234 (1992); *see also Balt. v. Stuyvesant Ins. Co.*, 226 Md. 379, 390, 174 A.2d 153, 158 – 59 (1961) (finding that "[i]t is the duty of a court to separate the valid from the invalid provisions of an ordinance, so long as the valid portion is independent and severable from that which is void.")." 422 Md. 544, 554 (fn. 5); *see also Jackson v. Dackman Co.*, 422 Md. 357, 383–384 (2011).

SUBTITLE 3. CONSISTENCY.

1–301. "ACTION" DEFINED.

IN THIS SUBTITLE, "ACTION" MEANS:

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

(I) A SPECIAL EXCEPTION UNDER § 1–101(P) OF THIS TITLE (DEFINITIONS – "SPECIAL EXCEPTION"); OR

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

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

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

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

Defined terms: "Local law" § 1–101
"Plan" § 1–101
"Regulation" § 1–101
"Special exception" § 1–101

1–302. SCOPE OF SUBTITLE.

THIS SUBTITLE APPLIES TO:

(1) A SPECIAL EXCEPTION UNDER § 1–101(P) OF THIS TITLE (DEFINITIONS – "SPECIAL EXCEPTION");

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

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

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

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

Defined terms: "Plan" § 1–101
"Special exception" § 1–101

1–303. CONSISTENCY — GENERAL REQUIREMENT.

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

(1) POLICIES;

(2) TIMING OF THE IMPLEMENTATION OF THE PLAN;

(3) TIMING OF DEVELOPMENT;

(4) TIMING OF REZONING;

(5) DEVELOPMENT PATTERNS;

(6) LAND USES; AND

(7) DENSITIES OR INTENSITIES.

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

The only changes are in style.

Defined terms: "Action" § 1–301
"Development" § 1–101
"Plan" § 1–101

1–304. CONSISTENCY — PRIORITY FUNDING AREA.

(A) SCOPE OF SECTION.

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

(B) APPLICATION.

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

(1) POLICIES;

(2) TIMING OF THE IMPLEMENTATION OF THE PLAN;

(3) TIMING OF DEVELOPMENT;

(4) TIMING OF REZONING; AND

(5) DEVELOPMENT PATTERNS.

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

The only changes are in style.

Defined terms: "Action" § 1–301
"Development" § 1–101
"Plan" § 1–101
"Priority funding area" § 1–101

SUBTITLE 4. HOME RULE COUNTIES.

PART I. GENERAL PROVISIONS.

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

(A) GENERAL LIMITED APPLICATION.

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

(B) APPLICABLE SECTIONS ENUMERATED.

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

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

(2) § 1–101(O) (DEFINITIONS – "SENSITIVE AREA");

(3) § 1–201 (VISIONS);

(4) § 1–206 (REQUIRED EDUCATION);

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

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

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

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

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

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

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

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

(13) EXCEPT IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY, TITLE 7, SUBTITLE 3 (DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENTS);

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

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

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

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

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

(C) SECTION SUPERSEDES INCONSISTENT DIVISION II PROVISIONS.

THIS SECTION SUPERSEDES ANY INCONSISTENT PROVISION OF DIVISION II OF THIS ARTICLE.

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

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

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

Defined terms: "Charter county" § 1–101
"Development" § 1–101
"Plan" § 1–101
"Regulation" § 1–101
"Sensitive area" § 1–101
"Subdivision" § 1–101

1–402. CODE COUNTIES — LAND USE POWERS.

(A) IN GENERAL.

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

(B) TREATMENT AS CHARTER COUNTY.

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

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

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

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

Defined terms: "Charter county" § 1–101
"Code county" § 1–101
"County" § 1–101

1–403. RESERVED.

1–404. RESERVED.

PART II. COMPREHENSIVE PLANS.

1–405. PLAN REQUIRED.

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

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

The phrase "in accordance with this part and Part III of this subtitle" is substituted for the former phrase "as provided in this section" for clarity and to provide specific cross–references to the plan requirements and

provisions applicable to charter counties under this part and Part III of this subtitle.

Defined terms: "Charter county" § 1–101
"Plan" § 1–101

1–406. ELEMENTS — CHARTER COUNTIES.

(A) REQUIRED ELEMENTS.

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

(I) A DEVELOPMENT REGULATIONS ELEMENT;

(II) A SENSITIVE AREAS ELEMENT;

(III) A TRANSPORTATION ELEMENT; AND

(IV) A WATER RESOURCES ELEMENT.

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

(B) PERMISSIVE ELEMENT.

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

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

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

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

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

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

Defined terms: "Charter county" § 1–101
"Development" § 1–101
"Plan" § 1–101
"Regulation" § 1–101
"Sensitive area" § 1–101

1–407. DEVELOPMENT REGULATIONS ELEMENT.

(A) IN GENERAL.

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

(B) PURPOSE.

THE DEVELOPMENT REGULATIONS ELEMENT SHALL ENCOURAGE:

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

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

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

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

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

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

Defined terms: "Development" § 1–101
"Plan" § 1–101

"Regulation" § 1–101
"Subdivision" § 1–101

1–408. SENSITIVE AREAS ELEMENT.

(A) IN GENERAL.

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

(B) REVIEW.

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

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

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

Defined terms: "Development" § 1–101
"Plan" § 1–101
"Sensitive area" § 1–101

1–409. TRANSPORTATION ELEMENT.

(A) IN GENERAL.

THE TRANSPORTATION ELEMENT MAY INCLUDE ALL TYPES OF:

(1) AIRWAYS;

(2) HIGHWAYS OR STREETS;

(3) RAILWAYS;

(4) WATERWAYS;

(5) ROUTINGS FOR MASS TRANSIT; AND

(6) TERMINALS FOR INDIVIDUALS, GOODS, AND VEHICLES RELATED TO AIRWAYS, HIGHWAYS, RAILWAYS, AND WATERWAYS.

(B) REQUIRED CONTENTS.

THE TRANSPORTATION ELEMENT SHALL:

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

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

(II) THE CIRCULATION OF INDIVIDUALS AND GOODS;

(2) PROVIDE FOR BICYCLE AND PEDESTRIAN ACCESS AND TRAVELWAYS; AND

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

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

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

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

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

1–410. WATER RESOURCES ELEMENT.

(A) IN GENERAL.

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

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

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

(B) REVIEW AND TECHNICAL ASSISTANCE.

THE DEPARTMENT OF THE ENVIRONMENT SHALL:

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

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

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

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

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

Defined terms: "Development" § 1–101
"Local jurisdiction" § 1–101

"Plan" § 1–101

1–411. MINERAL RESOURCES ELEMENT.

(A) IN GENERAL.

THE MINERAL RESOURCES ELEMENT SHALL IDENTIFY:

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

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

(B) REQUIRED CONSIDERATIONS.

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

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

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

(C) REVIEW.

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

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

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

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

Defined terms: "County" § 1–101
"Plan" § 1–101
"Regulation" § 1–101

1–412. RESERVED.

1–413. RESERVED.

PART III. IMPLEMENTATION.

1–414. IMPLEMENTATION OF VISIONS.

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

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

Defined term: "Plan" § 1–101

1–415. PLAN IMPLEMENTATION.

(A) PLANNING COMMISSION.

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

(B) LEGISLATIVE BODY — REGULATIONS.

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

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

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

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

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

Defined terms: "Charter county" § 1–101
"Legislative body" § 1–101
"Plan" § 1–101
"Regulation" § 1–101

1–416. PLAN REVISION.

(A) PERIODIC REVIEW.

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

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

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

(B) GEOGRAPHIC SECTION OR DIVISION.

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

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

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

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

Defined terms: "Local jurisdiction" § 1–101
"Plan" § 1–101

1–417. PERIODIC REVIEW; IMPLEMENTATION.

(A) REQUIRED REVIEW.

AT LEAST ONCE EVERY 6 YEARS, WHICH CORRESPONDS TO THE COMPREHENSIVE PLAN REVISION PROCESS UNDER § 1–416 OF THIS SUBTITLE, A CHARTER COUNTY SHALL ENSURE THE IMPLEMENTATION OF THE VISIONS, THE DEVELOPMENT REGULATIONS ELEMENT, AND THE SENSITIVE AREAS ELEMENT OF THE PLAN.

(B) IMPLEMENTATION.

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

(1) ZONING LAWS; AND

(2) LOCAL LAWS GOVERNING:

(I) PLANNED DEVELOPMENT;

(II) SUBDIVISION; AND

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

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

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

Defined terms: "Charter county" § 1–101
"Development" § 1–101
"Local jurisdiction" § 1–101
"Local law" § 1–101
"Plan" § 1–101
"Regulation" § 1–101
"Sensitive area" § 1–101

"Subdivision" § 1–101
"Zoning law" § 1–101

1–418. DEADLINE.

(A) IN GENERAL.

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

(B) EXTENSION.

ON REQUEST OF A CHARTER COUNTY AND FOR GOOD CAUSE, THE DEPARTMENT OF PLANNING MAY EXTEND THE DEADLINE UNDER SUBSECTION (A) OF THIS SECTION FOR THAT CHARTER COUNTY BY NO MORE THAN TWO 6–MONTH EXTENSIONS.

(C) LIMITATION ON NONCOMPLIANCE.

A CHARTER COUNTY THAT IS NOT IN COMPLIANCE WITH THIS SECTION AFTER OCTOBER 1, 2009, OR AFTER THE EXPIRATION OF ANY EXTENSION GRANTED UNDER SUBSECTION (B) OF THIS SECTION, MAY NOT CHANGE THE ZONING CLASSIFICATION OF A PROPERTY UNTIL THAT CHARTER COUNTY HAS COMPLIED WITH THIS SECTION.

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

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

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

The Land Use Article Review Committee notes, for consideration by the General Assembly, that subsection (c) of this section, which prohibits rezoning in a charter county that fails to have included required elements in its comprehensive plan "after October 1, 2009", when read together with subsection (a) of this section, may have the unintended consequence of subjecting a charter county to restrictions on its rezoning power for the indefinite future, long beyond the originally intended phase–in period for

compliance under the former law contemplated under the original enactment in 2006. *See* Ch. 381 of 2006. The General Assembly may wish to consider altering the language of subsections (a) and (c) of this section to clarify the implementation of that law, or moving this section and the corresponding provision applicable to other local jurisdictions, § 3–304 of this article, to the Session Laws. *See also*, Revisor's Note to § 3–304.

Defined terms: "Charter county" § 1–101
"Plan" § 1–101

TITLE 2. PLANNING COMMISSION.

SUBTITLE 1. ORGANIZATION AND GENERAL AUTHORITY.

2–101. AUTHORITY TO ESTABLISH.

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

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

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

Defined terms: "Local jurisdiction" § 1–101
"Local law" § 1–101

2–102. MEMBERSHIP.

(A) COMPOSITION.

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

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

(B) APPOINTMENT.

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

(I) THE LEGISLATIVE BODY; OR

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

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

(C) TENURE.

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

(I) 5 YEARS; OR

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

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

(D) REMOVAL.

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

(I) INEFFICIENCY;

(II) NEGLECT OF DUTY; OR

(III) MALFEASANCE IN OFFICE.

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

(E) VACANCIES.

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

(1) LEGISLATIVE BODY; OR

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

(F) MUNICIPAL ALTERNATES.

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

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

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

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

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

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

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

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

The Land Use Article Review Committee notes, for consideration by the General Assembly, that under subsections (a)(2) and (b) of this section, the authority of a legislative body to include one of its own members on a planning commission that it appoints presents an opportunity for a potential conflict of interest. The General Assembly may wish to

reconsider the wisdom of allowing a local legislator to serve *ex officio* on a planning commission, or perhaps should consider enacting criteria for recusal of a local legislator serving on a planning commission.

The Land Use Article Review Committee also notes, for consideration by the General Assembly, that the provisions for removal of a planning commission member under subsection (d) of this section present several issues. Subsection (d)(1) of this section requires the legislative body to hold a "public hearing" before removing a member, but does not provide guidance as to the type of hearing or the due process protections available to the accused member. It may be presumed that the legislative body would conduct a quasi–judicial hearing to remove a planning commission member. If the General Assembly considers that some other form of evidentiary or other hearing is intended, it may wish to add specific language to subsection (d) of this section, including more specific language on the due process to be afforded to the member sought to be removed.

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

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

The Land Use Article Review Committee also notes, for consideration by the General Assembly, that under subsection (f) of this section, only a municipal corporation is authorized to designate an alternate or temporary alternate member to serve on a planning commission. It seems to the committee that any rationale for allowing a municipal corporation to designate an alternate member would apply equally in a county subject to this division. The General Assembly may wish to consider authorizing counties as well as municipal corporations to designate alternates and

temporary alternates. The committee also notes that alternates and temporary alternates are subject to the same educational requirements as full members of the planning commission.

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

Defined terms: "Legislative body" § 1–101
"Local executive" § 1–101
"Local law" § 1–101
"Person" § 1–101

2–103. OFFICERS.

(A) CHAIR.

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

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

(II) A CHAIR MAY BE REELECTED.

(B) OTHER OFFICERS.

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

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

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

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

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

2–104. MEETINGS; COMPENSATION; EMPLOYEES; CONTRACTORS.

(A) MEETINGS.

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

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

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

(B) COMPENSATION.

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

(C) EMPLOYEES; CONTRACTORS.

A PLANNING COMMISSION MAY:

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

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

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

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

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

Defined term: "Legislative body" § 1–101

2–105. MISCELLANEOUS POWERS AND DUTIES.

(A) IN GENERAL.

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

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

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

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

(B) EXPENDITURES; RESOURCES.

(1) A PLANNING COMMISSION'S EXPENDITURES, OTHER THAN GIFTS, SHALL BE MADE IN ACCORDANCE WITH:

(I) THE CONDITIONS OF THE LEGISLATIVE BODY; AND

(II) THE AMOUNT APPROPRIATED BY THE LEGISLATIVE BODY.

(2) THE LEGISLATIVE BODY SHALL PROVIDE THE FUNDS, EQUIPMENT, AND ACCOMMODATIONS NECESSARY FOR THE PERFORMANCE OF THE PLANNING COMMISSION'S FUNCTIONS.

(C) RULES; RECORDS.

(1) A PLANNING COMMISSION SHALL:

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

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

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

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

In subsections (a)(2) and (b)(2) of this section, the references to "the performance of the planning commission's functions" are substituted for the former references to "its program" and the "planning commission's work" for clarity and consistency within this section.

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

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

Defined term: "Legislative body" § 1–101

TITLE 3. COMPREHENSIVE PLAN.

SUBTITLE 1. REQUIREMENT AND ELEMENTS.

3–101. PLAN REQUIRED; MUNICIPAL INCLUSION.

(A) IN GENERAL.

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

(B) MUNICIPAL INCLUSION IN COUNTY PLAN.

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

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

(2) THE LEGISLATIVE BODY OF THE COUNTY APPROVES THE RESOLUTION.

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

Defined terms: "County" § 1–101
"Legislative body" § 1–101
"Local jurisdiction" § 1–101
"Plan" § 1–101

3–102. ELEMENTS — NONCHARTER COUNTIES AND MUNICIPAL CORPORATIONS.

(A) REQUIRED ELEMENTS.

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

(I) A COMMUNITY FACILITIES ELEMENT;

(II) AN AREAS OF CRITICAL STATE CONCERN ELEMENT;

(III) A GOALS AND OBJECTIVES ELEMENT;

(IV) A LAND USE ELEMENT;

(V) A DEVELOPMENT REGULATIONS ELEMENT;

(VI) A SENSITIVE AREAS ELEMENT;

(VII) A TRANSPORTATION ELEMENT; AND

(VIII) A WATER RESOURCES ELEMENT.

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

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

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

(B) PERMISSIVE ELEMENTS.

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

(2) THE ADDITIONAL ELEMENTS MAY INCLUDE:

(I) COMMUNITY RENEWAL ELEMENTS;

(II) CONSERVATION ELEMENTS;

(III) FLOOD CONTROL ELEMENTS;

(IV) HOUSING ELEMENTS;

(V) NATURAL RESOURCES ELEMENTS;

(VI) POLLUTION CONTROL ELEMENTS;

(VII) THE GENERAL LOCATION AND EXTENT OF PUBLIC UTILITIES; AND

(VIII) A PRIORITY PRESERVATION AREA ELEMENT DEVELOPED IN ACCORDANCE WITH § 2–518 OF THE AGRICULTURE ARTICLE.

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

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

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

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

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

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

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

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

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

Defined terms: "County" § 1–101
"Development" § 1–101
"Local jurisdiction" § 1–101
"Plan" § 1–101
"Regulation" § 1–101
"Sensitive area" § 1–101
"State" § 1–101

3–103. DEVELOPMENT REGULATIONS ELEMENT.

(A) IN GENERAL.

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

(B) PURPOSE.

THE DEVELOPMENT REGULATIONS ELEMENT SHALL ENCOURAGE:

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

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

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

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

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

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

Defined terms: "Development" § 1–101
"Plan" § 1–101
"Regulation" § 1–101
"Subdivision" § 1–101

3–104. SENSITIVE AREAS ELEMENT.

(A) IN GENERAL.

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

(B) REVIEW.

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

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

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

Defined terms: "Development" § 1–101
"Plan" § 1–101
"Sensitive area" § 1–101

3–105. TRANSPORTATION ELEMENT.

(A) IN GENERAL.

THE TRANSPORTATION ELEMENT MAY INCLUDE ALL TYPES OF:

(1) AIRWAYS;

(2) HIGHWAYS OR STREETS;

(3) RAILWAYS;

(4) WATERWAYS;

(5) ROUTINGS FOR MASS TRANSIT; AND

(6) TERMINALS FOR INDIVIDUALS, GOODS, AND VEHICLES RELATED TO AIRWAYS, HIGHWAYS, RAILWAYS, AND WATERWAYS.

(B) REQUIRED CONTENTS.

THE TRANSPORTATION ELEMENT SHALL:

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

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

(II) THE CIRCULATION OF INDIVIDUALS AND GOODS;

(2) PROVIDE FOR BICYCLE AND PEDESTRIAN ACCESS AND TRAVELWAYS; AND

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

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

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

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

3–106. WATER RESOURCES ELEMENT.

(A) IN GENERAL.

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

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

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

(B) REVIEW AND TECHNICAL ASSISTANCE.

THE DEPARTMENT OF THE ENVIRONMENT SHALL:

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

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

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

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

Defined terms: "Development" § 1–101
"Plan" § 1–101

3–107. MINERAL RESOURCES ELEMENT.

(A) IN GENERAL.

THE MINERAL RESOURCES ELEMENT SHALL IDENTIFY:

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

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

(B) REQUIRED CONSIDERATIONS.

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

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

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

(C) REVIEW.

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

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

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

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

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

Defined terms: "County" § 1–101
"Plan" § 1–101
"Regulation" § 1–101

3–108. COMMUNITY FACILITIES ELEMENT.

(A) IN GENERAL.

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

(B) PERMISSIVE CONTENTS.

A COMMUNITY FACILITIES ELEMENT MAY INCLUDE:

(1) PLACES OF WORSHIP;

(2) FIRE STATIONS;

(3) HOSPITALS;

(4) INSTITUTIONS;

(5) JAILS;

(6) LIBRARIES;

(7) PARKS AND RECREATION AREAS;

(8) POLICE STATIONS;

(9) SCHOOLS AND OTHER EDUCATIONAL FACILITIES;

(10) CULTURAL FACILITIES;

(11) SOCIAL WELFARE AND MEDICAL FACILITIES; AND

(12) OTHER PUBLIC OFFICE OR ADMINISTRATIVE FACILITIES.

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

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

3–109. AREAS OF CRITICAL STATE CONCERN ELEMENT.

THE AREAS OF CRITICAL STATE CONCERN ELEMENT SHALL INCLUDE THE PLANNING COMMISSION'S RECOMMENDATIONS FOR THE DETERMINATION, IDENTIFICATION, AND DESIGNATION OF AREAS WITHIN THE LOCAL JURISDICTION THAT ARE OF CRITICAL STATE CONCERN.

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

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

Defined terms: "Local jurisdiction" § 1–101
"State" § 1–101

3–110. GOALS AND OBJECTIVES ELEMENT.

(A) IN GENERAL.

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

(B) PURPOSE.

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

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

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

Defined terms: "Development" § 1–101
"Local jurisdiction" § 1–101

3–111. LAND USE ELEMENT.

(A) IN GENERAL.

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

(B) PERMISSIVE CONTENTS.

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

(1) AGRICULTURAL;

(2) COMMERCIAL;

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

(4) INDUSTRIAL;

(5) RECREATIONAL; AND

(6) RESIDENTIAL.

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

3–112. MUNICIPAL GROWTH ELEMENT.

(A) IN GENERAL.

THE MUNICIPAL GROWTH ELEMENT SHALL INCLUDE:

(1) THE MUNICIPAL CORPORATION'S:

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

(II) PAST GROWTH PATTERNS;

(III) CAPACITY OF LAND AREAS AVAILABLE FOR DEVELOPMENT, REDEVELOPMENT, AND IN–FILL;

(2) THE LAND AREA NEEDED TO SATISFY DEMAND FOR DEVELOPMENT AT DENSITIES CONSISTENT WITH LONG–TERM DEVELOPMENT POLICY;

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

(4) RURAL BUFFERS AND TRANSITION AREAS;

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

(6) POPULATION GROWTH PROJECTIONS;

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

(I) LIBRARIES;

(II) RECREATION;

(III) WATER AND SEWERAGE FACILITIES;

(IV) PUBLIC SAFETY, INCLUDING EMERGENCY MEDICAL RESPONSE;

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

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

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

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

(B) TECHNICAL ASSISTANCE.

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

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

Defined terms: "Development" § 1–101
"Plan" § 1–101
"Sensitive area" § 1–101
"State" § 1–101

3–113. FISHERIES ELEMENT.

(A) DESIGNATION OF TIDAL WATERS.

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

(1) LOADING, UNLOADING, AND PROCESSING FINFISH AND SHELLFISH; AND

(2) DOCKING AND MOORING COMMERCIAL FISHING BOATS AND VESSELS.

(B) REQUIRED CRITERIA.

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

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

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

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

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

The Land Use Article Review Committee notes, for consideration by the General Assembly, that the requirement for a fisheries element under this section predates the conversion of a number of tidal counties to charter or code home rule, notably Talbot and Dorchester counties. It seems unlikely that the General Assembly intended to allow these counties to avoid preparing fisheries elements in their plans simply by changing their form of government. The General Assembly may wish to address whether charter counties located on the State's tidal waters should be required to prepare fisheries elements.

Defined terms: "County" § 1–101
"Plan" § 1–101
"State" § 1–101

SUBTITLE 2. DEVELOPMENT AND ADOPTION.

3–201. PLAN PREPARATION.

(A) IN GENERAL.

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

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

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

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

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

(B) SCOPE AND PURPOSES OF PLAN.

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

(I) GOOD CIVIC DESIGN AND ARRANGEMENT;

(II) A HEALTHY AND CONVENIENT DISTRIBUTION OF POPULATION;

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

(IV) EFFICIENCY AND ECONOMY IN THE DEVELOPMENT PROCESS.

(2) A PLAN SHALL:

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

(II) PROVIDE FOR:

1. TRANSPORTATION NEEDS;

2. THE PROMOTION OF PUBLIC SAFETY;

3. LIGHT AND AIR;

4. THE CONSERVATION OF NATURAL RESOURCES;

5. THE PREVENTION OF ENVIRONMENTAL POLLUTION;

6. THE WISE AND EFFICIENT EXPENDITURE OF PUBLIC FUNDS;

7. ADEQUATE PUBLIC UTILITIES; AND

8. AN ADEQUATE SUPPLY OF OTHER PUBLIC REQUIREMENTS.

(C) IMPLEMENTATION OF VISIONS.

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

(D) PROMOTION.

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

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

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

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

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

Defined terms: "Development" § 1–101
"Local jurisdiction" § 1–101
"Plan" § 1–101

3–202. RECOMMENDATION FOR ADOPTION.

(A) IN GENERAL.

(1) A PLANNING COMMISSION SHALL:

(I) MAKE AND APPROVE A PLAN; AND

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

(2) A PLANNING COMMISSION MAY RECOMMEND ADOPTION OF:

(I) THE WHOLE PLAN;

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

(III) AN AMENDMENT TO THE PLAN.

(B) EXPRESSION OF ELEMENTS.

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

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

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

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

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

Defined terms: "Legislative body" § 1–101

"Local jurisdiction" § 1–101
"Plan" § 1–101

3–203. PLAN DEVELOPMENT.

(A) CREATION.

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

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

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

(B) PUBLIC HEARING REQUIRED.

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

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

(C) RECOMMENDED PLAN COPIES.

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

(1) ADJOINING JURISDICTIONS; AND

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

(D) COMMENTS.

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

(E) VOTING.

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

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

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

(I) THE CHAIR OF THE PLANNING COMMISSION; OR

(II) THE SECRETARY OF THE COMMISSION.

(F) ATTESTED COPY.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Defined terms: "Legislative body" § 1–101
"Local jurisdiction" § 1–101
"Plan" § 1–101
"Regulation" § 1–101
"State" § 1–101

3–204. PLAN ADOPTION.

(A) IN GENERAL.

EACH LOCAL JURISDICTION SHALL ADOPT A PLAN THAT INCLUDES:

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

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

(B) ADOPTION OF REGULATIONS.

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

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

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

In subsection (b)(2) of this section, the former obsolete reference to "the State Economic Growth, Resource Protection, and Planning Commission, or any subcommittee of the State Economic Growth, Resource Protection, and Planning Commission" is deleted as surplusage.

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

Defined terms: "Legislative body" § 1–101
"Local jurisdiction" § 1–101
"Plan" § 1–101
"Regulation" § 1–101

3–205. PLANNING COMMISSION REVIEW.

(A) SCOPE OF SECTION.

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

(B) PRIOR APPROVAL REQUIRED.

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

(C) PLANNING COMMISSION AUTHORIZATION.

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

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

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

(D) APPROVAL.

(1) THE LEGISLATIVE BODY MAY ADOPT:

(I) THE WHOLE PLAN;

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

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

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

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

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

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

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

The Land Use Article Review Committee notes, for consideration by the General Assembly, that the procedure for adoption of a plan or a plan amendment under subsection (d) of this section does not appear to authorize a remand of a recommended plan or amendment from the legislative body to the planning commission. The current provision forces the legislative body to approve or reject the recommended plan or amendment outright, which might be considered cumbersome by both bodies, and might unnecessarily prolong an adoption process that may involve the need to make minor changes to a recommended plan or amendment. Similarly, in most local jurisdictions, it is unclear which body has the final say in plan adoption, and there is no provision to determine how a dispute between the legislative body and the planning body may be resolved. In Frederick County, however, the county commissioners are specifically authorized to overrule the planning commission. *See* § 9–1002 of this article. The General Assembly may wish to consider: (1) specifically authorizing a process for a legislative body to remand all or part of a recommended plan to the planning commission with recommended adjustments or a requirement to conduct additional hearings, and to authorize the adoption of acceptable portions of the recommended plan or amendment in the meantime; and (2) establishing or enabling a local jurisdiction to adopt a process for resolving disputes between the legislative body and the planning commission.

The Land Use Article Review Committee also notes, for consideration by the General Assembly, that under subsection (d)(1)(iii) of this section, it is unclear whether the "extension" of a plan that may be adopted is a

geographic or a temporal extension. The General Assembly may wish to clarify this provision.

Defined terms: "Development" § 1–101
"Legislative body" § 1–101
"Local jurisdiction" § 1–101
"Plan" § 1–101

3–206. MUNICIPAL GROWTH ELEMENT.

(A) DEVELOPMENT.

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

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

(B) COMMENT.

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

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

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

(C) JOINT PLANNING AGREEMENT.

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

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

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

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

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

Defined terms: "County" § 1–101
"Plan" § 1–101

SUBTITLE 3. IMPLEMENTATION.

3–301. PLAN REVISION.

(A) PERIODIC REVIEW.

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

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

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

(B) GEOGRAPHIC SECTION OR DIVISION.

THE PLANNING COMMISSION MAY PREPARE COMPREHENSIVE PLANS FOR ONE OR MORE GEOGRAPHIC SECTIONS OR DIVISIONS OF THE LOCAL JURISDICTION IF THE PLAN FOR EACH GEOGRAPHIC SECTION OR DIVISION IS

REVIEWED AND, IF NECESSARY, REVISED OR AMENDED AT LEAST ONCE EVERY 6 YEARS.

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

In the introductory language to subsection (a) of this section, the references to the "comprehensive" plan are substituted for the former references to the "local" plan for clarity.

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

Defined terms: "Local jurisdiction" § 1–101
"Plan" § 1–101

3–302. RECOMMENDATION TO OFFICIALS.

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

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

(2) FINANCING PROGRAMS.

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

No changes are made.

Defined term: "Plan" § 1–101

3–303. PERIODIC REVIEW; IMPLEMENTATION.

(A) REQUIRED REVIEW.

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

(B) IMPLEMENTATION.

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

(1) ZONING LAWS;

(2) PLANNED DEVELOPMENT ORDINANCES AND REGULATIONS;

(3) SUBDIVISION ORDINANCES AND REGULATIONS; AND

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

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

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

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

Defined terms: "Development" § 1–101
"Local jurisdiction" § 1–101
"Plan" § 1–101
"Regulation" § 1–101
"Sensitive area" § 1–101
"Subdivision" § 1–101
"Zoning law" § 1–101

3–304. DEADLINE.

(A) IN GENERAL.

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

(B) EXTENSION.

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

(C) LIMITATION ON NONCOMPLIANCE.

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

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

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

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

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

The Land Use Article Review Committee notes, for consideration by the General Assembly, that subsection (c) of this section, which prohibits rezoning in a local jurisdiction that fails to have included required elements in its comprehensive plan "after October 1, 2009", when read together with subsection (a) of this section, may have the unintended consequence of subjecting a local jurisdiction to restrictions on its rezoning power for the indefinite future, long beyond the originally intended phase–in period for compliance under the former law contemplated under the original enactment in 2006. *See* Ch. 381 of 2006. The General Assembly may wish to consider altering the language of subsections (a) and (c) of this section to clarify the implementation of that law, or moving this section and the corresponding provision applicable to other local jurisdictions, § 1–418 of this article, to the Session Laws. *See, also*, Revisor's Note to § 1–418.

Defined terms: "Local jurisdiction" § 1–101
"Plan" § 1–101

TITLE 4. ZONING.

SUBTITLE 1. POWERS.

4–101. STATEMENT OF POLICY.

(A) PLANNING AND ZONING CONTROLS.

IT IS THE POLICY OF THE STATE THAT:

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

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

(B) LIMITATION OF ECONOMIC COMPETITION.

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

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

The only changes are in style.

Defined terms: "Development" § 1–101
"Regulation" § 1–101
"State" § 1–101

4–102. GENERAL POWERS.

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

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

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

(3) OFF–STREET PARKING;

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

(5) POPULATION DENSITY; AND

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

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 4.01(b)(1).

In the introductory language to this section, the reference to "morals" is deleted as surplusage.

Also in the introductory language to this section, the former word "restrict" is deleted as implicit in the word "regulate".

Also in the introductory language to this section, the reference to regulation "for trade, industry, residences, and other purposes" is deleted as surplusage.

Defined term: "Legislative body" § 1–101

4–103. ADDITIONAL POWERS.

(A) ADDITIONAL CONDITIONS OR LIMITATIONS.

WHEN ZONING OR REZONING LAND UNDER THIS DIVISION, A LEGISLATIVE BODY MAY IMPOSE ANY ADDITIONAL CONDITIONS OR LIMITATIONS THAT THE LEGISLATIVE BODY CONSIDERS APPROPRIATE TO IMPROVE OR PROTECT THE GENERAL CHARACTER AND DESIGN OF:

(1) THE LAND AND IMPROVEMENTS BEING ZONED OR REZONED; OR

(2) THE SURROUNDING OR ADJACENT LAND AND IMPROVEMENTS.

(B) ANNEXATION AGREEMENT.

A MUNICIPAL CORPORATION MAY INCLUDE IN AN ANNEXATION AGREEMENT LIMITATIONS ON THE USE OF LAND AND DENSITY OF

DEVELOPMENT OTHERWISE ALLOWED IN THE ZONING DISTRICT WHERE THE LAND IS LOCATED.

(C) DESIGN APPROVAL.

WHEN ZONING OR REZONING LAND UNDER THIS DIVISION, TO ENSURE CONFORMITY WITH THE INTENT AND PURPOSE OF THIS DIVISION AND OF THE LOCAL JURISDICTION'S ZONING LAW, A LEGISLATIVE BODY MAY RETAIN THE POWER TO APPROVE OR DISAPPROVE:

(1) THE DESIGN OF BUILDINGS, CONSTRUCTION, LANDSCAPING, OR OTHER IMPROVEMENTS; AND

(2) CHANGES MADE OR TO BE MADE ON THE LAND BEING ZONED OR REZONED.

(D) LOCAL LAW REQUIRED.

THE POWERS PROVIDED IN THIS SECTION SHALL APPLY ONLY IF THE LEGISLATIVE BODY ADOPTS A LOCAL LAW THAT INCLUDES:

(1) ENFORCEMENT PROCEDURES; AND

(2) REQUIREMENTS FOR ADEQUATE NOTICE OF:

(I) PUBLIC HEARINGS; AND

(II) CONDITIONS SOUGHT TO BE IMPOSED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 4.01(c).

In the introductory language to subsections (a) and (c) of this section, the phrase "[w]hen zoning or rezoning land" is substituted for the former phrase "[o]n the zoning or rezoning of any land" for clarity.

In the introductory language to subsection (a) of this section, the former word "restrictions" is deleted as implicit in the word "limitations".

Also in the introductory language to subsection (a) of this section, the former word "preserve" is deleted as implicit in the word "protect".

In the introductory language to subsection (c) of this section, the former word "reserve" is deleted as implicit in the word "retain".

In subsection (c)(2) of this section, the former reference to "alterations" is deleted as implicit in the term "changes".

The Land Use Article Review Committee notes, for consideration by the General Assembly, that it is unclear how the notice requirements for conditions sought in rezoning under subsection (d)(2)(ii) of this section apply to the limitations on development that may be included in an annexation agreement under subsection (b) of this section. Read strictly, subsection (d) seems to impose a requirement to include in local law notice of both public hearings and conditions sought in connection with an annexation agreement, without specifically authorizing the imposition of "conditions", only limitations. The General Assembly may wish to consider whether to add substantive authority to impose conditions in connection with an annexation agreement, without broadening the scope of limitations under subsection (b) of this section. *See* Ch. 385, Acts of 2004.

Defined terms: "Development" § 1–101
"Legislative body" § 1–101
"Local jurisdiction" § 1–101
"Local law" § 1–101
"Zoning law" § 1–101

4–104. LIMITATIONS.

(A) IN GENERAL.

THE POWERS GRANTED TO A LOCAL JURISDICTION UNDER THIS SUBTITLE DO NOT:

(1) GRANT THE LOCAL JURISDICTION POWERS IN ANY SUBSTANTIVE AREA NOT OTHERWISE GRANTED TO THE LOCAL JURISDICTION BY ANY OTHER PUBLIC GENERAL OR PUBLIC LOCAL LAW;

(2) RESTRICT THE LOCAL JURISDICTION FROM EXERCISING ANY POWER GRANTED TO THE LOCAL JURISDICTION BY ANY OTHER PUBLIC GENERAL OR PUBLIC LOCAL LAW OR OTHERWISE;

(3) AUTHORIZE THE LOCAL JURISDICTION OR ITS OFFICERS TO ENGAGE IN ANY ACTIVITY THAT IS BEYOND THEIR POWER UNDER ANY OTHER PUBLIC GENERAL OR PUBLIC LOCAL LAW OR OTHERWISE; OR

(4) PREEMPT OR SUPERSEDE THE REGULATORY AUTHORITY OF ANY UNIT OF THE STATE UNDER ANY PUBLIC GENERAL LAW.

(B) BICYCLE PARKING.

(1) IF A LEGISLATIVE BODY REGULATES OFF–STREET PARKING, THE LEGISLATIVE BODY SHALL REQUIRE SPACE FOR THE PARKING OF BICYCLES IN A MANNER THAT THE LEGISLATIVE BODY CONSIDERS APPROPRIATE.

(2) A LEGISLATIVE BODY MAY ALLOW A REDUCTION IN THE NUMBER OF REQUIRED AUTOMOBILE PARKING SPACES BASED ON THE AVAILABILITY OF SPACE FOR PARKING BICYCLES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 4.01(d) and (b)(2).

In subsection (a)(4) of this section, the reference to a "unit of the State" is substituted for the former reference to "State department or agency" for consistency with other revised articles of the Code.

Defined terms: "Legislative body" § 1–101
"Local jurisdiction" § 1–101
"State" § 1–101

SUBTITLE 2. DESIGNATION AND ADOPTION.

4–201. DISTRICTS AND ZONES.

(A) IN GENERAL.

A LEGISLATIVE BODY MAY DIVIDE THE LOCAL JURISDICTION INTO DISTRICTS AND ZONES OF ANY NUMBER, SHAPE, AND AREA THAT THE LEGISLATIVE BODY CONSIDERS BEST SUITED TO CARRY OUT THE PURPOSES OF THIS DIVISION.

(B) AUTHORIZED ACTION WITHIN DISTRICTS AND ZONES.

(1) WITHIN THE DISTRICTS AND ZONES, THE LEGISLATIVE BODY MAY REGULATE THE CONSTRUCTION, ALTERATION, REPAIR, OR USE OF BUILDINGS, STRUCTURES, OR LAND.

(2) EXCEPT AS OTHERWISE PROVIDED IN THIS DIVISION OR AUTHORIZED BY LAW:

(I) ZONING REGULATIONS SHALL BE UNIFORM FOR EACH CLASS OR KIND OF DEVELOPMENT THROUGHOUT EACH DISTRICT OR ZONE; BUT

(II) ZONING REGULATIONS IN ONE DISTRICT OR ZONE MAY DIFFER FROM THOSE IN OTHER DISTRICTS OR ZONES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 4.02.

In this section and throughout this title, the references to "zoning" regulations are added for clarity.

Also in this section and throughout this title, the references to "a zone" and "zones" are added for clarity and consistency within this article.

In subsection (b)(1) of this section, the former word "restrict" is deleted as implicit in the term "regulate".

Also in subsection (b)(1) of this section, the former reference to "erection" is deleted as included in the comprehensive reference to "construction". Similarly, the former reference to "reconstruction" is deleted as included in the comprehensive reference to "construction".

Defined terms: "Development" § 1–101
"Legislative body" § 1–101
"Local jurisdiction" § 1–101
"Regulation" § 1–101

4–202. ZONING REGULATIONS — ADOPTION; PURPOSES.

(A) ADOPTION.

THE LEGISLATIVE BODY SHALL ADOPT ZONING REGULATIONS:

(1) IN ACCORDANCE WITH THE PLAN;

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

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

(B) PURPOSES.

THE ZONING REGULATIONS SHALL BE DESIGNED TO:

(1) CONTROL STREET CONGESTION;

(2) PROMOTE HEALTH, PUBLIC SAFETY, AND GENERAL WELFARE;

(3) PROVIDE ADEQUATE LIGHT AND AIR;

(4) PROMOTE THE CONSERVATION OF NATURAL RESOURCES;

(5) PREVENT ENVIRONMENTAL POLLUTION;

(6) AVOID AN UNDUE CONCENTRATION OF POPULATION; AND

(7) PROMOTE OR FACILITATE ADEQUATE TRANSPORTATION, WATER, SEWERAGE, SCHOOLS, RECREATION, PARKS, AND OTHER PUBLIC FACILITIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 4.03.

In subsection (a)(3) of this section, the reference to conservation of the value of "other structures" is added for clarity.

In subsection (b)(7) of this section, the reference to "promot[ing] or facilitat[ing] adequate" public facilities is substituted for the former reference to "[f]acilitat[ing] the adequate provision of" public facilities for clarity.

Also in subsection (b)(7) of this section, the reference to public "facilities" is substituted for the former reference to public "requirements" for clarity.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that the conservation of value of "buildings and other structures" in subsection (a)(3) of this section may not adequately address the value placed on other land such as open space in accordance with current legislatively approved policies including smart growth and priority funding areas.

The Land Use Article Review Committee also notes, for consideration by the General Assembly, that in subsection (b)(6) of this section, the concept of simply "avoid[ing] an undue concentration of population" may be considered obsolete in relation to more modern, legislatively endorsed

policies such as smart growth, preservation of open space, use of cluster development, and priority funding areas. The General Assembly may wish to clarify the relationship of this item in relation to other policies for managing growth while balancing legislatively endorsed policies.

Defined terms: "Development" § 1–101
"Legislative body" § 1–101
"Plan" § 1–101
"Regulation" § 1–101

4–203. ZONING REGULATIONS — PROCEDURE; PUBLIC HEARINGS.

(A) PROCEDURE.

A LEGISLATIVE BODY SHALL PROVIDE FOR THE MANNER IN WHICH ITS ZONING REGULATIONS AND THE BOUNDARIES OF DISTRICTS AND ZONES SHALL BE ESTABLISHED, ENFORCED, AND AMENDED.

(B) PUBLIC HEARINGS.

(1) A LEGISLATIVE BODY SHALL HOLD AT LEAST ONE PUBLIC HEARING ON A PROPOSED ZONING REGULATION OR BOUNDARY AT WHICH PARTIES IN INTEREST AND CITIZENS HAVE AN OPPORTUNITY TO BE HEARD.

(2) (I) THE LEGISLATIVE BODY SHALL PUBLISH NOTICE OF THE TIME AND PLACE OF THE PUBLIC HEARING, TOGETHER WITH A SUMMARY OF THE PROPOSED ZONING REGULATION OR BOUNDARY, IN AT LEAST ONE NEWSPAPER OF GENERAL CIRCULATION IN THE LOCAL JURISDICTION ONCE EACH WEEK FOR 2 SUCCESSIVE WEEKS.

(II) THE LEGISLATIVE BODY SHALL PUBLISH THE FIRST NOTICE OF THE HEARING AT LEAST 14 DAYS BEFORE THE HEARING.

(3) THE ZONING REGULATION OR BOUNDARY MAY NOT BECOME EFFECTIVE UNTIL 10 DAYS AFTER THE HEARING OR HEARINGS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 4.04(a) and (b).

Throughout this section, the former references to "restriction[s]" are deleted as implicit in the term "regulation[s]".

In subsection (a) of this section, the former word "determined" is deleted as implicit in the word "established".

Also in subsection (a) of this section, the former reference to the manner in which zoning regulations and boundaries may be "repealed" is deleted as implicit in the manner in which they may be "amended".

Also in subsection (a) of this section, the former word "periodically" is deleted as surplusage.

In subsection (b)(1) of this section, the language requiring a legislative body to hold a hearing on a proposed regulation or boundary is added to affirmatively state that which was implied in the source law.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in subsection (b)(1) of this section, the relationship between the status of a "citizen" as one with an opportunity to be heard as opposed to that of a "resident" is unclear.

Defined terms: "Legislative body" § 1–101
"Local jurisdiction" § 1–101
"Regulation" § 1–101

4–204. ZONING REGULATIONS — AMENDMENT, REPEAL, AND RECLASSIFICATION.

(A) AUTHORITY.

ZONING REGULATIONS AND BOUNDARIES MAY BE AMENDED OR REPEALED.

(B) RECLASSIFICATION.

(1) IF THE PURPOSE AND EFFECT OF A PROPOSED MAP AMENDMENT IS TO CHANGE A ZONING CLASSIFICATION, THE LEGISLATIVE BODY SHALL MAKE FINDINGS OF FACT THAT ADDRESS:

(I) POPULATION CHANGE;

(II) THE AVAILABILITY OF PUBLIC FACILITIES;

(III) PRESENT AND FUTURE TRANSPORTATION PATTERNS;

(IV) COMPATIBILITY WITH EXISTING AND PROPOSED DEVELOPMENT FOR THE AREA;

(V) THE RECOMMENDATION OF THE PLANNING COMMISSION; AND

(VI) THE RELATIONSHIP OF THE PROPOSED AMENDMENT TO THE LOCAL JURISDICTION'S PLAN.

(2) THE LEGISLATIVE BODY MAY GRANT THE AMENDMENT TO CHANGE THE ZONING CLASSIFICATION BASED ON A FINDING THAT THERE WAS:

(I) A SUBSTANTIAL CHANGE IN THE CHARACTER OF THE NEIGHBORHOOD WHERE THE PROPERTY IS LOCATED; OR

(II) A MISTAKE IN THE EXISTING ZONING CLASSIFICATION.

(3) THE LEGISLATIVE BODY SHALL KEEP A COMPLETE RECORD OF A HEARING ON AN APPLICATION FOR RECLASSIFICATION AND THE VOTES OF THE MEMBERS OF THE LEGISLATIVE BODY.

(4) A LEGISLATIVE BODY MAY NOT ALLOW THE FILING OF AN APPLICATION FOR A RECLASSIFICATION OF ALL OR PART OF ANY LAND FOR WHICH A RECLASSIFICATION HAS BEEN DENIED BY THE LEGISLATIVE BODY ON THE MERITS IN THE 12 MONTHS BEFORE THE DATE OF THE APPLICATION.

(5) THE PROVISIONS OF § 4–203(B) OF THIS SUBTITLE CONCERNING PUBLIC HEARINGS AND NOTICE APPLY TO APPLICATIONS FOR RECLASSIFICATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 4.05(a), (b), and (c).

In subsection (a) of this section, the former reference to "restrictions" is deleted as implicit in the term "regulations".

Also in subsection (a) of this section, the former word "periodically" is deleted as surplusage.

In the introductory language to subsection (b)(1) of this section, the reference to a "map" amendment is added for clarity. *See, also*, § 10–304(b)(1) of this article.

Also in the introductory language to subsection (b)(1) of this section, the word "address" is substituted for the former phrase "include the following matters" for brevity and consistency with other revised articles of the Code.

In subsection (b)(3) of this section, the reference to "a hearing on an application for reclassification" is substituted for the former reference to "the hearing" for clarity.

In subsection (b)(5) of this section, the former phrase "in the same manner and to the same extent" is deleted as surplusage.

Defined terms: "Development" § 1–101
"Legislative body" § 1–101
"Plan" § 1–101
"Regulation" § 1–101

4–205. ADMINISTRATIVE ADJUSTMENTS.

(A) TYPES OF REQUIREMENTS.

A LEGISLATIVE BODY MAY AUTHORIZE THE PLANNING DIRECTOR OR ANOTHER DESIGNEE TO GRANT AN ADMINISTRATIVE ADJUSTMENT FROM THE FOLLOWING REQUIREMENTS IN A ZONING LAW ENACTED BY THE LEGISLATIVE BODY:

(1) HEIGHT;

(2) SETBACK;

(3) BULK;

(4) PARKING;

(5) LOADING, DIMENSIONAL, OR AREA; OR

(6) SIMILAR REQUIREMENTS.

(B) IMPLEMENTATION.

BEFORE DEVELOPING CRITERIA AND PROCEDURES FOR ADMINISTRATIVE ADJUSTMENTS UNDER THIS SECTION, THE LEGISLATIVE BODY SHALL:

(1) CONSULT WITH THE PLANNING COMMISSION AND THE BOARD OF APPEALS; AND

(2) PROVIDE:

(I) REASONABLE PUBLIC NOTICE OF THE PROPOSED CRITERIA AND PROCEDURES;

(II) AN OPPORTUNITY FOR A PUBLIC HEARING; AND

(III) AN OPPORTUNITY FOR PUBLIC REVIEW AND COMMENT.

(C) CRITERIA.

THE CRITERIA FOR AN ADMINISTRATIVE ADJUSTMENT SHALL INCLUDE:

(1) STANDARDS FOR ACTIONS ON REQUESTS;

(2) STANDARDS FOR THE CLASSES OF DEVELOPMENT THAT ARE ELIGIBLE FOR AN ADMINISTRATIVE ADJUSTMENT; AND

(3) THE MAXIMUM VARIATION FROM A ZONING REQUIREMENT THAT IS ALLOWED UNDER AN ADMINISTRATIVE ADJUSTMENT.

(D) PROCEDURES.

PROCEDURES FOR ADMINISTRATIVE ADJUSTMENTS MAY ADDRESS:

(1) APPLICATIONS;

(2) NOTICE TO THE PUBLIC AND TO THE PARTIES IN INTEREST;

(3) AN OPPORTUNITY FOR A PUBLIC HEARING;

(4) AN OPPORTUNITY FOR THE TAKING OF TESTIMONY AND EVIDENCE; AND

(5) DECISION MAKING.

(E) FINDINGS OF FACT AND CONCLUSIONS OF LAW.

A DECISION ON AN APPLICATION FOR AN ADMINISTRATIVE ADJUSTMENT SHALL INCLUDE WRITTEN FINDINGS OF FACT AND CONCLUSIONS OF LAW.

(F) AUTHORIZATION FOR APPEAL.

BY ENACTING A LOCAL LAW OR ADOPTING A PROCEDURE, A LEGISLATIVE BODY MAY AUTHORIZE THE APPEAL TO THE BOARD OF APPEALS OF A DECISION TO APPROVE OR DENY AN ADMINISTRATIVE ADJUSTMENT.

(G) ENVIRONMENTAL PROTECTION.

NOTHING IN THIS SECTION IS INTENDED TO AUTHORIZE A LOCAL JURISDICTION TO ALLOW AN ADMINISTRATIVE ADJUSTMENT TO STATE OR LOCAL REQUIREMENTS THAT ARE INTENDED TO PROTECT ENVIRONMENTALLY SENSITIVE AREAS SUCH AS STREAMS, SLOPES, WETLANDS, NATURAL HERITAGE AREAS, OR CRITICAL AREAS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 4.05(d).

In subsection (a) of this section, the former references to "local" and "requirements" are deleted as surplusage.

In the introductory language to subsection (d) of this section, the word "address" is substituted for the former word "include" for clarity and consistency within this subtitle.

In subsection (e) of this section, the reference to required "conclusions of law" is added for clarity and accuracy.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in subsection (g) of this section, it is unclear whether the term "critical areas" is intended to: (1) mean a specific reference to the "Critical Area" under NR, Title 8, Subtitle 18; (2) refer more generally to "areas of critical State concern" required in comprehensive plans of noncharter counties and municipal corporations under § 3–109 of this article; or (3) cover some other type of area. The General Assembly may wish to address this matter by providing a specific cross–reference to other relevant provisions as appropriate.

Defined terms: "Development" § 1–101
"Legislative body" § 1–101
"Local jurisdiction" § 1–101
"Local law" § 1–101
"State" § 1–101
"Zoning law" § 1–101

4–206. VARIANCES.

(A) ALLOWABLE MODIFICATIONS.

BY LOCAL LAW, A LEGISLATIVE BODY MAY SPECIFY IN A ZONING LAW THE ALLOWABLE MODIFICATIONS THAT MAY BE MADE BY A VARIANCE.

(B) LIMITATIONS.

THE MODIFICATIONS IN A VARIANCE:

(1) MAY BE ONLY OF DENSITY, BULK, DIMENSIONAL, OR AREA REQUIREMENTS OF THE ZONING LAW;

(2) MAY BE ONLY ALLOWED WHERE, OWING TO CONDITIONS PECULIAR TO THE PROPERTY AND NOT BECAUSE OF ANY ACTION TAKEN BY THE APPLICANT, A LITERAL ENFORCEMENT OF THE ZONING LAW WOULD RESULT IN UNNECESSARY HARDSHIP OR PRACTICAL DIFFICULTY AS SPECIFIED IN THE ZONING LAW; AND

(3) MAY NOT BE CONTRARY TO THE PUBLIC INTEREST.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 1.00(m). It is revised as a substantive provision for clarity.

In subsection (b)(1) of this section, the reference to "dimensional" requirements is added for clarity.

Defined terms: "Legislative body" § 1–101
"Local law" § 1–101
"Variance" § 1–101
"Zoning law" § 1–101

4–207. ADAPTIVE REUSE.

(A) AUTHORIZATION.

ON APPLICATION BY A PROPERTY OWNER, A LEGISLATIVE BODY MAY AUTHORIZE HOW THE USES ALLOWED IN A ZONING CLASSIFICATION ARE TO BE APPLIED TO A PARTICULAR IMPROVED PROPERTY BY GRANTING AN ADAPTIVE REUSE.

(B) SPECIFIC FINDINGS REQUIRED.

BEFORE GRANTING AN ADAPTIVE REUSE, THE LEGISLATIVE BODY SHALL MAKE SPECIFIC FINDINGS, SUPPORTED BY FACTS IN THE RECORD, THAT:

(1) THE CHANGE IS CONSISTENT WITH THE PLAN FOR THE LOCAL JURISDICTION;

(2) THE CHANGE IS IN THE PUBLIC INTEREST AND PROVIDES A POSITIVE BENEFIT TO THE COMMUNITY; AND

(3) LITERAL ENFORCEMENT OF THE ZONING CLASSIFICATION WOULD DEPRIVE THE OWNER OF ALL REASONABLE ECONOMICALLY VIABLE USE OF THE PROPERTY.

REVISOR'S NOTE: This section formerly was Art. 66B, § 4.05(e).

The only changes are in style.

Defined terms: "Adaptive reuse" § 1–101
"Legislative body" § 1–101
"Local jurisdiction" § 1–101
"Plan" § 1–101

4–208. EXCEPTIONS — MARYLAND ACCESSIBILITY CODE.

A LEGISLATIVE BODY SHALL PROVIDE FOR EXCEPTIONS TO THE ZONING LAW WHEN NECESSARY TO BRING AN EXISTING PARKING LOT INTO COMPLIANCE WITH THE REQUIREMENTS FOR PARKING SPACES FOR INDIVIDUALS WITH DISABILITIES AND THE VAN–ACCESSIBLE PARKING RATIO REQUIREMENT OF THE MARYLAND ACCESSIBILITY CODE ADOPTED UNDER § 12–202 OF THE PUBLIC SAFETY ARTICLE.

REVISOR'S NOTE: This section formerly was Art. 66B, § 4.04(c).

The only changes are in style.

For the adopted parking ratio, *see* COMAR 05.02.02.07.

Defined terms: "Legislative body" § 1–101
"Zoning law" § 1–101

4–209. HEARING EXAMINERS.

(A) APPOINTMENT.

A LEGISLATIVE BODY MAY APPOINT FULL– AND PART–TIME HEARING EXAMINERS THAT IT CONSIDERS NECESSARY AND APPROPRIATE.

(B) PUBLIC HEARINGS.

(1) A LEGISLATIVE BODY MAY DELEGATE TO A HEARING EXAMINER THE POWER TO CONDUCT A PUBLIC HEARING UNDER §§ 4–204 AND 4–205 OF THIS SUBTITLE.

(2) A HEARING SHALL BE CONDUCTED UNDER RULES THE LEGISLATIVE BODY ADOPTS.

(C) RECUSAL.

A HEARING EXAMINER SHALL RECUSE HIMSELF OR HERSELF FROM PARTICIPATING IN A MATTER IN WHICH THE HEARING EXAMINER MAY HAVE A CONFLICT OF INTEREST OR THE APPEARANCE OF A CONFLICT OF INTEREST.

(D) TENURE, QUALIFICATIONS, AND COMPENSATION.

A LEGISLATIVE BODY SHALL DETERMINE THE TERM OF OFFICE, REQUIRED QUALIFICATIONS, AND COMPENSATION OF A HEARING EXAMINER EMPLOYED BY THE LOCAL JURISDICTION.

(E) WRITTEN RECOMMENDATION.

A HEARING EXAMINER SHALL ISSUE A WRITTEN RECOMMENDATION IN THE TIME, MANNER, AND FORM REQUIRED BY THE LEGISLATIVE BODY.

REVISOR'S NOTE: This section formerly was Art. 66B, § 4.06.

In subsection (b)(2) of this section, the former word "regulations" is deleted as implicit in the word "rules".

The only other changes are in style.

Defined terms: "Legislative body" § 1–101
"Local jurisdiction" § 1–101

SUBTITLE 3. BOARD OF APPEALS.

4–301. REQUIRED.

(A) IN GENERAL.

A LEGISLATIVE BODY SHALL PROVIDE FOR THE APPOINTMENT OF A BOARD OF APPEALS.

(B) LEGISLATIVE BODY DISQUALIFIED.

THE LEGISLATIVE BODY MAY NOT SERVE AS THE BOARD OF APPEALS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 4.07(a)(1) and (8).

Defined term: "Legislative body" § 1–101

4–302. MEMBERSHIP.

(A) COMPOSITION.

A BOARD OF APPEALS CONSISTS OF AT LEAST THREE MEMBERS.

(B) APPOINTMENT.

A MEMBER OF A BOARD OF APPEALS SHALL BE APPOINTED BY THE LOCAL EXECUTIVE AND CONFIRMED BY THE LEGISLATIVE BODY.

(C) TENURE.

THE TERM OF OFFICE OF A MEMBER OF A BOARD OF APPEALS IS 3 YEARS.

(D) REMOVAL.

A MEMBER OF A BOARD OF APPEALS MAY BE REMOVED:

(1) FOR CAUSE;

(2) ON WRITTEN CHARGES; AND

(3) AFTER A PUBLIC HEARING.

(E) VACANCIES.

THE APPOINTING AUTHORITY SHALL APPOINT A NEW MEMBER TO FILL THE UNEXPIRED TERM OF ANY MEMBER WHO LEAVES A BOARD OF APPEALS.

(F) ALTERNATE MEMBER.

(1) A LEGISLATIVE BODY SHALL DESIGNATE ONE ALTERNATE MEMBER FOR THE BOARD OF APPEALS WHO MAY SIT ON THE BOARD WHEN ANOTHER MEMBER OF THE BOARD IS ABSENT OR RECUSED.

(2) WHEN THE ALTERNATE MEMBER IS ABSENT OR RECUSED, THE LEGISLATIVE BODY MAY DESIGNATE A TEMPORARY ALTERNATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 4.07(b) and (a)(2) through (6).

In subsection (f) of this section, the references to a member who is absent "or recused" are added for clarity. The Land Use Article Review Committee brings the addition to the attention of the General Assembly.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in subsection (f) of this section, only one "permanent" alternate member is authorized, although there is no explicit limit on the number of temporary alternate members who may be appointed. Because members of boards of appeals must complete an education course under § 1–206 of this article, the General Assembly may wish to authorize a legislative body to appoint more than one "permanent" alternate member in order to ensure that an adequate number of participating members are available in case of multiple recusals without requiring training of temporary alternate members who may not otherwise be needed.

For educational requirements for members of boards of appeals, *see* § 1–206 of this article.

Defined terms: "Legislative body" § 1–101
"Local executive" § 1–101

4–303. MEETINGS; COMPENSATION.

(A) MEETINGS.

(1) THE MEETINGS OF A BOARD OF APPEALS SHALL BE HELD AT THE CALL OF THE CHAIR AND AT OTHER TIMES DETERMINED BY THE BOARD.

(2) THE CHAIR OF A BOARD OF APPEALS OR THE ACTING CHAIR MAY ADMINISTER OATHS AND COMPEL THE ATTENDANCE OF WITNESSES.

(3) ALL MEETINGS OF A BOARD OF APPEALS SHALL BE OPEN TO THE PUBLIC.

(B) COMPENSATION.

A MEMBER OF A BOARD OF APPEALS MAY RECEIVE COMPENSATION THAT THE LEGISLATIVE BODY CONSIDERS APPROPRIATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 4.07(c)(2) through (4) and (a)(7).

In subsection (a)(1) and (2) of this section, the references to the "chair" are substituted for the former references to the "chairman" because SG § 2–1238 requires the use of terms that are neutral as to gender to the extent practicable. *See* General Revisor's Note to article.

Defined term: "Legislative body" § 1–101

4–304. MISCELLANEOUS DUTIES.

(A) RULES.

A BOARD OF APPEALS SHALL ADOPT RULES IN ACCORDANCE WITH ANY LOCAL LAW ADOPTED UNDER THIS DIVISION.

(B) RECUSAL.

A MEMBER OF A BOARD OF APPEALS SHALL RECUSE HIMSELF OR HERSELF FROM PARTICIPATING IN A MATTER IN WHICH THE MEMBER MAY HAVE A CONFLICT OF INTEREST OR AN APPEARANCE OF A CONFLICT OF INTEREST.

(C) RECORDING; TRANSCRIPT.

(1) (I) A BOARD OF APPEALS SHALL MAKE A RECORDING OF ALL PROCEEDINGS WITH A CONTEMPORANEOUS WRITTEN RECORD SHOWING THE VOTE OF EACH MEMBER ON EACH QUESTION OR THE MEMBER'S ABSENCE OR FAILURE TO VOTE.

(II) 1. A BOARD OF APPEALS SHALL IMMEDIATELY FILE THE RECORDING OF ITS PROCEEDINGS IN THE OFFICE OF THE BOARD.

2. THE RECORDING SHALL BE A PUBLIC RECORD.

(2) IF A RECORDING OR A TRANSCRIPT OF A RECORDING IS NOT PREPARED IN THE NORMAL COURSE OF THE BOARD'S PROCEEDINGS, THE

PARTY WHO REQUESTS A COPY OF THE RECORDING OR ITS TRANSCRIPT SHALL PAY THE COST OF PREPARING THE RECORDING OR TRANSCRIPT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 4.07(c)(1), (5), and (6) and (a)(9).

Defined term: "Local law" § 1–101

4–305. POWERS — APPEALS; SPECIAL EXCEPTIONS; VARIANCES.

A BOARD OF APPEALS MAY:

(1) HEAR AND DECIDE APPEALS WHEN IT IS ALLEGED THAT THERE IS AN ERROR IN ANY ORDER, REQUIREMENT, DECISION, OR DETERMINATION MADE BY AN ADMINISTRATIVE OFFICER OR UNIT UNDER THIS DIVISION OR OF ANY LOCAL LAW ADOPTED UNDER THIS DIVISION;

(2) HEAR AND DECIDE SPECIAL EXCEPTIONS TO THE TERMS OF A LOCAL LAW ON WHICH THE BOARD IS REQUIRED TO PASS UNDER THE LOCAL LAW; AND

(3) AUTHORIZE ON APPEAL IN SPECIFIC CASES A VARIANCE FROM THE TERMS OF A LOCAL LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 4.07(d).

In item (1) of this section, the reference to an administrative officer "or unit" is added for clarity.

Also in item (1) of this section, the word "under" is substituted for the former phrase "in the enforcement of" for brevity and clarity.

Defined terms: "Local law" § 1–101
"Special exception" § 1–101
"Variance" § 1–101

4–306. APPEAL — PROCEDURES.

(A) WHO MAY FILE.

AN APPEAL TO THE BOARD OF APPEALS MAY BE FILED BY:

(1) A PERSON AGGRIEVED BY A DECISION OF THE ADMINISTRATIVE OFFICER OR UNIT; OR

(2) AN OFFICER OR UNIT OF THE JURISDICTION AFFECTED BY A DECISION OF THE ADMINISTRATIVE OFFICER OR UNIT.

(B) TIMING.

A PERSON SHALL FILE AN APPEAL WITHIN A REASONABLE TIME PROVIDED BY THE RULES OF THE BOARD OF APPEALS BY FILING WITH THE ADMINISTRATIVE OFFICER OR UNIT FROM WHOSE ACTION THE APPEAL IS TAKEN AND WITH THE BOARD OF APPEALS A NOTICE OF APPEAL SPECIFYING THE GROUNDS OF THE APPEAL.

(C) RECORD.

THE ADMINISTRATIVE OFFICER OR UNIT FROM WHOSE ACTION THE APPEAL IS TAKEN SHALL TRANSMIT PROMPTLY TO THE BOARD ALL PAPERS CONSTITUTING THE RECORD OF THE ACTION APPEALED.

(D) STAY OF PROCEEDINGS.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN APPEAL TO A BOARD OF APPEALS STAYS ALL PROCEEDINGS IN FURTHERANCE OF THE ACTION APPEALED.

(2) IF AN ADMINISTRATIVE OFFICER OR UNIT CERTIFIES TO THE BOARD OF APPEALS FACTS STATED IN THE CERTIFICATE THAT INDICATE TO THE ADMINISTRATIVE OFFICER OR UNIT THAT A STAY WOULD CAUSE IMMINENT PERIL TO LIFE OR PROPERTY, THE BOARD OF APPEALS OR THE CIRCUIT COURT MAY STAY THE PROCEEDINGS:

(I) ONLY FOR GOOD CAUSE SHOWN; AND

(II) THROUGH ISSUING A RESTRAINING ORDER AFTER NOTICE IS GIVEN TO THE ADMINISTRATIVE OFFICER OR UNIT.

(E) HEARING AND DECISION ON APPEAL.

(1) A BOARD OF APPEALS SHALL:

(I) ESTABLISH A REASONABLE TIME FOR THE HEARING OF AN APPEAL;

(II) GIVE PUBLIC NOTICE OF THE EXISTENCE OF THE APPEAL AND OF THE HEARING;

(III) GIVE DUE NOTICE TO THE PARTIES IN INTEREST AND TO OTHER PERSONS ENTITLED TO NOTICE UNDER LOCAL LAW OR THE RULES OF THE BOARD OF APPEALS; AND

(IV) DECIDE THE APPEAL WITHIN A REASONABLE TIME.

(2) AT A HEARING, A PARTY MAY:

(I) APPEAR IN PERSON; OR

(II) BE REPRESENTED BY AN AGENT OR ATTORNEY.

(F) AUTHORITY ON APPEAL.

(1) A BOARD OF APPEALS MAY, IN CONFORMITY WITH THIS DIVISION:

(I) WHOLLY OR PARTLY REVERSE THE ORDER, REQUIREMENT, OR DECISION THAT IS THE SUBJECT OF THE APPEAL;

(II) WHOLLY OR PARTLY AFFIRM THE ORDER, REQUIREMENT, OR DECISION THAT IS THE SUBJECT OF THE APPEAL;

(III) MODIFY THE ORDER, REQUIREMENT, OR DECISION THAT IS THE SUBJECT OF THE APPEAL; OR

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

(2) THE BOARD OF APPEALS SHALL HAVE ALL THE POWERS OF THE ADMINISTRATIVE OFFICER OR UNIT FROM WHOSE ACTION THE APPEAL IS TAKEN.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 4.07(e) through (h).

Throughout this section, the references to an administrative officer "or unit" are added for clarity.

In subsection (a)(2) of this section, the reference to a "unit" is substituted for the former reference to a "department, board, or bureau" for consistency with other revised articles of the Code.

In subsection (d)(2) of this section, the former phrase "as provided in paragraph (1) of this subsection" is deleted as surplusage.

In subsection (e)(1)(ii) of this section, the reference to notice "of the existence of the appeal" is added for clarity and consistency within this article.

Also in subsection (e)(1)(ii) of this section, the phrase "and to other persons entitled to notice under local law or the rules of the board of appeals" is added for clarity and consistency within this article.

In subsection (f)(1) of this section, the former references to a "determination" are deleted as implicit in the word "decision".

The Land Use Article Review Committee notes, for consideration by the General Assembly, that the breadth of the potential stay of proceedings under subsection (d) of this section is considerable. It may be construed to apply to applications for concept plans of developments, even though it is difficult to imagine the circumstances under which appeal of a concept plan could constitute an imminent peril to life or property. The General Assembly may wish to consider the scope of the stay of proceedings under this and the corresponding provision applicable to Baltimore City. *See, also,* § 10–405(d) of this article.

The Land Use Article Review Committee also notes, for consideration by the General Assembly, that in subsection (e)(1)(ii) of this section, it is unclear whether the term "parties in interest" is intended to be coextensive with the term "aggrieved persons" as found in Maryland case law, and if not, what classes of persons are intended to be entitled to notice of an appeal. The General Assembly may wish to consider clarifying the intended scope of "parties in interest" and whether entitlement to notice under this provision should automatically confer standing to seek judicial review of the matter appealed. *See, also,* Revisor's Note to § 10–405 of this article.

Defined terms: "Local law" § 1–101
"Person" § 1–101

SUBTITLE 4. JUDICIAL REVIEW.

4–401. PROCEDURE.

(A) WHO MAY FILE.

ANY OF THE FOLLOWING PERSONS MAY FILE A REQUEST FOR JUDICIAL REVIEW OF A DECISION OF A BOARD OF APPEALS OR A ZONING ACTION OF A LEGISLATIVE BODY BY THE CIRCUIT COURT OF THE COUNTY:

(1) A PERSON AGGRIEVED BY THE DECISION OR ACTION;

(2) A TAXPAYER; OR

(3) AN OFFICER OR UNIT OF THE LOCAL JURISDICTION.

(B) MANNER.

THE JUDICIAL REVIEW SHALL BE IN ACCORDANCE WITH TITLE 7, CHAPTER 200 OF THE MARYLAND RULES.

(C) REVIEW STANDARD UNAFFECTED.

THIS SECTION DOES NOT CHANGE THE EXISTING STANDARDS FOR JUDICIAL REVIEW OF A ZONING ACTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 4.08(a).

In this section and throughout this subtitle, the references to a "judicial review" are substituted for the former obsolete references to an "appeal" for accuracy.

In subsection (a)(3) of this section, the reference to a "unit" is substituted for the former reference to any "department, board, or bureau" for consistency with other revised articles of the Code.

Defined terms: "County" § 1–101
"Legislative body" § 1–101
"Local jurisdiction" § 1–101
"Person" § 1–101

4–402. MANNER OF REVIEW; ADDITIONAL EVIDENCE.

(A) MANNER OF REVIEW.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE CIRCUIT COURT SHALL REVIEW THE DECISION OF A BOARD OF APPEALS OR A HEARING EXAMINER UNDER THIS SUBTITLE ON THE RECORD TRANSMITTED BY THE BOARD OF APPEALS OR HEARING EXAMINER, AND NOT DE NOVO.

(B) ADDITIONAL EVIDENCE.

(1) IF, AFTER A HEARING, THE CIRCUIT COURT DETERMINES THAT TESTIMONY IS NEEDED FOR THE PROPER DISPOSITION OF THE MATTER, THE COURT MAY TAKE EVIDENCE OR APPOINT A SPECIAL MASTER TO:

(I) TAKE THE REQUIRED EVIDENCE; AND

(II) REPORT THE EVIDENCE TO THE COURT WITH THE SPECIAL MASTER'S FINDINGS OF FACT AND CONCLUSIONS OF LAW.

(2) THE SPECIAL MASTER'S EVIDENCE, FINDINGS, AND CONCLUSIONS SHALL CONSTITUTE A PART OF THE PROCEEDINGS ON WHICH THE COURT SHALL MAKE ITS DETERMINATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 4.08(b).

In subsection (b) of this section, the references to a "special master" are substituted for the former references to a "referee" for accuracy.

4–403. COSTS.

THE CIRCUIT COURT MAY NOT ALLOW AN AWARD OF COSTS AGAINST THE BOARD OF APPEALS UNLESS IT APPEARS TO THE COURT THAT THE BOARD, IN MAKING THE DECISION THAT IS THE SUBJECT OF THE JUDICIAL REVIEW, ACTED:

(1) WITH GROSS NEGLIGENCE;

(2) IN BAD FAITH; OR

(3) WITH MALICE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 4.08(c).

In the introductory language to this section, the reference to "an award of" costs is added for clarity.

4–404. SCHEDULING.

ALL ISSUES IN ANY PROCEEDING UNDER THIS SUBTITLE SHALL BE SCHEDULED AND HEARD BEFORE ALL OTHER CIVIL ACTIONS AND PROCEEDINGS.

REVISOR'S NOTE: This section formerly was Art. 66B, § 4.08(d).

The only changes are in style.

4–405. ORDER OF DECISION; FURTHER REVIEW.

(A) ORDER OF DECISION.

AFTER DECIDING A JUDICIAL REVIEW UNDER THIS SUBTITLE, THE CIRCUIT COURT SHALL FILE A WRITTEN ORDER AND OPINION EMBODYING THE REASONS FOR ITS DECISION.

(B) FURTHER REVIEW.

(1) A PARTY MAY FILE AN APPEAL OF A JUDGMENT OF THE CIRCUIT COURT WITH THE COURT OF SPECIAL APPEALS DURING THE PERIOD AND IN THE MANNER REQUIRED BY THE MARYLAND RULES.

(2) THE COURT OF SPECIAL APPEALS MAY AWARD COSTS IN ANY APPEAL TO THAT COURT UNDER THIS SUBSECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 4.08(e).

4–406. ADDITIONAL MATTERS FOR JUDICIAL REVIEW.

(A) BY CIRCUIT COURT.

IN ADDITION TO THE JUDICIAL REVIEW PROVIDED UNDER THIS SUBTITLE, A LEGISLATIVE BODY MAY ALLOW JUDICIAL REVIEW BY THE CIRCUIT COURT OF ANY MATTER ARISING UNDER THE PLANNING AND ZONING LAWS OF THE LOCAL JURISDICTION.

(B) FURTHER REVIEW.

A JUDGMENT OF THE CIRCUIT COURT UNDER THIS SECTION MAY BE APPEALED TO THE COURT OF SPECIAL APPEALS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 4.08(f).

In subsection (b) of this section, the reference to a "judgment" is substituted for the former reference to a "decision" for accuracy.

Defined terms: "Legislative body" § 1–101
"Local jurisdiction" § 1–101
"Zoning law" § 1–101

TITLE 5. SUBDIVISION.

SUBTITLE 1. POWERS.

5–101. POWERS.

(A) LAND LOCATED IN LOCAL JURISDICTION.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE TERRITORIAL JURISDICTION OF A PLANNING COMMISSION OVER A SUBDIVISION IS LIMITED TO LAND LOCATED IN THE LOCAL JURISDICTION.

(B) LAND BEYOND LIMITS OF MUNICIPAL CORPORATION.

IN A LOCAL JURISDICTION WHERE A COUNTY HAS NOT ADOPTED SUBDIVISION REGULATIONS, THE TERRITORIAL JURISDICTION OF A PLANNING COMMISSION OF A MUNICIPAL CORPORATION MAY INCLUDE ALL LAND LOCATED UP TO 1 MILE BEYOND THE CORPORATE LIMITS OF THE MUNICIPAL CORPORATION THAT IS NOT LOCATED IN ANY OTHER MUNICIPAL CORPORATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 5.01.

In subsection (a) of this section and throughout this title, the former reference to a subdivision "of land" is deleted as implicit in the reference to a "subdivision".

In subsection (a) of this section, the reference to the "local" jurisdiction is added for clarity.

Defined terms: "County" § 1–101

"Local jurisdiction" § 1–101
"Regulation" § 1–101
"Subdivision" § 1–101

5–102. SUBDIVISION REGULATIONS.

(A) RECOMMENDATION REQUIRED.

BEFORE EXERCISING SUBDIVISION POWERS UNDER §§ 5–202 AND 5–203 OF THIS TITLE, THE PLANNING COMMISSION SHALL RECOMMEND SUBDIVISION REGULATIONS TO THE LEGISLATIVE BODY.

(B) PURPOSE.

THE SUBDIVISION REGULATIONS SHALL BE FOR THE HEALTH, SAFETY, WELFARE, AND COMMON INTEREST OF THE CITIZENS OF THE LOCAL JURISDICTION.

(C) CONTENTS.

THE SUBDIVISION REGULATIONS MAY INCLUDE PROVISIONS FOR THE PURPOSES OF:

(1) ADEQUATELY CONTROLLING SHORE EROSION;

(2) CONTROLLING SEDIMENT AND ENSURING PROTECTION FROM FLOODING;

(3) ARRANGING STREETS IN RELATION TO EACH OTHER AND TO THE COMPREHENSIVE PLAN;

(4) ADEQUATELY AND CONVENIENTLY PLACING PUBLIC SCHOOL SITES AND OPEN SPACES FOR TRAFFIC, UTILITIES, ACCESS OF FIRE–FIGHTING APPARATUS, RECREATION, AND ACCESS TO LIGHT AND AIR;

(5) AVOIDING INAPPROPRIATE POPULATION CONGESTION;

(6) SETTING MINIMUM LOT WIDTHS AND AREAS; AND

(7) DETERMINING THE EXTENT TO WHICH THE FOLLOWING ACTIONS SHALL BE TAKEN BEFORE THE APPROVAL OF A PLAT:

(I) THE GRADING AND IMPROVEMENT OF STREETS AND OTHER WAYS;

(II) THE PROVISION OF SOIL EROSION OR SEDIMENT CONTROL; AND

(III) THE INSTALLATION OF WATER, SEWER, OTHER UTILITY MAINS, PIPING, OR OTHER FACILITIES.

(D) BURIAL SITES.

(1) SUBDIVISION REGULATIONS SHALL REQUIRE THAT AN APPROPRIATE EASEMENT BE PROVIDED FOR ANY BURIAL SITE LOCATED ON THE LAND.

(2) THE EASEMENT SHALL BE SUBJECT TO THE SUBDIVISION PLAT FOR ENTRY TO AND EXIT FROM THE BURIAL SITE BY AN INDIVIDUAL RELATED BY BLOOD OR MARRIAGE OR A PERSON IN INTEREST, AS DEFINED IN § 14–121 OF THE REAL PROPERTY ARTICLE.

(3) THE EXISTING RIGHT–OF–WAY NEED NOT BE EXTENDED FOR ANY IMPROVEMENTS ON THE BURIAL SITE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 5.03(a), (b)(1), and (d).

In subsection (c)(3) of this section, the reference to the "comprehensive" plan is substituted for the former reference to the "master" plan for consistency within this division.

In subsection (c)(5) of this section, the reference to avoiding "inappropriate" population congestion is added for clarity. The Land Use Article Review Committee brings this addition to the attention of the General Assembly. No substantive change is intended.

In subsection (d)(2) of this section, the reference to an "individual" is substituted for the former reference to a "person[s]" because only a human being, and not the other entities included in the definition of "person", can be related by blood or marriage.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in subsection (c)(5) of this section, the concept of simply "avoid[ing] … population congestion" may be considered obsolete in relation to more modern, legislatively endorsed policies such as smart

growth, preservation of open space, use of cluster development, and priority funding areas. While the Land Use Article Review Committee added the qualification "inappropriate" to the phrase, the General Assembly may wish to clarify further the relationship of this concept to other policies for managing growth while balancing legislatively endorsed policies.

Defined terms: "Legislative body" § 1–101
"Local jurisdiction" § 1–101
"Person" § 1–101
"Regulation" § 1–101
"Subdivision" § 1–101

5–103. NOTICE AND HEARING FOR REGULATIONS.

(A) PUBLIC HEARING REQUIREMENT.

BEFORE ADOPTION OF A SUBDIVISION REGULATION, THE LEGISLATIVE BODY SHALL HOLD A PUBLIC HEARING ON THE SUBDIVISION REGULATION.

(B) NOTICE OF PUBLIC HEARING.

THE LEGISLATIVE BODY SHALL PUBLISH A NOTICE OF THE PUBLIC HEARING AT LEAST ONCE IN A WEEKLY OR DAILY NEWSPAPER THAT CIRCULATES IN THE LOCAL JURISDICTION.

(C) CONTENTS OF NOTICE.

THE NOTICE SHALL CONTAIN:

(1) THE TEXT OF THE SUBDIVISION REGULATION OR, AT THE DISCRETION OF THE LEGISLATIVE BODY, A BRIEF AND ACCURATE SUMMARY OF THE NATURE AND CONTENTS OF THE SUBDIVISION REGULATION SUFFICIENT TO INFORM AN INDIVIDUAL OF ORDINARY INTELLIGENCE OF THE NATURE AND CONTENTS OF THE SUBDIVISION REGULATION; AND

(2) THE TIME AND PLACE OF THE PUBLIC HEARING.

(D) CERTIFIED COPY OF REGULATION REQUIRED.

WHEN THE LEGISLATIVE BODY ADOPTS A SUBDIVISION REGULATION, THE LEGISLATIVE BODY SHALL FILE A CERTIFIED COPY OF THE SUBDIVISION REGULATION WITH THE CLERK OF THE CIRCUIT COURT IN WHICH THE LOCAL JURISDICTION IS LOCATED FOR RECORDING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 5.03(c).

In subsection (c)(1) of this section, the phrase "at the discretion of the legislative body" is substituted for the former phrase "if the planning commission believes it would be better" for accuracy and clarity.

Also in subsection (c)(1) of this section, the reference to "the nature and contents of the subdivision regulation" is added for clarity.

Defined terms: "Legislative body" § 1–101
"Local jurisdiction" § 1–101
"Regulation" § 1–101
"Subdivision" § 1–101

5–104. EXISTING PLATTING STATUTES.

(A) EXCLUSIVE AUTHORITY OF COMMISSION.

AFTER A PLANNING COMMISSION BEGINS TO EXERCISE CONTROL OVER SUBDIVISIONS UNDER THIS SUBTITLE, THE AUTHORITY OF THE PLANNING COMMISSION OVER PLATS SHALL BE EXCLUSIVE WITHIN THE TERRITORY UNDER ITS JURISDICTION.

(B) TRANSFER OF STATUTORY CONTROL.

UNLESS OTHERWISE PROVIDED IN THIS DIVISION, ALL STATUTORY CONTROL OVER PLATS OR SUBDIVISIONS GRANTED BY OTHER STATUTES SHALL BE CONSIDERED TRANSFERRED TO THE PLANNING COMMISSION OF THE LOCAL JURISDICTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 5.07.

In subsection (b) of this section, the phrase "[u]nless otherwise provided in this division" is substituted for the former phrase "[t]o the extent that statutory control is in conformity with the provisions of this article" for brevity and clarity.

Defined terms: "Local jurisdiction" § 1–101
"Subdivision" § 1–101

SUBTITLE 2. PLAT APPROVAL.

5–201. FINAL PLAT APPROVAL — PROCEDURE AND EFFECT.

(A) DEADLINE; EXTENSION.

(1) (I) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF AN APPLICANT HAS COMPLIED WITH ALL SUBDIVISION REGULATIONS, A PLANNING COMMISSION SHALL APPROVE OR DISAPPROVE A FINAL PLAT WITHIN 30 DAYS AFTER THE APPLICANT SUBMITS THE FINAL PLAT TO THE PLANNING COMMISSION.

(II) IF THE PLANNING COMMISSION DOES NOT APPROVE OR DISAPPROVE THE PLAT WITHIN 30 DAYS, THE PLAT SHALL BE CONSIDERED APPROVED AND THE PLANNING COMMISSION SHALL ISSUE A CERTIFICATE TO THAT EFFECT ON DEMAND.

(2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, IF THE PLANNING COMMISSION DOES NOT APPROVE OR DISAPPROVE THE PLAT WITHIN 30 DAYS, AN APPLICANT FOR APPROVAL OF A FINAL PLAT MAY WAIVE THIS REQUIREMENT AND CONSENT TO AN EXTENSION OF THE PERIOD FOR APPROVAL.

(3) IF A FINAL PLAT IS DISAPPROVED, THE PLANNING COMMISSION SHALL STATE THE GROUNDS FOR THE DISAPPROVAL IN THE PLANNING COMMISSION'S RECORDS.

(B) EFFECT OF PLAT APPROVAL.

(1) EACH PLAT APPROVED BY THE PLANNING COMMISSION SHALL, THROUGH THE APPROVAL, BE CONSIDERED:

(I) AN AMENDMENT OR A DETAIL OF THE COMPREHENSIVE PLAN; AND

(II) A PART OF THE COMPREHENSIVE PLAN.

(2) APPROVAL OF A PLAT DOES NOT CONSTITUTE OR EFFECT AN ACCEPTANCE BY THE PUBLIC OF ANY STREET OR OTHER OPEN SPACE SHOWN ON THE PLAT.

(3) A PLANNING COMMISSION PERIODICALLY MAY RECOMMEND TO THE LEGISLATIVE BODY AMENDMENTS OF THE ZONING LAW OR MAP TO CONFORM TO THE PLANNING COMMISSION'S RECOMMENDATIONS FOR THE ZONING REGULATION OF THE TERRITORY WITHIN APPROVED SUBDIVISIONS.

(C) AGREEMENT ON REQUIREMENTS OR RESTRICTIONS.

(1) A PLANNING COMMISSION MAY AGREE WITH AN APPLICANT ON USE, HEIGHT, AREA, OR BULK REQUIREMENTS OR RESTRICTIONS THAT ARE DESIGNED TO PROMOTE THE PURPOSES OF THE ZONING LAW OF THE LOCAL JURISDICTION.

(2) (I) THE REQUIREMENTS OR RESTRICTIONS SHALL BE STATED ON THE PLAT BEFORE THE PLAT IS APPROVED AND RECORDED.

(II) THE REQUIREMENTS OR RESTRICTIONS SHALL HAVE THE SAME FORCE OF LAW, SHALL BE ENFORCEABLE IN THE SAME MANNER AND WITH THE SAME SANCTIONS AND PENALTIES, AND SHALL BE SUBJECT TO THE SAME POWER OF AMENDMENT OR REPEAL AS THOUGH PART OF THE ZONING LAW OR MAP OF THE LOCAL JURISDICTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 5.04.

Defined terms: "Legislative body" § 1–101
"Local jurisdiction" § 1–101
"Plan" § 1–101
"Regulation" § 1–101
"Subdivision" § 1–101
"Zoning law" § 1–101

5–202. FINAL PLAT APPROVAL — FILING.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY WHERE A LEGISLATIVE BODY HAS:

(1) ADOPTED THE TRANSPORTATION ELEMENT OF THE COMPREHENSIVE PLAN OF ALL OR PART OF THE TERRITORY WITHIN ITS SUBDIVISION JURISDICTION; AND

(2) FILED A CERTIFIED COPY OF THE PLAN WITH THE CLERK OF THE CIRCUIT COURT OF THE COUNTY IN WHICH ALL OR PART OF THE TERRITORY IS LOCATED.

(B) FILING AND RECORDATION OF PLAT.

A PLAT OF A SUBDIVISION WITHIN THE TERRITORY OR PART MAY NOT BE FILED OR RECORDED UNTIL:

(1) THE PLANNING COMMISSION APPROVES THE PLAT; AND

(2) THE CHAIR OR SECRETARY OF THE PLANNING COMMISSION INDICATES AN APPROVAL IN WRITING ON THE PLAT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 5.02(a).

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

Defined terms: "County" § 1–101
"Legislative body" § 1–101
"Plan" § 1–101
"Subdivision" § 1–101

5–203. FINAL PLAT APPROVAL — DELEGATION.

(A) IN GENERAL.

A PLANNING COMMISSION MAY AUTHORIZE AN ADMINISTRATIVE OFFICER TO APPROVE SUBDIVISION PLATS AND SITE PLANS UNDER § 5–202 OF THIS SUBTITLE IN ACCORDANCE WITH NONDISCRETIONARY CRITERIA ADOPTED AND SPECIFIED BY LOCAL LAW.

(B) MEANS OF APPROVAL.

THE ADMINISTRATIVE OFFICER SHALL APPROVE A PLAT BY INDICATING AN APPROVAL IN WRITING ON THE PLAT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 5.02(b).

In subsections (a) and (b) of this section, the former references to a "zoning administrator" are deleted as included in the comprehensive reference to an "administrative officer" for brevity.

Defined terms: "Local law" § 1–101
"Plan" § 1–101
"Subdivision" § 1–101

5–204. TENTATIVE PLAT APPROVAL.

(A) IN GENERAL.

A PLANNING COMMISSION MAY PROVIDE IN THE SUBDIVISION REGULATIONS OR PRACTICE FOR TENTATIVE APPROVAL OF A PLAT BEFORE COMPLETION OF IMPROVEMENTS OR INSTALLATION OF UTILITIES.

(B) REVOCABILITY.

TENTATIVE APPROVAL OF A PLAT SHALL BE REVOCABLE AND MAY NOT BE INDICATED ON THE PLAT.

(C) ALTERNATE FORMS OF SECURITY ACCEPTABLE.

(1) INSTEAD OF REQUIRING THE COMPLETION OF IMPROVEMENTS AND INSTALLATION OF UTILITIES BEFORE THE FINAL APPROVAL OF A PLAT, A PLANNING COMMISSION MAY ACCEPT SECURITY APPROVED BY THE LOCAL JURISDICTION TO SECURE THE CONSTRUCTION OF IMPROVEMENTS AND INSTALLATION OF UTILITIES.

(2) FORMS OF SECURITY ACCEPTED BY A PLANNING COMMISSION UNDER PARAGRAPH (1) OF THIS SUBSECTION:

(I) SHALL SPECIFY THE TIME FOR COMPLETION AND SPECIFICATIONS SET BY OR IN ACCORDANCE WITH THE SUBDIVISION REGULATIONS OF THE PLANNING COMMISSION;

(II) MAY INCLUDE A BOND WITH SURETY, AN IRREVOCABLE LETTER OF CREDIT, OR ANY OTHER FORM OF SECURITY APPROVED BY THE LOCAL JURISDICTION; AND

(III) MAY BE ENFORCED BY ANY APPROPRIATE LEGAL OR EQUITABLE REMEDY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 5.03(b)(2) and (3).

In subsection (a) of this section, the reference to "completion of improvements or installation of utilities" is substituted for the former reference to "installation" for clarity.

In subsection (c)(1) of this section, the former reference to security "acceptable to" the local jurisdiction is deleted as included in the reference to security "approved by" the local jurisdiction.

Also in subsection (c)(1) of this section, the former reference to security provided "to the local jurisdiction" is deleted as unnecessary.

In subsection (c)(2)(i) of this section, the reference to "subdivision" regulations is added for clarity.

Defined terms: "Local jurisdiction" § 1–101
"Regulation" § 1–101
"Subdivision" § 1–101

SUBTITLE 3. UNAPPROVED PLATS AND SUBDIVISIONS.

5–301. SALE OR TRANSFER OF LOTS IN UNAPPROVED SUBDIVISIONS.

(A) CIVIL PENALTY FOR USE OF UNAPPROVED PLAT.

(1) EXCEPT AS OTHERWISE PROVIDED IN §§ 9–603, 9–806, 9–1004, 9–1605, 9–1606, AND 9–1607 OF THIS ARTICLE, AN OWNER OR AGENT OF AN OWNER OF LAND LOCATED WITHIN A SUBDIVISION MAY NOT TRANSFER, SELL, AGREE TO SELL, OR NEGOTIATE TO SELL LAND BY REFERENCE TO, EXHIBITION OF, OR OTHER USE OF A PLAT OF A SUBDIVISION BEFORE THE PLAT HAS BEEN:

(I) APPROVED BY THE PLANNING COMMISSION; AND

(II) RECORDED OR FILED IN THE OFFICE OF THE APPROPRIATE COUNTY CLERK.

(2) A PERSON WHO VIOLATES THIS SUBSECTION IS SUBJECT TO A CIVIL PENALTY OF NOT LESS THAN $200 AND NOT EXCEEDING $1,000 FOR EACH VIOLATION.

(3) EACH LOT OR PARCEL TRANSFERRED OR SOLD OR AGREED OR NEGOTIATED TO BE SOLD IN VIOLATION OF THIS SUBSECTION IS A SEPARATE VIOLATION.

(B) METES AND BOUNDS DESCRIPTION.

THE DESCRIPTION OF A LOT OR PARCEL BY METES AND BOUNDS IN THE INSTRUMENT OF TRANSFER OR OTHER DOCUMENT USED IN THE PROCESS OF

SELLING OR TRANSFERRING DOES NOT EXEMPT THE TRANSACTION FROM THE PENALTIES OR REMEDIES PROVIDED IN THIS SECTION.

(C) REMEDIES.

A LOCAL JURISDICTION MAY SEEK TO:

(1) ENJOIN THE TRANSFER, SALE, OR AGREEMENT IN ANY CIRCUIT COURT; OR

(2) RECOVER THE PENALTY BY CIVIL ACTION IN A COURT OF COMPETENT JURISDICTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 5.05.

In subsection (c)(1) of this section, the reference to a "circuit court" is substituted for the former reference to a "court of equity" to reflect the merger of law and equity effected by Md. Rule 2–301, which mandates "one form of action known as the 'civil action' ".

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in subsection (c)(1) of this section, the prohibition against simple negotiation in advance of plat approval and recordation may run contrary to common commercial practice, as well as perhaps constituting a prior restraint on commercial speech. The General Assembly may wish to consider how closely the process of pre–recordation negotiation should be regulated, especially in the context of economic development and commercial enterprises. One option for the General Assembly to consider might be to allow the sale of property to be conditioned on final plat approval.

Defined terms: "County" § 1–101
"Local jurisdiction" § 1–101
"Person" § 1–101
"Subdivision" § 1–101

5–302. RECORDING UNAPPROVED SUBDIVISION PLAT.

(A) CIRCUIT COURT CLERK RECORDING PROHIBITION.

A CLERK OF THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE LOCAL JURISDICTION IS LOCATED MAY NOT RECORD A SUBDIVISION PLAT UNLESS THE

PLAT HAS BEEN APPROVED BY THE PLANNING COMMISSION FOR THE LOCAL JURISDICTION IN THE MANNER REQUIRED BY LAW.

(B) LEGAL EFFECT.

A SUBDIVISION PLAT THAT IS RECORDED WITHOUT THE REQUIRED APPROVAL IS LIMITED TO THE LEGAL EFFECT OF AN UNRECORDED PLAT.

REVISOR'S NOTE: This section formerly was Art. 66B, § 5.06.

In this section, the references to a "subdivision" plat are substituted for the former references to a plat "of a subdivision" for brevity.

In subsection (b) of this section, the phrase "is limited to the legal effect" is substituted for the former phrase "has only the legal effect" for clarity.

The only other changes are in style.

Defined terms: "County" § 1–101
"Local jurisdiction" § 1–101
"Subdivision" § 1–101

SUBTITLE 4. JUDICIAL REVIEW.

5–401. AUTHORIZED.

(A) BY CIRCUIT COURT.

A LEGISLATIVE BODY MAY AUTHORIZE JUDICIAL REVIEW BY THE CIRCUIT COURT OF ANY MATTER ARISING UNDER THIS TITLE.

(B) MANNER.

THE JUDICIAL REVIEW SHALL BE IN ACCORDANCE WITH TITLE 7, CHAPTER 200 OF THE MARYLAND RULES.

(C) FURTHER REVIEW.

A JUDGMENT OF THE CIRCUIT COURT UNDER THIS SECTION MAY BE APPEALED TO THE COURT OF SPECIAL APPEALS.

REVISOR'S NOTE: This section is new language added to provide a specific reference to the availability and manner of judicial review of a subdivision matter, as distinguished from the specific requirements for

judicial review of a zoning matter under Title 4, Subtitle 4 of this article. It is patterned after former Art. 66B, § 4.08(f) and (a)(2). The Land Use Article Review Committee brings this addition to the attention of the General Assembly. No substantive change is intended.

In subsection (a) of this section, the reference to any matter arising under "this title" is added to highlight the application of this provision and § 4–406 of this article to subdivision matters, as opposed to general planning and zoning matters.

Defined term: "Legislative body" § 1–101

TITLE 6. STREET PLANNING.

SUBTITLE 1. STREET RESERVATION.

6–101. SURVEY; RESERVATION PLAT.

AFTER ADOPTING THE TRANSPORTATION ELEMENT OF A COMPREHENSIVE PLAN, A PLANNING COMMISSION PERIODICALLY MAY:

(1) CONDUCT SURVEYS TO LOCATE STREET LINES AND ANY OTHER PART OF THE TRANSPORTATION ELEMENT; AND

(2) MAKE A RESERVATION PLAT OF THE AREA SURVEYED, SHOWING THE LAND THAT THE PLANNING COMMISSION RECOMMENDS BE RESERVED FOR FUTURE DEDICATION OR ACQUISITION AS PUBLIC STREETS AND ANY OTHER PART OF THE TRANSPORTATION ELEMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 6.01(a).

In the introductory language to this section, the reference to a "comprehensive" plan is added for consistency within this division.

Also in the introductory language to this section, the former reference to a plan "of the territory within its subdivision jurisdiction or of any major section or district of its jurisdiction" is deleted as unnecessary.

In item (2) of this section, the reference to a "reservation" plat is added for clarity.

Also in item (2) of this section, the former reference to the "district" is deleted as included in the reference to the "area".

Defined term: "Plan" § 1–101

6–102. RESERVATION FOR FUTURE ACQUISITION.

(A) IN GENERAL.

ON APPROVAL AND ADOPTION OF A PLAT, STREETS LOCATED ON THE PLAT ARE RESERVED FOR FUTURE ACQUISITION FOR PUBLIC USE.

(B) ADOPTION OF PLAT NOT ESTABLISHMENT OF STREET OR ACQUISITION OF LAND.

THE APPROVAL AND ADOPTION OF A PLAT DOES NOT CONSTITUTE THE ESTABLISHMENT OF A STREET OR ACQUISITION OF ANY LAND TO CREATE A STREET, PUBLIC USE, OR PUBLIC IMPROVEMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 6.01(f)(1) and (2).

In subsection (a) of this section, the former reference to "taking" is deleted as included in the reference to "acquisition".

In subsection (b) of this section, the reference to the "acquisition" of land is substituted for the former reference to the "taking" of land for consistency within this section.

Also in subsection (b) of this section, the former reference to "opening" a street is deleted as included in the reference to "establish[ing]" a street.

6–103. PUBLIC HEARING.

(A) REQUIRED.

BEFORE ADOPTING A PLAT, A PLANNING COMMISSION SHALL HOLD A PUBLIC HEARING ON THE PLAT.

(B) NOTICE.

AT LEAST 10 DAYS BEFORE THE PUBLIC HEARING, THE PLANNING COMMISSION SHALL PUBLISH A NOTICE OF THE TIME AND PLACE OF THE HEARING, WITH A GENERAL DESCRIPTION OF THE AREA COVERED BY THE PLAT, IN A NEWSPAPER OF GENERAL CIRCULATION IN THE LOCAL JURISDICTION IN WHICH THE AREA IS LOCATED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 6.01(b).

In subsection (a) of this section, the reference to holding a public hearing "on the plat" is added for clarity.

In subsection (b) of this section, the former references to the "district" are deleted as included in the references to the "area".

Defined term: "Local jurisdiction" § 1–101

6–104. LEGISLATIVE BODY.

(A) TRANSMISSION OF PLAT.

AFTER THE PUBLIC HEARING UNDER § 6–103 OF THIS SUBTITLE, THE PLANNING COMMISSION MAY TRANSMIT THE PLAT, AS ORIGINALLY MADE OR AS AMENDED BY THE PLANNING COMMISSION, TO THE LEGISLATIVE BODY WITH THE PLANNING COMMISSION'S ESTIMATE OF THE SCHEDULE BY WHICH THE LOCAL JURISDICTION SHOULD ACQUIRE THE RESERVED LAND.

(B) APPROVAL AND ADOPTION.

AFTER RECEIVING THE PLAT FROM THE PLANNING COMMISSION, THE LEGISLATIVE BODY, BY RESOLUTION, MAY:

(1) APPROVE AND ADOPT THE PLAT;

(2) DISAPPROVE THE PLAT;

(3) MODIFY THE PLAT WITH THE APPROVAL OF THE PLANNING COMMISSION; OR

(4) ADOPT A MODIFIED PLAT, NOTWITHSTANDING THE PRIOR DISAPPROVAL OF THE MODIFICATION BY THE PLANNING COMMISSION, WITH A FAVORABLE VOTE OF AT LEAST TWO–THIRDS OF THE ENTIRE MEMBERSHIP OF THE LEGISLATIVE BODY.

(C) DURATION OF RESERVATION.

IN THE RESOLUTION ADOPTING THE PLAT, THE LEGISLATIVE BODY SHALL ESTABLISH THE PERIOD FOR WHICH LAND IS TO BE RESERVED UNDER § 6–102 OF THIS SUBTITLE.

(D) PROCEDURES.

AFTER THE PLAT IS ADOPTED, THE CLERK OF THE LEGISLATIVE BODY SHALL:

(1) TRANSMIT ONE ATTESTED COPY OF THE PLAT TO THE CLERK OF THE CIRCUIT COURT OF EACH COUNTY IN WHICH THE PLATTED LAND IS LOCATED; AND

(2) KEEP ONE COPY OF THE PLAT FOR PUBLIC EXAMINATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 6.01(c) through (e).

In subsection (a) of this section, the reference to "reserved land" is substituted for the former reference to "lands shown on the plat as street locations" for brevity.

In the introductory language to subsection (b) of this section, the former reference to the "transmitted" plat is deleted as surplusage.

In subsection (b)(4) of this section, the phrase "notwithstanding the prior disapproval of the modification by the planning commission" is substituted for the former phrase "[i]f the planning commission disapproves the plat" for clarity.

In subsection (c) of this section, the reference to the period for which "land is to be reserved under § 6–102 of this subtitle" is substituted for the former reference to the period for which "the street locations shown on the plat shall be reserved for future taking or acquisition for public use" for brevity.

In subsection (d)(1) of this section, the reference to the "clerk of the circuit court of" each county is substituted for the former reference to the "county recorder of" each county for clarity and accuracy.

Defined terms: "County" § 1–101
"Legislative body" § 1–101
"Local jurisdiction" § 1–101

6–105. NEGOTIATION WITH LANDOWNERS.

(A) CLAIMS FOR DAMAGES OR COMPENSATION.

A PLANNING COMMISSION MAY NEGOTIATE FOR OR SECURE FROM THE OWNER OF RESERVED LAND:

(1) A RELEASE OF CLAIMS FOR DAMAGES OR COMPENSATION FOR THE RESERVATION OF THE LAND; OR

(2) AN AGREEMENT INDEMNIFYING THE LOCAL JURISDICTION FROM CLAIMS BY OTHERS FOR DAMAGES OR COMPENSATION.

(B) BINDING ON LANDOWNER AND SUCCESSORS.

A NEGOTIATED RELEASE OR AGREEMENT SHALL BIND THE LANDOWNER EXECUTING THE RELEASE OR AGREEMENT AND THE LANDOWNER'S SUCCESSORS IN TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 6.01(f)(3).

In the introductory language to subsection (a) of this section, the former phrase "[a]t any time" is deleted as unnecessary.

Also in the introductory language to subsection (a) of this section, the former reference to land reserved "for the location of a street" is deleted as unnecessary.

Defined term: "Local jurisdiction" § 1–101

6–106. MODIFICATION OF PLAT.

(A) AGREEMENT.

AT ANY TIME AFTER THE FILING OF A PLAT WITH THE CLERK OF THE CIRCUIT COURT OF THE COUNTY AND DURING THE PERIOD SPECIFIED FOR THE RESERVATION, A PLANNING COMMISSION AND THE OWNER OF RESERVED LAND MAY AGREE TO MODIFY THE LOCATION OF THE LINES OF A PROPOSED STREET.

(B) RELEASE OF CLAIMS.

AN AGREEMENT TO MODIFY THE LOCATION SHALL INCLUDE A RELEASE BY THE LANDOWNER OF ANY CLAIM FOR COMPENSATION OR DAMAGES CAUSED BY THE MODIFICATION.

(C) PROCEDURES.

(1) AFTER THE RELEASE IS EXECUTED, THE PLANNING COMMISSION MAY MAKE A PLAT CORRESPONDING TO THE MODIFICATION AND TRANSMIT THE PLAT TO THE LEGISLATIVE BODY FOR APPROVAL.

(2) IF THE LEGISLATIVE BODY APPROVES THE MODIFIED PLAT, THE CLERK OF THE LEGISLATIVE BODY SHALL TRANSMIT AN ATTESTED COPY OF THE MODIFIED PLAT TO THE CLERK OF THE CIRCUIT COURT OF THE COUNTY IN WHICH THE LOCAL JURISDICTION IS LOCATED.

(3) THE MODIFIED PLAT SHALL SUPERSEDE THE ORIGINAL OR PRIOR PLAT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 6.01(g).

In subsection (a) of this section, the reference to "reserved land" is substituted for the former reference to "any land containing a reserved street location" for brevity.

In subsection (c)(3) of this section, the reference to a "prior" plat is added for clarity.

Also in subsection (c)(3) of this section, the reference to "supersed[ing]" a plat is substituted for the former reference to "replac[ing]" a plat for accuracy.

Defined terms: "County" § 1–101
"Legislative body" § 1–101
"Local jurisdiction" § 1–101

6–107. ABANDONMENT OF RESERVATION.

THE LEGISLATIVE BODY, BY RESOLUTION, MAY ABANDON A RESERVATION AND CERTIFY THE ABANDONMENT TO THE CLERK OF THE CIRCUIT COURT OF THE COUNTY IN WHICH THE LOCAL JURISDICTION IS LOCATED.

REVISOR'S NOTE: This section formerly was Art. 66B, § 6.01(h).

The former phrase "[a]t any time" is deleted as surplusage.

The only other changes are in style.

Defined terms: "County" § 1–101
"Legislative body" § 1–101

"Local jurisdiction" § 1–101

SUBTITLE 2. DEVELOPMENT RESTRICTIONS.

6–201. "APPELLATE BOARD" DEFINED.

IN THIS SUBTITLE, "APPELLATE BOARD" MEANS:

(1) THE BOARD OF APPEALS OF A LOCAL JURISDICTION ESTABLISHED UNDER TITLE 4, SUBTITLE 3 OF THIS ARTICLE; OR

(2) A SPECIAL BOARD OF APPEALS CREATED TO CONSIDER APPEALS UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from the introductory language to former Art. 66B, § 6.02(b)(1), as it related to the unit with jurisdiction over appeals under this subtitle.

In item (1) of this section, the reference to a board of appeals "established under Title 4, Subtitle 3 of this article" is added for clarity.

In item (2) of this section, the reference to a special board created "to consider appeals under this subtitle" is substituted for the former reference to a special board created "for the purpose by the local legislative body" for clarity.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that it is unclear whether any local jurisdiction has actually created a special board under item (2) of this section, or whether all local jurisdictions subject to this division use for this purpose a board of appeals established under Title 4, Subtitle 3 of this article. If no local jurisdiction has created such a special board, the General Assembly may wish to consider repealing this definition and substituting the term "board of appeals" for the term "appellate board" throughout this subtitle.

Defined term: "Local jurisdiction" § 1–101

6–202. DEVELOPMENT PROHIBITED IN RESERVED AREAS.

EXCEPT AS OTHERWISE PROVIDED IN § 6–203 OF THIS SUBTITLE, AFTER RECORDING A RESERVATION PLAT APPROVED BY A LEGISLATIVE BODY UNDER SUBTITLE 1 OF THIS TITLE, A LOCAL JURISDICTION MAY NOT ISSUE A PERMIT TO DEVELOP ANY PART OF THE LAND BETWEEN THE LINES OF A PROPOSED STREET AS PLATTED.

REVISOR'S NOTE: This section formerly was Art. 66B, § 6.02(a).

The reference to a "reservation" plat is substituted for the former reference to a "street" plat for consistency within this title.

The only other changes are in style.

Defined terms: "Legislative body" § 1–101
"Local jurisdiction" § 1–101

6–203. DEVELOPMENT PERMIT.

(A) AUTHORIZED; HEARING REQUIRED.

THE APPELLATE BOARD OF THE LOCAL JURISDICTION WHERE A PLATTED STREET IS LOCATED MAY GRANT A PERMIT TO DEVELOP A PLATTED STREET ON AN APPEAL FILED BY THE OWNER OF THE LAND ON WHICH THE STREET IS LOCATED:

(1) AFTER A HEARING AT WHICH THE PARTIES IN INTEREST HAVE AN OPPORTUNITY TO BE HEARD; AND

(2) BY A VOTE OF A MAJORITY OF THE AUTHORIZED MEMBERSHIP OF THE APPELLATE BOARD.

(B) NOTICE.

AT LEAST 15 DAYS BEFORE THE HEARING REQUIRED UNDER SUBSECTION (A) OF THIS SECTION, THE APPELLATE BOARD SHALL:

(1) MAIL TO THE APPELLANT, AT THE ADDRESS SPECIFIED IN THE APPEAL PETITION, NOTICE OF THE TIME AND PLACE OF THE HEARING; AND

(2) PUBLISH A NOTICE OF THE HEARING IN A NEWSPAPER OF GENERAL CIRCULATION IN THE LOCAL JURISDICTION.

(C) REQUIRED FINDINGS.

(1) IN ORDER TO GRANT A DEVELOPMENT PERMIT, THE APPELLATE BOARD SHALL FIND FROM THE EVIDENCE AND ARGUMENTS PRESENTED ON APPEAL THAT:

(I) THE ENTIRE PROPERTY OF THE APPELLANT, OF WHICH THE RESERVED STREET LOCATION FORMS A PART, CANNOT YIELD A REASONABLE RETURN TO THE OWNER UNLESS THE PERMIT IS GRANTED; AND

(II) AFTER BALANCING THE INTERESTS OF THE LOCAL JURISDICTION AND THE APPELLANT, THE PERMIT IS REQUIRED BY REASONABLE JUSTICE AND EQUITY.

(2) IN BALANCING THE INTERESTS OF EACH PARTY, THE APPELLATE BOARD SHALL CONSIDER:

(I) THE INTEREST OF THE LOCAL JURISDICTION IN PRESERVING THE INTEGRITY OF THE STREET PLAT AND COMPREHENSIVE PLAN; AND

(II) THE INTEREST OF THE APPELLANT IN THE USE OF THE PROPERTY AND IN THE BENEFITS OF PROPERTY OWNERSHIP.

(D) SPECIFICATIONS; CONDITIONS.

IF THE APPELLATE BOARD GRANTS A DEVELOPMENT PERMIT, THE APPELLATE BOARD:

(1) SHALL SPECIFY THE EXACT LOCATION, GROUND AREA, HEIGHT, AND OTHER DETAILS OF THE DEVELOPMENT; AND

(2) MAY IMPOSE REASONABLE REQUIREMENTS BENEFITING THE LOCAL JURISDICTION AS A CONDITION OF GRANTING THE PERMIT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 6.02(b).

In subsection (a)(2) of this section, the reference to a vote of the "authorized membership" of the appellate board is substituted for the former reference to the vote of the "members" of the appellate board for clarity. No substantive change is intended. The Land Use Article Review Committee brings this substitution to the attention of the General Assembly.

In subsection (c)(1)(ii) and (2)(ii) of this section, the references to the "appellant" are substituted for the former reference to the "owner of the property" for brevity and consistency with subsection (b)(1) of this section.

In subsection (c)(2)(i) of this section, the reference to the "comprehensive" plan is substituted for the former reference to the "municipal" plan for clarity.

In subsection (d)(1) of this section, the former reference to the development "for which the permit is granted" is deleted as surplusage.

Defined terms: "Appellate board" § 6–201
"Development" § 1–101
"Local jurisdiction" § 1–101
"Plan" § 1–101

6–204. DEVELOPMENT PROHIBITIONS; OFFICIAL MAP.

(A) PUBLIC UTILITIES OR IMPROVEMENTS.

A PUBLIC SEWER OR OTHER PUBLIC STREET UTILITY OR IMPROVEMENT MAY NOT BE CONSTRUCTED IN A STREET OR HIGHWAY UNTIL THE STREET OR HIGHWAY IS PLACED ON THE OFFICIAL MAP.

(B) ACCESS REQUIRED FOR DEVELOPMENT.

A DEVELOPMENT PERMIT MAY NOT BE ISSUED UNLESS A STREET OR HIGHWAY GIVING ACCESS TO THE PROPOSED DEVELOPMENT HAS BEEN PLACED ON THE OFFICIAL MAP.

(C) APPEALS.

(1) AN APPLICANT FOR A PERMIT MAY APPEAL FROM A DECISION OF THE ADMINISTRATIVE OFFICER IN CHARGE OF ISSUING PERMITS TO AN APPELLATE BOARD IF:

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

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

(2) IN DECIDING AN APPEAL UNDER THIS SUBSECTION, THE APPELLATE BOARD MAY MAKE ANY REASONABLE EXCEPTION AND ISSUE THE PERMIT SUBJECT TO CONDITIONS THAT WILL PROTECT ANY FUTURE STREET OR HIGHWAY LAYOUT.

(3) A DECISION RENDERED UNDER THIS SUBSECTION SHALL BE SUBJECT TO JUDICIAL REVIEW IN THE SAME MANNER AND SUBJECT TO THE SAME PROVISIONS OF LAW AS A DECISION OF A BOARD OF APPEALS ON ZONING REGULATIONS UNDER TITLE 4, SUBTITLE 4 OF THIS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 6.03.

In subsection (c)(1) and (2) of this section, the defined term "appellate board" is substituted for the former references to a "board of appeals" for clarity.

In subsection (c)(3) of this section, the reference to an appeal from a decision "under Title 4, Subtitle 4 of this article" is added for clarity.

The Land Use Article Review Committee notes, for the consideration of the General Assembly, that in subsection (a) of this section the identity of the "official map" and its relationship to a capital acquisition or improvement plan of a local jurisdiction are unclear.

Defined terms: "Appellate board" § 6–201
"Development" § 1–101
"Regulation" § 1–101

TITLE 7. OTHER DEVELOPMENT MANAGEMENT TOOLS.

SUBTITLE 1. DEVELOPMENT MECHANISMS.

7–101. LOCAL AUTHORITY.

TO ENCOURAGE THE PRESERVATION OF NATURAL RESOURCES OR THE PROVISION OF AFFORDABLE HOUSING AND TO FACILITATE ORDERLY DEVELOPMENT AND GROWTH, A LOCAL JURISDICTION THAT EXERCISES AUTHORITY GRANTED BY THIS DIVISION MAY ENACT, AND IS ENCOURAGED TO ENACT, LOCAL LAWS PROVIDING FOR OR REQUIRING:

(1) THE PLANNING, STAGING, OR PROVISION OF ADEQUATE PUBLIC FACILITIES AND AFFORDABLE HOUSING;

(2) OFF–SITE IMPROVEMENTS OR THE DEDICATION OF LAND FOR PUBLIC FACILITIES ESSENTIAL FOR A DEVELOPMENT;

(3) MODERATELY PRICED DWELLING UNIT PROGRAMS;

(4) MIXED USE DEVELOPMENTS;

(5) CLUSTER DEVELOPMENTS;

(6) PLANNED UNIT DEVELOPMENTS;

(7) ALTERNATIVE SUBDIVISION REQUIREMENTS THAT:

(I) MEET MINIMUM PERFORMANCE STANDARDS SET BY THE LOCAL JURISDICTION; AND

(II) REDUCE INFRASTRUCTURE COSTS;

(8) FLOATING ZONES;

(9) INCENTIVE ZONING; AND

(10) PERFORMANCE ZONING.

REVISOR'S NOTE: This section formerly was Art. 66B, § 10.01(a).

In the introductory language to this section, the defined term "local law[s]" is substituted for the former reference to "ordinances or laws" for consistency within this division.

The only other changes are in style.

Defined terms: "Development" § 1–101
"Local jurisdiction" § 1–101
"Local law" § 1–101
"Subdivision" § 1–101

7–102. TRANSFER OF REAL PROPERTY.

NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A LEGISLATIVE BODY THAT EXERCISES AUTHORITY GRANTED BY THIS DIVISION MAY ENACT LOCAL LAWS PROVIDING FOR THE TRANSFER, WITH OR WITHOUT CONSIDERATION, OF REAL PROPERTY BELONGING TO THE LOCAL JURISDICTION TO A PUBLIC OR PRIVATE ENTITY, TO USE IN DEVELOPING OR PRESERVING AFFORDABLE HOUSING.

REVISOR'S NOTE: This section formerly was Art. 66B, § 10.01(b).

The defined term "local law[s]" is substituted for the former reference to "ordinances or laws" for consistency within this division.

The only other changes are in style.

Defined terms: "Legislative body" § 1–101
"Local jurisdiction" § 1–101
"Local law" § 1–101

7–103. SCOPE OF AUTHORITY.

THE AUTHORITY GRANTED UNDER THIS SUBTITLE IS NOT INTENDED TO LIMIT A LOCAL JURISDICTION'S AUTHORITY TO:

(1) EXERCISE ANY PLANNING AND ZONING POWERS NOT EXPRESSLY AUTHORIZED UNDER THIS SUBTITLE; OR

(2) ADOPT OTHER METHODS TO:

(I) FACILITATE ORDERLY DEVELOPMENT AND GROWTH;

(II) ENCOURAGE THE PRESERVATION OF NATURAL RESOURCES; OR

(III) PROVIDE AFFORDABLE HOUSING.

REVISOR'S NOTE: This section formerly was Art. 66B, § 10.01(c).

The only changes are in style.

Defined terms: "Development" § 1–101
"Local jurisdiction" § 1–101

7–104. RESTRICTION IN PRIORITY FUNDING AREA — REPORTS.

(A) "RESTRICTION" DEFINED.

IN THIS SECTION, "RESTRICTION" MEANS A RESTRICTION, MORATORIUM, OR CAPACITY LIMITATION IMPOSED ON DEVELOPMENT AS A RESULT OF A LOCAL LAW ENACTED UNDER THIS SUBTITLE.

(B) BY LOCAL JURISDICTION.

(1) IF AN ADEQUATE PUBLIC FACILITY LAW HAS RESULTED IN A RESTRICTION WITHIN A PRIORITY FUNDING AREA, ON OR BEFORE JULY 1 EVERY 2 YEARS, A LOCAL JURISDICTION SHALL REPORT ON THE RESTRICTION TO THE DEPARTMENT OF PLANNING.

(2) THE REPORT SHALL INCLUDE:

(I) THE LOCATION OF THE RESTRICTION;

(II) THE TYPE OF INFRASTRUCTURE AFFECTED BY THE RESTRICTION;

(III) THE PROPOSED RESOLUTION OF THE RESTRICTION, IF AVAILABLE;

(IV) THE ESTIMATED DATE FOR THE RESOLUTION OF THE RESTRICTION, IF AVAILABLE;

(V) IF A RESTRICTION WAS LIFTED, THE DATE THE RESTRICTION WAS LIFTED; AND

(VI) THE LOCAL LAW OR RESOLUTION THAT LIFTED THE RESTRICTION.

(C) BY DEPARTMENT OF PLANNING.

(1) ON OR BEFORE JANUARY 1 EVERY 2 YEARS, THE DEPARTMENT OF PLANNING SHALL PREPARE AND PUBLISH A REPORT ON THE STATEWIDE IMPACTS OF ADEQUATE PUBLIC FACILITY LAWS.

(2) THE REPORT SHALL INCLUDE THE IDENTIFICATION OF:

(I) GEOGRAPHIC AREAS AND FACILITIES WITHIN PRIORITY FUNDING AREAS THAT FAIL TO MEET LOCAL ADEQUATE PUBLIC FACILITY STANDARDS; AND

(II) IMPROVEMENTS TO FACILITIES SCHEDULED OR PROPOSED IN THE LOCAL JURISDICTION'S CAPITAL IMPROVEMENT PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 10.01(d)(2), (3), and (1)(i) and (iii).

In subsection (a) of this section, the phrase "local law enacted" is substituted for the former phrase "ordinance or law adopted" for consistency within this division.

In subsections (b)(1) and (c)(1) of this section, the references to an "adequate public facility law" are substituted for the former references to an "adequate public facilit[y] ordinance" for consistency with the term "local law" defined in § 1–101 of this article.

In subsection (b)(2)(vi) of this section, the reference to a "local law" is added for clarity.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in subsection (b) of this section, it is unclear whether the required reporting of restrictions and their resolution also requires reporting of waivers granted to the provisions of a restriction. The General Assembly may wish to explicitly include a reference to the reporting of such waivers.

Former Art. 66B, § 10.01(d)(1)(ii), which defined "priority funding area", is revised in § 1–101 of this article.

Defined terms: "Development" § 1–101
"Local jurisdiction" § 1–101
"Local law" § 1–101
"Priority funding area" § 1–101

SUBTITLE 2. TRANSFER OF DEVELOPMENT RIGHTS.

7–201. LOCAL AUTHORITY.

A LEGISLATIVE BODY THAT EXERCISES AUTHORITY GRANTED BY THIS DIVISION MAY ESTABLISH A PROGRAM FOR THE TRANSFER OF DEVELOPMENT RIGHTS TO:

(1) ENCOURAGE THE PRESERVATION OF NATURAL RESOURCES; AND

(2) FACILITATE ORDERLY GROWTH AND DEVELOPMENT IN THE STATE.

REVISOR'S NOTE: This section formerly was Art. 66B, § 11.01(a).

The only changes are in style.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that programs for the transfer of development rights often intersect with the programs for the preservation of open space and agricultural land. The General Assembly may wish to consider explicitly including a reference to these and other development management programs and techniques in the purposes for which a legislative body may adopt a program under this section.

Defined terms: "Development" § 1–101
"Legislative body" § 1–101
"State" § 1–101

7–202. PRIORITY FUNDING AREAS.

(A) "PUBLIC FACILITY" DEFINED.

IN THIS SUBSECTION, "PUBLIC FACILITY" INCLUDES:

(1) RECREATIONAL FACILITIES;

(2) TRANSPORTATION FACILITIES AND TRANSIT–ORIENTED DEVELOPMENT; AND

(3) SCHOOLS AND EDUCATIONAL FACILITIES.

(B) AUTHORITY.

A LEGISLATIVE BODY THAT EXERCISES AUTHORITY GRANTED BY THIS DIVISION MAY ESTABLISH A PROGRAM FOR THE TRANSFER OF DEVELOPMENT RIGHTS WITHIN A PRIORITY FUNDING AREA TO ASSIST A LOCAL JURISDICTION IN THE ACQUISITION OF LAND FOR THE CONSTRUCTION OF A PUBLIC FACILITY WITHIN A PRIORITY FUNDING AREA.

(C) USE OF PROCEEDS.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, PROCEEDS OF THE SALE OF DEVELOPMENT RIGHTS SHALL BE USED TO ASSIST IN:

(I) THE ACQUISITION OF THE PUBLIC SITE; OR

(II) THE CONSTRUCTION OF THE PUBLIC FACILITY.

(2) FOR SCHOOLS AND EDUCATIONAL FACILITIES, PROCEEDS OF THE SALE OF DEVELOPMENT RIGHTS MAY ONLY BE USED TO ASSIST IN THE ACQUISITION OF THE LAND ON WHICH THE SCHOOL OR EDUCATIONAL FACILITY WILL BE LOCATED.

(D) LIMITATIONS ON SALE.

(1) ANY DEVELOPMENT RIGHTS SOLD UNDER THIS SECTION MAY ONLY BE TRANSFERRED WITHIN A PRIORITY FUNDING AREA.

(2) DEVELOPMENT RIGHTS ASSOCIATED WITH EXISTING PUBLIC LAND THAT IS OWNED BY A LOCAL JURISDICTION ON OCTOBER 1, 2009, MAY NOT BE SOLD OR TRANSFERRED UNDER THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 11.01(b)(2) through (5) and (1)(i) and (iii).

In subsections (b) and (c) of this section, the references to "acquisition" are substituted for the former references to "purchase" for clarity and accuracy.

In subsection (c)(2) of this section, the phrase "may only" is substituted for the former word "shall" for clarity. Similarly, in subsection (d)(1) of this section, the phrase "may only" is substituted for the former phrase "shall only".

Former Art. 66B, § 11.01(b)(1)(ii), which defined "priority funding area", is revised in § 1–101 of this article.

Defined terms: "Development" § 1–101
"Legislative body" § 1–101
"Local jurisdiction" § 1–101
"Priority funding area" § 1–101

SUBTITLE 3. DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENTS.

7–301. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 66B, § 13.01(a)(1).

The only change is in style.

(B) DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENT.

"DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENT" OR "AGREEMENT" MEANS AN AGREEMENT BETWEEN A LOCAL GOVERNING BODY AND A PERSON HAVING A LEGAL OR EQUITABLE INTEREST IN REAL PROPERTY TO ESTABLISH CONDITIONS UNDER WHICH DEVELOPMENT MAY PROCEED FOR A SPECIFIED TIME.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 66B, §§ 1.00(d) and 13.01(a)(2).

The defined term "local governing body" is substituted for the former reference to a "governmental body of a jurisdiction" for brevity and clarity.

Defined terms: "Development" § 1–101
"Development rights and responsibilities agreement" § 7–301
"Local governing body" § 7–301
"Person" § 1–101

(C) LOCAL GOVERNING BODY.

"LOCAL GOVERNING BODY" MEANS THE LEGISLATIVE BODY, THE LOCAL EXECUTIVE, OR OTHER ELECTED GOVERNMENTAL BODY THAT HAS ZONING POWERS UNDER THIS DIVISION.

REVISOR'S NOTE: This subsection formerly was Art. 66B, § 13.01(a)(3).

The word "local" is added to the defined term "governing body" for clarity.

The only other changes are in style.

Defined terms: "Legislative body" § 1–101
"Local executive" § 1–101

(D) PUBLIC PRINCIPAL.

"PUBLIC PRINCIPAL" MEANS THE GOVERNMENTAL ENTITY OF A LOCAL JURISDICTION THAT HAS BEEN GRANTED THE AUTHORITY TO ENTER AGREEMENTS UNDER § 7–302(A) OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection formerly was Art. 66B, § 13.01(a)(4).

The only change is in style.

Defined terms: "Agreement" § 7–301
"Local jurisdiction" § 1–101

7–302. POWERS.

(A) OF LOCAL GOVERNING BODY.

SUBJECT TO §§ 7–303 THROUGH 7–305 OF THIS SUBTITLE, THE LOCAL GOVERNING BODY OF A LOCAL JURISDICTION MAY:

(1) BY LOCAL LAW, ESTABLISH PROCEDURES AND REQUIREMENTS FOR THE CONSIDERATION AND EXECUTION OF AGREEMENTS; AND

(2) DELEGATE ALL OR PART OF THE AUTHORITY ESTABLISHED UNDER THE LOCAL LAW TO A PUBLIC PRINCIPAL WITHIN THE JURISDICTION OF THE LOCAL GOVERNING BODY.

(B) OF PUBLIC PRINCIPAL.

THE PUBLIC PRINCIPAL MAY:

(1) EXECUTE AGREEMENTS FOR REAL PROPERTY LOCATED WITHIN THE JURISDICTION OF THE LOCAL GOVERNING BODY WITH A PERSON HAVING A LEGAL OR EQUITABLE INTEREST IN THE REAL PROPERTY; AND

(2) INCLUDE A FEDERAL, STATE, OR LOCAL GOVERNMENT OR UNIT AS AN ADDITIONAL PARTY TO THE AGREEMENT.

REVISOR'S NOTE: This section formerly was Art. 66B, § 13.01(b).

The only changes are in style.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that it is unclear whether subsection (b) of this section confers on a public principal the authority to enter into an agreement in conjunction with annexation of land to a municipal corporation. If the General Assembly wishes to authorize the public principal to enter into an agreement in these circumstances, it may be advisable to include specific authorization in this subsection.

Defined terms: "Agreement" § 7–301
"Local governing body" § 7–301
"Local jurisdiction" § 1–101
"Local law" § 1–101
"Person" § 1–101
"Public principal" § 7–301
"State" § 1–101

7–303. CONTENTS OF AGREEMENT.

(A) REQUIRED CONTENTS.

A DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENT SHALL INCLUDE:

(1) A LEGAL DESCRIPTION OF THE REAL PROPERTY SUBJECT TO THE AGREEMENT;

(2) THE NAMES OF THE PERSONS HAVING A LEGAL OR EQUITABLE INTEREST IN THE REAL PROPERTY SUBJECT TO THE AGREEMENT;

(3) THE DURATION OF THE AGREEMENT;

(4) THE PERMISSIBLE USES OF THE REAL PROPERTY;

(5) THE DENSITY OR INTENSITY OF USE OF THE REAL PROPERTY;

(6) THE MAXIMUM HEIGHT AND SIZE OF STRUCTURES TO BE LOCATED ON THE REAL PROPERTY;

(7) A DESCRIPTION OF THE PERMITS REQUIRED OR ALREADY APPROVED FOR THE DEVELOPMENT OF THE REAL PROPERTY;

(8) A STATEMENT THAT THE PROPOSED DEVELOPMENT IS CONSISTENT WITH THE COMPREHENSIVE PLAN AND DEVELOPMENT REGULATIONS OF THE LOCAL JURISDICTION;

(9) A DESCRIPTION OF THE CONDITIONS, TERMS, RESTRICTIONS, OR OTHER REQUIREMENTS DETERMINED BY THE LOCAL GOVERNING BODY OF THE LOCAL JURISDICTION TO BE NECESSARY TO ENSURE THE PUBLIC HEALTH, SAFETY, OR WELFARE; AND

(10) TO THE EXTENT APPLICABLE, PROVISIONS FOR THE:

(I) DEDICATION OF A PORTION OF THE REAL PROPERTY FOR PUBLIC USE;

(II) PROTECTION OF SENSITIVE AREAS;

(III) PRESERVATION AND RESTORATION OF HISTORIC STRUCTURES; AND

(IV) CONSTRUCTION OR FINANCING OF PUBLIC FACILITIES.

(B) PERMISSIBLE CONTENTS.

AN AGREEMENT MAY:

(1) SET THE TIME FRAME AND TERMS FOR DEVELOPMENT AND CONSTRUCTION ON THE REAL PROPERTY; AND

(2) PROVIDE FOR OTHER MATTERS CONSISTENT WITH THIS DIVISION.

REVISOR'S NOTE: This section formerly was Art. 66B, § 13.01(f).

The only changes are in style.

Defined terms: "Agreement" § 7–301
"Development" § 1–101
"Local governing body" § 7–301
"Local jurisdiction" § 1–101
"Person" § 1–101
"Plan" § 1–101
"Regulation" § 1–101
"Sensitive area" § 1–101

7–304. APPLICABLE LOCAL LAWS, RULES, REGULATIONS, AND POLICIES.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE LOCAL LAWS, RULES, REGULATIONS, AND POLICIES GOVERNING THE USE, DENSITY, OR INTENSITY OF THE REAL PROPERTY SUBJECT TO AN AGREEMENT SHALL BE THE LOCAL LAWS, RULES, REGULATIONS, AND POLICIES IN FORCE AT THE TIME THE PARTIES EXECUTE THE AGREEMENT.

(B) COMPLIANCE WITH LATER ENACTMENTS.

IF THE LOCAL JURISDICTION DETERMINES THAT COMPLIANCE WITH LOCAL LAWS, RULES, REGULATIONS, AND POLICIES ENACTED OR ADOPTED AFTER THE EFFECTIVE DATE OF AN AGREEMENT IS ESSENTIAL TO ENSURE THE PUBLIC HEALTH, SAFETY, OR WELFARE, AN AGREEMENT MAY NOT PREVENT A LOCAL GOVERNMENT FROM REQUIRING A PERSON TO COMPLY WITH THOSE LOCAL LAWS, RULES, REGULATIONS, AND POLICIES.

REVISOR'S NOTE: This section formerly was Art. 66B, § 13.01(j).

In this section, the references to "local" law are added for consistency within this division.

In subsection (b) of this section, the reference to the "public" health, safety, or welfare is added for clarity.

Also in subsection (b) of this section, the former reference to the health, safety, or welfare "of residents of all or part of the jurisdiction" is deleted as unnecessary.

The only other changes are in style.

Defined terms: "Agreement" § 7–301
"Local jurisdiction" § 1–101
"Local law" § 1–101
"Person" § 1–101
"Regulation" § 1–101

7–305. PROCEDURES.

(A) PETITION.

BEFORE ENTERING INTO AN AGREEMENT, A PERSON HAVING A LEGAL OR EQUITABLE INTEREST IN REAL PROPERTY OR THE PERSON'S REPRESENTATIVE SHALL PETITION THE PUBLIC PRINCIPAL OF THE LOCAL JURISDICTION IN WHICH THE PROPERTY IS LOCATED.

(B) PUBLIC HEARING.

(1) AFTER RECEIVING A PETITION AND BEFORE ENTERING INTO AN AGREEMENT, THE PUBLIC PRINCIPAL SHALL CONDUCT A PUBLIC HEARING.

(2) A PUBLIC HEARING THAT IS REQUIRED FOR APPROVAL OF THE DEVELOPMENT SATISFIES THE PUBLIC HEARING REQUIREMENT.

(C) REVIEW BY PLANNING COMMISSION.

THE PUBLIC PRINCIPAL OF A LOCAL JURISDICTION MAY NOT ENTER INTO AN AGREEMENT UNLESS THE PLANNING COMMISSION OF THE LOCAL JURISDICTION DETERMINES WHETHER THE PROPOSED AGREEMENT IS CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE LOCAL JURISDICTION.

(D) RECORDATION.

(1) IF AN AGREEMENT IS NOT RECORDED IN THE LAND RECORDS OF THE LOCAL JURISDICTION WITHIN 20 DAYS AFTER THE DATE ON WHICH THE PARTIES EXECUTE THE AGREEMENT, THE AGREEMENT IS VOID.

(2) THE PARTIES TO AN AGREEMENT AND THEIR SUCCESSORS IN INTEREST ARE BOUND TO THE AGREEMENT AFTER THE AGREEMENT IS RECORDED.

(E) TIME LIMITATIONS.

AN AGREEMENT SHALL BE VOID 5 YEARS AFTER THE DATE ON WHICH THE PARTIES EXECUTE THE AGREEMENT UNLESS:

(1) OTHERWISE ESTABLISHED UNDER § 7–303 OF THIS SUBTITLE; OR

(2) EXTENDED BY AMENDMENT UNDER SUBSECTION (F) OF THIS SECTION.

(F) AMENDMENT.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION AND AFTER A PUBLIC HEARING, THE PARTIES TO AN AGREEMENT MAY AMEND THE AGREEMENT BY MUTUAL CONSENT.

(2) UNLESS THE PLANNING COMMISSION OF THE LOCAL JURISDICTION DETERMINES WHETHER THE PROPOSED AMENDMENT IS CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE LOCAL JURISDICTION, THE PARTIES MAY NOT AMEND AN AGREEMENT.

(G) TERMINATION.

(1) THE PARTIES TO AN AGREEMENT MAY TERMINATE THE AGREEMENT BY MUTUAL CONSENT.

(2) IF THE PUBLIC PRINCIPAL OR THE LOCAL GOVERNING BODY DETERMINES THAT SUSPENSION OR TERMINATION IS ESSENTIAL TO ENSURE THE PUBLIC HEALTH, SAFETY, OR WELFARE, THE PUBLIC PRINCIPAL OR THE LOCAL GOVERNING BODY MAY SUSPEND OR TERMINATE AN AGREEMENT AFTER A PUBLIC HEARING.

(H) ENFORCEMENT.

UNLESS THE AGREEMENT IS TERMINATED UNDER SUBSECTION (G) OF THIS SECTION, THE PARTIES TO AN AGREEMENT OR THEIR SUCCESSORS IN INTEREST MAY ENFORCE THE AGREEMENT.

REVISOR'S NOTE: This section formerly was Art. 66B, § 13.01(c) through (e), (g) through (i), (k), and (l).

The only changes are in style.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that the standards for determining consistency between an agreement and the comprehensive plan under former Art. 66B, § 13.01(e) [revised in subsection (c) of this section], or a proposed amendment to an agreement and the comprehensive plan under former Art. 66B, § 13.01(h)(2) [revised in subsection (f)(2) of this section], were different and inconsistent. In the former case, the planning commission was required to determine "whether" the proposed agreement was consistent with the comprehensive plan, whereas in the latter, the commission was to determine "that" an amendment to the agreement was consistent with the comprehensive plan. Applying the word "that" in the latter case would give the appointed planning commission a veto over action of its appointing governing body, raising serious State constitutional concerns. A review of the legislative history convinced the committee that both reviews should use the word "whether", as indeed the original 1995 enactment specified, but was inadvertently altered in a 2000 recodification that was intended to be nonsubstantive. The committee considered the change in the 2000 legislation to be purely a scrivener's error. No substantive change is intended. *See* Ch. 562, Acts of 1995; Ch. 426, Acts of 2000.

The Land Use Article Review Committee also notes, for consideration by the General Assembly, that under subsection (d) of this section, the time

limit for recording an executed agreement, 20 days, is quite short, considering that an unrecorded agreement becomes void after that. The General Assembly may wish to consider whether another period would be more appropriate in light of the complicated nature of the transactions that would be subject to an agreement, as well as the effect of potential litigation and judicial review on such a transaction and agreement.

Defined terms: "Agreement" § 7–301
"Development" § 1–101
"Local governing body" § 7–301
"Local jurisdiction" § 1–101
"Person" § 1–101
"Plan" § 1–101
"Public principal" § 7–301

7–306. LIMITATIONS.

THIS SUBTITLE DOES NOT REQUIRE THE ADOPTION OF A LOCAL LAW BY A LOCAL GOVERNING BODY OR AUTHORIZE A LOCAL GOVERNING BODY TO REQUIRE A PARTY TO ENTER INTO AN AGREEMENT.

REVISOR'S NOTE: This section formerly was Art. 66B, § 13.01(m).

The only changes are in style.

Defined terms: "Agreement" § 7–301
"Local governing body" § 7–301
"Local law" § 1–101

SUBTITLE 4. INCLUSIONARY ZONING.

7–401. AFFORDABLE HOUSING.

(A) POWERS.

TO PROMOTE THE CREATION OF HOUSING THAT IS AFFORDABLE BY INDIVIDUALS AND FAMILIES WITH LOW OR MODERATE INCOMES, A LEGISLATIVE BODY THAT EXERCISES AUTHORITY UNDER THIS DIVISION MAY ENACT LOCAL LAWS:

(1) IMPOSING INCLUSIONARY ZONING, AND AWARDING DENSITY BONUSES, TO CREATE AFFORDABLE HOUSING UNITS; AND

(2) RESTRICTING THE USE, COST, AND RESALE OF HOUSING THAT IS CREATED UNDER THIS SUBTITLE TO ENSURE THAT THE PURPOSES OF THIS SUBTITLE ARE CARRIED OUT.

(B) POWER ADDITIONAL.

THE AUTHORITY GRANTED UNDER THIS SUBTITLE IS IN ADDITION TO ANY OTHER ZONING AND PLANNING POWERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 12.01.

In the introductory language to subsection (a) of this section, the reference to "individuals" is substituted for the former reference to "persons" to reflect that the affordable housing created is intended to benefit human beings and not the other entities included in the definition of "person".

Also in the introductory language to subsection (a) of this section, the defined term "local law[s]" is substituted for the former reference to "ordinances or laws" for consistency within this division.

Defined terms: "Legislative body" § 1–101
"Local law" § 1–101

TITLE 8. HISTORIC PRESERVATION.

SUBTITLE 1. GENERAL PROVISIONS.

8–101. DEFINITIONS.

(A) IN GENERAL.

IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 66B, § 8.01(a)(1).

The only change is in style.

(B) APPURTENANCE AND ENVIRONMENTAL SETTING.

"APPURTENANCE AND ENVIRONMENTAL SETTING" INCLUDES:

(1) PAVED OR UNPAVED WALKWAYS AND DRIVEWAYS;

(2) TREES;

(3) LANDSCAPING;

(4) PASTURES;

(5) CROPLANDS;

(6) WATERWAYS; AND

(7) ROCKS.

REVISOR'S NOTE: This subsection formerly was Art. 66B, § 8.01(a)(2).

The only changes are in style.

(C) COMMISSION.

"COMMISSION" INCLUDES A HISTORIC DISTRICT COMMISSION OR A HISTORIC PRESERVATION COMMISSION.

REVISOR'S NOTE: This subsection is new language added to define the term "commission", which appears throughout this title, and to eliminate the need to refer to a historic district commission and a historic preservation commission in every instance.

(D) DEMOLITION.

"DEMOLITION" INCLUDES ANY WILLFUL NEGLECT IN THE MAINTENANCE AND REPAIR OF A STRUCTURE, OTHER THAN THE APPURTENANCE AND ENVIRONMENTAL SETTING OF THE STRUCTURE, THAT:

(1) IS NOT DUE TO A FINANCIAL INABILITY TO MAINTAIN AND REPAIR THE STRUCTURE; AND

(2) THREATENS TO RESULT IN A SUBSTANTIAL DETERIORATION OF THE EXTERIOR FEATURES OF THE STRUCTURE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 66B, § 8.01(a)(3).

Defined term: "Appurtenance and environmental setting" § 8–101

(E) DISTRICT.

"DISTRICT" MEANS A SIGNIFICANT CONCENTRATION, LINKAGE, OR CONTINUITY OF SITES, STRUCTURES, OR OBJECTS UNITED HISTORICALLY OR AESTHETICALLY BY PLAN OR DEVELOPMENT.

REVISOR'S NOTE: This subsection formerly was Art. 66B, § 8.01(a)(4).

The former reference to "physical" development is deleted as implicit in the reference to "development".

No other changes are made.

Defined terms: "Development" § 1–101
"Plan" § 1–101
"Site" § 8–101
"Structure" § 8–101

(F) ROUTINE MAINTENANCE.

"ROUTINE MAINTENANCE" MEANS WORK THAT:

(1) DOES NOT ALTER THE EXTERIOR FABRIC OR FEATURES OF A SITE OR STRUCTURE; AND

(2) HAS NO MATERIAL EFFECT ON THE HISTORICAL, ARCHAEOLOGICAL, OR ARCHITECTURAL SIGNIFICANCE OF THE SITE OR STRUCTURE.

REVISOR'S NOTE: This subsection formerly was Art. 66B, § 8.01(a)(5).

The only changes are in style.

Defined terms: "Site" § 8–101
"Structure" § 8–101

(G) SITE.

"SITE" MEANS THE LOCATION OF:

(1) AN EVENT OF HISTORIC SIGNIFICANCE; OR

(2) A STRUCTURE OR RUIN THAT POSSESSES HISTORIC, ARCHAEOLOGICAL, OR CULTURAL SIGNIFICANCE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 66B, § 8.01(a)(6).

Defined term: "Structure" § 8–101

(H) STRUCTURE.

(1) "STRUCTURE" MEANS A COMBINATION OF MATERIAL TO FORM A CONSTRUCTION THAT IS STABLE.

(2) "STRUCTURE" INCLUDES:

(I) A BUILDING;

(II) A STADIUM;

(III) A REVIEWING STAND;

(IV) A PLATFORM;

(V) STAGING;

(VI) AN OBSERVATION TOWER;

(VII) A RADIO TOWER;

(VIII) A WATER TANK OR TOWER;

(IX) A TRESTLE;

(X) A BRIDGE;

(XI) A PIER;

(XII) PAVING;

(XIII) A BULKHEAD;

(XIV) A WHARF;

(XV) A SHED;

(XVI) A COAL BIN;

(XVII) A SHELTER;

(XVIII) A FENCE;

(XIX) A DISPLAY SIGN THAT IS VISIBLE OR INTENDED TO BE VISIBLE FROM A PUBLIC WAY; AND

(XX) A PART OF A STRUCTURE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 66B, § 8.01(a)(7)(i), (ii), and (iv).

The Land Use Article Review Committee notes, for consideration by the General Assembly, that the comprehensive definition of "structure" in paragraph (1) of this subsection is very broad and perhaps overly inclusive.

REVISOR'S NOTE TO SECTION:

The Land Use Article Review Committee notes, for consideration by the General Assembly, that § 8–302(a) of this subtitle requires a "person" to file an application for a permit to change a site or structure, and the term "person" defined in § 1–101 of this title does not generally include a governmental unit. However, units of local government have historically been required to file an application for such a permit. *See City of Annapolis v. Anne Arundel County*, 271 Md. 265 (1974); 87 Op. Att'y Gen'l 119 (2002); *cf.* Op. Att'y Gen'l 17 (2002). For purposes of clarity, the General Assembly may wish add an affirmative definition of "person" to this section specifically including "a unit of local government" to "person" for this title. *See* Revisor's Note to § 1–101(k) of this article.

8–102. DECLARATION OF PUBLIC PURPOSE.

IT IS A PUBLIC PURPOSE IN THE STATE TO PRESERVE SITES, STRUCTURES, AND DISTRICTS OF HISTORICAL, ARCHAEOLOGICAL, OR ARCHITECTURAL SIGNIFICANCE AND THEIR APPURTENANCES AND ENVIRONMENTAL SETTINGS.

REVISOR'S NOTE: This section formerly was Art. 66B, § 8.01(b)(1).

The only change is in style.

Defined terms: "Appurtenance and environmental setting" § 8–101

"District" § 8–101
"Site" § 8–101
"State" § 1–101
"Structure" § 8–101

8–103. SCOPE AND CONSTRUCTION OF TITLE.

(A) SCOPE OF TITLE.

THE PRESERVATION OF A DESIGNATED STRUCTURE UNDER THIS TITLE INCLUDES PRESERVATION OF AN ASSOCIATED:

(1) NATURAL LAND FORMATION; AND

(2) APPURTENANCE AND ENVIRONMENTAL SETTING.

(B) CONSTRUCTION OF TITLE.

THIS TITLE MAY NOT BE CONSTRUED TO PREVENT ROUTINE MAINTENANCE, CUSTOMARY FARMING OPERATIONS, OR LANDSCAPING THAT DOES NOT HAVE A MATERIAL EFFECT ON THE HISTORIC, ARCHAEOLOGICAL, OR ARCHITECTURAL SIGNIFICANCE OF A DESIGNATED SITE, STRUCTURE, OR DISTRICT.

REVISOR'S NOTE: Subsection (a) of this section is new language derived without substantive change from former Art. 66B, § 8.01(a)(7)(iii). It is revised as a scope provision rather than as a part of the definition of "structure" for clarity.

Subsection (b) of this section formerly was the first sentence of Art. 66B, § 8.13.

The only changes are in style.

The second sentence of former Art. 66B, § 8.13, which restricted the application of the former law to work under certain authorization issued before October 1, 1995, is deleted as obsolete.

Defined terms: "Appurtenance and environmental setting" § 8–101
"District" § 8–101
"Routine maintenance" § 8–101
"Site" § 8–101
"Structure" § 8–101

8–104. REGULATION OF SITES AND STRUCTURES.

(A) POWERS OF LEGISLATIVE BODY.

THE LEGISLATIVE BODY OF EACH LOCAL JURISDICTION, BY LOCAL LAW, MAY REGULATE:

(1) THE CONSTRUCTION, RECONSTRUCTION, ALTERATION, MOVING, AND DEMOLITION OF SITES OR STRUCTURES OF HISTORICAL, ARCHAEOLOGICAL, OR ARCHITECTURAL SIGNIFICANCE;

(2) THE CONSTRUCTION, RECONSTRUCTION, ALTERATION, MOVING, AND DEMOLITION OF SITES AND STRUCTURES WITHIN DISTRICTS; AND

(3) THE APPURTENANCES AND ENVIRONMENTAL SETTINGS OF SITES AND STRUCTURES WITHIN THE LIMITS OF THE LOCAL JURISDICTION.

(B) PURPOSE OF LOCAL LAW.

THE PURPOSE OF A LOCAL LAW ADOPTED UNDER THIS SECTION IS TO:

(1) SAFEGUARD THE HERITAGE OF THE LOCAL JURISDICTION BY PRESERVING SITES, STRUCTURES, OR DISTRICTS THAT REFLECT ELEMENTS OF CULTURAL, SOCIAL, ECONOMIC, POLITICAL, ARCHAEOLOGICAL, OR ARCHITECTURAL HISTORY;

(2) STABILIZE AND IMPROVE THE PROPERTY VALUES OF THOSE SITES, STRUCTURES, OR DISTRICTS;

(3) FOSTER CIVIC BEAUTY;

(4) STRENGTHEN THE LOCAL ECONOMY; AND

(5) PROMOTE THE PRESERVATION AND APPRECIATION OF THOSE SITES, STRUCTURES, AND DISTRICTS FOR THE EDUCATION AND WELFARE OF THE RESIDENTS OF EACH LOCAL JURISDICTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 8.01(c) and (b)(2).

In the introductory language to subsection (a) of this section, the former phrase "[e]xcept for the Mayor and City Council of Baltimore," is deleted as unnecessary in light of § 10–103 of this article, which excludes Baltimore City from this title and many other provisions of this division.

In subsection (a)(3) of this section, the reference to "the limits of the local jurisdiction" is substituted for the former reference to "their limits" for clarity.

In the introductory language to subsection (b) of this section, the reference to "this section" is substituted for the former reference to "this subtitle" for accuracy.

Defined terms: "Appurtenance and environmental setting" § 8–101
"Demolition" § 8–101
"District" § 8–101
"Legislative body" § 1–101
"Local jurisdiction" § 1–101
"Local law" § 1–101
"Site" § 8–101
"Structure" § 8–101

8–105. DESIGNATION OF BOUNDARIES FOR SITES, STRUCTURES, AND DISTRICTS.

FOR THE PURPOSES OF THIS TITLE, EACH LOCAL JURISDICTION MAY DESIGNATE BOUNDARIES FOR SITES, STRUCTURES, AND DISTRICTS THAT ARE CONSIDERED TO BE OF HISTORIC, ARCHAEOLOGICAL, OR ARCHITECTURAL SIGNIFICANCE, BY FOLLOWING THE PROCEDURES OF THE LOCAL JURISDICTION FOR ESTABLISHING OR CHANGING ZONING DISTRICTS AND CLASSIFICATIONS.

REVISOR'S NOTE: This section formerly was Art. 66B, § 8.02.

The reference to sites, structures, "and" districts is substituted for the former reference to sites, structures, "or" districts to clarify that a local jurisdiction may designate boundaries for all three.

The only other changes are in style.

Defined terms: "District" § 8–101
"Local jurisdiction" § 1–101
"Site" § 8–101
"Structure" § 8–101

SUBTITLE 2. COMMISSION.

8–201. ESTABLISHMENT.

A LOCAL JURISDICTION MAY CREATE A HISTORIC DISTRICT COMMISSION OR A HISTORIC PRESERVATION COMMISSION.

REVISOR'S NOTE: This section formerly was Art. 66B, § 8.03(a)(1).

The only change is in style.

Defined term: "Local jurisdiction" § 1–101

8–202. MEMBERSHIP.

(A) COMPOSITION.

(1) A COMMISSION SHALL CONSIST OF AT LEAST FIVE MEMBERS.

(2) A MAJORITY OF THE MEMBERS OF A COMMISSION SHALL BE RESIDENTS OF THE LOCAL JURISDICTION THAT CREATED THE COMMISSION.

(B) QUALIFICATIONS.

(1) EACH MEMBER OF A COMMISSION SHALL HAVE A DEMONSTRATED SPECIAL INTEREST, SPECIFIC KNOWLEDGE, OR PROFESSIONAL OR ACADEMIC TRAINING IN:

(I) HISTORY;

(II) ARCHITECTURE;

(III) ARCHITECTURAL HISTORY;

(IV) PLANNING;

(V) ARCHAEOLOGY;

(VI) ANTHROPOLOGY;

(VII) CURATION;

(VIII) CONSERVATION;

(IX) LANDSCAPE ARCHITECTURE;

(X) HISTORIC PRESERVATION;

(XI) URBAN DESIGN; OR

(XII) A RELATED DISCIPLINE.

(2) A LOCAL JURISDICTION THAT CREATES A COMMISSION MAY ESTABLISH AND PUBLICLY ADOPT ADDITIONAL QUALIFICATIONS FOR A MEMBER OF THE COMMISSION.

(C) TENURE; VACANCIES.

(1) THE TERM OF A MEMBER OF A COMMISSION IS 3 YEARS.

(2) THE TERMS OF THE MEMBERS SHALL BE STAGGERED.

(3) A MEMBER IS ELIGIBLE FOR REAPPOINTMENT.

(4) THE APPOINTING AUTHORITY SHALL FILL ANY VACANCY ON A COMMISSION FOR THE UNEXPIRED TERM OF THE VACANT POSITION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 8.03(a)(2) and (3).

Defined terms: "Commission" § 8–101
"Local jurisdiction" § 1–101

8–203. MEETINGS.

(A) RULES AND REGULATIONS.

A COMMISSION SHALL ADOPT RULES AND REGULATIONS NECESSARY FOR THE CONDUCT OF ITS BUSINESS.

(B) RIGHT TO APPEAR.

AN INTERESTED PERSON OR REPRESENTATIVE OF AN INTERESTED PERSON MAY APPEAR AND BE HEARD AT A PUBLIC HEARING THAT A COMMISSION CONDUCTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 8.11.

Defined terms: "Commission" § 8–101
"Person" § 1–101

"Regulation" § 1–101

8–204. ACCEPTING GIFTS.

SUBJECT TO ANY REQUIREMENTS OF THE LOCAL JURISDICTION THAT RELATE TO THE ACCEPTANCE AND USE OF GIFTS BY PUBLIC OFFICIALS, A COMMISSION MAY ACCEPT AND USE GIFTS AS NEEDED TO PERFORM ITS DUTIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 8.03(a)(4).

The phrase "that relate to" is substituted for the former word "governing" for consistency with other revised articles of the Code.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that a commission may be subject to provisions concerning ethics and disclosure of gifts and their disposition.

The Land Use Article Review Committee also notes, for consideration by the General Assembly, that this section does not describe the nature of permissible gifts. It may be inferred that a gift may be in the form of any sort of property, such as money or an easement. The General Assembly may wish to consider whether it is advisable to specify that gifts may be in any form, not merely monetary.

Defined terms: "Commission" § 8–101
"Local jurisdiction" § 1–101

8–205. POWERS.

(A) ACQUISITION OF EASEMENTS.

(1) SUBJECT TO ANY REQUIREMENTS OF THE LOCAL JURISDICTION THAT RELATE TO THE ACQUISITION OF EASEMENTS, A COMMISSION MAY ACQUIRE EASEMENTS IN CONNECTION WITH INDIVIDUAL SITES OR STRUCTURES, OR WITH SITES OR STRUCTURES LOCATED IN OR ADJACENT TO A LOCALLY DESIGNATED HISTORIC DISTRICT.

(2) AN EASEMENT ACQUIRED BY A COMMISSION MAY GRANT TO THE COMMISSION, THE RESIDENTS OF THE HISTORIC DISTRICT, AND THE PUBLIC THE RIGHT TO ENSURE THAT ANY SITE, STRUCTURE, OR SURROUNDING PROPERTY ON WHICH THE EASEMENT IS APPLIED IS PROTECTED IN PERPETUITY FROM CHANGES THAT WOULD AFFECT THE HISTORIC,

ARCHAEOLOGICAL, OR ARCHITECTURAL SIGNIFICANCE OF THE SITE, STRUCTURE, OR SURROUNDING PROPERTY.

(B) DESIGNATION OF MARYLAND HISTORICAL TRUST.

(1) A COMMISSION MAY DESIGNATE THE MARYLAND HISTORICAL TRUST TO ANALYZE AND MAKE RECOMMENDATIONS ON THE PRESERVATION OF SITES, STRUCTURES, OR DISTRICTS OF HISTORIC, ARCHAEOLOGICAL, ARCHITECTURAL, OR CULTURAL SIGNIFICANCE WITHIN THE AREA THE COMMISSION SERVES.

(2) THE RECOMMENDATIONS OF THE MARYLAND HISTORICAL TRUST MAY INCLUDE:

(I) PROPOSED BOUNDARIES FOR SITES, STRUCTURES, AND DISTRICTS; AND

(II) THE IDENTIFICATION AND DESIGNATION OF THE SITES, STRUCTURES, AND DISTRICTS TO BE PRESERVED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, §§ 8.04 and 8.03(b).

In subsection (a)(1) of this section, the phrase "that relate to" is substituted for the former word "governing" for consistency with other revised articles of the Code.

In subsection (a)(2) of this section, the former reference to the "general" public is deleted as unnecessary.

In subsection (b)(2)(i) and (ii), the references to sites, structures, "and" districts are substituted for the former references to sites, structures, "or" districts to clarify that the Maryland Historical Trust may recommend boundaries and designations for all three.

Defined terms: "Commission" § 8–101
"District" § 8–101
"Local jurisdiction" § 1–101
"Site" § 8–101
"Structure" § 8–101

SUBTITLE 3. PRESERVATION AND PERMITTING.

8–301. GUIDELINES FOR REHABILITATION AND NEW CONSTRUCTION DESIGN.

(A) ADOPTION.

A LOCAL JURISDICTION SHALL ADOPT GUIDELINES FOR REHABILITATION AND NEW CONSTRUCTION DESIGN FOR DESIGNATED SITES, STRUCTURES, AND DISTRICTS THAT ARE CONSISTENT WITH THOSE GENERALLY RECOGNIZED BY THE MARYLAND HISTORICAL TRUST.

(B) CONTENTS.

THE GUIDELINES ADOPTED UNDER THIS SECTION MAY INCLUDE:

(1) DESIGN CHARACTERISTICS INTENDED TO MEET THE NEEDS OF PARTICULAR TYPES OF SITES, STRUCTURES, AND DISTRICTS; AND

(2) IDENTIFICATION OF CATEGORIES OF CHANGES THAT ARE SO MINIMAL IN NATURE THAT THEY DO NOT:

(I) AFFECT HISTORIC, ARCHAEOLOGICAL, OR ARCHITECTURAL SIGNIFICANCE; AND

(II) REQUIRE REVIEW BY A COMMISSION.

REVISOR'S NOTE: This section formerly was Art. 66B, § 8.06(a)(1) and (2)(i).

The only changes are in style.

Defined terms: "Commission" § 8–101
"District" § 8–101
"Local jurisdiction" § 1–101
"Site" § 8–101
"Structure" § 8–101

8–302. APPLICATION FOR CHANGES TO SITES OR STRUCTURES — IN GENERAL.

(A) APPLICATION.

A PERSON SHALL FILE AN APPLICATION WITH THE COMMISSION BEFORE CONSTRUCTING, RECONSTRUCTING, ALTERING, MOVING, OR DEMOLISHING A SITE OR STRUCTURE LOCATED WITHIN A LOCALLY DESIGNATED DISTRICT IF ANY EXTERIOR CHANGES ARE INVOLVED THAT WOULD AFFECT THE HISTORIC, ARCHAEOLOGICAL, OR ARCHITECTURAL SIGNIFICANCE OF THE SITE OR STRUCTURE, ANY PORTION OF WHICH IS VISIBLE OR INTENDED TO BE VISIBLE FROM A PUBLIC WAY.

(B) APPROVAL OR REJECTION OF APPLICATION.

(1) AN APPLICATION FILED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE CONSIDERED AND APPROVED OR REJECTED BY THE COMMISSION.

(2) THE COMMISSION MAY REJECT AN APPLICATION BASED ONLY ON THE CONSIDERATIONS LISTED IN § 8–303(A) OF THIS SUBTITLE.

(C) RESUBMISSION OF APPLICATION.

AN APPLICANT MAY NOT RESUBMIT AN APPLICATION THAT IS IDENTICAL TO A REJECTED APPLICATION FOR 1 YEAR AFTER THE REJECTION.

(D) RESTRICTIONS.

A LOCAL JURISDICTION MAY NOT GRANT A PERMIT FOR A CHANGE TO A LOCALLY DESIGNATED SITE OR STRUCTURE, OR TO A SITE OR STRUCTURE LOCATED IN A LOCALLY DESIGNATED DISTRICT, UNTIL THE COMMISSION HAS ACTED ON THE APPLICATION IN ACCORDANCE WITH § 8–303(A) OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, §§ 8.05 and 8.07(b).

In subsection (b)(2) of this section, the reference to "reject[ion]" is substituted for the former reference to "disapprov[al]" for consistency within this section.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in subsection (a) of this section, the reference to a structure "intended" to be visible from a public way is ambiguous. It is unclear *whose* intent is meant – that of the person filing the application for a structure to be built or altered, or that of the commission concerned with the structure present or contemplated. It is also unclear whether the intent refers only to an existing structure that may be altered or to a structure that may be added to the site. The General Assembly may wish to clarify the nature of the "intent" of visibility as to whose viewpoint, and as to what is to be viewed. In the alternative, the General Assembly may wish to delete the phrase "or intended to be visible".

The Land Use Article Review Committee also notes, for consideration by the General Assembly, that in subsection (a) of this section, the meaning

of the term "public way" from which a site or structure is visible is unclear. It may mean a roadway, an alley, or a path that people may traverse, as opposed to an easement for a storm drain, for example. The General Assembly may wish to clarify the potential effects of a proposed change to a site or structure that is intended to be protected if any portion of the site or structure "is visible or intended to be visible from a public way".

Defined terms: "Commission" § 8–101
"Demolition" § 8–101
"District" § 8–101
"Local jurisdiction" § 1–101
"Person" § 1–101
"Site" § 8–101
"Structure" § 8–101

8–303. APPLICATION FOR CHANGES TO SITES OR STRUCTURES — REVIEW OF APPLICATION.

(A) REQUIREMENTS.

IN REVIEWING AN APPLICATION, A COMMISSION SHALL:

(1) USE THE GUIDELINES ADOPTED UNDER § 8–301 OF THIS SUBTITLE; AND

(2) CONSIDER:

(I) THE HISTORIC, ARCHAEOLOGICAL, OR ARCHITECTURAL SIGNIFICANCE OF THE SITE OR STRUCTURE AND ITS RELATIONSHIP TO THE HISTORIC, ARCHAEOLOGICAL, OR ARCHITECTURAL SIGNIFICANCE OF THE SURROUNDING AREA;

(II) THE RELATIONSHIP OF THE EXTERIOR ARCHITECTURAL FEATURES OF THE STRUCTURE TO THE REMAINDER OF THE STRUCTURE AND TO THE SURROUNDING AREA;

(III) THE GENERAL COMPATIBILITY OF EXTERIOR DESIGN, SCALE, PROPORTION, ARRANGEMENT, TEXTURE, AND MATERIALS PROPOSED TO BE USED; AND

(IV) ANY OTHER FACTORS, INCLUDING AESTHETICS, THAT THE COMMISSION CONSIDERS PERTINENT.

(B) RESTRICTIONS.

A COMMISSION SHALL CONSIDER ONLY THE EXTERIOR FEATURES OF A STRUCTURE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, §§ 8.06(b) and (a)(2)(ii) and 8.07(a).

In subsection (a)(1) of this section, the reference to the guidelines "adopted under § 8–301 of this subtitle" is added for clarity.

In subsection (b) of this section, the former phrase "and may not consider any interior arrangements" is deleted as unnecessary in light of the reference to "only [considering] the exterior features".

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in subsection (a)(2)(iv) of this section, the ability of a commission to consider "any other factors, including aesthetics, that the commission considers pertinent" provides broad grounds for rejecting an application under § 8–302(b) of this subtitle, which provides that a commission "may reject an application based only on the considerations listed in § 8–303(a) of this subtitle". While the latter provision seems on its face to be restrictive, the language in subsection (a)(2)(iv) allows a commission considerable discretion to reject an application. The General Assembly may wish to consider more closely the criteria that a commission may use to approve, approve with conditions, modify, or reject an application, and the standards that the commission must apply.

Defined terms: "Commission" § 8–101
"Site" § 8–101
"Structure" § 8–101

8–304. PLANS FOR SITES OR STRUCTURES.

(A) REQUIREMENTS.

A COMMISSION SHALL STRICTLY JUDGE PLANS FOR SITES OR STRUCTURES DETERMINED BY RESEARCH TO BE OF HISTORIC, ARCHAEOLOGICAL, OR ARCHITECTURAL SIGNIFICANCE.

(B) PROHIBITIONS.

UNLESS THE PLANS WOULD SERIOUSLY IMPAIR THE HISTORIC, ARCHAEOLOGICAL, OR ARCHITECTURAL SIGNIFICANCE OF THE SURROUNDING SITE OR STRUCTURE, A COMMISSION MAY NOT STRICTLY JUDGE PLANS:

(1) FOR A SITE OR STRUCTURE OF LITTLE HISTORIC, ARCHAEOLOGICAL, OR ARCHITECTURAL SIGNIFICANCE; OR

(2) INVOLVING NEW CONSTRUCTION.

(C) LIMITATIONS ON ARCHITECTURAL STYLE.

A COMMISSION IS NOT REQUIRED TO LIMIT CONSTRUCTION, RECONSTRUCTION, OR ALTERATION TO THE ARCHITECTURAL STYLE OF ANY ONE PERIOD.

REVISOR'S NOTE: This section formerly was Art. 66B, § 8.08.

The only changes are in style.

Defined terms: "Commission" § 8–101
"Plan" § 1–101
"Site" § 8–101
"Structure" § 8–101

8–305. PRESERVATION OF SITES OR STRUCTURES.

(A) PLAN FOR PRESERVATION.

A COMMISSION SHALL ATTEMPT, WITH THE OWNER OF A SITE OR STRUCTURE, TO FORMULATE AN ECONOMICALLY FEASIBLE PLAN TO PRESERVE THE SITE OR STRUCTURE IF:

(1) AN APPLICATION IS SUBMITTED FOR CONSTRUCTION, RECONSTRUCTION, OR ALTERATION AFFECTING A SITE OR THE EXTERIOR OF A STRUCTURE OR FOR THE MOVING OR DEMOLITION OF A STRUCTURE; AND

(2) THE COMMISSION CONSIDERS PRESERVATION OF THE SITE OR STRUCTURE TO BE OF UNUSUAL IMPORTANCE TO THE LOCAL JURISDICTION, THE STATE, OR THE NATION.

(B) REJECTION OF APPLICATION.

UNLESS THE COMMISSION IS SATISFIED THAT THE PROPOSED CONSTRUCTION, RECONSTRUCTION, OR ALTERATION WILL NOT MATERIALLY IMPAIR THE HISTORIC, ARCHAEOLOGICAL, OR ARCHITECTURAL SIGNIFICANCE OF THE SITE OR STRUCTURE, THE COMMISSION SHALL:

(1) REJECT THE APPLICATION; AND

(2) FILE A COPY OF ITS REJECTION WITH THE BUILDING INSPECTOR OF THE LOCAL JURISDICTION.

(C) NEGOTIATIONS FOR PRESERVATION.

THE COMMISSION SHALL HAVE 90 DAYS AFTER THE DATE ON WHICH THE COMMISSION CONCLUDES THAT AN ECONOMICALLY FEASIBLE PLAN CANNOT BE FORMULATED UNDER THIS SECTION TO NEGOTIATE WITH THE OWNER AND OTHER PARTIES TO FIND A MEANS OF PRESERVING THE SITE OR STRUCTURE.

(D) EXCEPTIONS.

IF A SITE OR STRUCTURE IS CONSIDERED TO BE VALUABLE FOR ITS HISTORIC, ARCHAEOLOGICAL, OR ARCHITECTURAL SIGNIFICANCE, A COMMISSION MAY APPROVE PROPOSED CONSTRUCTION, RECONSTRUCTION, ALTERATION, MOVING, OR DEMOLITION, DESPITE THE FACT THAT THE CHANGES COME WITHIN THE PROVISIONS OF THIS SECTION IF:

(1) THE SITE OR STRUCTURE IS A DETERRENT TO A MAJOR IMPROVEMENT PROGRAM THAT WILL BE OF SUBSTANTIAL BENEFIT TO THE LOCAL JURISDICTION; OR

(2) THE RETENTION OF THE SITE OR STRUCTURE WOULD:

(I) CAUSE UNDUE FINANCIAL HARDSHIP TO THE OWNER; OR

(II) NOT BE IN THE BEST INTERESTS OF A MAJORITY OF PERSONS IN THE COMMUNITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, §§ 8.09 and 8.10.

In the introductory language to subsection (a) of this section, the reference to the owner of a "site or" structure is added for consistency within this section.

Defined terms: "Commission" § 8–101
"Demolition" § 8–101
"Local jurisdiction" § 1–101
"Person" § 1–101

"Plan" § 1–101
"Site" § 8–101
"State" § 1–101
"Structure" § 8–101

8–306. CERTIFICATE OF APPROVAL, MODIFICATION, OR REJECTION.

(A) FILING WITH BUILDING INSPECTOR.

(1) A COMMISSION SHALL FILE WITH THE BUILDING INSPECTOR OF THE LOCAL JURISDICTION A CERTIFICATE OF THE COMMISSION'S APPROVAL, APPROVAL WITH CONDITIONS, OR MODIFICATION, OR WRITTEN NOTICE OF REJECTION OF AN APPLICATION OR PLAN SUBMITTED TO THE COMMISSION FOR REVIEW.

(2) AN APPLICANT MAY NOT BEGIN WORK ON A PROJECT SUBMITTED TO THE COMMISSION FOR REVIEW UNTIL THE COMMISSION HAS FILED THE CERTIFICATE OF APPROVAL, APPROVAL WITH CONDITIONS, OR MODIFICATION WITH THE BUILDING INSPECTOR.

(3) THE BUILDING INSPECTOR MAY NOT ISSUE A BUILDING PERMIT FOR A CHANGE OR CONSTRUCTION SUBMITTED TO THE COMMISSION FOR REVIEW UNTIL THE BUILDING INSPECTOR HAS RECEIVED THE CERTIFICATE OF APPROVAL, APPROVAL WITH CONDITIONS, OR MODIFICATION FROM THE COMMISSION.

(B) ISSUANCE TO OWNER, LESSEE, OR TENANT.

IF THERE IS NO BUILDING INSPECTOR IN THE LOCAL JURISDICTION:

(1) A COMMISSION SHALL ISSUE A CERTIFICATE OF THE COMMISSION'S APPROVAL, APPROVAL WITH CONDITIONS, OR MODIFICATION, OR A WRITTEN NOTICE OF REJECTION, TO THE OWNER, LESSEE, OR TENANT OF THE PROPERTY THAT IS THE SUBJECT OF THE APPLICATION OR PLAN; AND

(2) THE OWNER, LESSEE, OR TENANT MAY NOT BEGIN THE PROPOSED WORK OR CHANGE UNTIL THE COMMISSION HAS ISSUED THE CERTIFICATE OF APPROVAL, APPROVAL WITH CONDITIONS, OR MODIFICATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 8.12(a) through (d).

In subsections (a)(1) and (b)(1) of this section, the references to "approval with conditions" are added for clarity. Similarly, in subsections (a)(2) and

(3) and (b)(2) of this section, the references to "approval with conditions, or modification" are added for clarity and consistency within this section.

In subsection (a)(3) of this section, the reference to receiving the certificate of approval "from the commission" is added for clarity.

In the introductory language to subsection (b) of this section, the defined term "local jurisdiction" is substituted for the former reference to the "county or municipal corporation" for consistency within this division.

Defined terms: "Commission" § 8–101
"Local jurisdiction" § 1–101
"Plan" § 1–101

8–307. FAILURE TO ACT ON COMPLETED APPLICATION.

IF A COMMISSION FAILS TO ACT ON A COMPLETED APPLICATION WITHIN 45 DAYS AFTER THE DATE WHEN THE COMPLETED APPLICATION WAS FILED, THE APPLICATION SHALL BE CONSIDERED APPROVED UNLESS:

(1) THE APPLICANT AND THE COMMISSION AGREE TO AN EXTENSION OF THE 45–DAY PERIOD; OR

(2) THE APPLICATION IS WITHDRAWN.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 8.12(e).

Defined term: "Commission" § 8–101

8–308. APPEAL OF DECISION.

ANY PERSON AGGRIEVED BY A DECISION OF A COMMISSION MAY APPEAL THE DECISION IN THE MANNER PROVIDED FOR AN APPEAL FROM THE DECISION OF THE PLANNING COMMISSION OF THE LOCAL JURISDICTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 8.15.

The phrase "planning commission" is substituted for the former phrase "zoning board or commission" for clarity. *Cf. Casey v. Mayor of Rockville,* 400 Md. 259, 315 (2007) (fn. 44); 67 Op. Att'y Gen'l 409 (1982).

The Land Use Article Review Committee notes, for consideration by the General Assembly, that under this section it is unclear: (1) whether an

appeal is always available through the local board of appeals; (2) whether a local jurisdiction may divest an applicant of the opportunity to appeal to the local board of appeals rather than seeking judicial review; and (3) who bears the costs of an action in direct judicial review compared with consideration by the board of appeals. The committee recommends establishing a clear appellate path for these matters, indicating whether or not there is a local option or requirement to proceed through the local board of appeal, or whether direct judicial review is always available.

Defined terms: "Commission" § 8–101
"Local jurisdiction" § 1–101
"Person" § 1–101

SUBTITLE 4. MISCELLANEOUS PROVISIONS.

8–401. CONVERSION OF OVERHEAD FACILITIES.

(A) LOCAL LAWS.

(1) EACH LOCAL JURISDICTION IN WHICH A DISTRICT IS DESIGNATED MAY ENACT LOCAL LAWS REQUIRING THAT:

(I) UTILITY COMPANIES RELOCATE EXISTING OVERHEAD LINES AND FACILITIES UNDERGROUND WITHIN THE DEFINED PART OF THE DISTRICT OR THE ENTIRE DISTRICT; AND

(II) IF NECESSARY, PRIVATE OWNERS WHO RECEIVE SERVICE FROM THE RELOCATED LINES AND FACILITIES PLACE ANY CONNECTION UNDERGROUND.

(2) A LOCAL LAW ENACTED UNDER THIS SECTION SHALL:

(I) REQUIRE THAT THE ESTIMATED COST TO PROPERTY OWNERS FOR WORK PERFORMED ON PRIVATE PROPERTY BE DETERMINED AND MADE AVAILABLE TO AFFECTED PROPERTY OWNERS;

(II) PROVIDE FINANCING FOR THESE COSTS TO PRIVATE OWNERS, INCLUDING FINANCING FOR ANY CHARGES FOR THE AMORTIZATION OF BONDS ISSUED TO INITIALLY COVER PRIVATE COSTS; AND

(III) INCLUDE ANY OTHER PROVISIONS REASONABLY RELATED TO PLACING OVERHEAD LINES AND FACILITIES UNDERGROUND AND ADMINISTERING UNDERGROUND RELOCATION PROJECTS.

(B) APPORTIONMENT OF COSTS BY PUBLIC SERVICE COMMISSION.

(1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE PUBLIC SERVICE COMMISSION SHALL:

(I) DETERMINE THE AMOUNT OF THE MONTHLY SURCHARGE REQUIRED TO SUPPORT THE NET CAPITAL COSTS OF AN UNDERGROUND RELOCATION AND DETERMINE WHICH CUSTOMERS OF THE APPLICABLE UTILITY ARE SUBJECT TO THE SURCHARGE;

(II) INCLUDE THE RELATED NET CAPITAL COSTS IN THE RATE BASE; OR

(III) ADOPT ANY OTHER METHOD TO APPROPRIATELY APPORTION THE COSTS.

(2) A UTILITY MAY NOT BE REQUIRED TO PAY MORE THAN ONE–HALF OF THE NET CAPITAL COSTS OF AN UNDERGROUND RELOCATION.

(C) APPROPRIATION BY LOCAL JURISDICTION.

A LOCAL JURISDICTION MAY APPROPRIATE MONEY FOR UNDERGROUND RELOCATION PROJECTS FROM ANY FEDERAL, STATE, AND LOCAL FUNDS THE LOCAL JURISDICTION RECEIVES FOR THAT PURPOSE.

(D) AGREEMENTS WITH PROPERTY OWNERS.

(1) IN IMPLEMENTING SUBSECTION (A)(2)(II) OF THIS SECTION, THE LOCAL JURISDICTION MAY ENTER INTO AN AGREEMENT WITH INDIVIDUAL PROPERTY OWNERS UNDER WHICH THE LOCAL JURISDICTION AGREES TO ADVANCE FUNDS TO COVER THE PROPERTY OWNERS' COSTS FOR THE RELOCATION OF THE OVERHEAD LINES AND FACILITIES.

(2) (I) THE LOCAL JURISDICTION MAY APPROPRIATE MONEY, IMPOSE TAXES, OR BORROW MONEY TO PAY AND ADVANCE THE COSTS OF AN UNDERGROUND RELOCATION.

(II) IN ORDER TO RECAPTURE EXPENDED COSTS, THE LOCAL JURISDICTION MAY:

1. IMPOSE A BENEFIT ASSESSMENT AGAINST PROPERTY IN THE DISTRICT ON BEHALF OF WHICH THE UTILITY IS RELOCATED UNDERGROUND; AND

2. PROVIDE FOR THE COLLECTION OF THE ASSESSMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 8.16(a) through (c).

In subsection (d)(2)(i) of this section, the reference to "impos[ing]" taxes is substituted for the former reference to "levy[ing]" taxes for consistency with other recently revised articles of the Code. *See*, *e.g.*, PU § 17–201.

For general provisions relating to conversion of overhead facilities, *see* PU, Title 12, Subtitle 3.

Former Art. 66B, § 8.16(d), which excluded this section from former Art. 66B, § 1.02, is revised in § 1–401 of this article.

Defined terms: "District" § 8–101
"Local jurisdiction" § 1–101
"Local law" § 1–101
"State" § 1–101

SUBTITLE 5. ENFORCEMENT.

8–501. REQUEST FOR ENFORCEMENT.

A COMMISSION MAY REQUEST THAT THE APPROPRIATE ENFORCEMENT AUTHORITY OF THE LOCAL JURISDICTION SEEK ANY OF THE REMEDIES AND PENALTIES PROVIDED BY LAW FOR ANY VIOLATION OF A LOCAL LAW ADOPTED UNDER THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 8.14.

The reference to the enforcement authority "of the local jurisdiction" is added for clarity.

The reference to "seek[ing]" remedies and penalties is substituted for the former reference to "institut[ing]" remedies and penalties for consistency with other revised articles of the Code.

Defined terms: "Commission" § 8–101

"Local jurisdiction" § 1–101
"Local law" § 1–101

GENERAL REVISOR'S NOTE TO TITLE

Former Art. 66B, § 8.17, which provided that the provisions of former Art. 66B, §§ 8.01 through 8.17 were severable, is deleted in light of Art. 1, § 23, which provides that all legislation enacted after July 1, 1979, is presumed to be severable absent specific language to the contrary, and in light of the standard rule of judicial construction favoring severability even in the absence of a severability clause in the statute. *See*, *e.g.*, *Muskin v. State Dep't of Assessments and Taxation*, 422 Md. 544 (2011): "We have held that, even in the absence of an express severability clause in legislation that is found defective in some severable part, there "is a strong presumption that if a portion of an enactment is found to be invalid, the intent is that such portion be severed." *Bd. v. Smallwood*, 327 Md. 220, 245, 608 A.2d 1222, 1234 (1992); *see also Balt. v. Stuyvesant Ins. Co.*, 226 Md. 379, 390, 174 A.2d 153, 158 – 59 (1961) (finding that "[i]t is the duty of a court to separate the valid from the invalid provisions of an ordinance, so long as the valid portion is independent and severable from that which is void.")." 422 Md. 544, 554 (fn. 5); *see also Jackson v. Dackman Co.*, 422 Md. 357, 383–384 (2011).

TITLE 9. SINGLE–COUNTY PROVISIONS.

SUBTITLE 1. ALLEGANY COUNTY.

9–101. SCOPE OF SUBTITLE.

THIS SUBTITLE APPLIES TO ALLEGANY COUNTY.

REVISOR'S NOTE: This section formerly was Art. 66B, § 14.01(a).

The only change is in style.

9–102. PLANNING COMMISSION.

(A) COMPOSITION.

THE PLANNING COMMISSION MAY CONSIST OF NINE MEMBERS.

(B) TENURE.

(1) THE TERM OF A MEMBER OF THE PLANNING COMMISSION IS 5 YEARS.

(2) THE TERMS OF TWO OF THE MEMBERS OF THE PLANNING COMMISSION SHALL BE STAGGERED.

(3) AT THE END OF A TERM, A MEMBER OF THE PLANNING COMMISSION CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 14.01(b) and (c).

SUBTITLE 2. ANNE ARUNDEL COUNTY.

9–201. RESERVED.

SUBTITLE 3. BALTIMORE COUNTY.

9–301. SCOPE OF SUBTITLE.

THIS SUBTITLE APPLIES TO BALTIMORE COUNTY.

REVISOR'S NOTE: This section formerly was Art. 66B, § 14.02(a).

The only change is in style.

9–302. ENFORCEMENT OF ZONING REGULATIONS.

(A) ADMINISTRATIVE PROCEEDING.

IN ADDITION TO THE JURISDICTION GRANTED IN TITLE 11, SUBTITLE 2 OF THIS ARTICLE, THE LEGISLATIVE BODY OF BALTIMORE COUNTY MAY PROVIDE BY LOCAL LAW FOR AN ADMINISTRATIVE PROCEEDING TO ENFORCE ITS ZONING REGULATIONS.

(B) CIVIL FINES AND PENALTIES.

THE LOCAL LAW MAY INCLUDE THE AUTHORITY TO IMPOSE CIVIL FINES AND PENALTIES FOR ZONING VIOLATIONS.

REVISOR'S NOTE: This section formerly was Art. 66B, § 14.02(b) and (c).

The only changes are in style.

Defined terms: "Local law" § 1–101
"Regulation" § 1–101

SUBTITLE 4. CALVERT COUNTY.

9–401. RESERVED.

SUBTITLE 5. CAROLINE COUNTY.

9–501. RESERVED.

SUBTITLE 6. CARROLL COUNTY.

9–601. SCOPE OF SUBTITLE.

THIS SUBTITLE APPLIES TO CARROLL COUNTY.

REVISOR'S NOTE: This section formerly was Art. 66B, § 14.03(a).

The only change is in style.

9–602. APPOINTMENT TO PLANNING COMMISSION.

(A) MEMBER OF BOARD OF COUNTY COMMISSIONERS.

THE COUNTY COMMISSIONERS MAY APPOINT ONE OF THE MEMBERS OF THE BOARD OF COUNTY COMMISSIONERS TO THE PLANNING COMMISSION.

(B) ALTERNATE MEMBER.

(1) THE COUNTY COMMISSIONERS SHALL DESIGNATE ONE ALTERNATE MEMBER OF THE PLANNING COMMISSION WHO MAY SIT ON THE PLANNING COMMISSION IN THE ABSENCE OF A MEMBER OF THE PLANNING COMMISSION.

(2) WHEN THE ALTERNATE IS ABSENT, THE COUNTY COMMISSIONERS MAY DESIGNATE A TEMPORARY ALTERNATE.

REVISOR'S NOTE: This section formerly was Art. 66B, § 14.03(b).

In this section, the former references to the planning "and zoning" commission are deleted for consistency within this division.

No other changes are made.

9–603. SALE OF CERTAIN PROPERTY BY USE OF UNAPPROVED PLAT OF SUBDIVISION.

IF A PLAT IS APPROVED AND RECORDED IN ACCORDANCE WITH THIS DIVISION BEFORE THE TRANSFER OF THE PROPERTY, § 5–301 OF THIS ARTICLE DOES NOT APPLY TO A CONTRACT FOR SALE OR NEGOTIATION FOR SALE OF PROPERTY ZONED INDUSTRIAL, COMMERCIAL, OR BOTH INDUSTRIAL AND COMMERCIAL.

REVISOR'S NOTE: This section formerly was Art. 66B, § 14.03(c).

The only changes are in style.

9–604. ASSESSMENT FOR ABATEMENT OF ZONING VIOLATION.

(A) ASSESSMENT OF REASONABLE COSTS.

IF THE COUNTY COMMISSIONERS ABATE A VIOLATION OF A ZONING LAW, THE COUNTY COMMISSIONERS MAY ASSESS AGAINST THE PROPERTY THE REASONABLE COSTS OF THE ABATEMENT.

(B) COLLECTION OF ASSESSMENT.

(1) THE ASSESSMENT SHALL BE:

(I) ADDED TO THE ANNUAL TAX BILL OF THE PROPERTY TO BE COLLECTED IN THE SAME MANNER AS ORDINARY TAXES ARE COLLECTED; AND

(II) SUBJECT TO THE SAME INTEREST AND PENALTY FOR NONPAYMENT AS PROVIDED BY LAW FOR THE NONPAYMENT OF COUNTY TAXES.

(2) THE ASSESSMENT IS A LIEN AGAINST THE PROPERTY FROM THE DATE OF ASSESSMENT UNTIL PAID.

(C) PETITION FOR RELIEF FROM ASSESSMENT.

(1) A PROPERTY OWNER AGGRIEVED BY THE ASSESSMENT MAY PETITION THE COUNTY COMMISSIONERS FOR RELIEF.

(2) WITHIN 30 DAYS AFTER RECEIVING A PETITION, THE COUNTY COMMISSIONERS SHALL CONDUCT A HEARING TO DETERMINE THE PROPRIETY AND REASONABLENESS OF THE ASSESSMENT.

(3) AT THE HEARING, THE PETITIONER SHALL HAVE THE BURDEN OF SHOWING GOOD CAUSE AS TO WHY THE ASSESSMENT SHOULD NOT BE MADE.

REVISOR'S NOTE: This section formerly was Art. 66B, § 14.03(d).

The only changes are in style.

Defined term: "Zoning law" § 1–101

SUBTITLE 7. CECIL COUNTY.

9–701. SCOPE OF SUBTITLE.

THIS SUBTITLE APPLIES TO CECIL COUNTY.

REVISOR'S NOTE: This section formerly was Art. 66B, § 14.04(a).

The only change is in style.

9–702. PLANNING COMMISSION.

(A) COMPOSITION.

THE PLANNING COMMISSION CONSISTS OF SIX REGULAR MEMBERS AND ONE ALTERNATE MEMBER.

(B) TENURE.

(1) THE TERM OF A MEMBER OF THE PLANNING COMMISSION IS 3 YEARS.

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

(3) AT THE END OF A TERM, AN APPOINTED MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) AN EX OFFICIO MEMBER SERVES A TERM CONCURRENT WITH THE MEMBER'S TERM OF OFFICE.

(5) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 14.04(b).

9–703. DIRECTOR OF PLANNING AND ZONING.

(A) APPOINTMENT BY COUNTY COMMISSIONERS.

(1) THE BOARD OF COUNTY COMMISSIONERS SHALL APPOINT A DIRECTOR OF PLANNING AND ZONING FOR THE COUNTY.

(2) THE DIRECTOR SHALL SERVE AT THE PLEASURE OF THE COUNTY COMMISSIONERS.

(B) APPOINTMENT BY PLANNING COMMISSION PROHIBITED.

THE PLANNING COMMISSION MAY NOT APPOINT A DIRECTOR OF PLANNING AND ZONING.

REVISOR'S NOTE: This section formerly was Art. 66B, § 14.04(c).

No changes are made.

9–704. BOARD OF APPEALS.

(A) COMPOSITION.

NOTWITHSTANDING § 4–302 OF THIS ARTICLE, THE BOARD OF APPEALS CONSISTS OF FIVE REGULAR MEMBERS AND ONE ALTERNATE MEMBER.

(B) TENURE.

(1) THE TERM OF A MEMBER OF THE BOARD OF APPEALS IS 3 YEARS.

(2) THE TERMS OF THE MEMBERS OF THE BOARD OF APPEALS SHALL BE STAGGERED.

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 14.04(d).

SUBTITLE 8. CHARLES COUNTY.

9–801. SCOPE OF SUBTITLE.

THIS SUBTITLE APPLIES TO CHARLES COUNTY.

REVISOR'S NOTE: This section formerly was Art. 66B, § 14.05(a).

The only change is in style.

9–802. PLANNING COMMISSION.

(A) COMPOSITION.

(1) THE PLANNING COMMISSION CONSISTS OF SEVEN MEMBERS WHO SHALL REPRESENT AS MANY DIFFERENT GEOGRAPHICAL AREAS OF THE COUNTY AS IS POSSIBLE.

(2) A MEMBER OF THE COUNTY COMMISSIONERS MAY NOT SIT ON THE PLANNING COMMISSION.

(B) TENURE.

(1) THE TERM OF A MEMBER OF THE PLANNING COMMISSION IS 3 YEARS.

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

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(C) CHAIR.

EACH YEAR, THE COUNTY COMMISSIONERS SHALL APPOINT THE CHAIR OF THE PLANNING COMMISSION.

(D) COMPENSATION.

EACH MEMBER OF THE PLANNING COMMISSION IS ENTITLED TO THE COMPENSATION THE COUNTY COMMISSIONERS CONSIDER APPROPRIATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 14.05(b).

9–803. TENURE OF BOARD OF APPEALS MEMBERS.

(A) LENGTH OF TERMS.

NOTWITHSTANDING § 4–302 OF THIS ARTICLE, THE MEMBERS OF THE BOARD OF APPEALS SHALL BE APPOINTED TO 4–YEAR TERMS.

(B) STAGGERED TERMS.

THE TERMS OF THE MEMBERS OF THE BOARD OF APPEALS SHALL BE STAGGERED.

REVISOR'S NOTE: This section formerly was Art. 66B, § 14.05(c).

The only changes are in style.

9–804. SPECIAL EXCEPTIONS.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY TO AN APPLICATION FOR A SPECIAL EXCEPTION FOR:

(1) AN ASPHALT PLANT;

(2) A CONCRETE PLANT;

(3) SAND AND GRAVEL WASHING, CRUSHING, OR SCREENING; OR

(4) SURFACE MINING.

(B) APPEALS.

(1) NOTWITHSTANDING TITLE 4, SUBTITLE 3 OF THIS ARTICLE, THE COUNTY COMMISSIONERS MAY HEAR AND DECIDE A SPECIAL EXCEPTION UNDER AN APPEAL FILED BY A PROPERTY OWNER WHO IS AGGRIEVED BY A DECISION OF THE BOARD OF APPEALS ON THE SPECIAL EXCEPTION.

(2) THE COUNTY COMMISSIONERS SHALL HEAR AND DECIDE AN APPEAL OF A SPECIAL EXCEPTION IN ACCORDANCE WITH RULES AND PROCEDURES ADOPTED BY THE COUNTY COMMISSIONERS.

(C) JUDICIAL REVIEW.

IF THE COUNTY COMMISSIONERS ADOPT RULES AND PROCEDURES FOR CONSIDERING A SPECIAL EXCEPTION UNDER THIS SECTION, THE DECISION OF THE COUNTY COMMISSIONERS TO GRANT, DENY, MODIFY, OR REMAND THE APPLICATION FOR THE SPECIAL EXCEPTION IS A FINAL DECISION FOR WHICH JUDICIAL REVIEW MAY BE REQUESTED IN THE CIRCUIT COURT UNDER TITLE 4, SUBTITLE 4 OF THIS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 14.05(d).

In subsection (c) of this section, the phrase "judicial review may be requested" is substituted for the former phrase "an appeal may be taken" for accuracy.

Defined term: "Special exception" § 1–101

9–805. SUBDIVISION REGULATIONS — IN GENERAL.

(A) RESERVATION OF PROPERTY.

SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION, THE SUBDIVISION REGULATIONS MAY PROVIDE FOR THE RESERVATION OF PROPERTY FOR TRAFFIC, RECREATION, OR OTHER PUBLIC PURPOSES.

(B) LIMITATION.

A RESERVATION OF PROPERTY UNDER SUBSECTION (A) OF THIS SECTION MAY NOT CONTINUE FOR LONGER THAN 3 YEARS WITHOUT THE WRITTEN APPROVAL OF ALL PERSONS WITH A LEGAL OR EQUITABLE INTEREST IN THE PROPERTY.

(C) NOTICE AND HEARING.

THE SUBDIVISION REGULATIONS SHALL PROVIDE FOR PUBLIC NOTICE AND AN OPPORTUNITY FOR A PUBLIC HEARING BEFORE A PROPERTY MAY BE RESERVED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 5.03(b)(4).

In subsections (a) and (c) of this section, the references to "subdivision" regulations are added for clarity.

In subsection (a) of this section, the former phrase "in Charles County" is deleted as implicit in the organization of material in this subtitle.

Defined terms: "Person" § 1–101
"Regulation" § 1–101
"Subdivision" § 1–101

9–806. SUBDIVISION REGULATIONS — SALE OF INDUSTRIAL PROPERTY.

SECTION 5–301 OF THIS ARTICLE DOES NOT APPLY TO THE SALE OR NEGOTIATION FOR SALE OF INDUSTRIAL PROPERTY.

REVISOR'S NOTE: This section formerly was Art. 66B, § 14.05(e).

The only change is in style.

GENERAL REVISOR'S NOTE TO SUBTITLE

Former Art. 66B, § 14.05(f), which related to new school capacity construction bonds in Charles County, is amended and transferred to Article 24 in preparation for revision in the anticipated Local Government Article. *See* § 4 of Ch. 426, Acts of 2012.

SUBTITLE 9. DORCHESTER COUNTY.

9–901. RESERVED.

SUBTITLE 10. FREDERICK COUNTY.

9–1001. SCOPE OF SUBTITLE.

THIS SUBTITLE APPLIES TO FREDERICK COUNTY.

REVISOR'S NOTE: This section formerly was Art. 66B, § 14.06(a).

The only change is in style.

9–1002. AUTHORITY OF COUNTY COMMISSIONERS TO OVERRULE PLANNING COMMISSION.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS DIVISION, THE BOARD OF COUNTY COMMISSIONERS MAY OVERRULE AN ACTION OF THE COUNTY PLANNING COMMISSION UNDER TITLE 3, SUBTITLE 2 OR 3 OF THIS ARTICLE BY A MAJORITY VOTE OF THE MEMBERSHIP OF THE BOARD OF COUNTY COMMISSIONERS.

REVISOR'S NOTE: This section formerly was Art. 66B, § 14.06(b).

The only changes are in style.

For general provisions relating to the review of planning commission actions by a legislative body or other body with jurisdiction, *see* § 3–205 of this article.

9–1003. TENURE OF BOARD OF APPEALS MEMBERS.

(A) LENGTH OF TERMS.

NOTWITHSTANDING § 4–302 OF THIS ARTICLE, THE MEMBERS OF THE BOARD OF APPEALS MAY BE APPOINTED TO TERMS OF 1 TO 3 YEARS.

(B) STAGGERED TERMS.

THE TERMS OF THE MEMBERS OF THE BOARD OF APPEALS SHALL BE STAGGERED.

REVISOR'S NOTE: This section formerly was Art. 66B, § 14.06(c).

In subsection (b) of this section, the reference to "the members of" the board of appeals is added for clarity.

The only other change is in style.

9–1004. SALE OF CERTAIN PROPERTY BY USE OF UNAPPROVED PLAT OF SUBDIVISION.

IF A PLAT IS APPROVED AND RECORDED IN ACCORDANCE WITH THIS DIVISION BEFORE THE TRANSFER OF THE PROPERTY, § 5–301 OF THIS ARTICLE

DOES NOT APPLY TO A CONTRACT FOR SALE OR NEGOTIATION FOR SALE OF PROPERTY ZONED INDUSTRIAL, COMMERCIAL, OR BOTH INDUSTRIAL AND COMMERCIAL.

REVISOR'S NOTE: This section formerly was Art. 66B, § 14.06(d).

The only changes are in style.

SUBTITLE 11. GARRETT COUNTY.

9–1101. RESERVED.

SUBTITLE 12. HARFORD COUNTY.

9–1201. RESERVED.

SUBTITLE 13. HOWARD COUNTY.

9–1301. SCOPE OF SUBTITLE.

THIS SUBTITLE APPLIES TO HOWARD COUNTY.

REVISOR'S NOTE: This section formerly was Art. 66B, § 14.06.1(a).

The only change is in style.

9–1302. ENFORCEMENT OF ZONING REGULATIONS.

(A) ADMINISTRATIVE PROCEEDING.

IN ADDITION TO THE JURISDICTION GRANTED IN TITLE 11 OF THIS ARTICLE, THE COUNTY COUNCIL MAY PROVIDE BY LOCAL LAW FOR AN ADMINISTRATIVE PROCEEDING TO ENFORCE ITS ZONING REGULATIONS.

(B) CIVIL FINES AND PENALTIES, LIENS, AND ASSESSMENT OF COSTS.

THE LOCAL LAW MAY INCLUDE THE AUTHORITY TO IMPOSE CIVIL FINES AND PENALTIES AND TO CREATE LIENS AND ASSESS COSTS FOR ZONING VIOLATIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 14.06.1(b) and (c).

Defined terms: "Local law" § 1–101

"Regulation" § 1–101

SUBTITLE 14. KENT COUNTY.

9–1401. RESERVED.

SUBTITLE 15. QUEEN ANNE'S COUNTY.

9–1501. RESERVED.

SUBTITLE 16. ST. MARY'S COUNTY.

9–1601. SCOPE OF SUBTITLE.

THIS SUBTITLE APPLIES TO ST. MARY'S COUNTY.

REVISOR'S NOTE: This section formerly was Art. 66B, § 14.07(a).

The only change is in style.

9–1602. PROHIBITION OF CERTAIN LAND USES.

(A) PROHIBITION.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, LAND OR BUILDINGS MAY NOT BE USED FOR CHEMICAL OR CATALYTIC MANUFACTURING, CHEMICAL FABRICATION, GASOLINE PROCESSING, OR REFINING OF PETROLEUM OR PETROLEUM PRODUCTS.

(B) EXCEPTIONS.

SUBSECTION (A) OF THIS SECTION DOES NOT APPLY TO LAND OR BUILDINGS USED:

(1) ON OR BEFORE JULY 23, 1974, FOR CHEMICAL OR CATALYTIC MANUFACTURING, CHEMICAL FABRICATION, GASOLINE FABRICATION, GASOLINE PROCESSING, OR REFINING OF PETROLEUM OR PETROLEUM PRODUCTS; OR

(2) ON OR AFTER JULY 1, 1980, FOR MANUFACTURING ALCOHOL FUEL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 14.07(b).

In subsection (a) of this section, the phrase "[e]xcept as provided in subsection (b) of this section," is added for clarity.

Also in subsection (a) of this section, the disjunctive "or" is substituted for the former conjunctive "and" to clarify that the prohibition applies separately to land or buildings and for consistency with subsection (b) of this section.

In the introductory language to subsection (b) of this section, the reference to "[s]ubsection (a) of this section" is substituted for the former reference to "[t]his prohibition" for clarity.

9–1603. RACETRACK HOURS OF OPERATION.

(A) CESSATION OF OPERATION.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, ANY LAND OR BUILDING USED FOR RACES OR SPEED CONTESTS INVOLVING AUTOMOBILES OR OTHER VEHICLES, AS DEFINED IN § 11–176 OF THE TRANSPORTATION ARTICLE, SHALL CEASE OPERATION:

(1) BY 12:30 A.M.; OR

(2) IF A RACE OR SPEED CONTEST IS IN PROGRESS AT 12:30 A.M., WITHIN 30 MINUTES AFTER THE CONCLUSION OF THAT RACE OR SPEED CONTEST.

(B) EXCEPTION.

THE REQUIRED CLOSING TIME FOR LAND OR BUILDINGS UNDER SUBSECTION (A) OF THIS SECTION DOES NOT APPLY TO AREAS USED FOR THE OPERATION OF CONCESSIONS OR TO A PASSAGE USED AS AN ENTRANCE TO OR EXIT FROM THE CONCESSION AREAS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 14.07(c).

In subsection (a) of this section, the phrase "shall cease operation" is substituted for the former phrase "shall be restricted to hours of operation that cease" for brevity.

In subsection (b) of this section, the disjunctive "or" is substituted for the former conjunctive "and" to clarify that the exception applies separately to land or buildings and for consistency with subsection (a) of this section.

9–1604. TENURE OF BOARD OF APPEALS MEMBERS.

(A) LENGTH OF TERMS.

NOTWITHSTANDING § 4–302 OF THIS ARTICLE, THE MEMBERS OF THE BOARD OF APPEALS MAY BE APPOINTED TO TERMS OF 1 TO 3 YEARS.

(B) STAGGERED TERMS.

THE TERMS OF THE MEMBERS OF THE BOARD OF APPEALS SHALL BE STAGGERED.

REVISOR'S NOTE: This section formerly was Art. 66B, § 14.07(d).

The only change is in style.

9–1605. SALE OF INDUSTRIAL PROPERTY BY USE OF UNAPPROVED PLAT OF SUBDIVISION.

SECTION 5–301 OF THIS ARTICLE DOES NOT APPLY TO THE SALE OR NEGOTIATION FOR SALE OF INDUSTRIAL PROPERTY.

REVISOR'S NOTE: This section formerly was Art. 66B, § 14.07(e)(1).

The only change is in style.

9–1606. SUBDIVISION REGULATIONS — EXEMPTION.

A PROPERTY DEEDED BEFORE JANUARY 1, 1994, AND IMPROVED WITH A RESIDENCE BEFORE JANUARY 1, 2007, IS EXEMPT FROM THE SUBDIVISION REGULATIONS ADOPTED BY THE COUNTY UNDER TITLE 5 OF THIS ARTICLE FOR PURPOSES OF CONSTRUCTING ADDITIONS TO THE RESIDENCE OR ACCESSORY BUILDINGS.

REVISOR'S NOTE: This section formerly was Art. 66B, § 14.07(e)(2).

The only changes are in style.

Defined terms: "Regulation" § 1–101
"Subdivision" 1–101

9–1607. CIVIL PENALTY FOR SUBDIVISION VIOLATION.

(A) AUTHORITY OF COUNTY COMMISSIONERS.

NOTWITHSTANDING § 5–301(A) OF THIS ARTICLE, THE COUNTY COMMISSIONERS MAY PROVIDE A CIVIL PENALTY FOR A SUBDIVISION VIOLATION.

(B) ENFORCEMENT.

IN A PROCEEDING BEFORE THE DISTRICT COURT, A SUBDIVISION VIOLATION SHALL BE ENFORCED IN THE SAME MANNER AND TO THE SAME EXTENT AS A MUNICIPAL INFRACTION UNDER ARTICLE 23A, § 3(B) OF THE CODE.

REVISOR'S NOTE: This section formerly was Art. 66B, § 14.07(f).

The only change is in style.

Defined term: "Subdivision" § 1–101

9–1608. CIVIL PENALTY FOR ZONING VIOLATION.

(A) AUTHORITY OF COUNTY COMMISSIONERS.

NOTWITHSTANDING TITLE 11, SUBTITLE 2 OF THIS ARTICLE, THE COUNTY COMMISSIONERS MAY PROVIDE A CIVIL PENALTY FOR A ZONING VIOLATION.

(B) ENFORCEMENT.

IN A PROCEEDING BEFORE THE DISTRICT COURT, A ZONING VIOLATION SHALL BE ENFORCED IN THE SAME MANNER AND TO THE SAME EXTENT AS A MUNICIPAL INFRACTION UNDER ARTICLE 23A, § 3(B) OF THE CODE.

REVISOR'S NOTE: This section formerly was Art. 66B, § 14.07(g).

The only change is in style.

SUBTITLE 17. SOMERSET COUNTY.

9–1701. RESERVED.

SUBTITLE 18. TALBOT COUNTY.

9–1801. RESERVED.

SUBTITLE 19. WASHINGTON COUNTY.

9–1901. SCOPE OF SUBTITLE.

EXCEPT FOR LAND WITHIN A MUNICIPAL CORPORATION, THIS SUBTITLE APPLIES TO WASHINGTON COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 14.08(b).

The former phrase "in Washington County" is deleted as surplusage.

9–1902. ADEQUATE PUBLIC FACILITIES LAW.

(A) "PUBLIC FACILITIES" DEFINED.

IN THIS SECTION, "PUBLIC FACILITIES" MEANS SCHOOLS, ROADS, WATER, WASTEWATER, AND STORMWATER MANAGEMENT FACILITIES, AND OTHER INFRASTRUCTURE SUPPORTED BY THE FEDERAL, STATE, OR LOCAL GOVERNMENT FOR PUBLIC PURPOSES.

(B) AUTHORITY TO ADOPT LOCAL LAW.

IN ADDITION TO THE AUTHORITY GRANTED IN TITLE 7, SUBTITLE 1 OF THIS ARTICLE, THE COUNTY COMMISSIONERS MAY PROVIDE BY LOCAL LAW FOR THE PROVISION AND FINANCING OF ADEQUATE PUBLIC FACILITIES CONCURRENTLY WITH THE NEED FOR THOSE FACILITIES.

(C) CONTENTS OF LOCAL LAW.

THE LOCAL LAW MAY INCLUDE THE AUTHORITY FOR THE COUNTY COMMISSIONERS TO:

(1) DETERMINE THE FUNCTIONAL OR DESIGN CAPACITY OF PUBLIC FACILITIES;

(2) ESTABLISH STANDARDS FOR DETERMINING THE ADEQUACY OF PUBLIC FACILITIES;

(3) DETERMINE SCHOOL CAPACITY STANDARDS;

(4) DETERMINE THE STUDENT YIELD FACTORS FOR SCHOOLS AT VARIOUS LEVELS;

(5) ESTABLISH CATEGORIES OF DEVELOPMENTS THAT WILL BE EXEMPT FROM THE APPLICATION OF THE LOCAL LAW;

(6) ESTABLISH FORMULAS FOR MEASURING AVAILABLE CAPACITY OF PUBLIC FACILITIES;

(7) DETERMINE THE ADEQUACY OF PUBLIC FACILITIES IN AREAS AFFECTED BY NEW DEVELOPMENTS IN THE DEVELOPMENT PLAN REVIEW PROCESS;

(8) ENTER INTO AGREEMENTS WITH DEVELOPERS PROVIDING FOR THE PAYMENT OF MONETARY COMPENSATION TO ADDRESS INADEQUACIES IN PUBLIC FACILITIES CAUSED BY PROPOSED DEVELOPMENTS AS A PART OF THE DEVELOPMENT PLAN APPROVAL PROCESS;

(9) DETERMINE THE VALUE OF IN–KIND CONTRIBUTIONS OF EQUIVALENT VALUE SUCH AS REAL ESTATE;

(10) REQUIRE FORFEITURE OF CONTRIBUTIONS 3 YEARS AFTER FINAL PLAT APPROVAL;

(11) ESTABLISH AN APPEAL PROCESS FOR DECISIONS MADE UNDER THE LOCAL LAW;

(12) LIMIT THE NUMBER OF BUILDING PERMITS IN ANY SCHOOL DISTRICT; AND

(13) LIMIT THE NUMBER OF RESIDENTIAL BUILDING LOTS APPROVED FOR DEVELOPMENT ON AN ANNUAL BASIS.

(D) PENALTY FOR VIOLATION OF LOCAL LAW.

THE LOCAL LAW MAY AUTHORIZE THE COUNTY COMMISSIONERS TO IMPOSE CIVIL FINES AND PENALTIES FOR ANY VIOLATION OF THE LOCAL LAW.

REVISOR'S NOTE: This section formerly was Art. 66B, § 14.08(a) and (c) through (e).

The only changes are in style.

Defined terms: "Development" § 1–101
"Local law" § 1–101
"Plan" § 1–101
"State" § 1–101

SUBTITLE 20. WICOMICO COUNTY.

9–2001. RESERVED.

SUBTITLE 21. WORCESTER COUNTY.

9–2101. SCOPE OF SUBTITLE.

THIS SUBTITLE APPLIES TO WORCESTER COUNTY.

REVISOR'S NOTE: This section formerly was Art. 66B, § 14.09(a).

The only change is in style.

9–2102. CONDITIONAL ZONING AUTHORITY.

(A) AUTHORITY TO IMPOSE CONDITIONS.

NOTWITHSTANDING ANY OTHER LAW, ON THE ZONING OR REZONING OF LAND, THE COUNTY COMMISSIONERS MAY IMPOSE APPROPRIATE RESTRICTIONS OR CONDITIONS TO PRESERVE OR IMPROVE THE GENERAL CHARACTER AND DESIGN OF:

(1) THE LAND AND IMPROVEMENTS BEING ZONED OR REZONED; OR

(2) THE SURROUNDING LAND AND IMPROVEMENTS.

(B) AUTHORITY TO APPROVE OR DISAPPROVE DESIGN.

ON THE ZONING OR REZONING OF LAND, THE COUNTY COMMISSIONERS MAY RETAIN THE POWER TO APPROVE OR DISAPPROVE THE DESIGN OF BUILDINGS, CONSTRUCTION, LANDSCAPING, OR OTHER IMPROVEMENTS OR ALTERATIONS MADE ON THE LAND TO ASSURE CONFORMITY WITH THE PURPOSES OF THIS DIVISION AND THE COUNTY ZONING LAW.

(C) PROCEDURES.

THE COUNTY COMMISSIONERS MAY EXERCISE THE POWER GRANTED UNDER THIS SECTION ONLY IF THE COUNTY COMMISSIONERS ADOPT A LOCAL LAW THAT INCLUDES:

(1) ENFORCEMENT PROCEDURES; AND

(2) REQUIREMENTS FOR ADEQUATE NOTICE OF PUBLIC HEARINGS AND CONDITIONS SOUGHT TO BE IMPOSED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 14.09(b).

In the introductory language to subsection (a) of this section, the reference to "appropriate restrictions or conditions" is substituted for the former reference to "restrictions, conditions, or limitations considered by the County Commissioners to be appropriate" for brevity.

Also in the introductory language to subsection (a) of this section, the former word "protect" is deleted as redundant of the word "preserve".

In subsection (a)(2) of this section, the former word "adjacent" is deleted as unnecessary in light of the word "surrounding".

In subsection (b) of this section, the reference to the "county" commissioners is added for clarity.

Also in subsection (b) of this section, the former word "reserve" is deleted as redundant of the word "retain".

Also in subsection (b) of this section, the former word "changes" is deleted as included in the word "alterations".

Also in subsection (b) of this section, the former word "intent" is deleted as redundant of the word "purposes".

Defined terms: "Local law" § 1–101
"Zoning law" § 1–101

9–2103. ZONING APPLICATION REQUIREMENTS.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS DIVISION OR OF THE LOCAL LAWS OF THE COUNTY, AN APPLICATION FOR ZONING CLASSIFICATION OR RECLASSIFICATION SHALL CONTAIN THE FOLLOWING INFORMATION:

(1) IF THE APPLICANT IS A CORPORATION, THE NAMES AND RESIDENCES OF THE OFFICERS, DIRECTORS, AND ALL STOCKHOLDERS OWNING MORE THAN 20% OF THE CAPITAL STOCK OF THE CORPORATION;

(2) IF THE APPLICANT IS A GENERAL OR LIMITED PARTNERSHIP, THE NAMES AND RESIDENCES OF ALL PARTNERS WHO OWN MORE THAN 20% OF THE INTEREST OF THE PARTNERSHIP;

(3) IF THE APPLICANT IS AN INDIVIDUAL, THE APPLICANT'S NAME AND RESIDENCE; OR

(4) IF THE APPLICANT IS A JOINT VENTURE, UNINCORPORATED ASSOCIATION, REAL ESTATE INVESTMENT TRUST, OR OTHER BUSINESS TRUST OR STATUTORY TRUST, THE NAMES AND RESIDENCES OF ALL PERSONS HOLDING AN INTEREST OF MORE THAN 20% IN THE JOINT VENTURE, UNINCORPORATED ASSOCIATION, REAL ESTATE INVESTMENT TRUST, OR OTHER BUSINESS TRUST OR STATUTORY TRUST.

REVISOR'S NOTE: This section formerly was Art. 66B, § 14.09(c).

The only changes are in style.

Defined terms: "Local law" § 1–101
"Person" § 1–101

TITLE 10. BALTIMORE CITY ZONING.

SUBTITLE 1. GENERAL PROVISIONS.

10–101. "BOARD" DEFINED.

IN THIS TITLE, "BOARD" MEANS THE BOARD OF MUNICIPAL AND ZONING APPEALS.

REVISOR'S NOTE: This section is new language added to avoid repetition of the full title "Board of Municipal and Zoning Appeals".

10–102. CONFLICT WITH OTHER LAWS.

(A) REGULATIONS ADOPTED UNDER THIS TITLE GOVERN.

A REGULATION ADOPTED UNDER THIS TITLE THAT CONFLICTS WITH ANY STATUTE, LOCAL LAW, OR OTHER REGULATION SHALL GOVERN IF THE REGULATION ADOPTED UNDER THIS TITLE:

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

(2) REQUIRES A LOWER HEIGHT OF BUILDINGS;

(3) REQUIRES A REDUCED NUMBER OF STORIES;

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

(5) IMPOSES A MORE RESTRICTIVE STANDARD.

(B) STATUTES OR LOCAL LAWS GOVERN.

A STATUTE, LOCAL LAW, OR OTHER REGULATION THAT CONFLICTS WITH A REGULATION ADOPTED UNDER THIS TITLE SHALL GOVERN IF THE STATUTE, LOCAL LAW, OR OTHER REGULATION:

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

(2) REQUIRES A LOWER HEIGHT OF BUILDINGS;

(3) REQUIRES A REDUCED NUMBER OF STORIES;

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

(5) IMPOSES A MORE RESTRICTIVE STANDARD.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 2.11. It is restated for consistency with the corresponding provisions of § 1–202(a) and (b) of this article.

Defined terms: "Local law" § 1–101
"Regulation" § 1–101

10–103. LIMITED APPLICATION OF DIVISION.

(A) PROVISIONS NOT APPLICABLE TO BALTIMORE CITY.

EXCEPT AS PROVIDED IN THIS SECTION, THIS DIVISION DOES NOT APPLY TO BALTIMORE CITY.

(B) PROVISIONS APPLICABLE TO BALTIMORE CITY.

THE FOLLOWING PROVISIONS OF THIS DIVISION APPLY TO BALTIMORE CITY:

(1) THIS TITLE;

(2) § 1–101(M) (DEFINITIONS – "PRIORITY FUNDING AREA");

(3) § 1–101(O) (DEFINITIONS – "SENSITIVE AREA");

(4) § 1–201 (VISIONS);

(5) § 1–206 (REQUIRED EDUCATION);

(6) § 1–207 (ANNUAL REPORT – IN GENERAL);

(7) § 1–208 (ANNUAL REPORT – MEASURES AND INDICATORS);

(8) TITLE 1, SUBTITLE 3 (CONSISTENCY);

(9) TITLE 1, SUBTITLE 4, PARTS II AND III (HOME RULE COUNTIES – COMPREHENSIVE PLANS; IMPLEMENTATION);

(10) § 4–104(B) (LIMITATIONS – BICYCLE PARKING);

(11) § 4–205 (ADMINISTRATIVE ADJUSTMENTS);

(12) § 4–207 (EXCEPTIONS – MARYLAND ACCESSIBILITY CODE);

(13) § 5–201(D) (SUBDIVISION REGULATIONS – BURIAL SITES);

(14) TITLE 7, SUBTITLE 1 (DEVELOPMENT MECHANISMS);

(15) TITLE 7, SUBTITLE 2 (TRANSFER OF DEVELOPMENT RIGHTS);

(16) TITLE 7, SUBTITLE 3 (DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENTS);

(17) TITLE 7, SUBTITLE 4 (INCLUSIONARY ZONING); AND

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

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 2.13 and, as it related to required education for members of a board of appeals, § 4.07(i)(1).

SUBTITLE 2. POWERS.

10–201. STATEMENT OF POLICY.

(A) PLANNING AND ZONING CONTROLS.

IT IS THE POLICY OF THE STATE THAT:

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

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

(B) LIMITATION OF FREE BUSINESS ENTERPRISE AND COMPETITION.

TO ACHIEVE THE PUBLIC PURPOSES OF THIS REGULATORY SCHEME, THE GENERAL ASSEMBLY RECOGNIZES THAT LOCAL GOVERNMENT ACTION WILL LIMIT FREE BUSINESS ENTERPRISE AND COMPETITION BY OWNERS AND USERS OF PROPERTY THROUGH THE PLANNING AND ZONING CONTROLS SET FORTH IN THIS TITLE AND ELSEWHERE IN THE PUBLIC GENERAL AND PUBLIC LOCAL LAWS.

REVISOR'S NOTE: This section formerly was Art. 66B, § 2.01(a).

The only changes are in style.

Defined terms: "Development" § 1–101
"Regulation" § 1–101
"State" § 1–101

10–202. GENERAL POWERS.

TO PROMOTE THE HEALTH, SAFETY, AND GENERAL WELFARE OF THE COMMUNITY, THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY MAY REGULATE:

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

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

(3) OFF–STREET PARKING;

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

(5) POPULATION DENSITY; AND

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

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 2.01(b).

In the introductory language to this section, the reference to "safety" is substituted for the former reference to "security" for consistency with the corresponding provision of § 4–102 of this article.

Also in the introductory language to this section, the former reference to "morals" is deleted as beyond the scope of governmental regulation.

Also in the introductory language to this section, the former word "restrict" is deleted as implicit in the word "regulate".

Also in the introductory language to this section, the former reference to regulation "for trade, industry, residence, or other purposes" is deleted as surplusage.

10–203. LIMITATIONS.

THE POWERS GRANTED TO THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY UNDER THIS TITLE DO NOT:

(1) GRANT TO THE MAYOR AND CITY COUNCIL POWERS IN ANY SUBSTANTIVE AREA NOT OTHERWISE GRANTED TO THE MAYOR AND CITY COUNCIL BY ANY OTHER PUBLIC GENERAL OR PUBLIC LOCAL LAW;

(2) RESTRICT THE MAYOR AND CITY COUNCIL FROM EXERCISING ANY POWER GRANTED TO THE MAYOR AND CITY COUNCIL BY ANY OTHER PUBLIC GENERAL OR PUBLIC LOCAL LAW OR OTHERWISE;

(3) AUTHORIZE THE MAYOR AND CITY COUNCIL OR THE OFFICERS OF BALTIMORE CITY TO ENGAGE IN ANY ACTIVITY THAT IS BEYOND THEIR POWER UNDER ANY OTHER PUBLIC GENERAL LAW OR PUBLIC LOCAL LAW OR OTHERWISE; OR

(4) PREEMPT OR SUPERSEDE THE REGULATORY AUTHORITY OF ANY UNIT OF THE STATE UNDER ANY PUBLIC GENERAL LAW.

REVISOR'S NOTE: This section formerly was Art. 66B, § 2.01(c).

In item (4) of this section, the reference to a "unit of the State" is substituted for the former reference to a "State department or agency" for brevity and consistency with other revised articles of the Code. *See* General Revisor's Note to article.

The only other changes are in style.

Defined term: "State" § 1–101

10–204. HISTORIC AND LANDMARK ZONING AND PRESERVATION.

(A) ENACTMENTS AUTHORIZED.

TO PRESERVE STRUCTURES AND LANDMARKS OF HISTORIC AND ARCHITECTURAL VALUE AS A PUBLIC PURPOSE OF THE STATE, THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY MAY ENACT LAWS FOR HISTORIC AND LANDMARK ZONING AND PRESERVATION.

(B) NO RESTRICTION OF OTHER POWERS.

THIS SECTION DOES NOT RESTRICT ANY CHARTER POWER OR OTHER POWER OF BALTIMORE CITY.

REVISOR'S NOTE: This section formerly was Art. 66B, § 2.12.

No changes are made.

Defined term: "State" § 1–101

SUBTITLE 3. DESIGNATION AND ADOPTION.

10–301. DISTRICTS AND ZONES.

(A) IN GENERAL.

THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY MAY DIVIDE BALTIMORE CITY INTO DISTRICTS AND ZONES OF ANY NUMBER, SHAPE, AND AREA AS THEY DETERMINE ARE BEST SUITED TO CARRY OUT THE PURPOSES LISTED IN § 10–302 OF THIS SUBTITLE.

(B) AUTHORIZED ACTION WITHIN DISTRICTS AND ZONES.

(1) WITHIN THE DISTRICTS AND ZONES, THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY MAY REGULATE THE CONSTRUCTION, ALTERATION, REPAIR, OR USE OF BUILDINGS, STRUCTURES, OR LAND.

(2) (I) ZONING REGULATIONS ADOPTED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY UNDER THIS SUBTITLE SHALL BE UNIFORM FOR EACH CLASS OR KIND OF DEVELOPMENT THROUGHOUT EACH DISTRICT OR ZONE.

(II) ZONING REGULATIONS IN ONE DISTRICT OR ZONE MAY DIFFER FROM THOSE IN OTHER DISTRICTS OR ZONES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 2.02.

In this section and throughout this subtitle, the references to "zone[s]" are added for consistency with corresponding provisions of Titles 4 and 22 of this article, which govern zoning in noncharter jurisdictions and the regional district, respectively.

In subsection (b)(1) of this section, the former word "restrict" is deleted as implicit in the word "regulate".

Also in subsection (b)(1) of this section, the former references to "erection" and "reconstruction" are deleted as implicit in the reference to "construction".

In subsection (b)(2) of this section and throughout this subtitle, the references to "[z]oning" regulations are added for clarity.

Defined terms: "Development" § 1–101

"Regulation" § 1–101

10–302. ZONING REGULATIONS — PURPOSES; CONSIDERATIONS.

ZONING REGULATIONS ADOPTED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY UNDER THIS SUBTITLE SHALL:

(1) BE IN ACCORDANCE WITH THE PLAN;

(2) BE DESIGNED TO:

(I) CONTROL STREET CONGESTION;

(II) PROMOTE HEALTH, PUBLIC SAFETY, AND GENERAL WELFARE;

(III) PROVIDE ADEQUATE LIGHT AND AIR;

(IV) PROMOTE THE CONSERVATION OF NATURAL RESOURCES;

(V) PREVENT ENVIRONMENTAL POLLUTION;

(VI) AVOID AN UNDUE CONCENTRATION OF POPULATION; AND

(VII) PROMOTE OR FACILITATE ADEQUATE TRANSPORTATION, WATER, SEWERAGE, SCHOOLS, RECREATION, PARKS, AND OTHER PUBLIC FACILITIES; AND

(3) INCLUDE REASONABLE CONSIDERATION FOR:

(I) THE CHARACTER OF THE DISTRICT OR ZONE AND ITS SUITABILITY FOR PARTICULAR USES;

(II) THE CONSERVATION OF THE VALUE OF BUILDINGS AND OTHER STRUCTURES; AND

(III) ENCOURAGEMENT FOR ORDERLY DEVELOPMENT AND THE MOST APPROPRIATE USE OF LAND THROUGHOUT BALTIMORE CITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 2.03.

In item (2)(vii) of this section, the reference to public "facilities" is substituted for the former reference to public "requirements" for clarity.

Also in item (2)(vii) of this section, the reference to "promot[ing] or facilitat[ing] adequate" public facilities is substituted for the former reference to "[f]acilitat[ing] the adequate provision of" public facilities for clarity.

In item (3)(ii) of this section, the reference to conservation of the value of "other structures" is added for clarity.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in item (2)(vi) of this section, the concept of simply "avoid[ing] an undue concentration of population" may be considered obsolete in relation to more modern, legislatively endorsed policies such as smart growth, preservation of open space, use of cluster development, and priority funding areas. The General Assembly may wish to clarify the relationship of this item in relation to other policies for managing growth while balancing legislatively endorsed policies.

Defined terms: "Development" § 1–101
"Plan" § 1–101
"Regulation" § 1–101

10–303. ZONING REGULATIONS — PROCEDURE; PUBLIC HEARINGS.

(A) PROCEDURE.

THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY SHALL PROVIDE FOR THE MANNER IN WHICH ZONING REGULATIONS AND THE BOUNDARIES OF DISTRICTS AND ZONES SHALL BE ESTABLISHED, ENFORCED, AND AMENDED.

(B) PUBLIC HEARINGS; EFFECT.

(1) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY SHALL HOLD AT LEAST ONE PUBLIC HEARING ON A PROPOSED ZONING REGULATION OR BOUNDARY AT WHICH PARTIES IN INTEREST AND CITIZENS HAVE AN OPPORTUNITY TO BE HEARD.

(2) THE ZONING REGULATION OR BOUNDARY MAY NOT BECOME EFFECTIVE UNTIL AFTER THE HEARING OR HEARINGS.

(C) HEARING NOTICE — GENERALLY.

AT LEAST 15 DAYS BEFORE A PUBLIC HEARING IS HELD UNDER THIS SECTION, THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY SHALL PUBLISH NOTICE OF THE TIME AND PLACE OF THE HEARING IN A NEWSPAPER OF GENERAL CIRCULATION IN BALTIMORE CITY.

(D) HEARING NOTICE — ZONING DISTRICT BOUNDARY CHANGES.

IF A HEARING UNDER THIS SECTION WILL BE ON A PROPOSED CHANGE IN THE BOUNDARIES OF A DISTRICT OR ZONE, THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY SHALL:

(1) POST A SIMILAR NOTICE AT A PLACE DESIGNATED BY THE RESPECTIVE ZONING AUTHORITIES WITHIN THE DISTRICT OR ZONE PROPOSED TO BE CHANGED; AND

(2) MAIL NOTICE OF THE PROPOSED CHANGE BY UNITED STATES FIRST–CLASS MAIL TO ANY PERSON WHOSE NAME LAST APPEARED IN THE BALTIMORE CITY TAX RECORDS AS THE OWNER OF THE PROPERTY PROPOSED TO BE CHANGED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 2.04.

In this section and throughout this subtitle, the former references to "restriction[s]" are deleted as implicit in the term "regulation[s]".

In subsection (a) of this section, the former word "determined" is deleted as implicit in the word "established".

Also in subsection (a) of this section, the former word "periodically" is deleted as surplusage.

In subsection (b)(1) of this section, the language requiring the Mayor and City Council of Baltimore City to hold a hearing on a proposed regulation or boundary is added to state affirmatively that which was only implied in the former law.

In subsection (c) of this section, the former reference to "an official paper" is deleted as included in the reference to "a newspaper of general circulation".

In subsection (d)(1) of this section, the former reference to "places" is deleted in light of the reference to "a place" and Art. 1, § 8, which provides that the singular generally includes the plural.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in subsection (b)(1) of this section, the relationship between the status of a "citizen" as one with an opportunity to be heard as opposed to that of a "resident" is unclear.

Defined terms: "Person" § 1–101
"Regulation" § 1–101

10–304. ZONING REGULATIONS — AMENDMENT, REPEAL, AND RECLASSIFICATION.

(A) AUTHORITY.

THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY MAY AMEND OR REPEAL ZONING REGULATIONS AND BOUNDARIES.

(B) RECLASSIFICATION.

(1) IF THE PURPOSE AND EFFECT OF A PROPOSED MAP AMENDMENT IS TO CHANGE THE ZONING CLASSIFICATION OF PARTICULAR PROPERTY, THE CITY COUNCIL SHALL MAKE FINDINGS OF FACT THAT ADDRESS:

(I) POPULATION CHANGE;

(II) THE AVAILABILITY OF PUBLIC FACILITIES;

(III) PRESENT AND FUTURE TRANSPORTATION PATTERNS;

(IV) COMPATIBILITY WITH EXISTING AND PROPOSED DEVELOPMENT FOR THE AREA;

(V) THE RECOMMENDATIONS OF THE BALTIMORE CITY PLANNING COMMISSION AND THE BOARD; AND

(VI) THE RELATIONSHIP OF THE PROPOSED AMENDMENT TO BALTIMORE CITY'S PLAN.

(2) THE CITY COUNCIL MAY GRANT THE AMENDMENT TO CHANGE THE ZONING CLASSIFICATION BASED ON A FINDING THAT THERE WAS:

(I) A SUBSTANTIAL CHANGE IN THE CHARACTER OF THE NEIGHBORHOOD WHERE THE PROPERTY IS LOCATED; OR

(II) A MISTAKE IN THE EXISTING ZONING CLASSIFICATION.

(3) THE CITY COUNCIL MAY NOT ALLOW THE FILING OF AN APPLICATION FOR A RECLASSIFICATION OF A TRACT OR PARCEL OF LAND FOR WHICH A RECLASSIFICATION HAS BEEN DENIED BY THE CITY COUNCIL ON THE MERITS IN THE 12 MONTHS BEFORE THE DATE OF THE APPLICATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 2.05(a) and (c).

In subsection (a) of this section, the former word "periodically" is deleted as surplusage.

In the introductory language to subsection (b)(1) of this section, the reference to a "map" amendment is added for clarity. *See also* § 4–204(b)(1) of this article.

In the introductory language to subsection (b)(2) of this section, the reference to an amendment "to change the zoning classification" is added for clarity and consistency with § 4–204(b)(2) of this article.

Subsection (b)(3) of this section is restated for conformity with the corresponding provision of § 4–204(b)(4).

Defined terms: "Board" § 10–101
"Development" § 1–101
"Plan" § 1–101
"Regulation" § 1–101

10–305. CHANGES TO BOUNDARIES OF DISTRICTS OR ZONES.

(A) FUNCTIONS OF PLANNING COMMISSION AND BOARD.

(1) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY SHALL REFER PROPOSED CHANGES TO THE BOUNDARIES OF A DISTRICT OR ZONE TO THE BALTIMORE CITY PLANNING COMMISSION AND TO THE BOARD.

(2) THE PLANNING COMMISSION AND THE BOARD SHALL:

(I) STUDY THE PROPOSED CHANGES IN RELATION TO:

1. THE PLAN;

2. THE NEEDS OF BALTIMORE CITY; AND

3. THE NEEDS OF THE PARTICULAR NEIGHBORHOOD IN THE VICINITY OF THE PROPOSED CHANGES; AND

(II) REPORT THEIR FINDINGS AND RECOMMENDATIONS TO THE MAYOR AND CITY COUNCIL.

(3) IF THE PLANNING COMMISSION AND THE BOARD RECOMMEND DISAPPROVAL OF THE PROPOSED CHANGES TO THE BOUNDARIES OF A DISTRICT OR ZONE, THE CHANGES MAY NOT TAKE EFFECT UNLESS A MAJORITY OF THE MEMBERS OF THE CITY COUNCIL VOTE TO APPROVE THE CHANGES.

(B) PUBLIC HEARINGS AND NOTICE.

THE PROVISIONS OF § 10–303 OF THIS SUBTITLE CONCERNING PUBLIC HEARINGS AND NOTICE APPLY TO ALL CHANGES OR AMENDMENTS TO REGULATIONS AND BOUNDARIES.

REVISOR'S NOTE: This section formerly was Art. 66B, § 2.05(b) and (d).

In subsection (b) of this section, the former reference to "official" notice is deleted as surplusage.

Also in subsection (b) of this section, the former reference to provisions applying "equally" is deleted as surplusage.

The only other changes are in style.

Defined terms: "Board" § 10–101
"Plan" § 1–101
"Regulation" § 1–101

SUBTITLE 4. IMPLEMENTATION.

10–401. ENFORCEMENT.

(A) IN GENERAL.

A VIOLATION OF THIS TITLE OR A LOCAL LAW ENACTED OR REGULATION ADOPTED UNDER THIS TITLE IS A MISDEMEANOR.

(B) AUTHORITY OF MAYOR AND CITY COUNCIL OF BALTIMORE CITY.

(1) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY MAY PROVIDE BY LOCAL LAW FOR THE ENFORCEMENT OF THIS TITLE AND ANY LOCAL LAW ENACTED OR REGULATION ADOPTED UNDER THIS TITLE.

(2) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY MAY:

(I) REQUIRE PUNISHMENT BY FINE OR IMPRISONMENT OR BOTH; AND

(II) ENACT OR ADOPT CIVIL PENALTIES FOR A VIOLATION.

(3) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY MAY PROVIDE BY LOCAL LAW THAT A VIOLATION OF THIS TITLE OR A LOCAL LAW ENACTED OR REGULATION ADOPTED UNDER THIS TITLE IS A CIVIL ZONING VIOLATION.

(C) ADDITIONAL REMEDIES.

IN ADDITION TO ANY OTHER AVAILABLE REMEDIES, THE PROPER AUTHORITIES OF BALTIMORE CITY MAY INSTITUTE ANY APPROPRIATE ACTION OR PROCEEDINGS TO:

(1) PREVENT THE UNLAWFUL CONSTRUCTION, ALTERATION, REPAIR, CONVERSION, MAINTENANCE, OR USE OF A SIGN, A BUILDING, A STRUCTURE, OR LAND IN VIOLATION OF THIS TITLE OR ANY LOCAL LAW ENACTED OR REGULATION ADOPTED UNDER THIS TITLE;

(2) RESTRAIN, CORRECT, OR ABATE THE VIOLATION;

(3) PREVENT THE OCCUPANCY OF THE BUILDING, STRUCTURE, OR LAND; OR

(4) PREVENT ANY ILLEGAL ACT, CONDUCT, BUSINESS, OR USE IN OR ABOUT THE PREMISES OF THE BUILDING, STRUCTURE, OR LAND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 2.10.

In subsection (b)(3) of this section, the former requirement that "[a] civil zoning violation shall be enforced as provided in § 7.02 of this article" is deleted as redundant of § 10–103 of this title and the explicit terms of

Title 11, Subtitle 2 of this article, which provides for enforcement of civil zoning violations.

In the introductory language to subsection (c) of this section, the former reference to "local" authorities is deleted as implicit in the reference to "Baltimore City".

In subsection (c)(1) of this section, the former references to "erection" and "reconstruction" are deleted as implicit in the reference to "construction".

Defined terms: "Local law" § 1–101
"Regulation" § 1–101

10–402. HEARING EXAMINERS.

(A) APPOINTMENT.

THE CITY COUNCIL OF BALTIMORE CITY MAY APPOINT FULL– AND PART–TIME HEARING EXAMINERS THAT IT CONSIDERS NECESSARY AND APPROPRIATE TO CONDUCT PUBLIC HEARINGS AS REQUIRED UNDER §§ 10–303 THROUGH 10–305 OF THIS TITLE.

(B) TENURE OF OFFICE, QUALIFICATIONS, AND COMPENSATION.

THE CITY COUNCIL SHALL ESTABLISH THE TERM OF OFFICE, QUALIFICATIONS, AND COMPENSATION FOR HEARING EXAMINERS.

(C) HEARINGS.

A HEARING EXAMINER SHALL CONDUCT A HEARING IN THE SAME MANNER AND SUBJECT TO THE SAME RULES AS A HEARING CONDUCTED BY THE CITY COUNCIL.

(D) WRITTEN RECOMMENDATION.

A HEARING EXAMINER SHALL ISSUE A WRITTEN RECOMMENDATION IN THE TIME, MANNER, AND FORM ESTABLISHED BY THE CITY COUNCIL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 2.06.

In subsection (a) of this section, the reference to conducting public hearings as required under "§§ 10–303 through 10–305 of this title" is

substituted for the former incomplete reference to such hearings under "§ 2.05 of this subtitle" for clarity.

Also in subsection (a) of this section, the former word "periodically" is deleted as surplusage.

Also in subsection (a) of this section, the former reference to "[d]elegat[ing] to any hearing examiner the power" to conduct public hearings is deleted as surplusage.

In subsection (c) of this section, the former word "regulations" is deleted as implicit in the word "rules".

10–403. BOARD — ESTABLISHED.

(A) APPOINTMENT.

WITH THE ADVICE AND CONSENT OF THE CITY COUNCIL, THE MAYOR MAY PROVIDE FOR THE APPOINTMENT OF A BOARD OF MUNICIPAL AND ZONING APPEALS.

(B) MEMBERSHIP.

(1) THE BOARD SHALL CONSIST OF FIVE MEMBERS.

(2) (I) THE TERM OF A MEMBER OF THE BOARD IS 4 YEARS.

(II) THE TERMS OF THE MEMBERS OF THE BOARD SHALL BE STAGGERED AS PROVIDED ON OCTOBER 1, 2012.

(3) WITH THE ADVICE AND CONSENT OF THE CITY COUNCIL, THE MAYOR SHALL APPOINT AN INDIVIDUAL TO FILL THE UNEXPIRED TERM OF ANY MEMBER.

(4) ON WRITTEN CHARGES AND AFTER A PUBLIC HEARING, THE MAYOR MAY REMOVE ANY MEMBER OF THE BOARD FOR CAUSE.

(C) RULES; MEETINGS; WITNESSES; MINUTES; RECORDS.

(1) THE BOARD SHALL ADOPT RULES IN ACCORDANCE WITH ANY LOCAL LAW ADOPTED UNDER THIS TITLE.

(2) MEETINGS OF THE BOARD SHALL BE:

(I) HELD AT THE CALL OF THE CHAIR AND AT OTHER TIMES DETERMINED BY THE BOARD; AND

(II) OPEN TO THE PUBLIC.

(3) THE CHAIR OF THE BOARD OR, IN THE CHAIR'S ABSENCE, THE ACTING CHAIR MAY ADMINISTER OATHS AND COMPEL THE ATTENDANCE OF WITNESSES.

(4) THE BOARD SHALL KEEP MINUTES OF ITS PROCEEDINGS, INCLUDING THE VOTE OF EACH MEMBER ON EACH QUESTION, OR THE MEMBER'S ABSENCE OR FAILURE TO VOTE.

(5) (I) THE BOARD SHALL KEEP RECORDS OF THE EXAMINATIONS AND OTHER OFFICIAL ACTIONS OF THE BOARD.

(II) THE RECORDS OF THE BOARD SHALL BE:

1. FILED PROMPTLY IN THE OFFICE OF THE BOARD; AND

2. OPEN TO THE PUBLIC.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 2.08(a) and (b).

In subsection (b)(2)(ii) of this section, the reference to terms staggered "as provided on October 1, 2012" is added for clarity and accuracy.

In subsection (b)(3) of this section, the reference to an "individual" is substituted for the former reference to a "person" because only a human being and not the other entities included in the definition of "person" can serve as a member of a board.

In subsection (c)(2)(i) and (3) of this section, the references to the "chair" are substituted for the former references to the "chairman" because SG § 2–1238 requires the use of terms that are neutral as to gender to the extent practicable.

In subsection (c)(5)(ii)1 of this section, the reference to filing records "promptly" is substituted for the former reference to filing records "immediately" for clarity.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in subsection (b) of this section, there is no provision for appointment of an alternate or temporary alternate member of the Board, only for the filling of a vacancy, unlike the boards of appeal authorized for noncharter counties and other municipal corporations under Title 4, Subtitle 3 of this article. Because members of the Board must complete an education course under § 1–206 of this article, the General Assembly may wish to authorize the appointment of one or more "permanent" alternate members, or other temporary alternate members, in order to ensure that an adequate number of participating members are available in case of multiple recusals. *Cf.* § 4–302 of this article.

The Land Use Article Review Committee also notes, for consideration by the General Assembly, that in subsection (b) of this section, there are no specific standards for removal of a member of the Board other than "for cause", unlike the general provision for appointment of members of a planning commission under Title 2, Subtitle 1 of this article. The General Assembly may wish to consider whether standards for appointing members of boards of appeals and planning commissions should be the same or similar, and whether those standards should be relatively specific or should remain vague. *See* § 2–102 of this article.

For educational requirements for Board members, *see* § 1–206 of this article.

Defined terms: "Board" § 10–101
"Local law § 1–101

10–404. BOARD — AUTHORITY.

(A) IN GENERAL.

THE BOARD MAY:

(1) HEAR AND DECIDE APPEALS WHEN IT IS ALLEGED THAT THERE WAS AN ERROR IN ANY ORDER, REQUIREMENT, DECISION, OR DETERMINATION MADE BY AN ADMINISTRATIVE OFFICIAL OR UNIT UNDER THIS TITLE OR ANY LOCAL LAW ADOPTED UNDER THIS TITLE;

(2) HEAR AND DECIDE SPECIAL EXCEPTIONS OR CONDITIONAL USES ON WHICH THE BOARD IS REQUIRED TO ACT UNDER A LOCAL LAW;

(3) AUTHORIZE ON APPEAL IN SPECIFIC CASES A VARIANCE FROM THE TERMS OF A LOCAL LAW;

(4) APPROVE BUILDINGS AND USES LIMITED AS TO LOCATION BY ANY REGULATION ADOPTED UNDER A LOCAL LAW; AND

(5) WHEN ACTING ON A ZONING APPLICATION, CONSIDER THE AVAILABILITY OF PUBLIC FACILITIES IN THE AREA, INCLUDING SCHOOLS AND FLOOD PLAIN FACILITIES, UNDER REGULATIONS ADOPTED UNDER A LOCAL LAW.

(B) APPLICABILITY TO AUTHORITY OF MAYOR AND CITY COUNCIL OF BALTIMORE CITY.

IF AUTHORIZED BY THE GENERAL ZONING LAWS OF BALTIMORE CITY, THIS SUBTITLE DOES NOT PREVENT THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY FROM GRANTING BY LOCAL LAW:

(1) VARIANCES;

(2) SPECIAL EXCEPTIONS; OR

(3) CONDITIONAL USES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 2.08(c).

In subsection (a)(1) of this section, the reference to an administrative officer "or unit" is added for clarity.

Also in subsection (a)(1) of this section, the word "under" is substituted for the former phrase "in the enforcement of" for brevity and clarity.

In subsection (a)(2) of this section, the reference to hearing and deciding special exceptions "or conditional uses" is added for clarity. The Land Use Article Review Committee brings the addition to the attention of the General Assembly.

Also in subsection (a)(2) of this section, the former reference to special exceptions "to the terms of an ordinance" is deleted as surplusage.

In subsection (a)(4) of this section, the former reference to a local law "passed by the City Council" is deleted as surplusage.

Defined terms: "Board" § 10–101
"Local law" § 1–101
"Regulation" § 1–101

"Special exception" § 1–101
"Variance" § 1–101
"Zoning law" § 1–101

10–405. BOARD — APPEAL PROCEDURES.

(A) WHO MAY FILE.

AN APPEAL TO THE BOARD MAY BE FILED BY:

(1) A PERSON AGGRIEVED BY A DECISION OF THE ADMINISTRATIVE OFFICER OR UNIT; OR

(2) AN OFFICER OR UNIT OF BALTIMORE CITY AFFECTED BY A DECISION OF THE ADMINISTRATIVE OFFICER OR UNIT.

(B) TIMING.

A PERSON SHALL FILE AN APPEAL WITHIN A REASONABLE TIME PROVIDED BY LOCAL LAW OR THE RULES OF THE BOARD BY FILING WITH THE ADMINISTRATIVE OFFICER OR UNIT FROM WHOSE ACTION THE APPEAL IS TAKEN AND WITH THE BOARD A NOTICE OF APPEAL SPECIFYING THE GROUNDS OF THE APPEAL.

(C) RECORD.

ON RECEIVING THE NOTICE OF APPEAL, THE ADMINISTRATIVE OFFICER OR UNIT FROM WHOSE ACTION THE APPEAL IS TAKEN SHALL TRANSMIT TO THE BOARD ALL PAPERS CONSTITUTING THE RECORD OF THE ACTION APPEALED.

(D) STAY ON PROCEEDINGS.

(1) UNLESS THE ADMINISTRATIVE OFFICER OR UNIT FROM WHOSE ACTION AN APPEAL IS TAKEN, AFTER RECEIVING THE NOTICE OF APPEAL, CERTIFIES FACTS TO THE BOARD THAT THE ADMINISTRATIVE OFFICER OR UNIT BELIEVES THAT A STAY WOULD CAUSE IMMINENT PERIL TO LIFE OR PROPERTY, AN APPEAL STAYS ALL PROCEEDINGS IN THE ACTION APPEALED.

(2) IF THE ADMINISTRATIVE OFFICER OR UNIT PROVIDES FACTS SHOWING THAT A STAY WOULD CAUSE IMMINENT PERIL TO LIFE OR PROPERTY, THE PROCEEDINGS MAY BE STAYED ONLY BY A RESTRAINING ORDER GRANTED BY:

(I) THE BOARD; OR

(II) THE CIRCUIT COURT FOR BALTIMORE CITY.

(3) A RESTRAINING ORDER MAY BE ISSUED ONLY:

(I) ON APPLICATION;

(II) FOR GOOD CAUSE SHOWN; AND

(III) AFTER NOTICE IS GIVEN TO THE ADMINISTRATIVE OFFICER OR UNIT FROM WHOSE ACTION THE APPEAL IS TAKEN.

(E) HEARING AND DECISION ON APPEAL.

(1) THE BOARD SHALL:

(I) ESTABLISH A REASONABLE TIME FOR THE HEARING OF AN APPEAL;

(II) GIVE PUBLIC NOTICE OF THE EXISTENCE OF THE APPEAL AND OF THE HEARING, AND DUE NOTICE TO THE PARTIES IN INTEREST AND TO OTHER PERSONS ENTITLED TO NOTICE UNDER LOCAL LAW OR THE RULES OF THE BOARD; AND

(III) DECIDE THE APPEAL WITHIN A REASONABLE TIME.

(2) AT A HEARING, A PARTY MAY:

(I) APPEAR IN PERSON; OR

(II) BE REPRESENTED BY AN AGENT OR ATTORNEY.

(F) AUTHORITY ON APPEAL.

(1) THE BOARD MAY, IN CONFORMITY WITH THIS TITLE:

(I) WHOLLY OR PARTLY REVERSE THE ORDER, REQUIREMENT, OR DECISION THAT IS THE SUBJECT OF THE APPEAL;

(II) WHOLLY OR PARTLY AFFIRM THE ORDER, REQUIREMENT, OR DECISION THAT IS THE SUBJECT OF THE APPEAL; OR

(III) MODIFY THE ORDER, REQUIREMENT, OR DECISION THAT IS THE SUBJECT OF THE APPEAL.

(2) THE BOARD SHALL HAVE THE POWERS OF THE ADMINISTRATIVE OFFICER OR UNIT FROM WHOSE ACTION THE APPEAL IS TAKEN.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 2.08(d) through (h).

Throughout this section, the references to an administrative officer "or unit" are added for clarity.

In subsection (a)(2) of this section, the reference to a "unit" is substituted for the former reference to a "department, board, or bureau" for brevity and consistency with other revised articles of the Code. *See* General Revisor's Note to article.

In subsection (b) of this section, the reference to "local law" is added for clarity.

In subsection (d)(2) of this section, the specific reference to "the Circuit Court for Baltimore City" is substituted for the former reference to "a court of record" for clarity.

In subsection (e)(1)(ii) of this section, the reference to the existence "of the hearing" is added for clarity and consistency with the corresponding general provision in § 4–306(e) of this article.

Also in subsection (e)(1)(ii) of this section, the phrase "and to other persons entitled to notice under local law or the rules of the Board" is added for clarity and consistency with the corresponding general provision in § 4–306(e) of this article.

In subsection (e)(2) of this section, the reference to "a hearing" is substituted for the former reference to "an appeal" for clarity.

In the introductory language to subsection (f)(1) of this section, the former phrase "[i]n exercising its powers under this section" is deleted as surplusage.

In subsection (f)(1) of this section, the former references to a "determination" are deleted as implicit in the word "decision".

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in subsection (e)(1)(ii) of this section, it is unclear

whether the term "parties in interest" is intended to be coextensive with the term "aggrieved persons" as found in Maryland case law and, if not, what class of persons are intended to be entitled to notice of an appeal. The General Assembly may wish to consider clarifying the intended scope of "parties in interest" and whether entitlement to notice under this provision should automatically confer standing to seek judicial review of the matter appealed. *See, also,* Revisor's Note to § 4–306 of this article.

Defined terms: "Board" § 10–101
"Local law § 1–101
"Person" § 1–101

10–406. BOARD — VOTING.

(A) IF FIVE MEMBERS PRESENT.

IF FIVE MEMBERS OF THE BOARD ARE PRESENT, THE CONCURRING VOTE OF AT LEAST FOUR MEMBERS IS NECESSARY TO:

(1) REVERSE ANY ORDER, REQUIREMENT, OR DECISION OF AN ADMINISTRATIVE OFFICER OR UNIT;

(2) DECIDE IN FAVOR OF THE APPLICANT ON ANY MATTER ON WHICH THE BOARD IS REQUIRED TO ACT UNDER A LOCAL LAW; OR

(3) EFFECT ANY VARIATION IN A LOCAL LAW.

(B) IF FOUR MEMBERS PRESENT.

IF FOUR MEMBERS OF THE BOARD ARE PRESENT, THE CONCURRING VOTE OF AT LEAST THREE MEMBERS IS NECESSARY TO TAKE ANY ACTION UNDER THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 2.08(i).

In subsection (a)(1) of this section, the reference to an administrative officer "or unit" is added for clarity.

Also in subsection (a)(1) of this section, the former reference to a "determination" is deleted as implicit in the word "decision".

Defined terms: "Board" § 10–101
"Local law" § 1–101

SUBTITLE 5. JUDICIAL REVIEW.

10–501. PROCEDURE.

(A) WHO MAY FILE.

A REQUEST FOR JUDICIAL REVIEW BY THE CIRCUIT COURT FOR BALTIMORE CITY MAY BE FILED BY ANY PERSON, TAXPAYER, OR OFFICER OR UNIT OF BALTIMORE CITY AGGRIEVED BY:

(1) A DECISION OF THE BOARD; OR

(2) A ZONING ACTION BY THE CITY COUNCIL.

(B) MANNER.

THE JUDICIAL REVIEW SHALL BE IN ACCORDANCE WITH TITLE 7, CHAPTER 200 OF THE MARYLAND RULES.

(C) REVIEW STANDARD UNAFFECTED.

THIS SECTION DOES NOT CHANGE THE EXISTING STANDARDS FOR JUDICIAL REVIEW OF A ZONING ACTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 2.09(a).

In this section and throughout this subtitle, the references to a "judicial review" are substituted for the former obsolete references to an "appeal" for accuracy.

In the introductory language to subsection (a) of this section, the reference to a "unit" is substituted for the former reference to a "department, board, or bureau" for brevity and consistency with other revised articles of the Code. *See* General Revisor's Note to article.

Also in the introductory language to subsection (a) of this section, the former phrase "jointly and severally" is deleted as unnecessary.

In subsection (b) of this section, the reference to "[t]he judicial review [being] in accordance with" the Maryland Rules is substituted for the former reference to "[a] person filing an appeal [complying] with" the Maryland Rules for clarity.

Defined terms: "Board" § 10–101
"Person" § 1–101

10–502. HEARING; DISPOSITION.

(A) HEARING.

(1) THE CIRCUIT COURT FOR BALTIMORE CITY MAY:

(I) CONSIDER THE JUDICIAL REVIEW ON THE RECORD; OR

(II) ALLOW EITHER SIDE OR BOTH SIDES TO PRESENT ADDITIONAL TESTIMONY IF THE COURT BELIEVES THAT ADDITIONAL TESTIMONY IS REQUIRED FOR THE PROPER DISPOSITION OF THE JUDICIAL REVIEW.

(2) THE COURT SHALL CONSIDER THE JUDICIAL REVIEW WITHOUT A JURY.

(B) DISPOSITION.

(1) IN REVIEWING A DECISION OF THE BOARD, THE CIRCUIT COURT FOR BALTIMORE CITY MAY:

(I) REVERSE IN WHOLE OR PART;

(II) AFFIRM IN WHOLE OR PART;

(III) MODIFY; OR

(IV) REMAND FOR FURTHER CONSIDERATION.

(2) (I) IF A PETITION FOR JUDICIAL REVIEW IS REMANDED FOR FURTHER CONSIDERATION, ANY TESTIMONY TAKEN IN COURT SHALL BE MADE AVAILABLE TO THE BOARD.

(II) THE COSTS OF PREPARING THE TESTIMONY SHALL BE MADE A PART OF THE COSTS OF JUDICIAL REVIEW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 2.09(b), (c), and (d).

Defined term: "Board" § 10–101

10–503. APPEAL TO COURT OF SPECIAL APPEALS.

A JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY UNDER § 10–502 OF THIS SUBTITLE MAY BE APPEALED TO THE COURT OF SPECIAL APPEALS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 2.09(e).

The reference to a judgment "under § 10–502 of this subtitle" is added for clarity.

The reference to a "judgment" is substituted for the former reference to a "decision" for accuracy.

10–504. ADDITIONAL MATTERS FOR JUDICIAL REVIEW.

(A) BY CIRCUIT COURT.

IN ADDITION TO THE JUDICIAL REVIEW PROVIDED UNDER § 10–501 OF THIS SUBTITLE, THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY MAY ALLOW JUDICIAL REVIEW BY THE CIRCUIT COURT FOR BALTIMORE CITY OF ANY MATTER ARISING UNDER THE PLANNING AND ZONING LAWS OF BALTIMORE CITY.

(B) FURTHER REVIEW.

A JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY UNDER THIS SECTION MAY BE APPEALED TO THE COURT OF SPECIAL APPEALS.

(C) CONSTRUCTION OF SECTION.

THIS SECTION DOES NOT RESTRICT ANY CHARTER POWER OR OTHER POWER OF THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 2.09(f).

In subsection (b) of this section, the reference to a "judgment" is substituted for the former reference to a "decision" for accuracy.

Defined term: "Zoning law" § 1–101

TITLE 11. ENFORCEMENT.

SUBTITLE 1. GENERAL PROVISIONS.

11–101. LOCAL LAW; SUBDIVISION REGULATIONS.

(A) ENFORCEMENT BY LOCAL LAW.

A LEGISLATIVE BODY MAY PROVIDE BY LOCAL LAW FOR THE ENFORCEMENT OF THIS DIVISION AND OF ANY LOCAL LAW ENACTED OR REGULATION ADOPTED UNDER THIS DIVISION.

(B) SUBDIVISION REGULATIONS.

ANY PROPERTY SUBDIVIDED IN VIOLATION OF §§ 5–301 AND 5–302 OF THIS ARTICLE SHALL REMAIN SUBJECT TO THE ADOPTED SUBDIVISION REGULATIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 7.01(a)(1) and (b)(3).

Defined terms: "Legislative body" § 1–101
"Local law" § 1–101
"Regulation" § 1–101
"Subdivision" § 1–101

11–102. VIOLATION; PENALTY.

(A) VIOLATION.

A VIOLATION OF THIS DIVISION OR OF A LOCAL LAW ENACTED OR REGULATION ADOPTED UNDER THIS DIVISION IS A MISDEMEANOR.

(B) PENALTIES.

A LEGISLATIVE BODY MAY:

(1) PROVIDE FOR PUNISHMENT OF A VIOLATION BY FINE OR IMPRISONMENT OR BOTH; AND

(2) IMPOSE CIVIL PENALTIES FOR A VIOLATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 7.01(a)(2) and (3).

Defined terms: "Legislative body" § 1–101
"Local law" § 1–101
"Regulation" § 1–101

11–103. REMEDIES.

(A) INSTITUTION OF ACTION OR PROCEEDING.

IN ADDITION TO ANY OTHER AVAILABLE REMEDY, A LOCAL JURISDICTION MAY INSTITUTE ANY APPROPRIATE ACTION OR PROCEEDING TO:

(1) PREVENT THE UNLAWFUL CONSTRUCTION, ALTERATION, REPAIR, CONVERSION, MAINTENANCE, OR USE OF A BUILDING, STRUCTURE, SIGN, OR LAND IN VIOLATION OF THIS DIVISION OR OF A LOCAL LAW ENACTED OR REGULATION ADOPTED UNDER THIS DIVISION;

(2) RESTRAIN, CORRECT, OR ABATE THE VIOLATION;

(3) PREVENT THE OCCUPANCY OF THE BUILDING, STRUCTURE, OR LAND; OR

(4) PREVENT ANY ILLEGAL ACT, CONDUCT, BUSINESS, OR USE IN OR ABOUT THE PREMISES.

(B) LIMITATION ON INSTITUTION OF ACTION OR PROCEEDING.

NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, A LOCAL JURISDICTION MAY NOT INSTITUTE AN ACTION OR PROCEEDING TO:

(1) ABATE A TRANSFER THAT HAS BEEN COMPLETED; OR

(2) PREVENT THE OCCUPANCY OF A BUILDING, STRUCTURE, OR LAND INVOLVED IN THE TRANSFER AS A RESULT OF A VIOLATION OF § 5–301 OR § 5–302 OF THIS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 7.01(b)(1) and (2).

In subsection (a)(1) of this section, the former reference to "erection" is deleted as included in the comprehensive reference to "construction".

Similarly, the reference to "reconstruction" is deleted as included in the reference to "construction".

In subsection (b) of this section, while the cross–reference to "subsection (a) of this section" is unchanged, the provision of law to which it refers has been changed. Formerly, the reference to "subsection (a) of this section" erroneously referred to former Art. 66B, § 7.01(a), codified in this revision as §§ 11–101(a) and 11–102. These provisions concern the authority of a legislative body to provide by local law for the enforcement of local laws and regulations. However, because subsection (b) of this section is not a limitation on that enforcement authority, but, rather, is a limitation on the general authority of a local jurisdiction to institute certain actions or proceedings, it is clear that the reference should have been to former Art. 66B, § 7.01(b)(1), which established the general authority of a local jurisdiction to institute actions and proceedings. Since that authority to institute actions and proceedings is codified in this revision in subsection (a) of this section, the cross–reference to "subsection (a) of this section" is now correct. A review of the legislative history of former Art. 66B, § 7.01(b) supports this conclusion and indicates that the former cross–reference resulted from a drafting error. *See* Ch. 426, Acts of 2000. This revision corrects the source law to which the phrase "subsection (a) of this section" properly refers. No substantive change is intended.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in subsection (a)(4) of this section the extent of the authority of a local jurisdiction to prevent an illegal act in or about the "premises" is unclear. The word "premises" might mean a structure, a structure and immediate surroundings, or a larger area such as a lot or subdivision. The General Assembly may wish to consider substituting one of these terms for the existing word "premises".

Defined terms: "Local jurisdiction" § 1–101
"Local law" § 1–101
"Regulation" § 1–101

SUBTITLE 2. CIVIL PENALTY.

11–201. "ZONING OFFICIAL" DEFINED.

IN THIS SUBTITLE, "ZONING OFFICIAL" MEANS A COUNTY EMPLOYEE WITH THE DUTY OF ENFORCING THE ZONING LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 7.02(a)(1) and (4).

Former Art. 66B, § 7.02(a)(2), which defined "commission", is deleted because the term was not used elsewhere in the source law and, therefore, is not used in the revision.

Former Art. 66B, § 7.02(a)(3), which defined "local legislative body", is deleted as redundant of the term "legislative body" defined in § 1–101 of this article.

Defined terms: "County" § 1–101
"Zoning law" § 1–101

11–202. CIVIL PENALTY.

(A) AUTHORIZED.

A LEGISLATIVE BODY OF A COUNTY MAY PROVIDE A CIVIL PENALTY FOR A ZONING VIOLATION, WHICH SHALL BE ENFORCED AS PROVIDED IN THIS SUBTITLE.

(B) FINES.

THE LEGISLATIVE BODY MAY:

(1) IMPOSE A FINE NOT EXCEEDING $500 FOR EACH VIOLATION;

(2) ESTABLISH A SCHEDULE OF ADDITIONAL FINES FOR EACH VIOLATION; AND

(3) ADOPT PROCEDURES FOR THE COLLECTION OF THE FINES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 7.02(b) and (d).

Defined terms: "County" § 1–101
"Legislative body" § 1–101

11–203. CITATION.

(A) ISSUANCE OF CITATION.

A ZONING OFFICIAL MAY DELIVER A CITATION TO A PERSON WHO HAS COMMITTED A CIVIL ZONING VIOLATION.

(B) CITATION CONTENTS.

(1) THE CITATION SHALL CONTAIN:

(I) THE NAME AND ADDRESS OF THE PERSON CHARGED;

(II) THE NATURE OF THE VIOLATION, INCLUDING THE PROVISION VIOLATED;

(III) THE LOCATION AND TIME OF THE VIOLATION;

(IV) THE AMOUNT OF THE FINE;

(V) THE MANNER, LOCATION, AND TIME FOR PAYMENT OF THE FINE; AND

(VI) NOTICE OF THE CITED PERSON'S RIGHT TO ELECT TO STAND TRIAL FOR THE VIOLATION AND HOW TO EXERCISE THAT RIGHT.

(2) THE CITATION SHALL BEAR A CERTIFICATION ATTESTING TO THE TRUTH OF THE MATTERS SET FORTH IN THE CITATION.

(C) COPY OF CITATION.

THE ZONING OFFICIAL SHALL KEEP A COPY OF THE CITATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 7.02(c).

In subsection (a) of this section, the reference to delivering a citation to a person "who has committed" a zoning violation is substituted for the former reference to delivering a citation to a person "believed to be committing" a civil zoning violation for clarity and accuracy.

In subsection (b)(1)(ii) of this section, the phrase "including the provision violated" is added for clarity.

In subsection (b)(1)(vi) of this section, the reference to "notice of" the right to stand trial is added to state explicitly that which was only implied in the former law.

Also in subsection (b)(1)(vi) of this section, the phrase "and how to exercise that right" is added for clarity.

Defined terms: "Person" § 1–101

"Zoning official" § 11–201

11–204. ELECTION TO STAND TRIAL.

(A) NOTICE OF INTENTION TO STAND TRIAL.

A PERSON WHO RECEIVES A CITATION MAY ELECT TO STAND TRIAL FOR THE VIOLATION BY FILING A NOTICE OF INTENTION TO STAND TRIAL WITH THE ZONING OFFICIAL AT LEAST 5 BUSINESS DAYS BEFORE THE DATE SET FORTH IN THE CITATION FOR THE PAYMENT OF FINES.

(B) NOTICE TO DISTRICT COURT.

AFTER RECEIVING A NOTICE OF INTENTION TO STAND TRIAL, THE ZONING OFFICIAL SHALL FORWARD THE NOTICE, WITH A COPY OF THE CITATION, TO THE DISTRICT COURT HAVING VENUE.

(C) TRIAL ASSIGNMENT.

AFTER RECEIVING THE CITATION AND NOTICE, THE DISTRICT COURT SHALL:

(1) SCHEDULE THE CASE FOR TRIAL; AND

(2) NOTIFY THE DEFENDANT OF THE TRIAL DATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 7.02(e)(1) through (4).

In subsection (a) of this section, the reference to 5 "business" days is added for consistency with Art. 1, § 36, which provides that a time period of 7 days or less does not include weekends, holidays, and other days that the office of a court where a filing must occur is not open the entire day during ordinary business hours. The Land Use Article Review Committee notes the addition for consideration by the General Assembly.

Defined terms: "Person" § 1–101
"Zoning official" § 11–201

11–205. FAILURE TO RESPOND.

(A) FORMAL NOTICE OF VIOLATION.

IF A PERSON THAT RECEIVES A CITATION FOR A VIOLATION FAILS TO PAY THE FINE BY THE DATE OF PAYMENT SET FORTH IN THE CITATION AND FAILS TO FILE A NOTICE OF INTENTION TO STAND TRIAL, THE ZONING OFFICIAL SHALL MAIL A NOTICE OF THE VIOLATION TO THE PERSON'S LAST KNOWN ADDRESS.

(B) ADDITIONAL FINES FOR NONPAYMENT OF CITATION.

IF THE PERSON THAT RECEIVES THE CITATION DOES NOT PAY OR OTHERWISE SATISFY THE CITATION WITHIN 15 DAYS AFTER THE DATE THE NOTICE OF VIOLATION IS MAILED, THE PERSON SHALL BE SUBJECT TO AN ADDITIONAL FINE NOT EXCEEDING TWICE THE AMOUNT OF THE ORIGINAL FINE.

(C) REQUEST FOR ADJUDICATION OF UNPAID VIOLATION.

(1) IF THE PERSON THAT RECEIVES THE CITATION DOES NOT PAY OR OTHERWISE SATISFY THE CITATION WITHIN 35 DAYS AFTER THE NOTICE OF VIOLATION IS MAILED, THE ZONING OFFICIAL MAY REQUEST THE DISTRICT COURT TO ADJUDICATE THE VIOLATION.

(2) IF THE ZONING OFFICIAL REQUESTS ADJUDICATION, THE DISTRICT COURT SHALL:

(I) SCHEDULE THE CASE FOR TRIAL; AND

(II) SUMMON THE DEFENDANT TO APPEAR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 66B, § 7.02(f).

In subsection (a) of this section, the reference to the requirement that "the zoning official shall mail" notice of the violation is added to state explicitly that which was only implied in the former law, *i.e.* that consistent with other provisions in the title, the zoning official is responsible for sending the notice.

Also in subsection (a) of this section, the reference to the "person's" last known address is substituted for the former reference to the "owner's" last known address for consistency within this section.

In subsection (b) of this section, the reference to "pay[ing] or otherwise" satisfying the citation is added for clarity and consistency with subsection (c) of this section. Similarly, in subsection (c) of this section, the reference to paying "or otherwise satisfy[ing]" the citation is added.

Defined terms: "Person" § 1–101
"Zoning official" § 11–201

11–206. ADJUDICATION OF VIOLATION IN DISTRICT COURT.

IN A PROCEEDING BEFORE THE DISTRICT COURT, A VIOLATION SHALL BE ADJUDICATED IN THE SAME MANNER AND TO THE SAME EXTENT AS A MUNICIPAL INFRACTION UNDER ARTICLE 23A, § 3(B)(7) THROUGH (15) OF THE CODE.

REVISOR'S NOTE: This section formerly was Art. 66B, § 7.02(g).

The word "adjudicated" is substituted for the former word "prosecuted" for clarity and consistency within this subtitle.

No other changes are made.

11–207. JUDGMENTS AND COURT COSTS.

(A) FINES, PENALTIES, OR FORFEITURES.

ALL FINES, PENALTIES, OR FORFEITURES COLLECTED BY THE DISTRICT COURT FOR ZONING VIOLATIONS SHALL BE REMITTED TO THE COUNTY IN WHICH THE ZONING VIOLATION OCCURRED.

(B) COURT COSTS.

IF THE DISTRICT COURT FINDS THAT A PERSON HAS COMMITTED A CIVIL ZONING VIOLATION, THE PERSON SHALL BE LIABLE FOR THE COSTS OF THE COURT PROCEEDINGS.

REVISOR'S NOTE: This section formerly was Art. 66B, § 7.02(i) and (e)(5).

No changes are made.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in subsection (a) of this section it is unclear how the reference to "forfeitures" would be applied by the District Court, as the term is not otherwise used in this subtitle.

Defined terms: "County" § 1–101
"Person" § 1–101

11–208. REQUEST FOR ADJUDICATION.

THE GOVERNING BODY OF A COUNTY MAY AUTHORIZE THE COUNTY ATTORNEY TO SEEK ADJUDICATION OF A CIVIL ZONING VIOLATION.

REVISOR'S NOTE: This section formerly was Art. 66B, § 7.02(h).

The reference to "seek[ing] adjudication of" a civil zoning violation is substituted for the former reference to "prosecut[ing]" the violation for accuracy and consistency within this subtitle.

No other changes are made.

Defined term: "County" § 1–101

11–209. FINDING OF VIOLATION NOT A CRIMINAL CONVICTION.

A FINDING BY THE DISTRICT COURT OF A VIOLATION UNDER THIS SUBTITLE IS NOT A CRIMINAL CONVICTION AND DOES NOT IMPOSE ANY OF THE CIVIL DISABILITIES ORDINARILY IMPOSED BY A CRIMINAL CONVICTION.

REVISOR'S NOTE: This section formerly was Art. 66B, § 7.02(j).

The only changes are in style.

TITLE 12. RESERVED.

TITLE 13. RESERVED.

DIVISION II. MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION.

TITLE 14. DEFINITIONS; GENERAL PROVISIONS.

SUBTITLE 1. DEFINITIONS.

14–101. DEFINITIONS.

(A) IN GENERAL.

IN THIS DIVISION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 28, § 7–101(a).

The reference to this "division" is substituted for the former reference to this "title" to reflect the reorganization of material derived from former Article 28 in Division II of this article. Although the former provision applied only to material in former Art. 28, Title 7, and this provision applies to all material derived from former Article 28, no substantive change is intended. *See* General Revisor's Note to article.

No other changes are made.

(B) COMMISSION.

"COMMISSION" MEANS THE MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 28, § 5–114.1(a)(2) and the third sentence and, as it referred to the full title of the Maryland–National Capital Park and Planning Commission, the first sentence of § 1–101.

(C) COMMISSIONER.

"COMMISSIONER" MEANS A MEMBER OF THE COMMISSION.

REVISOR'S NOTE: This subsection is new language added for brevity and consistency throughout this division.

Defined term: "Commission" § 14–101

(D) COUNTY.

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

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

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

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

In almost every instance in this division, the defined term "county" refers only to Montgomery County or Prince George's County, rather than any of the other counties of the State.

See also § 1–101 of this article.

Defined term: "State" § 14–101

(E) COUNTY PLANNING BOARD.

"COUNTY PLANNING BOARD" MEANS A PLANNING BOARD FOR A COUNTY ESTABLISHED UNDER TITLE 20, SUBTITLE 2 OF THIS ARTICLE.

REVISOR'S NOTE: This subsection is new language added for clarity.

Defined term: "County" § 14–101

(F) DISTRICT COUNCIL.

"DISTRICT COUNCIL" MEANS:

(1) FOR A SINGLE COUNTY, THE COUNTY COUNCIL SITTING AS THE DISTRICT COUNCIL OF THE COUNTY WITH RESPECT TO THAT PORTION OF THE REGIONAL DISTRICT IN THE COUNTY UNDER § 22–101 OF THIS ARTICLE;

(2) FOR THE DISTRICT COUNCIL AS A WHOLE, THE COUNTY COUNCILS OF BOTH COUNTIES SITTING JOINTLY AS THE BI–COUNTY DISTRICT COUNCIL OF THE REGIONAL DISTRICT UNDER § 22–102 OF THIS ARTICLE; OR

(3) FOR A MUNICIPAL CORPORATION, THE GOVERNING BODY OF THE MUNICIPAL CORPORATION SITTING AS THE DISTRICT COUNCIL FOR THE MUNICIPAL CORPORATION UNDER AN AGREEMENT AUTHORIZED UNDER § 20–704(C) OF THIS ARTICLE.

REVISOR'S NOTE: This subsection is new language added to provide a convenient reference to a "district council".

Defined terms: "County" § 14–101
"Regional district" § 14–101

(G) GOVERNED SPECIAL TAXING DISTRICT.

"GOVERNED SPECIAL TAXING DISTRICT" OR "GOVERNED DISTRICT" MEANS A SPECIAL TAXING DISTRICT THAT:

(1) HAS AN ELECTED LOCAL GOVERNING BODY; AND

(2) PERFORMS GENERAL MUNICIPAL FUNCTIONS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the third sentence of former Art. 28, § 8–104(c) as it related to certain self–governed special taxing areas.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that the term "governed special taxing district" defined in this subsection represents those local governed areas that are not incorporated as municipal corporations under Art. XI–E of the Maryland Constitution but are part of the zoning, subdivision, and land acquisition functions of the Commission under this division. No substantive change is intended. *See*, *e.g.,* §§ 18–401(i), 20–509, 22–206 through 22–208, and 23–202 of this article.

(H) LOCAL LAW.

(1) "LOCAL LAW" MEANS AN ENACTMENT OF THE LEGISLATIVE BODY OF A LOCAL JURISDICTION, WHETHER BY ORDINANCE, RESOLUTION, OR OTHERWISE.

(2) "LOCAL LAW" DOES NOT INCLUDE A PUBLIC LOCAL LAW.

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

The Land Use Article Review Committee notes, for consideration by the General Assembly, that this provision is not intended to alter the legislative mechanisms required to implement any portion of this division in any local jurisdiction. *See* § 14–203 of this title; *cf.* Revisor's Note to § 1–101(j) of this article. Neither is the term "local law" defined in this subsection to be confused with the term "public local law", an enactment of the General Assembly that applies to a single county. *Cf. Kent Island Defense League v. Queen Anne's Co. Bd. of Elections*, 145 Md. App. 684 (2002).

See also § 1–101(j) of this article.

(I) METROPOLITAN DISTRICT.

"METROPOLITAN DISTRICT" MEANS THE MARYLAND–WASHINGTON METROPOLITAN DISTRICT ESTABLISHED UNDER TITLE 19 OF THIS ARTICLE.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full name "Maryland–Washington Metropolitan District".

(J) PARK.

"PARK" INCLUDES A PUBLIC PLAYGROUND, PLAY FIELD, AND ANY OTHER RECREATIONAL GROUND, SPACE, OR FACILITY.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 28, § 7–101(c).

The reference to a "public" playground and other areas is added for clarity.

The reference to a recreational "facility" is added for clarity.

The former reference to "parks" is deleted in light of the reference to "park" and Art. 1, § 8, which provides that the singular generally includes the plural.

The former references to "means" and "relates to" are deleted as surplusage.

(K) PERSON.

"PERSON" MEANS AN INDIVIDUAL, RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, REPRESENTATIVE OF ANY KIND, PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, LIMITED LIABILITY COMPANY, OR OTHER ENTITY.

REVISOR'S NOTE: This subsection is new language added to provide an express definition of the term "person".

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

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

See also § 1–101 of this article.

As to the term "personal representative", *see* Art. 1, § 15.

(L) REGIONAL DISTRICT.

"REGIONAL DISTRICT" MEANS THE MARYLAND–WASHINGTON REGIONAL DISTRICT ESTABLISHED UNDER TITLE 20, SUBTITLE 1 OF THIS ARTICLE.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full name "Maryland–Washington Regional District".

(M) ROAD.

"ROAD" INCLUDES A HIGHWAY, FREEWAY, BOULEVARD, PARKWAY, STREET, AVENUE, LANE, ALLEY, VIADUCT, BRIDGE, AND ANY OTHER WAY OR PART OF A WAY.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 28, § 7–101(b).

The former reference to "roads" is deleted in light of the reference to "road" and Art. 1, § 8, which provides that the singular generally includes the plural. Similarly, the former reference to "parts" is deleted as included in the reference to "part".

The former references to "means" and "relates to" are deleted as surplusage.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that it is unclear whether the term "road" defined in this subsection includes a "trail" or "bicycle path". If these or similar travel ways are intended to be included in the "roads" that the Commission constructs and maintains under this division, the General Assembly may wish to consider adding those terms to this definition.

(N) SENSITIVE AREA.

"SENSITIVE AREA" HAS THE MEANING STATED IN § 1–101 OF THIS ARTICLE.

REVISOR'S NOTE: This subsection is new language added to provide an express cross–reference to the term "sensitive area" defined in § 1–101 of this article that is applicable to Montgomery County and Prince George's County under § 1–401(b)(2) of this article.

(O) STATE.

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

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

(II) THE DISTRICT OF COLUMBIA.

(2) WHEN CAPITALIZED, "STATE" MEANS MARYLAND.

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

See also § 1–101 of this article.

(P) SUBDIVISION.

(1) "SUBDIVISION" MEANS:

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

(II) THE LAND SO SUBDIVIDED.

(2) "SUBDIVISION" INCLUDES RESUBDIVISION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the first sentence of former Art. 28, § 7–101(d).

In paragraph (1)(i) of this subsection, the reference to the "process and configuration of land by which … lots … are divided" is substituted for the former reference to the "division of a lot … for the purpose, whether immediate or future, of sale or building development, … and, when appropriate to the context, relates to the process of subdivision" for clarity. No substantive change is intended.

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

For the exclusion of certain agricultural land from the requirements of the subdivision process, *see* § 23–101 of this article.

(Q) ZONING LAW.

(1) "ZONING LAW" MEANS THE LEGISLATIVE IMPLEMENTATION OF REGULATIONS FOR ZONING BY A LOCAL JURISDICTION.

(2) "ZONING LAW" INCLUDES A ZONING ORDINANCE, ZONING REGULATION, ZONING CODE, AND ANY SIMILAR LEGISLATIVE ACTION TO IMPLEMENT ZONING CONTROLS IN A LOCAL JURISDICTION.

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

See also § 1–101 of this article.

SUBTITLE 2. GENERAL PROVISIONS.

14–201. SCOPE OF DIVISION.

THIS DIVISION APPLIES ONLY IN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.

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

This section merely states explicitly what was implied in the former law, as former Article 28 established the metropolitan district and the regional district, which are only in Montgomery and Prince George's counties, and governed other specific programs and services only in those counties and their municipal corporations.

14–202. OTHER APPLICABLE LAW.

(A) ARTICLE XI–E NOT GENERALLY APPLICABLE.

EXCEPT AS OTHERWISE PROVIDED IN TITLE 20, SUBTITLE 7, PART I, TITLE 24, SUBTITLE 2, AND TITLE 25, SUBTITLE 3 OF THIS ARTICLE, ARTICLE XI–E OF THE MARYLAND CONSTITUTION DOES NOT APPLY TO THE COMMISSION, THE METROPOLITAN DISTRICT, OR THE REGIONAL DISTRICT.

(B) COMMISSION AND DISTRICTS NOT MUNICIPAL CORPORATIONS.

NEITHER THE COMMISSION, THE METROPOLITAN DISTRICT, NOR THE REGIONAL DISTRICT IS A "MUNICIPAL CORPORATION" UNDER ARTICLE XI–E OF THE MARYLAND CONSTITUTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–119.

In subsection (a) of this section, the limitation "[e]xcept as otherwise provided in Title 20, Subtitle 7, Part I, Title 24, Subtitle 2, and Title 25, Subtitle 3 of this article," is added for clarity.

In subsection (b) of this section, the reference to the Commission and the districts not "[being]" a municipal corporation is substituted for the former reference to the definition of "municipal corporation" not "embrac[ing] or includ[ing]" those entities for clarity.

Defined terms: "Commission" § 14–101
"Metropolitan district" § 14–101
"Regional district" § 14–101

14–203. ADOPTION OF LOCAL LAW.

THE REQUIREMENT OR AUTHORIZATION FOR A LOCAL JURISDICTION TO ENACT A LOCAL LAW TO IMPLEMENT A PROVISION OF THIS DIVISION IS NOT INTENDED TO ALTER IN ANY WAY THE FORM OR LEGISLATIVE MECHANISM THAT THE APPLICABLE ENABLING AUTHORITY REQUIRES FOR THE LOCAL

JURISDICTION TO ENACT THE LOCAL LAW, WHETHER BY ORDINANCE, RESOLUTION, OR OTHERWISE, AS OF OCTOBER 1, 2012.

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

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

Defined term: "Local law" § 14–101

GENERAL REVISOR'S NOTE TO TITLE

Former Art. 28, § 1–101, which provided that the Commission was continued as a body corporate as the successor to the agency with the same name created by Ch. 448 of 1927, is not retained in the Code because it is apparently obsolete. It is transferred to the Session Laws to avoid any inadvertent substantive effect its repeal might have. *See* § 6 of Ch. 426, Acts of 2012.

Former Art. 28, §§ 1–102, 1–103, and 1–104, which provided for the continuity of certain property rights and liabilities, bonds, ordinances, and decisions in connection with the recodification of the Public Local Laws governing the Commission as Article 66D of the Annotated Code of Maryland in 1975, and the renumbering of that article as Article 28 in 1983, are not retained in the Code because they are apparently obsolete. They are transferred to the Session Laws to avoid any inadvertent substantive effect their repeal might have. *See* § 6 of Ch. 426, Acts of 2012.

Former Art. 28, § 1–105, which provided for the continuity of certain zoning actions taken by the local governing bodies of Montgomery County and Prince George's County before April 29, 1977, is not retained in the Code because it is apparently obsolete. It is transferred to the Session Laws to avoid any inadvertent substantive effect that its repeal might have. *See* § 6 of Ch. 426, Acts of 2012.

Former Art. 28, § 2–121, which provided that all laws or parts of laws inconsistent with or contrary to the provisions in Article 28 were repealed to the extent of the inconsistency, is not retained in the Code because it is apparently obsolete. It is transferred to the Session Laws to avoid any inadvertent substantive effect that its repeal might have. *See* § 6 of Ch. 426, Acts of 2012.

Former Art. 28, § 2–122, which provided for the severability of provisions of former Article 28, is deleted in light of Art. 1, § 23, which provides that all legislation enacted after July 1, 1979, is presumed to be severable absent specific language to the contrary and in light of the standard rule of judicial construction favoring severability even in the absence of a severability clause in the statute. *See, e.g., Muskin v. State Dep't of Assessments and Taxation*, 422 Md. 544 (2011): "We have held that, even in the absence of an express severability clause in legislation that is found defective in some severable part, there "is a strong presumption that if a portion of an enactment is found to be invalid, the intent is that such portion be severed." *Bd. v. Smallwood*, 327 Md. 220, 245, 608 A.2d 1222, 1234 (1992); *see also Balt. v. Stuyvesant Ins. Co.*, 226 Md. 379, 390, 174 A.2d 153, 158 – 59 (1961) (finding that "[i]t is the duty of a court to separate the valid from the invalid provisions of an ordinance, so long as the valid portion is independent and severable from that which is void.")." 422 Md. 544, 554 (fn. 5); *see also Jackson v. Dackman Co.*, 422 Md. 357, 383–384 (2011).

TITLE 15. COMMISSION.

SUBTITLE 1. ORGANIZATION AND GENERAL AUTHORITY OF COMMISSION.

15–101. ESTABLISHED.

(A) IN GENERAL.

THERE IS A MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION.

(B) STATUS.

THE COMMISSION IS A BODY POLITIC AND CORPORATE AND IS AN AGENCY OF THE STATE.

REVISOR'S NOTE: Subsection (a) of this section is new language derived without substantive change from the first sentence of former Art. 28, § 1–101, as it related to the continuation of the Commission. It is restated in standard language used to establish a governmental unit.

Subsection (b) of this section is new language derived without substantive change from the first sentences of former Art. 28, §§ 1–101 and 3–101 as they related to the corporate structure of the Commission.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in subsection (b) of this section the reference to the Commission as a "body politic and corporate and … an agency of the

State" is substituted for the former references to the Commission as a "body corporate" and a "corporate agency" for clarity and consistency with provisions establishing similar bodies in recently revised articles of the Code. No substantive change is intended.

Defined terms: "Commission" § 14–101
"State" § 14–101

15–102. MEMBERSHIP.

(A) COMPOSITION; APPOINTMENT OF MEMBERS.

(1) THE COMMISSION CONSISTS OF 10 MEMBERS.

(2) OF THE 10 MEMBERS OF THE COMMISSION:

(I) FIVE SHALL BE RESIDENTS AND REGISTERED VOTERS OF MONTGOMERY COUNTY; AND

(II) FIVE SHALL BE RESIDENTS AND REGISTERED VOTERS OF PRINCE GEORGE'S COUNTY.

(3) (I) SUBJECT TO THE APPROVAL OF THE COUNTY EXECUTIVE, THE COUNTY COUNCIL SHALL APPOINT EACH COMMISSIONER FROM MONTGOMERY COUNTY.

(II) SUBJECT TO THE APPROVAL OF THE COUNTY COUNCIL, THE COUNTY EXECUTIVE SHALL APPOINT EACH COMMISSIONER FROM PRINCE GEORGE'S COUNTY.

(B) QUALIFICATIONS OF COMMISSIONERS.

EACH COMMISSIONER SHALL BE AN INDIVIDUAL OF ABILITY, EXPERIENCE, AND INTEGRITY.

(C) RESTRICTIONS ON COMMISSIONERS.

(1) OF THE COMMISSIONERS FROM EACH COUNTY, NOT MORE THAN THREE SHALL BE MEMBERS OF THE SAME POLITICAL PARTY.

(2) A COMMISSIONER MAY NOT BE SELECTED AS REPRESENTING OR SUPPORTING ANY SPECIAL INTEREST.

(D) TENURE; VACANCIES.

(1) THE TERM OF A COMMISSIONER IS 4 YEARS AND BEGINS ON JUNE 15.

(2) THE TERMS OF COMMISSIONERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR COMMISSIONERS ON OCTOBER 1, 2012.

(3) AT THE END OF A TERM, A COMMISSIONER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A COMMISSIONER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(5) A COMMISSIONER WHO IS APPOINTED TO FILL A VACANCY FOR AN UNEXPIRED TERM SHALL BE A MEMBER OF THE SAME POLITICAL PARTY AS THE COMMISSIONER WHO VACATED THE OFFICE.

(6) A COMMISSIONER APPOINTED FROM MONTGOMERY COUNTY MAY NOT BE APPOINTED FOR THREE CONSECUTIVE FULL TERMS.

REVISOR'S NOTE: This section is new language derived without substantive change from the first through fifth sentences of former Art. 28, § 2–102, the eighth sentence of § 2–103, and the first through fourth sentences and, as it related to appointments by the Montgomery County Council, the tenth sentence of § 2–101(a).

In subsection (a)(3)(i) of this section, the reference to "approval of the County Executive" is added for consistency with § 15–103(a) of this subtitle.

In subsection (b) of this section, the reference to "an individual" is substituted for the former reference to "persons" because only a human being, and not the other entities included in the definition of "person", may be a member of the Commission.

In subsection (c)(2) of this section, the former reference to "interests" is deleted in light of the reference to "interest" and Art. 1, § 8, which provides that the singular generally includes the plural.

In subsection (d)(1) of this section, the reference to terms "begin[ning] on June 15" is substituted for the former reference to "[a]ppointments [being] made on or before June 15 of the year in which any appointment

is made, and the terms of office [beginning] as of that date" for brevity and clarity.

In subsection (d)(2) of this section, the reference to terms being "staggered as required by the terms provided for commissioners on October 1, 2012" is substituted for the former obsolete reference to "members of the Commission in office immediately prior to July 1, 1975 [remaining] in office … for the remainder of the terms for which they were appointed". This substitution is not intended to alter the term of any member of the Commission. *See* § 19 of Ch. 426, Acts of 2012. The terms of the members serving on October 1, 2012, adjusting for holdovers, end as follows: (1) one in 2013; (2) three in 2014; (3) four in 2015; and (4) two in 2016.

In subsection (d)(3) of this section, the former reference to "any appointment [not being] made as provided in this section [causing] a vacancy [to exist] which shall be filled as provided in this article for the filling of vacancies on the Commission" is deleted as implicit.

Subsection (d)(4) of this section is added as standard language. It follows from the requirement that there be staggered terms. An inherent aspect of staggered terms is that they must begin and end at set intervals. For circumstances under which subsection (d)(4) applies, *see* General Revisor's Note to article.

The sixth sentence of former Art. 28, § 2–102, which allowed term–limited Montgomery County members who had served two consecutive terms to "complete their current terms" is deleted as obsolete. All members who would have been affected by this provision when it was enacted in 1986 would have long ago completed their terms. *See* Ch. 536, Acts of 1986.

The seventh sentence of former Art. 28, § 2–103, which provided for the manner of filling a vacancy in the membership of the Commission, is deleted as redundant of subsection (a)(3) of this section and § 15–103 of this subtitle.

Defined terms: "Commission" § 14–101
"Commissioner" § 14–101

15–103. APPOINTMENT PROCEDURES.

(A) MONTGOMERY COUNTY.

(1) IN MONTGOMERY COUNTY, THE COUNTY COUNCIL SHALL MAKE AN APPOINTMENT TO THE COMMISSION FROM A LIST OF APPLICANTS.

(2) THE LIST SHALL BE:

(I) COMPLETED AT LEAST 3 WEEKS BEFORE AN APPOINTMENT IS MADE; AND

(II) MADE AVAILABLE TO THE PUBLIC.

(3) IF THE COUNTY COUNCIL DOES NOT APPOINT AN INDIVIDUAL WHOSE NAME APPEARS ON THE LIST OR IF NO NAME APPEARS ON THE LIST, THE COUNTY COUNCIL SHALL PROVIDE FOR THE PREPARATION OF A SECOND LIST AND FOLLOW THE PROCEDURES UNDER PARAGRAPH (2) OF THIS SUBSECTION.

(4) WITHIN 3 DAYS AFTER MAKING AN APPOINTMENT, THE COUNTY COUNCIL SHALL SUBMIT THE NAME OF THE APPOINTEE TO THE COUNTY EXECUTIVE.

(5) WITHIN 30 DAYS AFTER THE APPOINTMENT IS SUBMITTED, THE COUNTY EXECUTIVE SHALL APPROVE OR DISAPPROVE THE APPOINTMENT.

(6) AN APPOINTMENT THAT IS NOT DISAPPROVED BY THE COUNTY EXECUTIVE IN ACCORDANCE WITH THIS SUBSECTION IS DEEMED TO BE APPROVED.

(7) IF THE COUNTY EXECUTIVE DISAPPROVES AN APPOINTMENT, THE COUNTY EXECUTIVE SHALL RETURN THE APPOINTMENT TO THE COUNTY COUNCIL WITH THE REASONS FOR THE DISAPPROVAL STATED IN WRITING.

(8) BY THE AFFIRMATIVE VOTE OF SEVEN OF ITS MEMBERS, THE COUNTY COUNCIL MAY APPOINT A COMMISSIONER OVER THE DISAPPROVAL OF THE COUNTY EXECUTIVE.

(B) PRINCE GEORGE'S COUNTY.

(1) IN PRINCE GEORGE'S COUNTY, THE COUNTY COUNCIL SHALL HOLD PUBLIC HEARINGS ON AN APPOINTMENT TO THE COMMISSION NOT LESS THAN 10 DAYS AND NOT MORE THAN 20 DAYS AFTER THE COUNTY EXECUTIVE SUBMITS THE NAME OF THE APPOINTEE TO THE COUNTY COUNCIL.

(2) IF THE COUNTY COUNCIL FAILS TO ACT ON THE APPOINTMENT WITHIN 30 DAYS AFTER THE COUNTY EXECUTIVE SUBMITS THE NAME OF THE APPOINTEE, THE APPOINTMENT IS DEEMED TO BE APPROVED.

(3) A VOTE OF A MAJORITY OF THE FULL COUNTY COUNCIL IS REQUIRED TO APPROVE OR DISAPPROVE AN APPOINTMENT.

(4) (I) IN MAKING AND APPROVING APPOINTMENTS, THE COUNTY COUNCIL AND COUNTY EXECUTIVE SHALL ATTEMPT TO PROVIDE REASONABLE GEOGRAPHIC BALANCE WITH RESPECT TO THE COMMISSIONERS' PLACES OF RESIDENCE.

(II) THE APPOINTMENT RESOLUTION FOR EACH APPOINTMENT SHALL DESCRIBE THE RESULTING GEOGRAPHIC DISTRIBUTION AND PROVIDE APPROPRIATE EXPLANATIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from the fifth through sixteenth sentences of former Art. 28, § 2–101(a).

In subsection (a)(2)(i) of this section, the former reference to a "reappointment" is deleted for consistency within this section.

In subsection (a)(2)(ii) of this section, the former phrase "at all times" is deleted as surplusage.

In subsection (a)(3) of this section, the reference to the procedures "under paragraph (2) of this subsection" is substituted for the former reference to the procedures "applicable to the first list" for clarity.

In subsection (a)(4) of this section, the reference to the "County Council" submitting the name of the appointee is added for clarity.

In subsection (a)(5) of this section, the reference to the appointment being submitted is added for clarity.

In subsection (a)(6) of this section, the reference to this "subsection" is substituted for the former overbroad reference to this "title".

In subsection (b)(1) of this section, the introductory phrase "[i]n Prince George's County" is added for clarity.

Also in subsection (b)(1) of this section, the reference to "the County Executive" submitting the name of the appointee is added for clarity and consistency with subsection (b)(2) of this section.

In subsection (b)(2) of this section, the reference to the County Council acting "on an" appointment is substituted for the former reference to the County Council acting "to confirm or reject the" appointment for brevity.

Also in subsection (b)(2) of this section, the reference to an appointment "[being] deemed to be" approved is substituted for the former reference to an appointment "stand[ing]" approved for consistency with subsection (a)(6) of this section.

In subsection (b)(3) of this section, the reference to "approv[ing] or disapprov[ing]" an appointment is substituted for the former references to "confirm[ing] or reject[ing]" an appointment for consistency with subsection (a) of this section.

In subsection (b)(4)(i) of this section, the reference to the "commissioners' places of residence" is substituted for the former reference to the "places of residence of the members" for clarity.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that it is unclear whether the eighth and ninth sentences of former Art. 28, § 2–101(a), revised as subsection (b)(4) of this section, were intended to apply only to appointments in Prince George's County or also to appointments in Montgomery County. If intended to apply in both counties, the General Assembly should consider either moving subsection (b)(4) of this section so that it applies in both counties or duplicating the language in subsection (a) of this section.

Former Art. 28, § 2–101(b), which provided that "[a]ll appointments or reappointments in Montgomery County shall be subject to § 2–114 of this subtitle", is deleted as unnecessary in light of § 15–104(a) of this subtitle.

Defined terms: "Commission" § 14–101
"Commissioner" § 14–101

15–104. ADDITIONAL REQUIREMENTS FOR APPOINTMENT OF MONTGOMERY COUNTY COMMISSIONERS.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES TO EACH COMMISSIONER APPOINTED BY THE MONTGOMERY COUNTY COUNCIL UNDER §§ 15–102 AND 15–103 OF THIS SUBTITLE.

(B) INTERVIEW REGARDING CONFLICTS OF INTEREST.

(1) THE MONTGOMERY COUNTY COUNCIL MAY REQUIRE AN APPLICANT FOR APPOINTMENT AS A COMMISSIONER TO BE INTERVIEWED BY THE COUNTY COUNCIL OR ITS DESIGNATED AGENT IN PRIVATE REGARDING POSSIBLE OR POTENTIAL CONFLICTS OF INTEREST.

(2) BEFORE THE APPOINTMENT IS MADE, THE COUNTY COUNCIL OR ITS DESIGNATED AGENT SHALL INTERVIEW IN PRIVATE AN APPLICANT WHO IS SELECTED FOR APPOINTMENT REGARDING POSSIBLE OR POTENTIAL CONFLICTS OF INTEREST.

(C) FINANCIAL DISCLOSURE STATEMENT AND INTERVIEW REQUIRED.

AN APPLICANT MAY NOT BE APPOINTED UNLESS THE APPLICANT:

(1) HAS FILED A FINANCIAL DISCLOSURE STATEMENT AS REQUIRED BY § 15–820 OF THE STATE GOVERNMENT ARTICLE; AND

(2) HAS BEEN INTERVIEWED AS REQUIRED BY SUBSECTION (B) OF THIS SECTION.

(D) INTERVIEW PROCEDURES.

(1) IN AN INTERVIEW UNDER THIS SECTION, THE APPLICANT SHALL BE INTERVIEWED:

(I) UNDER OATH;

(II) IN A QUESTION AND ANSWER FORMAT; AND

(III) ABOUT INFORMATION AND INTERESTS INCLUDING ALL SOURCES OF INCOME, PROPERTY HOLDINGS, BUSINESS INTERESTS, AND FINANCIAL INTERESTS OF THE APPLICANT AND THE APPLICANT'S SPOUSE, PARENT, CHILD, BROTHER, OR SISTER.

(2) THE COUNTY COUNCIL MAY REQUIRE THE APPLICANT TO PRODUCE RELEVANT DOCUMENTS.

(E) TRANSCRIPT.

(1) A WRITTEN TRANSCRIPT SHALL BE MADE OF ALL QUESTIONS AND ANSWERS IN AN INTERVIEW UNDER THIS SECTION.

(2) UNLESS THE EXAMINATION IS WAIVED BY THE APPLICANT:

(I) THE TRANSCRIPT SHALL BE SUBMITTED TO THE APPLICANT FOR EXAMINATION;

(II) THE TRANSCRIBING OFFICER SHALL MAKE ANY CHANGES IN THE TRANSCRIPT THAT THE APPLICANT DESIRES TO MAKE, ACCOMPANIED BY A STATEMENT OF THE REASON GIVEN BY THE APPLICANT FOR THE CHANGES; AND

(III) THE APPLICANT SHALL SIGN THE TRANSCRIPT.

(3) THE TRANSCRIBING OFFICER SHALL CERTIFY ON THE TRANSCRIPT THAT:

(I) THE APPLICANT WAS SWORN BY THE OFFICER; AND

(II) THE TRANSCRIPT IS A TRUE RECORD OF THE TESTIMONY GIVEN BY THE APPLICANT.

(4) THE COUNTY COUNCIL SHALL:

(I) PUBLICLY DISCLOSE THE COMPLETE TRANSCRIPT OF AN APPOINTEE WITHIN 3 WEEKS AFTER THE DATE OF THE APPOINTMENT; AND

(II) WHEN THE APPOINTEE TAKES OFFICE, DESTROY IMMEDIATELY THE COMPLETE TRANSCRIPT OF ANY OTHER APPLICANT WITHOUT DISCLOSURE OF ANY INFORMATION CONTAINED IN THE TRANSCRIPT.

(F) ANNUAL UPDATE.

(1) ON OR BEFORE JUNE 1 OF EACH YEAR, AN APPOINTEE SHALL DISCLOSE, IN WRITING, TO THE COUNTY COUNCIL ALL INFORMATION AVAILABLE TO MAKE CURRENT THE PROPERTY HOLDINGS, BUSINESS INTERESTS, AND FINANCIAL INTERESTS IN THE STATE AND THE GREATER WASHINGTON METROPOLITAN AREA OF THE APPOINTEE AND THE APPOINTEE'S SPOUSE, PARENT, CHILD, BROTHER, OR SISTER.

(2) THE COUNTY COUNCIL SHALL PUBLICLY DISCLOSE THE INFORMATION RECEIVED FROM THE APPOINTEE.

(3) IF THE COUNTY COUNCIL DETERMINES IT NECESSARY, THE COUNTY COUNCIL MAY REQUIRE SUBSTANTIATION AND ADDITIONAL INFORMATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–114(a) and (c).

In subsection (a) of this section and in the introductory language to subsection (c) of this section, the former references to a commissioner who is "reappointed" are deleted for consistency with § 15–103 of this subtitle. Similarly, in subsection (b)(1) of this section, the reference to "reappointment" is deleted.

In subsection (a) of this section, the former reference to this section applying to the "Maryland–National Capital Park and Planning Commission" is deleted as unnecessary.

Subsection (b)(2) of this section is new language substituted for the former phrase "and an applicant shall be so interviewed prior to being appointed or reappointed" for clarity.

In subsection (d)(1)(iii) of this section, the phrase "about information and interests including" is substituted for the former phrase "specifically on, but not limited to" for clarity. Art. 1, § 30 provides that "including" means "by way of illustration and not by way of limitation".

In subsection (d)(2) of this section, the reference to requiring "the applicant to produce relevant documents" is substituted for the former reference to requiring "the production of any document it wishes the applicant to produce" for clarity and brevity.

In the introductory language to subsection (e)(2) of this section, the former references to the "submission" and "reading" of the transcript are deleted as included in the reference to the "examination" of the transcript.

In subsection (e)(2)(i) of this section, the former reference to "[w]hen the testimony is fully transcribed" is deleted as implicit.

Also in subsection (e)(2)(i) of this section, the former requirement that the transcript be "read to or by the applicant" is deleted as implicit.

In subsection (e)(3)(i) of this section, the former reference to being "duly" sworn is deleted as surplusage.

In subsection (e)(4)(i) of this section, the reference to the complete "transcript" is substituted for the former reference to the complete "transcribed testimony" for consistency within this subsection.

Also in subsection (e)(4)(i) of this section, the former reference to the "actual" appointee is deleted as surplusage.

Also in subsection (e)(4)(i) of this section, the former reference to "appointees" is deleted in light of the reference to the "appointee" and Art. 1, § 8, which provides that the singular generally includes the plural.

In subsection (e)(4)(ii) of this section, the phrase "when the appointee takes office," is added for clarity. The Land Use Article Review Committee brings this addition to the attention of the General Assembly. No substantive change is intended.

Also in subsection (e)(4)(ii) of this section, the former reference to disclosure "to anyone" is deleted as unnecessary.

In subsection (f)(1) of this section, the reference to June "1" is added for clarity.

Also in subsection (f)(1) of this section, the former reference to "updat[ing]" is deleted as redundant of the reference to "mak[ing] current".

In subsection (f)(2) of this section, the former reference to "complete" public disclosure is deleted as surplusage.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in subsections (d)(1)(iii) and (f)(1) of this section, the lists of related individuals whose financial information must be disclosed includes the appointee's "spouse", but not the appointee's "domestic partner". The General Assembly may wish to consider whether information from such an individual would be relevant to the appointment process.

Defined terms: "Commissioner" § 14–101
"State" § 14–101

15–105. REMOVAL.

(A) IN GENERAL.

(1) THE MONTGOMERY COUNTY COUNCIL MAY REMOVE ANY COMMISSIONER APPOINTED FROM MONTGOMERY COUNTY BEFORE THE EXPIRATION OF THE COMMISSIONER'S TERM.

(2) WITH THE APPROVAL OF A MAJORITY OF THE MEMBERS OF THE COUNTY COUNCIL, THE COUNTY EXECUTIVE OF PRINCE GEORGE'S COUNTY MAY REMOVE ANY COMMISSIONER APPOINTED FROM PRINCE GEORGE'S COUNTY BEFORE THE EXPIRATION OF THE COMMISSIONER'S TERM.

(B) PUBLIC HEARING.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, BEFORE A COMMISSIONER MAY BE REMOVED UNDER SUBSECTION (A) OF THIS SECTION:

(I) THE CAUSE FOR REMOVAL SHALL BE STATED IN WRITING; AND

(II) A PUBLIC HEARING SHALL BE HELD ON THE REMOVAL.

(2) IN PRINCE GEORGE'S COUNTY, THE COMMISSIONER SOUGHT TO BE REMOVED MAY WAIVE IN WRITING THE PUBLIC HEARING HELD BY THE COUNTY COUNCIL.

REVISOR'S NOTE: This section is new language derived without substantive change from the first through fifth sentences of former Art. 28, § 2–103.

In subsection (a) of this section, the references to "the commissioner's term" are substituted for the former references to "the term for which they were appointed" for brevity and clarity.

In subsection (a)(2) of this section, the former phrase "at his pleasure" is deleted as surplusage.

In the introductory language to subsection (b)(1) of this section, the phrase "before a commissioner may be removed under subsection (a) of this section" is substituted for the former phrase "[i]n each case" for clarity.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that although subsection (b)(1)(i) of this section requires that the cause for removal be stated in writing, this section provides no criteria for removal. It is unclear whether a commissioner serves at the will of the appointing body, or if there are some implicit criteria for the appointing body to consider when removing a commissioner, such as malfeasance, lack of attendance, or similar causes. The General Assembly may wish to compare the various grounds for removing appointed commissioners and members of similar bodies

elsewhere in this article in order to harmonize removal criteria. *See*, *e.g.*, Revisor's Notes to §§ 2–102, 4–302, and 10–404 of this article.

The Land Use Article Review Committee also notes, for consideration by the General Assembly, that in subsection (b)(2) of this section, it is unclear whether the commissioner being removed has a right to a public hearing, which the commissioner may waive, or whether the County Council may choose to hold a public hearing despite the commissioner's having waived the hearing. The General Assembly may wish to consider recasting this subsection to confer on the commissioner an affirmative right to a public hearing, which the commissioner may waive, and to clarify whether the County Council may conduct a hearing on its own motion even after such a waiver.

The sixth sentence of former Art. 28, § 2–103, which provided that "this provision does not apply to any Prince George's member of the Commission in office on June 1, 1975 for the member's current term of office", is deleted as obsolete.

Defined term: "Commissioner" § 14–101

15–106. CHAIR AND VICE CHAIR.

(A) DESIGNATION OF CANDIDATES.

THE COUNTY EXECUTIVE OF PRINCE GEORGE'S COUNTY, WITH THE APPROVAL OF A MAJORITY OF THE MEMBERS OF THE COUNTY COUNCIL, AND THE MONTGOMERY COUNTY COUNCIL, WITH THE APPROVAL OF THE COUNTY EXECUTIVE IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION, SHALL EACH DESIGNATE A COMMISSIONER FOR THE POSITION OF CHAIR OR VICE CHAIR.

(B) DESIGNATION PROCEDURE IN MONTGOMERY COUNTY.

(1) WITHIN 3 DAYS AFTER MAKING A DESIGNATION, THE MONTGOMERY COUNTY COUNCIL SHALL SUBMIT THE NAME OF THE DESIGNEE TO THE COUNTY EXECUTIVE.

(2) WITHIN 30 DAYS AFTER THE DESIGNATION IS SUBMITTED, THE COUNTY EXECUTIVE SHALL APPROVE OR DISAPPROVE THE DESIGNATION.

(3) IF THE COUNTY EXECUTIVE DISAPPROVES A DESIGNEE, THE COUNTY EXECUTIVE SHALL RETURN THE NAME OF THE DESIGNEE TO THE

COUNTY COUNCIL WITH THE REASONS FOR THE DISAPPROVAL STATED IN WRITING.

(4) BY THE AFFIRMATIVE VOTE OF SIX OF ITS MEMBERS, THE COUNTY COUNCIL MAY DESIGNATE A COMMISSIONER FOR THE POSITION OF CHAIR OR VICE CHAIR OVER THE DISAPPROVAL OF THE COUNTY EXECUTIVE.

(5) A DESIGNATION THAT HAS NOT BEEN DISAPPROVED BY THE COUNTY EXECUTIVE IN ACCORDANCE WITH THIS SUBSECTION IS DEEMED TO BE APPROVED.

(C) ELECTION.

THE COMMISSION SHALL ELECT A CHAIR AND VICE CHAIR FROM THE COMMISSIONERS DESIGNATED IN ACCORDANCE WITH SUBSECTIONS (A) AND (B) OF THIS SECTION.

(D) DUTIES.

(1) THE CHAIR SHALL:

(I) PRESIDE AT MEETINGS OF THE COMMISSION; AND

(II) PERFORM THE OTHER CUSTOMARY DUTIES OF THE OFFICE.

(2) THE VICE CHAIR SHALL PRESIDE IN THE ABSENCE OF THE CHAIR.

(3) THE CHAIR AND VICE CHAIR OF THE COMMISSION ALSO SERVE AS CHAIRS OF THEIR RESPECTIVE COUNTY PLANNING BOARDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–105.

Throughout this section, the references to the "chair" and "vice chair" are substituted for the former references to the "chairman" and "vice–chairman", respectively, because SG § 2–1238 requires the use of terms that are neutral as to gender to the extent practicable. *See* General Revisor's Note to article.

In subsection (a) of this section, the reference to "subsection (b) of this section" is substituted for the former overbroad reference to "this title".

In subsection (b)(1) of this section, the reference to the "Montgomery County Council" submitting the name of the designee is added for clarity.

In subsection (b)(5) of this section, the phrase "in accordance with this subsection" is substituted for the former phrase "in this manner" for clarity.

Also in subsection (b)(5) of this section, the reference to a designation being "approved" is substituted for the former reference to a designation being "confirmed" for consistency within this section.

In subsection (c) of this section, the phrase "in accordance with subsections (a) and (b) of this section" is substituted for the former phrase "as above" for clarity.

In subsection (d)(3) of this section, the former phrase "as constituted in this article" is deleted as surplusage.

Defined terms: "Commission" § 14–101
"Commissioner" § 14–101
"County planning board" § 14–101

15–107. DESIGNATION OF FULL–TIME COMMISSIONERS.

(A) MONTGOMERY COUNTY.

THE MONTGOMERY COUNTY COUNCIL MAY DESIGNATE A COMMISSIONER FROM THAT COUNTY TO SERVE ON A FULL–TIME BASIS AS THE CHAIR OR VICE CHAIR OF THE COMMISSION.

(B) PRINCE GEORGE'S COUNTY.

WITH THE APPROVAL OF A MAJORITY OF THE MEMBERS OF THE COUNTY COUNCIL, THE COUNTY EXECUTIVE OF PRINCE GEORGE'S COUNTY MAY DESIGNATE A COMMISSIONER FROM THAT COUNTY TO SERVE ON A FULL–TIME BASIS AS THE CHAIR OR VICE CHAIR OF THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from the first and second sentences of former Art. 28, § 2–104(b).

Throughout this section, the references to the "chair" and "vice chair" are substituted for the former references to the "chairman" and "vice–chairman", respectively, because SG § 2–1238 requires the use of terms that are neutral as to gender to the extent practicable. *See* General Revisor's Note to article.

Defined terms: "Commission" § 14–101
"Commissioner" § 14–101

15–108. COMPENSATION.

(A) SALARY AND EXPENSE ALLOWANCE.

(1) (I) EACH COMMISSIONER OTHER THAN THE CHAIR IS ENTITLED TO AN ANNUAL SALARY OF $5,600.

(II) THE CHAIR OF THE COMMISSION IS ENTITLED TO AN ANNUAL SALARY OF $6,100.

(2) ALL SALARIES SHALL BE PAID MONTHLY FROM THE ADMINISTRATIVE TAX COLLECTED BY THE COMMISSION UNDER § 18–307 OF THIS ARTICLE.

(3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, EACH COMMISSIONER IS ENTITLED TO AN ANNUAL EXPENSE ALLOWANCE NOT EXCEEDING $2,400, IN ACCORDANCE WITH RULES AND REGULATIONS THE COMMISSION ADOPTS.

(II) A COMMISSIONER SHALL SUBMIT A VOUCHER SHOWING THE EXPENSES.

(B) SUPPLEMENTARY SALARY.

(1) (I) WITH THE APPROVAL OF THE COUNTY EXECUTIVE OF MONTGOMERY COUNTY, THE COUNTY COUNCIL MAY AUTHORIZE AN APPROPRIATE SUPPLEMENTARY SALARY FOR THE COMMISSIONER DESIGNATED BY MONTGOMERY COUNTY TO SERVE ON A FULL–TIME BASIS.

(II) IF THE COUNTY EXECUTIVE FAILS TO APPROVE A SUPPLEMENTARY SALARY AUTHORIZATION BY THE COUNTY COUNCIL WITHIN 30 DAYS AFTER THE AUTHORIZATION IS SUBMITTED, THE COUNTY COUNCIL, BY AN AFFIRMATIVE VOTE OF SIX OF ITS MEMBERS, MAY AUTHORIZE THE SUPPLEMENTARY SALARY WITHOUT THE APPROVAL OF THE COUNTY EXECUTIVE.

(2) ON THE RECOMMENDATION OF THE COUNTY EXECUTIVE OF PRINCE GEORGE'S COUNTY, THE COUNTY COUNCIL MAY AUTHORIZE AN

APPROPRIATE SUPPLEMENTARY SALARY FOR THE COMMISSIONER DESIGNATED BY PRINCE GEORGE'S COUNTY TO SERVE ON A FULL–TIME BASIS.

(3) ANY SUPPLEMENTARY SALARY AUTHORIZED UNDER THIS SUBSECTION SHALL BE PAID FROM THE ADMINISTRATIVE TAX COLLECTED BY THE COMMISSION UNDER § 18–307 OF THIS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–104(a) and the third through sixth sentences of (b).

In subsection (a)(1)(i) of this section, the reference to each commissioner "other than the chair" is added for clarity.

Also in subsection (a)(1)(i) of this section, the reference to the "chair" is substituted for the former reference to the "chairman" because SG § 2–1238 requires the use of terms that are neutral as to gender to the extent practicable. *See* General Revisor's Note to article.

In subsections (a)(2) and (b)(3) of this section, the references to the administrative tax collected by the Commission "under § 18–307 of this article" are added for clarity.

In subsection (a)(3)(ii) of this section, the reference to a "commissioner" submitting a voucher is added for clarity.

In subsection (b)(1)(i) of this section, the reference to "an appropriate supplementary salary" is substituted for the former reference to "whatever supplementary salary as may be appropriate" for brevity. Correspondingly, in subsection (b)(2) of this section, the reference to "an appropriate supplementary salary" is substituted for the former reference to "whatever supplementary salary as may be deemed appropriate".

In subsection (b)(1)(ii) of this section, the reference to 30 days "after the authorization is submitted" is added for clarity.

Also in subsection (b)(1)(ii) of this section, the reference to authorizing the supplementary salary "without the approval" of the County Executive is substituted for the former reference to "notwithstanding the lack of approval" for brevity.

In subsection (b)(3) of this section, the reference to "this subsection" is substituted for the former overbroad reference to "this title".

Defined terms: "Commission" § 14–101
"Commissioner" § 14–101

15–109. EXECUTIVE DIRECTOR, SECRETARY–TREASURER, AND GENERAL COUNSEL.

(A) APPOINTMENT; TENURE; COMPENSATION.

(1) THE COMMISSION SHALL APPOINT AN EXECUTIVE DIRECTOR, A SECRETARY–TREASURER, AND A GENERAL COUNSEL.

(2) THE EXECUTIVE DIRECTOR, SECRETARY–TREASURER, AND GENERAL COUNSEL SERVE AT THE PLEASURE OF THE COMMISSION.

(3) THE COMMISSION SHALL SET THE COMPENSATION OF THE EXECUTIVE DIRECTOR, SECRETARY–TREASURER, AND GENERAL COUNSEL.

(B) BOND REQUIREMENT.

THE EXECUTIVE DIRECTOR AND THE SECRETARY–TREASURER SHALL BE BONDED.

(C) RESIDENCY RESTRICTION.

OF THE THREE OFFICERS APPOINTED UNDER THIS SECTION, NOT MORE THAN TWO SHALL BE RESIDENTS OF THE SAME COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–106.

In subsection (a)(3) of this section, the former phrase "from time to time" is deleted as surplusage.

In subsection (c) of this section, the reference to the officers "appointed under this section" is substituted for the former reference to "these" officers for clarity.

Defined terms: "Commission" § 14–101
"County" § 14–101

15–110. EMPLOYEES AND CONTRACTORS.

THE COMMISSION MAY:

(1) APPOINT OR CONTRACT FOR THE SERVICES OF PLANNING, ENGINEERING, LEGAL, ADMINISTRATIVE, AUDITING, CLERICAL, STAFF, OR

OTHER EMPLOYEES NECESSARY TO ADMINISTER THIS DIVISION ON A REGIONAL BASIS; AND

(2) SET THE COMPENSATION OF EMPLOYEES AND CONTRACTORS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–107.

In item (1) of this section, the reference to services of "legal" and other employees is added for clarity.

Also in item (1) of this section, the explicit reference to "staff" is added for clarity.

Defined term: "Commission" § 14–101

15–111. BONDS OF OFFICERS AND EMPLOYEES.

THE COMMISSION MAY REQUIRE ANY OFFICER OR EMPLOYEE TO POST SECURITY IN A FORM AND AMOUNT THE COMMISSION APPROVES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–108.

The reference to "post[ing] security in a form … the Commission approves" is substituted for the former reference to "giv[ing] bond with surety approved … by the Commission" for clarity.

Defined term: "Commission" § 14–101

15–112. OFFICES.

THE COMMISSION MAY:

(1) MAINTAIN OFFICES IN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY; AND

(2) HOLD MEETINGS, CONDUCT HEARINGS, AND PERFORM ANY OF ITS DUTIES UNDER THIS DIVISION AT THE OFFICE THAT, IN THE COMMISSION'S JUDGMENT, BEST SUITS THE CONVENIENCE OF THE PUBLIC.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–109.

In item (2) of this section, the reference to "its duties under this division" is substituted for the former reference to "the duties vested in it by this article" for brevity.

Also in item (2) of this section, the former reference to "all" of the duties is deleted as included in the reference to "any" of the duties.

Defined term: "Commission" § 14–101

15–113. POWERS AND DUTIES — IN GENERAL.

(A) IN GENERAL.

THE COMMISSION MAY:

(1) EXERCISE THE POWERS, DUTIES, AND FUNCTIONS PROVIDED IN THIS DIVISION;

(2) USE A COMMON SEAL;

(3) SUE AND BE SUED; AND

(4) DO ANY OTHER CORPORATE ACT NECESSARY TO CARRY OUT THIS DIVISION.

(B) GOVERNMENTAL IMMUNITY.

THE COMMISSION MAY RAISE THE DEFENSE OF PARTIAL GOVERNMENTAL IMMUNITY DESCRIBED UNDER § 5–512 OF THE COURTS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, §§ 2–110 and 2–111(f) and, as it related to the powers, duties, and functions of the Commission, the first sentence of § 1–101.

In subsection (a)(1) of this section, the former reference to "hav[ing]" powers, duties, and functions is deleted as implicit in the reference to "exercis[ing]" powers, duties, and functions.

In subsection (a)(4) of this section, the former reference to "all" other corporate acts is deleted as included in the reference to "any" other corporate act.

Defined term: "Commission" § 14–101

15–114. POWERS AND DUTIES — INSURANCE.

(A) COMPREHENSIVE INSURANCE PROGRAM.

THE COMMISSION SHALL ESTABLISH AN ADEQUATE COMPREHENSIVE INSURANCE PROGRAM.

(B) REQUIRED COVERAGE.

(1) THE COMPREHENSIVE INSURANCE PROGRAM SHALL PROVIDE:

(I) COMPENSATION FOR PERSONAL INJURY OR DEATH OR PROPERTY DAMAGE RESULTING FROM NEGLIGENCE, MALPRACTICE, OR ANY OTHER CIVIL OR TORTIOUS ACT OR OMISSION OF THE COMMISSION, OR OF ITS COMMISSIONERS, EMPLOYEES, AND AGENTS ACTING WITHIN THE SCOPE OF THEIR DUTIES AND WITHOUT MALICE OR GROSS NEGLIGENCE; AND

(II) PROTECTION FOR PROPERTY OF THE COMMISSION AND FOR OFFICIALS AND EMPLOYEES ACTING WITHIN THE SCOPE OF THEIR DUTIES, INCLUDING A COMPREHENSIVE WORKERS' COMPENSATION PROGRAM.

(2) THE COMMISSION MAY PURCHASE ANY OTHER LIABILITY INSURANCE THE COMMISSION CONSIDERS NECESSARY.

(C) GROUP HEALTH, LIFE, HOSPITALIZATION, AND DISABILITY INSURANCE.

THE COMMISSION MAY ESTABLISH A PROGRAM OF GROUP HEALTH, LIFE, HOSPITALIZATION, AND DISABILITY INSURANCE BY PURCHASING INSURANCE COVERAGE FROM INSURANCE COMPANIES AUTHORIZED TO DO BUSINESS IN THE STATE AND, EXCEPT FOR DISABILITY INSURANCE, NOT BY SELF–INSURANCE.

(D) METHODS OF PROVIDING COVERAGE.

(1) THE INSURANCE REQUIRED UNDER SUBSECTION (B) OF THIS SECTION AND THE DISABILITY INSURANCE AUTHORIZED UNDER SUBSECTION (C) OF THIS SECTION MAY BE PROVIDED BY:

(I) PURCHASING INSURANCE COVERAGE FROM INSURANCE COMPANIES AUTHORIZED TO DO BUSINESS IN THE STATE;

(II) A SELF–INSURANCE PROGRAM; OR

(III) A COMBINATION OF PURCHASED INSURANCE COVERAGE AND SELF–INSURANCE.

(2) IF A SELF–INSURANCE PROGRAM IS ESTABLISHED AND FUNDED TO COVER ALL OR PART OF THE INSURANCE REQUIRED UNDER SUBSECTION (B) OF THIS SECTION:

(I) THE COMMISSION SHALL ADOPT RULES AND REGULATIONS FOR THE ADMINISTRATION OF THE PROGRAM; AND

(II) FUNDING FOR THE PROGRAM SHALL BE INCLUDED IN THE ANNUAL OPERATING BUDGET.

(3) THE INSURANCE PROGRAM ESTABLISHED BY THE COMMISSION SHALL PROVIDE FOR:

(I) DEFENSE OF CLAIMS; AND

(II) COMPENSATION FOR DAMAGES.

(4) WITHIN THE LIMITS OF APPROPRIATIONS FOR THE INSURANCE PROGRAM, THE COMMISSION MAY:

(I) ENGAGE NECESSARY CLAIMS INVESTIGATORS AND ADJUSTORS; AND

(II) PROVIDE FOR THE DEFENSE AND SETTLEMENT OF CLAIMS AND PAYMENT OF JUDGMENTS.

(E) AGREEMENTS WITH LOCAL GOVERNMENTS.

(1) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE COMMISSION MAY COOPERATE WITH AND ENTER INTO AGREEMENTS TO OBTAIN AND PROVIDE INSURANCE COVERAGE IN THE MOST ECONOMICAL MANNER WITH:

(I) MONTGOMERY COUNTY;

(II) PRINCE GEORGE'S COUNTY;

(III) BOTH MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY; OR

(IV) SUBJECT TO THE APPROVAL OF THE COUNTY GOVERNMENT OF A COUNTY AFFECTED BY THE AGREEMENT, OTHER UNITS OF GOVERNMENT.

(2) AN AGREEMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY PROVIDE FOR ANY TYPE OF INSURANCE PROTECTION, INCLUDING:

(I) PUBLIC LIABILITY;

(II) GROUP HEALTH, LIFE, HOSPITALIZATION, AND DISABILITY;

(III) REAL AND PERSONAL PROPERTY; AND

(IV) WORKERS' COMPENSATION.

(3) THIS SUBSECTION DOES NOT AUTHORIZE THE COMMISSION TO ESTABLISH A SELF–INSURANCE PROGRAM FOR GROUP HEALTH, LIFE, AND HOSPITALIZATION INSURANCE.

(F) WORKERS' COMPENSATION.

(1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, A PAYMENT MADE TO A POLICE OFFICER EMPLOYED BY THE COMMISSION FOR AN ILLNESS OR INJURY RECEIVED IN THE LINE OF DUTY IN ACCORDANCE WITH ANY DISABILITY PROGRAM OR DISABILITY INSURANCE PROGRAM AUTHORIZED UNDER THIS SECTION IS CONSIDERED IN THE NATURE OF WORKERS' COMPENSATION.

(2) A PAYMENT DESCRIBED IN THIS SUBSECTION IS INDEPENDENT OF ANY PAYMENT MADE UNDER THE MARYLAND WORKERS' COMPENSATION ACT.

(3) THIS SUBSECTION DOES NOT AFFECT:

(I) THE OFFSET PROVISION UNDER § 9–610 OF THE LABOR AND EMPLOYMENT ARTICLE; OR

(II) THE PRESUMPTION OF A POLICE OFFICER'S ENTITLEMENT TO BENEFITS UNDER § 9–503 OF THE LABOR AND EMPLOYMENT ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–111(a) through (e).

In subsection (b)(1)(i) of this section, the reference to "personal injury or death or property damage" is substituted for the former reference to "injury to or death of persons or damage to property" for brevity.

Also in subsection (b)(1)(i) of this section, the reference to an "act or omission" is substituted for the former reference to an "action" for clarity.

Also in subsection (b)(1)(i) of this section, the former reference to any other "type of" civil or tortious action is deleted as surplusage.

Also in subsection (b)(1)(i) of this section, the former reference to "staff" is deleted as included in the reference to "employees".

In subsection (c) of this section, the phrase "except for disability insurance," is added for clarity.

In the introductory language to subsection (d)(2) of this section, the reference to the insurance required "under subsection (b) of this section" is substituted for the former reference to the insurance required "for the comprehensive program" for clarity and consistency within this subsection.

In subsection (d)(2)(i) of this section, the reference to "rules" is added for clarity.

In subsection (d)(2)(ii) of this section, the requirement that funding be "included in the annual operating budget" is substituted for the former requirement that funding be "a budget item" for clarity.

In the introductory language to subsection (d)(3) of this section, the reference to the "insurance program established by the Commission" is substituted for the former reference to "[w]hatever insurance program is established" for clarity.

In subsection (d)(4)(ii) of this section, the former reference to "lawful" judgments is deleted as surplusage.

In the introductory language to subsection (e)(2) of this section, the former phrase "but not limited to" is deleted as unnecessary in light of Art. 1, § 30, which provides that the term "including" is used "by way of illustration and not by way of limitation".

In subsection (f)(3)(i) of this section, the reference to the "offset" provision under LE § 9–610 is substituted for the former erroneous reference to the "set–off" provision at that location.

Defined terms: "Commission" § 14–101
"Commissioner" § 14–101
"State" § 14–101

15–115. POWERS AND DUTIES — FINANCIAL REPORTS.

(A) ANNUAL FINANCIAL REPORT.

(1) THE COMMISSION SHALL PREPARE AN ANNUAL FINANCIAL REPORT.

(2) THE ANNUAL FINANCIAL REPORT SHALL:

(I) INCLUDE THE FINANCIAL STATEMENTS OF THE COMMISSION; AND

(II) BE CERTIFIED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT.

(3) THE COMMISSION SHALL MAKE THE CERTIFIED ANNUAL FINANCIAL REPORT AVAILABLE FOR DISTRIBUTION TO THE PUBLIC.

(B) SUMMARY FINANCIAL REPORT.

(1) AFTER THE AUDIT IS COMPLETED, THE COMMISSION SHALL PUBLISH A SUMMARY FINANCIAL REPORT CONSISTING OF A COMBINED STATEMENT OF REVENUES AND EXPENDITURES FOR ALL FUNDS:

(I) IN AT LEAST ONE NEWSPAPER OF GENERAL CIRCULATION PUBLISHED IN MONTGOMERY COUNTY; AND

(II) 1. IN THE NEWSPAPERS OFFICIALLY DESIGNATED BY THE PRINCE GEORGE'S COUNTY GOVERNMENT AS NEWSPAPERS OF RECORD; OR

2. IN THE ABSENCE OF A DESIGNATION OF A NEWSPAPER OF RECORD, IN AT LEAST ONE NEWSPAPER OF GENERAL CIRCULATION PUBLISHED IN PRINCE GEORGE'S COUNTY.

(2) THE PUBLICATION OF THE SUMMARY FINANCIAL REPORT SHALL CARRY APPROPRIATE REFERENCES TO THE COMMISSION'S CERTIFIED ANNUAL FINANCIAL REPORT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–113.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that the requirement that the Commission's annual financial report be "certified" under subsection (a)(2)(ii) of this section is not consistent with, and is a lesser standard, than the "audit" to which subsection (b)(1) refers. If the General Assembly wishes to require an audit of the Commission's annual report, the references to "certifi[cation]" in subsections (a)(2)(ii) and (b)(2) of this section should be altered accordingly; if "certification" suffices, the reference to an "audit" in subsection (b)(1) of this section should be changed to "certification".

Defined term: "Commission" § 14–101

15–116. POWERS AND DUTIES — PUBLICATIONS OF COMMISSION.

(A) ANNUAL REPORT REQUIRED.

(1) THE COMMISSION SHALL PUBLISH EACH YEAR A REPORT DESCRIBING THE WORK OF THE COMMISSION FOR THE PREVIOUS YEAR, IN THE DETAIL THAT THE COMMISSION CONSIDERS APPROPRIATE.

(2) THE REPORT REQUIRED UNDER THIS SUBSECTION SHALL INCLUDE:

(I) LAND ACQUISITIONS;

(II) FINANCIAL TRANSACTIONS;

(III) PERSONNEL MATTERS; AND

(IV) LITIGATION AND DISPOSITION OF VIOLATIONS.

(B) PUBLICATION OF PAMPHLETS AUTHORIZED.

THE COMMISSION MAY PUBLISH PAMPHLETS DESCRIBING:

(1) THE LAW ADMINISTERED BY THE COMMISSION; AND

(2) SUBDIVISION, ZONING, AND OTHER REGULATIONS ADOPTED OR ENACTED BY THE COMMISSION OR THE DISTRICT COUNCILS.

(C) FEES FOR PUBLICATIONS AUTHORIZED.

THE COMMISSION MAY CHARGE A FEE FOR A PUBLICATION ISSUED UNDER THIS SECTION TO COVER ANY OF THE COST OF THE PUBLICATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–107.

In subsection (a)(1) of this section, the reference to the "previous" year is added for clarity.

Also in subsection (a)(1) of this section, the reference to "describing" the work is substituted for the former reference to "setting forth" the work for clarity. Similarly, in the introductory language to subsection (b) of this section, the reference to "describing" the law is substituted for the former reference to "setting forth" the law.

In subsection (a)(2) of this section, the reference to "other data and information" is deleted as surplusage.

In subsection (b) of this section, the former reference to "annotations and maps the Commission deems appropriate" is deleted as surplusage.

In the introductory language to subsection (b) of this section, the former reference to "prepar[ing]" pamphlets is deleted as implicit in the authorization to "publish" pamphlets.

Also in the introductory language to subsection (b) of this section, the former reference to "one or more" pamphlets is deleted as unnecessary in light of Art. 1, § 8, which provides that the singular generally includes the plural, and vice versa.

In subsection (b)(2) of this section, the Land Use Article Review Committee notes, for consideration by the General Assembly, that the Commission does not "enact" regulations, but only "adopt[s]" them.

In subsection (c) of this section, the reference to a publication "issued under this section" is added for clarity.

Also in subsection (c) of this section, the reference to "any of the cost of the publication" is substituted for the former reference to "sufficient to cover in whole or in part the cost thereof" for brevity.

Defined terms: "Commission" § 14–101
"District council" § 14–101
"Subdivision" § 14–101

15–117. POWERS AND DUTIES — MINUTE OR RECORD BOOKS.

(A) REQUIRED.

THE COMMISSION SHALL:

(1) MAINTAIN A MINUTE OR RECORD BOOK; AND

(2) RECORD ITS ACTIONS IN THE MINUTE OR RECORD BOOK IN USUAL CORPORATE FORM.

(B) RECORDED VOTES.

(1) THE VOTES OF THE COMMISSIONERS SHALL BE SEPARATELY TAKEN AND RECORDED BY YEAS, NAYS, AND ABSTENTIONS, AND THE REASONS FOR EACH ABSTENTION SHALL BE RECORDED, WITH RESPECT TO ANY:

(I) ACTION AUTHORIZING, MODIFYING, OR RESCINDING THE ADOPTION OF A MASTER PLAN;

(II) APPROVAL OF PLATS OF SUBDIVISION;

(III) APPROVAL OF SUBDIVISION OR OTHER REGULATIONS;

(IV) RECOMMENDATIONS ON ZONING MAP AMENDMENTS; OR

(V) ZONING TEXT AMENDMENTS.

(2) THE NAMES OF THE COMMISSIONERS VOTING OR ABSTAINING SHALL BE INCLUDED IN THE MINUTE ENTRY FOLLOWING A BRIEF SUMMARY OF THE MATTER ON WHICH THE VOTE WAS TAKEN.

(C) PUBLIC INSPECTION AND COPYING.

THE MINUTE OR RECORD BOOK SHALL BE KEPT AVAILABLE AND OPEN TO PUBLIC INSPECTION AND COPYING DURING BUSINESS HOURS IN THE COMMISSION'S PRINCIPAL OFFICES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–114(b).

Defined terms: "Commission" § 14–101
"Commissioner" § 14–101
"Subdivision" § 14–101

15–118. POWERS AND DUTIES — ENTRY INTO BUILDINGS AND PRIVATE PREMISES.

IN THE PERFORMANCE OF THE FUNCTIONS AND DUTIES OF THE COMMISSION, ANY COMMISSIONER OR EMPLOYEE OR AGENT OF THE COMMISSION MAY ENTER AT ALL REASONABLE HOURS ANY BUILDING OR PRIVATE PREMISES IN THE METROPOLITAN DISTRICT OR IN THE REGIONAL DISTRICT TO MAKE EXAMINATIONS AND SURVEYS AND TO PLACE AND MAINTAIN NECESSARY MONUMENTS AND MARKS ON THE BUILDING OR PREMISES.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 28, § 2–116.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that the right of entry granted by this section is subject to constitutional requirements and limitations under both federal and State constitutions.

Defined terms: "Commission" § 14–101
"Commissioner" § 14–101
"Metropolitan district" § 14–101
"Regional district" § 14–101

15–119. POWERS AND DUTIES — DEFENSE ACTIVITIES.

COMMISSIONERS AND EMPLOYEES OF THE COMMISSION MAY ENGAGE IN CIVILIAN DEFENSE OR OTHER DEFENSE ACTIVITIES UNDER THE DIRECTION OF, OR IN COOPERATION WITH, FEDERAL, STATE, OR COUNTY UNITS IN CHARGE OF THE DEFENSE ACTIVITIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–117.

The reference to "employees" is substituted for the former reference to "staff" for consistency within this subtitle.

The reference to "units" is substituted for the former reference to "agencies" for consistency with other revised articles of the Code. *See* General Revisor's Note to article.

Defined terms: "Commission" § 14–101
"Commissioner" § 14–101
"County" § 14–101
"State" § 14–101

15–120. PROHIBITED ACTS — CONFLICTS OF INTEREST.

(A) CONSTRUCTION OF SECTION.

THIS SECTION DOES NOT PROHIBIT A COMMISSIONER FROM:

(1) APPEARING IN THE PURSUIT OF THE COMMISSIONER'S PRIVATE INTERESTS AS A CITIZEN;

(2) ACCEPTING OR RECEIVING ANY BENEFIT BY OPERATION OF LAW; OR

(3) PROSECUTING OR PURSUING ANY CLAIM, RIGHT, PRIVILEGE, OR REMEDY THAT ACCRUES TO THE COMMISSIONER BY OPERATION OF LAW.

(B) RESTRICTIONS ON PARTICIPATION.

(1) (I) THIS SUBSECTION DOES NOT PROHIBIT A COMMISSIONER FROM HAVING OR HOLDING A PRIVATE INVESTMENT, BUSINESS, OR PROFESSIONAL INTEREST, UNLESS THE INTEREST IS OR REASONABLY MAY BE IN CONFLICT WITH THE PROPER PERFORMANCE OF THE COMMISSIONER'S DUTY.

(II) A PRIVATE INVESTMENT, BUSINESS, OR PROFESSIONAL INTEREST IS PRESUMED TO BE IN CONFLICT WITH THE PROPER PERFORMANCE OF THE COMMISSIONER'S DUTY IF THE COMMISSIONER OR THE COMMISSIONER'S SPOUSE, PARENT, CHILD, BROTHER, OR SISTER:

1. JOINTLY OR SEVERALLY OWNS MORE THAN 3% OF THE INVESTED CAPITAL OR CAPITAL STOCK OF ANY ENTITY INVOLVED IN THE DECISION BEING MADE BY THE COMMISSIONER, COMMISSION, OR COUNTY PLANNING BOARD ON WHICH THE COMMISSIONER SERVES; OR

2. RECEIVES A TOTAL COMBINED COMPENSATION OF MORE THAN $5,000 A YEAR FROM ANY PERSON INVOLVED IN THE DECISION

BEING MADE BY THE COMMISSIONER, COMMISSION, OR COUNTY PLANNING BOARD ON WHICH THE COMMISSIONER SERVES.

(2) THIS SUBSECTION DOES NOT APPLY TO OR INCLUDE:

(I) AN INTEREST OR INVESTMENT IN LAND GEOGRAPHICALLY REMOTE FROM THE LAND INVOLVED IN THE DECISION;

(II) THE OWNERSHIP OF A RECORDED SINGLE–FAMILY LOT ON WHICH THE COMMISSIONER ACTUALLY RESIDES; OR

(III) A POSSIBILITY OF REVERTER, A MORTGAGE, OR OTHER SECURITY INTEREST IN REAL PROPERTY NOT OTHERWISE DESCRIBED IN THIS SUBSECTION.

(3) A COMMISSIONER MAY NOT:

(I) DECIDE, OR PARTICIPATE IN, A DECISION IN WHICH THE COMMISSIONER HAS A FINANCIAL INTEREST, WHETHER AS AN OWNER, MEMBER, PARTNER, OFFICER, EMPLOYEE, STOCKHOLDER, OR OTHER PARTICIPANT OF OR IN ANY PRIVATE BUSINESS OR PROFESSIONAL ENTERPRISE, THAT WILL BE AFFECTED BY THE DECISION; OR

(II) KNOWINGLY PARTICIPATE IN A DECISION AFFECTING THE FINANCIAL INTEREST, JOINTLY OR SEVERALLY, OF A PERSON RELATED TO THE COMMISSIONER OR THE COMMISSIONER'S SPOUSE, PARENT, CHILD, BROTHER, OR SISTER.

(C) RESTRICTIONS ON EMPLOYMENT OR REPRESENTATION.

A COMMISSIONER MAY NOT:

(1) ACT AS A BROKER, AGENT, ATTORNEY, REPRESENTATIVE, OR EMPLOYEE OF ANY PERSON IN THE PERSON'S BUSINESS DEALINGS WITH:

(I) MONTGOMERY COUNTY;

(II) PRINCE GEORGE'S COUNTY;

(III) THE WASHINGTON SUBURBAN SANITARY COMMISSION; OR

(IV) THE COMMISSION;

(2) DECIDE, OR PARTICIPATE IN, A DECISION ON ANY MATTER IN WHICH A CLOSE BUSINESS OR PROFESSIONAL ASSOCIATE HAS ACTED AS A BROKER, AGENT, ATTORNEY, REPRESENTATIVE, OR EMPLOYEE OF ANY PERSON OR REPRESENTED PRIVATE INTERESTS BEFORE:

(I) MONTGOMERY COUNTY;

(II) PRINCE GEORGE'S COUNTY;

(III) THE WASHINGTON SUBURBAN SANITARY COMMISSION; OR

(IV) THE COMMISSION; OR

(3) REPRESENT A PRIVATE INTEREST OR APPEAR IN A POSITION OF ADVOCACY, OTHER THAN IN THE PERFORMANCE OF THE COMMISSIONER'S OFFICIAL DUTIES, EITHER IN PERSON OR THROUGH AN ASSOCIATE, IN ANY MATTER OR PROCEEDING PENDING BEFORE:

(I) THE MONTGOMERY COUNTY COUNCIL;

(II) THE PRINCE GEORGE'S COUNTY COUNCIL;

(III) THE WASHINGTON SUBURBAN SANITARY COMMISSION;

(IV) THE COMMISSION;

(V) THE MONTGOMERY COUNTY BOARD OF APPEALS; OR

(VI) THE PRINCE GEORGE'S COUNTY BOARD OF APPEALS.

(D) SOLICITATION OR ACCEPTANCE OF GIFTS.

A COMMISSIONER MAY NOT SOLICIT OR ACCEPT ANY GIFT, FAVOR, LOAN, SERVICE, PROMISE, EMPLOYMENT, OR THING THAT MIGHT INFLUENCE OR TEND TO INFLUENCE THE PROPER PERFORMANCE OF THE COMMISSIONER'S DUTY.

(E) DISCLOSURE OR USE OF CONFIDENTIAL INFORMATION.

A COMMISSIONER MAY NOT:

(1) DISCLOSE CONFIDENTIAL INFORMATION CONCERNING THE PROPERTY, MANAGEMENT, OR AFFAIRS OF:

(I) MONTGOMERY COUNTY;

(II) PRINCE GEORGE'S COUNTY;

(III) THE WASHINGTON SUBURBAN SANITARY COMMISSION; OR

(IV) THE COMMISSION; OR

(2) USE ANY INFORMATION DESCRIBED IN ITEM (1) OF THIS SUBSECTION TO ADVANCE THE FINANCIAL OR OTHER PRIVATE INTERESTS OF THE COMMISSIONER OR OTHER PERSONS.

(F) IMPROPER INFLUENCE OF OTHER OFFICIALS.

A COMMISSIONER MAY NOT ATTEMPT TO INFLUENCE FOR A PURPOSE CONTRARY TO THIS SECTION ANY OTHER COUNTY OR STATE OFFICIAL IN THE CONDUCT OF THE OTHER OFFICIAL'S DUTIES.

(G) DISCLOSURE AND NONPARTICIPATION REQUIRED.

(1) IF A COMMISSIONER HAS ANY INTEREST DESCRIBED IN THIS SECTION THAT IS OR REASONABLY MAY BE INCOMPATIBLE WITH OR IN CONFLICT WITH ANY OF THE COMMISSIONER'S OFFICIAL DUTIES OR ACTS, THE COMMISSIONER:

(I) SHALL DISCLOSE THE INTEREST IN A REGULAR PUBLIC MEETING OF THE COMMISSION OR THE COUNTY PLANNING BOARDS; AND

(II) IS DISQUALIFIED AND MAY NOT PARTICIPATE IN THE DECISION OR ACT AFFECTED BY THE INTEREST.

(2) A DISCLOSURE MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL APPEAR IN THE MINUTES OF THE MEETING.

(H) PENALTIES.

A COMMISSIONER WHO VIOLATES ANY PROVISION OF SUBSECTIONS (B) THROUGH (F) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

(1) IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING $1,000 OR BOTH;

(2) SUSPENSION FROM THE COMMISSION OR EMPLOYMENT NOT EXCEEDING 6 MONTHS;

(3) FORFEITURE AND REMOVAL FROM OFFICE; OR

(4) ANY COMBINATION OF THE PENALTIES DESCRIBED IN ITEMS (1) THROUGH (3) OF THIS SUBSECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–115(a) through (d).

In the introductory language to subsection (a) of this section, the former reference to a "part of" this section is deleted as surplusage.

In subsection (b)(1)(i) of this section, the word "unless" is substituted for the former phrase "but shall be construed to apply when" for brevity.

In subsection (b)(1)(ii)1 of this subsection, the reference to any "entity" is substituted for the former reference to any "groups, firms, corporations, or associations" for brevity.

In the introductory language to subsection (b)(2) of this section, the reference to "[t]his subsection" is substituted for the former reference to "[t]he prohibition" for clarity and consistency.

In subsection (b)(2)(iii) of this section, the phrase "in real property not otherwise described in this subsection" is substituted for the former phrase "in which the real property in interest is not as other defined in this [subsection]" for brevity and clarity.

In subsection (g)(2) of this section, the reference to the minutes "of the meeting" is added for clarity.

In subsection (h) of this section, the former phrase "as in the discretion of the court is fit and proper" is deleted as implicit in the establishment of maximum penalties.

In subsection (h)(3) of this section, the former reference to "outright" forfeiture is deleted as surplusage.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that there is considerable overlap between this section and the State Ethics Law provisions of SG Title 15, Subtitle 5, and the specific bicounty commission ethics provisions of SG Title 15, Subtitle 8, Part III. This section is derived from material that preceded the enactment of the relevant provisions of SG Title 15. The committee advises that the General Assembly may wish to compare the enforcement mechanisms for these provisions as compared with those in SG Title 15, and perhaps to reconcile the matters where they overlap. The committee also notes, however, that SG Title 15 does not appear to have criminal sanctions such as those found in this section except for lobbyists who violate ethics laws. In addition, it may be helpful to consolidate the ethics provisions relating to the Commission in one statute, either in this subtitle or in SG Title 15. The General Assembly may wish to weigh these substantive issues as it reviews the ethics provisions related to the Commission.

The Land Use Article Review Committee also notes, for consideration by the General Assembly, that the exclusion from the limitation on ownership and required disclosure of "the ownership of a recorded single–family lot on which the commissioner actually resides" under subsection (b)(2)(ii) of this section does not apply to a commissioner who resides in a townhouse, regardless of the form of ownership, or in property subject to a condominium regime. The General Assembly may wish to consider altering the exclusion to reflect "real property on which the commissioner maintains a primary residence" or a similar phrase.

Former Art. 28, § 2–115(e), which provided that "[t]he provisions of this section are severable and are as provided in Article 1, § 23 of the Code", is deleted as unnecessary in light of the general severability provision in Art. 1, § 23.

Defined terms: "Commission" § 14–101
"Commissioner" § 14–101
"County" § 14–101
"County planning board" § 14–101
"Person" § 14–101
"State" § 14–101

SUBTITLE 2. MINORITY BUSINESS ENTERPRISE UTILIZATION PROGRAM.

15–201. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language added as the standard introductory language to a definition section.

(B) CERTIFIED MINORITY BUSINESS ENTERPRISE.

"CERTIFIED MINORITY BUSINESS ENTERPRISE" MEANS A MINORITY BUSINESS ENTERPRISE THAT MEETS THE REQUIREMENTS ESTABLISHED BY REGULATION UNDER § 15–203 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language added for clarity.

Defined term: "Minority" § 15–201

(C) MINORITY.

"MINORITY" MEANS A GROUP THAT THE COMMISSION FINDS TO BE SOCIALLY OR ECONOMICALLY DISADVANTAGED IN ACCORDANCE WITH § 15–202(A) OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 28, § 2–301, as it related to a group found to be a "minority".

Defined term: "Commission" § 14–101

(D) PROGRAM.

"PROGRAM" MEANS THE MINORITY BUSINESS ENTERPRISE UTILIZATION PROGRAM.

REVISOR'S NOTE: This subsection is new language added for clarity and to avoid repetition of the full title "Minority Business Enterprise Utilization Program".

15–202. STUDY; ESTABLISHMENT.

(A) STUDY AND FINDING.

THE COMMISSION MAY STUDY AND MAKE A FINDING AS TO WHETHER A GROUP IS SOCIALLY OR ECONOMICALLY DISADVANTAGED AS A RESULT OF DISCRIMINATION IN THE PUBLIC OR PRIVATE SECTOR THAT AFFECTS THE GROUP'S UTILIZATION AND PARTICIPATION IN CONTRACTING OR PROCUREMENT WITH THE COMMISSION.

(B) ESTABLISHMENT.

IF THE COMMISSION FINDS THAT A PROGRAM IS NECESSARY TO REMEDY DISCRIMINATION AGAINST A MINORITY, THE COMMISSION SHALL ESTABLISH A MINORITY BUSINESS ENTERPRISE UTILIZATION PROGRAM TO FACILITATE PARTICIPATION OF RESPONSIBLE CERTIFIED MINORITY BUSINESS ENTERPRISES IN CONTRACTS AWARDED BY THE COMMISSION FOR GOODS, SERVICES, AND CONSTRUCTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, §§ 2–302 and, as it related to the Commission's study and findings, 2–301.

Subsection (a) of this section is revised to distinguish between the substantive authorization to study and determine whether a group is a "minority" that should benefit from a Program under this subtitle rather than the definition of "minority" for clarity.

In subsection (b) of this section, the reference to discrimination against "a minority" is substituted for the former reference to discrimination against "minority business enterprises in contracting or procurement with the Commission" for brevity and because the phrase is implicit in the definition of "minority" under § 15–201(c) of this subtitle.

Defined terms: "Certified minority business enterprise" § 15–201
"Commission" § 14–101
"Minority" § 15–201

15–203. REGULATIONS.

(A) ADOPTION.

THE COMMISSION SHALL ADOPT REGULATIONS FOR THE OPERATION OF THE PROGRAM.

(B) CONTENT.

THE REGULATIONS SHALL PROVIDE FOR:

(1) ACCEPTANCE OF THE CERTIFICATION OF A MINORITY BUSINESS ENTERPRISE THAT HAS BEEN CERTIFIED BY THE STATE CERTIFICATION AGENCY DESIGNATED UNDER § 14–303 OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

(2) WAIVER OF ALL OR PART OF THE PROGRAM PROVISIONS FOR A SPECIFIC CONTRACT IF THE COMMISSION DETERMINES THAT:

(I) A MINORITY BUSINESS ENTERPRISE IS UNAVAILABLE; OR

(II) APPLICATION OF THE PROGRAM TO THE CONTRACT CONFLICTS WITH THE OVERALL OBJECTIVES AND RESPONSIBILITIES OF THE COMMISSION;

(3) GRADUATION OF A CERTIFIED MINORITY BUSINESS ENTERPRISE FROM THE PROGRAM IF THE COMMISSION DETERMINES THAT A MINORITY BUSINESS ENTERPRISE NO LONGER REQUIRES THE ASSISTANCE OR BENEFITS OFFERED BY THE PROGRAM;

(4) TERMINATION OF THE PROGRAM WHEN THE PROGRAM IS NO LONGER NECESSARY TO REMEDY THE EFFECTS OF PAST DISCRIMINATION;

(5) ACCEPTANCE OF THE DECISIONS OF ANY OTHER CERTIFICATION PROGRAM THAT, IN THE JUDGMENT OF THE COMMISSION, ASSURES THAT A CERTIFIED MINORITY BUSINESS ENTERPRISE IS LEGITIMATE;

(6) MINORITY PARTICIPATION IN SUBCONTRACTING AND DIRECT CONTRACTING; AND

(7) APPLICATION OF REASONABLE PREFERENCES TO A CERTIFIED MINORITY BUSINESS ENTERPRISE IN EVALUATING COMPETITIVE BIDS OR PROPOSALS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–303.

Defined terms: "Certified minority business enterprise" § 15–201
"Commission" § 14–101
"Program" § 15–201
"State" § 14–101

15–204. ANNUAL REPORT.

ON OR BEFORE OCTOBER 31 OF EACH YEAR, THE COMMISSION SHALL ISSUE A REPORT TO THE MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY DELEGATIONS TO THE HOUSE OF DELEGATES AND SENATE OF MARYLAND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THAT:

(1) EVALUATES THE RESULTS OF THE PROGRAM THROUGH JUNE 30 OF THAT YEAR; AND

(2) MAKES APPROPRIATE RECOMMENDATIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–304.

In the introductory language to this section, the phrase "in accordance with § 2–1246 of the State Government Article" is added as the standard statutory language for reports that are to be submitted to the Maryland General Assembly.

Defined terms: "Commission" § 14–101
"Program" § 15–201

GENERAL REVISOR'S NOTE TO SUBTITLE

Former Art. 28, Title 2, Subtitle 3, which authorized the Commission's Minority Business Enterprise Utilization Program, was subject to termination on September 30, 2013. *See* § 1 of Ch. 100, Acts of 2008. Accordingly, the legislation that enacts this article provides for the termination of this subtitle if and when that termination provision takes effect. *See* § 25 of Ch. 426, Acts of 2012.

SUBTITLE 3. INTERGOVERNMENTAL COOPERATION.

15–301. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language added as the standard introductory language to a definition section.

(B) CONTRACT.

"CONTRACT" MEANS AN AGREEMENT, COMMITMENT, OR ARRANGEMENT MADE BETWEEN THE COMMISSION AND A GOVERNMENTAL UNIT TO FURTHER THE PURPOSES STATED IN § 15–302 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language added to clarify the use of the word "contract" throughout this subtitle.

Defined terms: "Commission" § 14–101
"Governmental unit" § 15–301

(C) GOVERNMENTAL UNIT.

"GOVERNMENTAL UNIT" MEANS:

(1) THE NATIONAL CAPITAL PLANNING COMMISSION;

(2) THE UNITED STATES GOVERNMENT;

(3) THE DISTRICT OF COLUMBIA;

(4) THE STATE, INCLUDING THE WASHINGTON SUBURBAN SANITARY COMMISSION;

(5) VIRGINIA;

(6) MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY;

(7) ANY MUNICIPAL CORPORATION, LOCAL SUBDIVISION, OR CORPORATION WITHIN THE STATE, VIRGINIA, MONTGOMERY COUNTY, OR PRINCE GEORGE'S COUNTY; OR

(8) ANY OTHER GOVERNMENTAL AGENCY THE COMMISSION DETERMINES TO BE APPROPRIATE TO FURTHER THE PURPOSES STATED IN § 15–302 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language added to avoid repetition throughout this subtitle and to clarify that the provisions of this subtitle apply to all of the named forms of government.

Defined terms: "Commission" § 14–101
"State" § 14–101

15–302. COMMISSION AS REPRESENTATIVE OF STATE.

THE COMMISSION IS THE REPRESENTATIVE OF THE STATE FOR PURPOSES OF:

(1) ACQUIRING AND DEVELOPING LAND OR OTHER PROPERTY UNDER THIS DIVISION;

(2) EXERCISING THE DUTIES OF THE STATE UNDER THIS DIVISION;

(3) COMPLYING WITH § 1(A) AND (B) OF THE CAPPER–CRAMTON ACT, PUBLIC LAW 71–284, 46 STAT. 482, FOR ACQUIRING PARKLANDS IN THE METROPOLITAN DISTRICT; OR

(4) SECURING FUNDS AUTHORIZED BY THE ACT OR BY ANY OTHER FEDERAL, STATE, OR LOCAL LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from the second sentence and, except as it related to cooperating with other governmental units, the first sentence of former Art. 28, § 4–101.

In the introductory language to this section, the former reference to the Commission being "designated as" the representative of the State is deleted as surplusage.

In item (3) of this section, the word "or" is substituted for the former phrase "and/or" to clarify that the Commission may fulfill a single purpose and need not fulfill all of the purposes listed.

Also in item (3) of this section, the reference to "§ 1(a) and (b) of the Capper–Cramton Act … in the metropolitan district" is substituted for the former reference to "subsections (a) and (b) of § 1 of an Act … as amended" for brevity.

In item (4) of this section, the former phrase "now or hereafter enacted" is deleted as surplusage.

Defined terms: "Commission" § 14–101
"Local law" § 14–101
"Metropolitan district" § 14–101
"Park" § 14–101
"State" § 14–101

15–303. AUTHORIZATION.

(A) IN GENERAL.

FOR THE PURPOSES OF § 15–302 OF THIS SUBTITLE, THE COMMISSION MAY:

(1) ACT IN CONJUNCTION AND COOPERATION WITH OTHER GOVERNMENTAL UNITS; AND

(2) ENTER INTO CONTRACTS WITH GOVERNMENTAL UNITS.

(B) LIMITATION ON EXPENDITURES.

THE COMMISSION MAY NOT OBLIGATE ITSELF OR THE METROPOLITAN DISTRICT FOR EXPENDITURES ABOVE THE AMOUNT OF MONEY THE COMMISSION HAS OR SHALL RECEIVE FROM BONDS, TAXES, DONATIONS, CONTRIBUTIONS, OR APPROPRIATIONS UNDER THIS DIVISION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 4–104, the first and second sentences of § 4–102, and, as it related to cooperating with other governmental units, the first sentence of § 4–101.

Defined terms: "Commission" § 14–101
"Contract" § 15–301
"Governmental unit" § 15–301
"Metropolitan district" § 14–101

15–304. RESOURCES.

(A) PUBLIC OFFICIALS.

WITHIN A REASONABLE TIME AFTER THE COMMISSION MAKES A REQUEST, PUBLIC OFFICIALS OF THE STATE, MONTGOMERY COUNTY, AND PRINCE GEORGE'S COUNTY SHALL FURNISH THE COMMISSION WITH AVAILABLE INFORMATION REQUIRED FOR COMMISSION WORK.

(B) WASHINGTON SUBURBAN SANITARY COMMISSION.

THE WASHINGTON SUBURBAN SANITARY COMMISSION SHALL:

(1) MAKE AVAILABLE FOR COMMISSION USE THE MAPS, SURVEYS, ENGINEERING INFORMATION, AND OTHER RECORDS OF THE WASHINGTON SUBURBAN SANITARY COMMISSION; AND

(2) WHEN REQUESTED BY THE COMMISSION, FURNISH ENGINEERING SERVICES AND ADVICE AT COST.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 4–103 and the third sentence of § 4–102.

In subsection (a) of this section, the former reference to "data" is deleted as included in the comprehensive reference to "information".

In subsection (b)(1) of this section, the former phrase "from time to time" is deleted as surplusage.

Defined terms: "Commission" § 14–101
"State" § 14–101

15–305. CONTRACT REQUIREMENTS.

(A) SCOPE OF SECTION.

THE CONDITIONS AND LIMITATIONS ESTABLISHED IN THIS SECTION APPLY TO CONTRACTS OR AMENDMENTS TO CONTRACTS ENTERED INTO UNDER THIS SUBTITLE TO ACQUIRE PARKLAND IN THE METROPOLITAN DISTRICT IN ACCORDANCE WITH § 1(A) AND (B) OF THE CAPPER–CRAMTON ACT, PUBLIC LAW 71–284, 46 STAT. 482.

(B) AMENDMENTS.

(1) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, THE COMMISSION MAY AMEND A CONTRACT.

(2) AN AMENDMENT TO A CONTRACT SHALL BE RATIFIED BY THE APPROPRIATE COUNTY COUNCIL BEFORE THE AMENDMENT BECOMES BINDING ON THE STATE, THE COMMISSION, OR THE COUNTY.

(C) NEW CONTRACTS.

(1) THE COMMISSION MAY ENTER INTO A CONTRACT WITH A GOVERNMENTAL UNIT TO:

(I) ADOPT A GENERAL OR REVISED PLAN FOR THE ACQUISITION OF PARKLANDS IN THE METROPOLITAN DISTRICT; AND

(II) SPECIFY THE METHOD TO FINANCE THE ACQUISITION.

(2) THE APPROPRIATE COUNTY COUNCIL SHALL RATIFY A CONTRACT BEFORE THE CONTRACT BECOMES BINDING ON THE STATE, THE COMMISSION, OR THE COUNTY.

(D) SUPPLEMENTAL AGREEMENTS.

(1) THE COMMISSION MAY ENTER INTO A SUPPLEMENTAL AGREEMENT TO A CONTRACT OR AMENDMENT TO A CONTRACT WITH A GOVERNMENTAL UNIT IN ACCORDANCE WITH THIS SUBSECTION.

(2) A SUPPLEMENTAL AGREEMENT SHALL:

(I) BE FOR THE ACQUISITION OF SPECIFIC UNITS OF LAND IN THE METROPOLITAN DISTRICT THAT COMPRISE PORTIONS OF THE GENERAL PARK PLAN ADOPTED IN THE CONTRACT OR AMENDMENT TO THE CONTRACT; AND

(II) SPECIFY THE FINANCING FOR THE ACQUISITION.

(3) A SUPPLEMENTAL AGREEMENT FOR A SPECIFIC UNIT OF LAND LOCATED IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY SHALL BE SUBMITTED TO THE APPROPRIATE COUNTY COUNCIL FOR RATIFICATION.

(4) THE APPROPRIATE COUNTY COUNCIL SHALL RATIFY A SUPPLEMENTAL AGREEMENT IF THE COUNTY FINDS THAT:

(I) THE BOUNDARIES OF THE UNIT OF LAND TO BE ACQUIRED UNDER THE SUPPLEMENTAL AGREEMENT ARE IN THE GENERAL PARK PLAN ADOPTED BY THE CONTRACT OR AMENDMENT THAT THE AGREEMENT SUPPLEMENTS; AND

(II) THE PROCEEDS FROM THE TAXES AUTHORIZED UNDER THE SUPPLEMENTAL AGREEMENT WILL ALLOW THE COMMISSION TO SATISFY THE OBLIGATIONS OF THE SUPPLEMENTAL AGREEMENT, INCLUDING ANY INTEREST.

(5) IN DETERMINING WHETHER THE COMMISSION WILL BE ABLE TO MEET AN OBLIGATION WITH THE PROCEEDS OF THE TAXES AUTHORIZED UNDER THE SUPPLEMENTAL AGREEMENT, THE APPROPRIATE COUNTY COUNCIL SHALL:

(I) COMPUTE THE PROCEEDS ON THE ASSESSABLE BASIS OF THE PARTS OF THE METROPOLITAN DISTRICT LYING IN THE COUNTY FOR THE FISCAL YEAR IN WHICH APPROVAL IS SOUGHT; AND

(II) ASSUME THAT THE ENTIRE TAX IMPOSED WILL BE COLLECTED SO LONG AS THERE IS AN OUTSTANDING AND UNPAID OBLIGATION.

(E) COUNTY APPROVAL.

(1) THE APPROPRIATE COUNTY COUNCIL MAY RATIFY THE SUPPLEMENTAL AGREEMENT BY SIMPLE RESOLUTION AUTHORIZING THE CHAIR OF THE COUNTY COUNCIL TO:

(I) ENDORSE THE SUPPLEMENTAL AGREEMENT; AND

(II) EXECUTE A GUARANTEE IN ACCORDANCE WITH THIS SUBTITLE.

(2) RATIFICATION BY THE MONTGOMERY COUNTY COUNCIL IS NOT NECESSARY TO APPROVE:

(I) CONTRACTS OR AMENDMENTS THAT ARE NOT RELATED TO THE ACQUISITION OF A SPECIFIC UNIT OF PARKLAND; OR

(II) SUPPLEMENTAL AGREEMENTS TO CONTRACTS RELATED ONLY TO THE ACQUISITION OF SPECIFIC UNITS OF PARKLAND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 4–105(a) and (c) through (h).

Throughout this section, the references to the "appropriate county council" are substituted for the former references to the "County Council of Montgomery County and the County Commissioners of Prince George's County" for brevity and accuracy.

Also throughout this section, the word "ratif[ied]" is substituted for the former words "approv[ed]", "approval", or "ratified and approved" for consistency throughout this section.

In subsection (a) of this section, the reference to a contract entered into "under this subtitle" is substituted for the former reference to a contract entered into "by the Commission … pursuant to the authority of this title" for brevity.

Also in subsection (a) of this section, the reference to "§ 1(a) and (b) of the Capper–Cramton Act, Public Law 71–284, 46 Stat. 482" is substituted for the former reference to "subparagraphs (a) and (b) of § 1 … as amended" for brevity.

In subsections (b) and (d) of this section, the references to an "amendment" to a contract are added for consistency throughout this section.

In subsection (b) of this section, the former phrase "with respect to the acquisition of park lands within the metropolitan district" is deleted as unnecessary in light of subsection (a), which provides the scope of this section.

In subsection (b)(1) of this section, the phrase "[e]xcept as provided in subsection (d) of this section" is substituted for the former phrase "(other than supplementary agreements … Prince George's County)" for brevity.

In subsection (d)(1) of this section, the phrase "[t]he Commission may enter into … in accordance with this subsection" is substituted for the former phrases "[a]greements supplementary to any contract … hereafter entered into by the Commission" and "may be entered into by the Commission … hereinafter in this section set forth" for clarity and brevity.

In subsection (d)(4)(ii) of this section, the phrase "the proceeds from the taxes … including any interest" is substituted for the former phrase "the Commission will be able to meet the obligations … within Prince George's County" for brevity and to avoid repetition.

In subsection (e)(1) of this section, the reference to the "chair" of the county council is substituted for the former obsolete reference to the "president" of the council, formerly the board of county commissioners.

In the introductory language to subsection (e)(2) of this section, the word "[r]atification" is substituted for the former reference to "legislative action" for consistency throughout this section.

Former Art. 28, § 4–105(b), which provided for the continuity of certain contracts entered into before 1947, is not retained in the Code because it

is apparently obsolete. It is transferred to the Session Laws to avoid any inadvertent substantive effect its repeal might have. *See* § 7 of Ch. 426, Acts of 2012.

Defined terms: "Commission" § 14–101
"Contract" § 15–301
"County" § 14–101
"Governmental unit" § 15–301
"Metropolitan district" § 14–101
"Park" § 14–101
"State" § 14–101

TITLE 16. EMPLOYMENT.

SUBTITLE 1. MERIT SYSTEM.

16–101. "BOARD" DEFINED.

IN THIS SUBTITLE, "BOARD" MEANS THE MERIT SYSTEM BOARD OF THE COMMISSION.

REVISOR'S NOTE: This section is new language added to avoid repetition of the full title "merit system board".

Defined term: "Commission" § 14–101

16–102. MERIT SYSTEM — IN GENERAL.

(A) IMPLEMENTATION.

THE COMMISSION SHALL IMPLEMENT A MERIT SYSTEM ADOPTED UNDER THIS SUBTITLE.

(B) COVERED EMPLOYEES.

THE MERIT SYSTEM INCLUDES EACH EMPLOYEE OF THE COMMISSION, EXCEPT:

(1) THE COMMISSIONERS;

(2) THE EXECUTIVE DIRECTOR, SECRETARY–TREASURER, AND GENERAL COUNSEL APPOINTED BY THE COMMISSION UNDER § 15–109 OF THIS ARTICLE;

(3) A PART–TIME OR TEMPORARY EMPLOYEE UNDER SUBTITLE 2 OR SUBTITLE 5 OF THIS TITLE;

(4) IN MONTGOMERY COUNTY, EACH POSITION EXCLUDED UNDER § 20–204(B) OF THIS ARTICLE; AND

(5) IN PRINCE GEORGE'S COUNTY:

(I) THE DEPUTY CHIEF OF PARK POLICE AS PROVIDED IN § 17–305 OF THIS ARTICLE; AND

(II) EACH DIRECTOR AND DEPUTY DIRECTOR AS PROVIDED IN § 20–204(C) OF THIS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–112(a).

In subsection (a) of this section, the reference to the requirement that the commission "implement" a merit system is substituted for the former reference to "put into effect" a merit system for brevity.

In subsection (b)(2) of this section, the reference to "the executive director, secretary–treasurer, and general counsel appointed by the Commission" is substituted for the former reference to "[a]ll appointed officials" for clarity.

In subsection (b)(3) of this section, the reference to exclusion of "a part–time or temporary employee [that the Commission excludes] under Subtitle 2 … of this title" is added for clarity. The Land Use Article Review Committee brings this addition to the attention of the General Assembly. No substantive change is intended.

In subsection (b)(5)(ii) of this section, the reference to each director "and" deputy director is substituted for the former reference to each director "or" deputy director for clarity.

For the authority of the Commission to hire and establish the compensation of employees generally, *see* § 15–110 of this article.

Defined terms: "Commission" § 14–101
"Commissioners" § 14–101

16–103. MERIT SYSTEM BOARD.

(A) ESTABLISHED.

THERE IS A MERIT SYSTEM BOARD OF THE COMMISSION.

(B) MEMBERS; APPOINTMENT.

(1) THE BOARD CONSISTS OF THREE MEMBERS APPOINTED BY THE COMMISSION.

(2) NOTHING CONTAINED IN THIS SUBTITLE REQUIRES THAT AN APPOINTMENT BE MADE FOR THE PURPOSE OF ROTATING MAJORITY MEMBERSHIP ON THE BOARD BETWEEN RESIDENTS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.

(3) THE COMMISSION MAY REAPPOINT A MEMBER OF THE BOARD.

(C) QUALIFICATIONS.

(1) EACH MEMBER OF THE BOARD:

(I) SHALL BE A RESIDENT OF THE REGIONAL DISTRICT;

(II) SHALL BE KNOWLEDGEABLE AND EXPERIENCED IN PERSONNEL MATTERS; AND

(III) MAY NOT BE A MEMBER OR EMPLOYEE OF THE COMMISSION OR THE EXECUTIVE DIRECTOR, SECRETARY–TREASURER, OR GENERAL COUNSEL APPOINTED BY THE COMMISSION UNDER § 15–109 OF THIS ARTICLE.

(2) NOT MORE THAN TWO MEMBERS OF THE BOARD MAY RESIDE IN THE SAME COUNTY.

(D) TENURE.

EACH MEMBER OF THE BOARD SHALL BE APPOINTED FOR A TERM OF 4 YEARS AND CONTINUE TO SERVE UNTIL THE MEMBER'S SUCCESSOR IS APPOINTED.

(E) VACANCY.

THE COMMISSION SHALL FILL EACH VACANCY ON THE BOARD IN THE SAME MANNER AS AN ORIGINAL APPOINTMENT.

(F) CHAIR.

THE COMMISSION SHALL DESIGNATE ONE MEMBER OF THE BOARD TO SERVE AS THE CHAIR AT THE PLEASURE OF THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–112(b).

In subsection (a) of this section, the former phrase "[f]or the purpose of making and adopting the rules and regulations necessary to carry out the provisions of this section," is deleted as surplusage.

In subsection (c)(1)(iii) of this section, the reference to the "executive director, secretary–treasurer, or general counsel appointed by the Commission under § 15–109 of this article" is substituted for the former reference to an "appointed official" of the Commission for clarity and consistency with § 16–102(b)(2) of this subtitle.

In subsection (c)(2) of this section, the reference to "the same" county is substituted for the former reference to "any one" county for brevity.

In subsection (f) of this section, the reference to the "chair" is substituted for the former reference to the "chairman" because SG § 2–1238 requires the use of words that are neutral as to gender to the extent practicable.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that the effect of subsection (b)(2) of this section, which appears to be a rule of construction stating that this subtitle does not require rotation of board chairmanship between the two counties, is confusing and possibly ineffective. If the General Assembly intends to state flatly that this subtitle does not require rotation, then the provision should state so clearly; if on the other hand the provision is intended to prohibit or require automatic rotation outright, it should state the prohibition or requirement clearly. Otherwise, the provision may be safely repealed.

Defined terms: "Board" § 16–101
"Commission" § 14–101
"County" § 14–101
"Regional district" § 14–101

16–104. COMPENSATION.

THE COMMISSION SHALL SET THE COMPENSATION OF THE MEMBERS OF THE BOARD AS AUTHORIZED BY THE COMMISSION'S BUDGET FOR EACH FISCAL YEAR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–112(e).

Defined terms: "Board" § 16–101
"Commission" § 14–101

16–105. REMOVAL OF BOARD MEMBER.

AFTER PROPER NOTICE AND DUE CONSIDERATION, THE COMMISSION MAY REMOVE A MEMBER OF THE BOARD FOR MISFEASANCE, MALFEASANCE, OR NONFEASANCE IN OFFICE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–112(f).

The Land Use Article Review Committee notes, for consideration by the General Assembly, that the standard for removal of a member of the board under this section is not consistent with the standards for removal of members of other boards under this article. The General Assembly may wish to consider the tasks of the several types of board and commission established or authorized under this article and to harmonize the removal provisions applicable to them to the extent it may consider desirable. *Cf.* §§ 2–102(d), 4–302(d), and 10–403(b)(4) of this article.

Defined terms: "Board" § 16–101
"Commission" § 14–101

16–106. PLANS AND REGULATIONS.

(A) PREPARATION AND RECOMMENDATIONS.

THE BOARD SHALL:

(1) PREPARE AND RECOMMEND A COMPENSATION PLAN, A CLASSIFICATION PLAN, AND COMPREHENSIVE REGULATIONS GOVERNING OPERATION OF THE MERIT SYSTEM; AND

(2) SUBMIT ITS RECOMMENDATIONS TO THE COMMISSION FOR ADOPTION.

(B) ADOPTION, DISAPPROVAL, OR MODIFICATION.

(1) THE COMMISSION MAY ADOPT, DISAPPROVE, OR MODIFY A RECOMMENDATION OF THE BOARD.

(2) IF THE COMMISSION DOES NOT ACT ON A RECOMMENDATION OF THE BOARD WITHIN 90 DAYS AFTER THE DATE OF FILING OF THE RECOMMENDATION WITH THE COMMISSION, THE RECOMMENDATION IS DEEMED APPROVED.

(C) AMENDMENT.

A RECOMMENDATION BY THE BOARD FOR AN AMENDMENT TO AN ADOPTED COMPENSATION PLAN, CLASSIFICATION PLAN, OR REGULATION IS SUBJECT TO SUBSECTION (B) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–112(c).

In subsections (a)(1) and (c) of this section, the former references to "rules" are deleted for brevity and consistency with other similar provisions of the Code.

In subsection (a)(1) of this section, the former reference to the merit system "for Commission employees" is deleted for brevity in light of the reference in § 16–102(b) of this subtitle that the "merit system includes each employee of the Commission".

In subsection (b)(2) of this section, the phrase "is deemed approved" is substituted for the former phrase "shall be considered approved" for clarity.

Also in subsection (b)(2) of this section, the former reference to "calendar" days is deleted in light of Art. 1, § 36, which provides that any period exceeding 7 days is assumed to mean calendar days, not business days.

In subsection (c) of this section, the former reference to previously adopted plans or regulations "continu[ing] in existence and remain[ing] in full force and effect unless and until they are modified or amended" is deleted as implicit.

Defined terms: "Board" § 16–101
"Commission" § 14–101

16–107. ASSISTANCE TO BOARD FROM COMMISSION.

THE COMMISSION MAY MAKE AVAILABLE TO THE BOARD ITS RECORDS, FACILITIES, AND STAFF AND CONSULTANTS NECESSARY TO CARRY OUT THE DUTIES OF THE BOARD.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–112(d).

The reference to "staff and consultants" is substituted for the former reference to "employees and those experts, assistants, and clerks" for clarity and consistency within this division.

Defined terms: "Board" § 16–101
"Commission" § 14–101

16–108. SUBPOENA FOR HEARINGS.

(A) ISSUANCE.

IF THE BOARD DETERMINES THAT THE TESTIMONY OF A WITNESS IS ESSENTIAL FOR THE PROPER CONSIDERATION OF A CASE BEFORE THE BOARD, THE BOARD MAY ISSUE A SUBPOENA TO THE WITNESS TO APPEAR AT A PROCEEDING THE BOARD CONDUCTS IN ACCORDANCE WITH THIS SUBTITLE.

(B) FAILURE TO COMPLY.

IF A PERSON FAILS TO COMPLY WITH A SUBPOENA ISSUED UNDER THIS SECTION, THE BOARD MAY PETITION A COURT OF COMPETENT JURISDICTION TO COMPEL COMPLIANCE WITH THE SUBPOENA.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–112(g).

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in subsection (a) of this section, the standard under which the board may issue a subpoena, that the testimony of the witness be "essential for the proper consideration of a case", seems to require clairvoyance on the part of the board. The General Assembly may wish to revisit the standard that the board should apply in determining whether to issue a subpoena under this section.

Defined terms: "Board" § 16–101
"Person" § 14–101

SUBTITLE 2. COLLECTIVE BARGAINING — IN GENERAL.

16–201. APPLICABILITY OF RIGHTS AND DESIGNATION OF BARGAINING UNITS.

(A) APPLICABILITY OF RIGHTS.

(1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(II) "CONFIDENTIAL EMPLOYEE" MEANS AN EMPLOYEE WHO ACTS IN A CONFIDENTIAL CAPACITY WITH RESPECT TO AN INDIVIDUAL WHO FORMULATES, DETERMINES, OR IMPLEMENTS MANAGEMENT POLICIES IN THE FIELD OF LABOR–MANAGEMENT RELATIONS.

(III) "PROBATIONARY EMPLOYEE" MEANS A MERIT SYSTEM EMPLOYEE DURING THE EMPLOYEE'S INITIAL PROBATIONARY PERIOD FOLLOWING EMPLOYMENT.

(2) THE RIGHTS GRANTED TO COMMISSION MERIT SYSTEM EMPLOYEES UNDER THIS SUBTITLE DO NOT APPLY TO:

(I) ATTORNEYS IN THE GENERAL COUNSEL'S OFFICE;

(II) CONFIDENTIAL EMPLOYEES;

(III) EMPLOYEES WHO ARE AT GRADE J OR ABOVE;

(IV) PARK POLICE OFFICERS;

(V) PROBATIONARY EMPLOYEES; OR

(VI) SUPERVISORS, AS DEFINED IN § 2(11) OF THE NATIONAL LABOR RELATIONS ACT, 29 U.S.C. § 152(11).

(B) BARGAINING UNITS.

(1) COMMISSION EMPLOYEES ARE DIVIDED INTO FOUR BARGAINING UNITS CONSISTING OF:

(I) THE OFFICE UNIT THAT INCLUDES OFFICE CLASSIFICATION TITLES IN WHICH EMPLOYEES ARE RESPONSIBLE FOR

INTERNAL AND EXTERNAL COMMUNICATIONS, RECORDING AND RETRIEVING INFORMATION, AND PAPERWORK REQUIRED IN AN OFFICE;

(II) THE PROFESSIONAL/TECHNICAL UNIT THAT INCLUDES:

1. PROFESSIONAL CLASSIFICATION TITLES IN WHICH EMPLOYEES HAVE SPECIAL OR THEORETICAL KNOWLEDGE THAT USUALLY IS ACQUIRED THROUGH COLLEGE TRAINING, OTHER TRAINING THAT PROVIDES COMPARABLE KNOWLEDGE, OR WORK EXPERIENCE;

2. PARAPROFESSIONAL CLASSIFICATION TITLES IN WHICH EMPLOYEES PERFORM, IN A SUPPORTIVE ROLE, SOME OF THE DUTIES OF A PROFESSIONAL OR TECHNICIAN BUT THAT USUALLY REQUIRE LESS FORMAL TRAINING OR EXPERIENCE THAN THOSE DUTIES PERFORMED BY THOSE WITH PROFESSIONAL OR TECHNICAL STATUS; AND

3. TECHNICAL CLASSIFICATION TITLES IN WHICH EMPLOYEES HAVE A COMBINATION OF BASIC SCIENTIFIC OR TECHNICAL KNOWLEDGE AND MANUAL SKILL THAT USUALLY ARE ACQUIRED THROUGH SPECIALIZED POSTSECONDARY SCHOOL EDUCATION OR THROUGH EQUIVALENT ON–THE–JOB TRAINING;

(III) THE SERVICE/LABOR UNIT THAT INCLUDES CLASSIFICATION TITLES IN WHICH EMPLOYEES PERFORM SERVICE AND MAINTENANCE, MAY OPERATE SPECIALIZED MACHINERY OR HEAVY EQUIPMENT, AND WHOSE DUTIES CONTRIBUTE TO THE COMFORT AND CONVENIENCE OF THE PUBLIC OR TO THE UPKEEP AND CARE OF COMMISSION BUILDINGS, FACILITIES, OR GROUNDS; AND

(IV) THE TRADE UNIT THAT INCLUDES CLASSIFICATION TITLES IN WHICH EMPLOYEES ARE REQUIRED TO HAVE A SPECIAL MANUAL SKILL AND A THOROUGH KNOWLEDGE OF PROCESSES THAT ARE ACQUIRED THROUGH ON–THE–JOB TRAINING, EXPERIENCE, APPRENTICESHIP, OR OTHER FORMAL TRAINING PROGRAMS.

(2) A BARGAINING UNIT MAY NOT BE DEFINED BY COUNTY BOUNDARIES.

(3) IF AN EMPLOYEE ORGANIZATION IS CERTIFIED TO REPRESENT MORE THAN ONE BARGAINING UNIT, THE COMMISSION SHALL NEGOTIATE A SINGLE CONTRACT WITH THAT ORGANIZATION COVERING ALL EMPLOYEES THE ORGANIZATION REPRESENTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–112.1(a) through (c).

In subsection (a)(1)(i) of this section, the reference to this "subsection" is substituted for the former reference to this "section" because the terms are used only in this subsection.

In subsection (a)(1)(ii) of this section, the reference to an individual who "implements" management policies is substituted for the former reference to an individual who "effectuates" management policies for clarity.

In subsection (a)(1)(iii) of this section, the former reference to "the pendency of" the employee's initial probationary period is deleted as surplusage.

Also in subsection (a)(1)(iii) of this section, the former reference to a "career" merit system employee is deleted as surplusage.

In subsection (a)(2)(iii) of this section, the reference to employees at "grade J" or above is substituted for the former reference to employees at "grade 20" or above to reflect the current organizational structure of the Commission.

In subsection (a)(2)(vi) of this section, the reference to "29 U.S.C. § 152(11)" is added for clarity.

Defined terms: "Commission" § 14–101
"County" § 14–101

16–202. EMPLOYEE ORGANIZATION AS EXCLUSIVE REPRESENTATIVE OF BARGAINING UNIT.

(A) IN GENERAL.

THE COMMISSION SHALL RECOGNIZE THE RIGHT OF AN EMPLOYEE ORGANIZATION, CERTIFIED UNDER THIS SUBTITLE AS THE EXCLUSIVE REPRESENTATIVE OF A BARGAINING UNIT, TO REPRESENT THE EMPLOYEES IN THE BARGAINING UNIT IN COLLECTIVE BARGAINING AND IN THE SETTLEMENT OF GRIEVANCES.

(B) PURPOSE OF EMPLOYEE ORGANIZATION.

AN EMPLOYEE ORGANIZATION CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE OF A BARGAINING UNIT SHALL:

(1) SERVE AS THE SOLE BARGAINING AGENT FOR THE UNIT IN COLLECTIVE BARGAINING; AND

(2) REPRESENT ALL EMPLOYEES IN THE BARGAINING UNIT FAIRLY, WITHOUT DISCRIMINATION, AND WITHOUT REGARD TO WHETHER AN EMPLOYEE IS A MEMBER OF THE EMPLOYEE ORGANIZATION.

(C) REQUIREMENTS.

AN EMPLOYEE ORGANIZATION MEETS THE REQUIREMENTS OF SUBSECTION (B)(2) OF THIS SECTION IF THE EMPLOYEE ORGANIZATION'S ACTIONS WITH RESPECT TO EMPLOYEES WHO ARE MEMBERS OF THE EMPLOYEE ORGANIZATION AND EMPLOYEES WHO ARE NOT MEMBERS OF THE EMPLOYEE ORGANIZATION ARE NOT ARBITRARY, DISCRIMINATORY, OR IN BAD FAITH.

REVISOR'S NOTE: This section formerly was Art. 28, § 2–112.1(d).

The only changes are in style.

Defined term: "Commission" § 14–101

16–203. LABOR RELATIONS ADMINISTRATOR.

(A) INITIAL APPOINTMENT.

AFTER A PUBLIC HEARING ON THE APPOINTMENT, THE COMMISSION SHALL APPOINT AN EXPERIENCED NEUTRAL THIRD PARTY TO SERVE AS LABOR RELATIONS ADMINISTRATOR FOR AN INITIAL TERM OF 1 YEAR.

(B) SECOND APPOINTMENT.

AFTER THE TERM OF THE LABOR RELATIONS ADMINISTRATOR APPOINTED UNDER SUBSECTION (A) OF THIS SECTION EXPIRES, THE EXCLUSIVE REPRESENTATIVE AND THE COMMISSION SHALL APPOINT A LABOR RELATIONS ADMINISTRATOR FOR A 2–YEAR TERM FROM A LIST OF FIVE NOMINEES ON WHOM THEY HAVE AGREED.

(C) SUBSEQUENT APPOINTMENT.

AFTER THE TERM OF THE LABOR RELATIONS ADMINISTRATOR APPOINTED UNDER SUBSECTION (A) OF THIS SECTION EXPIRES AND AFTER A PUBLIC HEARING ON THE APPOINTMENT, IF NO EXCLUSIVE REPRESENTATIVE HAS BEEN CERTIFIED UNDER THIS SECTION, THE COMMISSION SHALL APPOINT

THE NEXT LABOR RELATIONS ADMINISTRATOR FOR A TERM NOT EXCEEDING 1 YEAR.

(D) REAPPOINTMENT.

A LABOR RELATIONS ADMINISTRATOR IS ELIGIBLE FOR REAPPOINTMENT.

REVISOR'S NOTE: This section formerly was Art. 28, § 2–112.1(e).

In subsections (b) and (c) of this section, the references to the "labor relations administrator" are substituted for the former references to the "neutral third party" for clarity.

The only other changes are in style.

Defined term: "Commission" § 14–101

16–204. CONSTITUTION AND BYLAWS OF EMPLOYEE ORGANIZATION.

(A) SUBMISSION TO LABOR RELATIONS ADMINISTRATOR.

AN EMPLOYEE ORGANIZATION THAT IS CERTIFIED OR THAT SEEKS CERTIFICATION AS AN EXCLUSIVE REPRESENTATIVE UNDER THIS SUBTITLE SHALL SUBMIT TO THE LABOR RELATIONS ADMINISTRATOR:

(1) A COPY OF THE EMPLOYEE ORGANIZATION'S CONSTITUTION AND BYLAWS; AND

(2) ANY CHANGE IN THE CONSTITUTION OR BYLAWS.

(B) CONTENTS.

THE CONSTITUTION OR BYLAWS SHALL INCLUDE:

(1) A PLEDGE THAT THE EMPLOYEE ORGANIZATION ACCEPTS MEMBERS WITHOUT REGARD TO AGE, MARITAL STATUS, NATIONAL ORIGIN, RACE, RELIGION, DISABILITY, SEXUAL ORIENTATION, OR GENDER;

(2) THE RIGHT OF MEMBERS TO PARTICIPATE IN THE AFFAIRS OF THE EMPLOYEE ORGANIZATION;

(3) PROCEDURES FOR PERIODIC ELECTIONS OF OFFICERS BY SECRET BALLOT;

(4) FAIR PROCEDURES GOVERNING DISCIPLINARY ACTIONS;

(5) PROCEDURES FOR THE ACCURATE ACCOUNTING OF INCOME AND EXPENDITURES;

(6) A REQUIREMENT THAT A CERTIFIED ANNUAL FINANCIAL REPORT BE PRODUCED; AND

(7) THE RIGHT OF MEMBERS TO INSPECT THE ORGANIZATION'S ACCOUNTS.

REVISOR'S NOTE: This section formerly was Art. 28, § 2–112.1(f).

The only changes are in style.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that it may be helpful to compare the nondiscrimination standards in subsection (b)(1) of this section with similar nondiscrimination standards required under other State laws in order to harmonize them. *See also* Revisor's Note to § 16–304 of this title.

16–205. ELECTION OF EXCLUSIVE REPRESENTATIVE.

(A) IN GENERAL.

THE LABOR RELATIONS ADMINISTRATOR SHALL CONDUCT AN ELECTION FOR AN EXCLUSIVE REPRESENTATIVE AFTER:

(1) AN EMPLOYEE ORGANIZATION DEMONSTRATES, BY PETITION, THAT AT LEAST 30% OF THE ELIGIBLE EMPLOYEES IN A BARGAINING UNIT SUPPORT REPRESENTATION BY AN EXCLUSIVE REPRESENTATIVE FOR COLLECTIVE BARGAINING; OR

(2) AN EMPLOYEE OR AN EMPLOYEE ORGANIZATION DEMONSTRATES, BY PETITION, THAT AT LEAST 30% OF THE ELIGIBLE EMPLOYEES IN A BARGAINING UNIT NO LONGER SUPPORT THE CURRENT EXCLUSIVE REPRESENTATIVE.

(B) VOTING LIST.

(1) AT LEAST 30 DAYS BEFORE AN ELECTION UNDER SUBSECTION (A) OF THIS SECTION, THE LABOR RELATIONS ADMINISTRATOR SHALL OBTAIN FROM THE COMMISSION AND PROVIDE TO THE EMPLOYEE ORGANIZATION A

LIST OF THE NAMES, ADDRESSES, AND TELEPHONE NUMBERS OF EVERY EMPLOYEE IN THE BARGAINING UNIT.

(2) THE PROVISION OF A LIST UNDER THIS SUBSECTION BY THE COMMISSION, THE LABOR RELATIONS ADMINISTRATOR, OR A COMMISSION OFFICIAL, EMPLOYEE, OR OTHER AGENT DOES NOT CONSTITUTE A VIOLATION OF § 10–617(E) OF THE STATE GOVERNMENT ARTICLE OR ANY STATE OR LOCAL LAW.

(C) BALLOT.

ELECTIONS SHALL BE CONDUCTED BY SECRET BALLOT CONTAINING:

(1) THE NAME OF EACH EMPLOYEE ORGANIZATION THAT SUBMITS A VALID PETITION REQUIRING AN ELECTION;

(2) THE NAME OF ANY OTHER EMPLOYEE ORGANIZATION SUPPORTED BY A PETITION SIGNED BY AT LEAST 10% OF THE ELIGIBLE EMPLOYEES IN THE BARGAINING UNIT; AND

(3) AN OPTION FOR NO REPRESENTATION.

(D) ELECTION BETWEEN CURRENT EXCLUSIVE REPRESENTATIVE AND OTHER EMPLOYEE ORGANIZATION.

(1) IF A PETITION DESCRIBED IN SUBSECTION (A)(1) OF THIS SECTION IS SUBMITTED AT THE SAME TIME THAT A PETITION DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION IS SUBMITTED, ONE ELECTION SHALL BE HELD TO DETERMINE WHICH EMPLOYEE ORGANIZATION, IF ANY, SHALL BE THE EXCLUSIVE REPRESENTATIVE.

(2) THE BALLOT SHALL CONTAIN:

(I) THE NAME OF THE CURRENT CERTIFIED EMPLOYEE ORGANIZATION;

(II) THE NAME OF THE PETITIONING EMPLOYEE ORGANIZATION; AND

(III) AN OPTION FOR NO REPRESENTATION.

(E) RUNOFF ELECTION.

(1) IF NONE OF THE CHOICES ON THE BALLOT RECEIVES A MAJORITY OF THE VOTES CAST, THE LABOR RELATIONS ADMINISTRATOR SHALL HOLD A RUNOFF ELECTION.

(2) IN THE RUNOFF ELECTION, THE BALLOT SHALL CONTAIN THE TWO CHOICES THAT RECEIVED THE HIGHEST NUMBER OF VOTES CAST IN THE INITIAL ELECTION.

(F) CERTIFICATION AS EXCLUSIVE REPRESENTATIVE.

AFTER THE ELECTION, THE LABOR RELATIONS ADMINISTRATOR SHALL CERTIFY THE EMPLOYEE ORGANIZATION THAT RECEIVED A MAJORITY OF THE VOTES CAST AS THE EXCLUSIVE REPRESENTATIVE.

(G) EMPLOYEE ORGANIZATION TREATED AS SUCCESSOR IN INTEREST.

IF THE PETITIONING EMPLOYEE ORGANIZATION IS CERTIFIED AS THE RESULT OF AN ELECTION HELD UNDER SUBSECTION (D) OF THIS SECTION, THAT EMPLOYEE ORGANIZATION SHALL BE TREATED AS A SUCCESSOR IN INTEREST AND PARTY TO ANY COLLECTIVE BARGAINING AGREEMENT TO WHICH THE PREVIOUS EMPLOYEE ORGANIZATION WAS A PARTY.

(H) COSTS.

THE COMMISSION AND THE EMPLOYEE ORGANIZATION SHALL SHARE EQUALLY THE COSTS OF THE ELECTION PROCEDURES.

(I) WHEN ELECTIONS MAY NOT BE CONDUCTED.

(1) ELECTIONS MAY NOT BE CONDUCTED:

(I) WITHIN 1 YEAR AFTER THE DATE OF A VALID ELECTION UNDER THIS SECTION; OR

(II) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, DURING THE TERM OF A COLLECTIVE BARGAINING AGREEMENT.

(2) DURING THE TERM OF A COLLECTIVE BARGAINING AGREEMENT, A PETITION FOR AN ELECTION MAY BE FILED ONLY DURING NOVEMBER OF THE FISCAL YEAR IN WHICH THE AGREEMENT EXPIRES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–112.1(g) and (h).

In subsection (b)(2) of this section, the former reference to a "statute, regulation, or ordinance" is deleted as included in the comprehensive reference to State or local "law".

In subsection (f) of this section, the reference to the "employee organization that received a majority of the votes cast" is substituted for the former reference to the "appropriate employee organization" for clarity.

Defined terms: "Commission" § 14–101
"Local law" § 14–101
"State" § 14–101

16–206. DISPUTE OVER ELIGIBILITY OF EMPLOYEE IN BARGAINING UNIT.

(A) IN GENERAL.

IF THE COMMISSION AND AN EMPLOYEE ORGANIZATION DISPUTE THE ELIGIBILITY OF AN EMPLOYEE IN A BARGAINING UNIT, THE DISPUTE SHALL BE SUBMITTED TO THE LABOR RELATIONS ADMINISTRATOR.

(B) EVIDENTIARY HEARINGS.

THE LABOR RELATIONS ADMINISTRATOR SHALL HOLD EVIDENTIARY HEARINGS AT WHICH THE COMMISSION AND INTERESTED EMPLOYEE ORGANIZATIONS SHALL HAVE THE OPPORTUNITY TO PRESENT TESTIMONY, DOCUMENTARY AND OTHER EVIDENCE, AND ARGUMENTS.

(C) FINAL DECISION.

THE DECISION OF THE LABOR RELATIONS ADMINISTRATOR IS FINAL.

(D) COSTS.

THE COMMISSION AND THE EMPLOYEE ORGANIZATION SHALL SHARE EQUALLY THE COSTS OF THE HEARINGS.

REVISOR'S NOTE: This section formerly was Art. 28, § 2–112.1(i).

No changes are made.

Defined term: "Commission" § 14–101

16–207. COLLECTIVE BARGAINING REQUIREMENTS.

(A) IN GENERAL.

THE COMMISSION AND AN EMPLOYEE ORGANIZATION CERTIFIED AS EXCLUSIVE REPRESENTATIVE SHALL MEET AND ENGAGE IN COLLECTIVE BARGAINING IN GOOD FAITH REGARDING:

(1) SALARY AND WAGES, INCLUDING THE PERCENTAGE OF THE INCREASE IN THE SALARY AND WAGES BUDGET THAT WILL BE DEVOTED TO MERIT INCREMENTS AND CASH AWARDS, PROVIDED THAT SALARIES AND WAGES SHALL BE UNIFORM FOR ALL EMPLOYEES IN THE SAME CLASSIFICATION;

(2) PENSION AND OTHER RETIREMENT BENEFITS FOR ACTIVE EMPLOYEES;

(3) EMPLOYEE BENEFITS SUCH AS INSURANCE, LEAVE, HOLIDAYS, AND VACATIONS;

(4) HOURS AND WORKING CONDITIONS;

(5) ORDERLY PROCESSING AND SETTLEMENT OF GRIEVANCES CONCERNING THE INTERPRETATION AND IMPLEMENTATION OF A COLLECTIVE BARGAINING AGREEMENT THAT MAY INCLUDE:

(I) BINDING THIRD PARTY ARBITRATION, UNDER WHICH THE ARBITRATOR MAY NOT AMEND, ADD TO, OR SUBTRACT FROM THE PROVISIONS OF THE COLLECTIVE BARGAINING AGREEMENT; AND

(II) PROVISIONS FOR THE EXCLUSIVITY OF FORUM;

(6) MATTERS AFFECTING THE HEALTH AND SAFETY OF EMPLOYEES; AND

(7) THE EFFECT ON EMPLOYEES OF THE EXERCISE OF THE COMMISSION'S RIGHTS AND RESPONSIBILITIES UNDER § 16–213 OF THIS SUBTITLE.

(B) AGREEMENT NOT REQUIRED.

THIS SECTION DOES NOT REQUIRE THE COMMISSION OR THE EMPLOYEE ORGANIZATION TO AGREE TO ANY PROPOSAL OR TO MAKE ANY CONCESSION.

(C) TIME FOR COLLECTIVE BARGAINING.

(1) (I) COLLECTIVE BARGAINING MAY NOT BEGIN LATER THAN SEPTEMBER 1 BEFORE THE BEGINNING OF A FISCAL YEAR FOR WHICH AN AGREEMENT HAS NOT BEEN REACHED BETWEEN THE COMMISSION AND THE EXCLUSIVE REPRESENTATIVE.

(II) COLLECTIVE BARGAINING SHALL CONCLUDE ON OR BEFORE THE FOLLOWING FEBRUARY 1.

(2) DURING THE PERIOD BETWEEN THE DATES SET IN PARAGRAPH (1)(I) AND (II) OF THIS SUBSECTION, THE PARTIES SHALL NEGOTIATE IN GOOD FAITH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–112.1(j).

In subsection (a)(2) of this section, the former phrase "[o]n or after June 1, 1994," is deleted as obsolete.

In subsection (c)(1)(i) of this section, the reference to the "exclusive" representative is substituted for the former reference to the "certified" representative for consistency throughout this subtitle.

Defined term: "Commission" § 14–101

16–208. NEGOTIABILITY DISPUTES.

(A) IN GENERAL.

IF A PARTY TO THE COLLECTIVE BARGAINING CONSIDERS A BARGAINING PROPOSAL TO VIOLATE THE RIGHTS AND RESPONSIBILITIES OF THE COMMISSION UNDER § 16–213 OF THIS SUBTITLE OR THE RIGHTS OF COMMISSION EMPLOYEES UNDER § 16–216 OF THIS SUBTITLE OR OTHERWISE TO VIOLATE THIS SUBTITLE, THE PARTY MAY PETITION THE LABOR RELATIONS ADMINISTRATOR FOR A DETERMINATION OF WHETHER THE BARGAINING PROPOSAL CONSTITUTES A NEGOTIABILITY DISPUTE THAT VIOLATES THIS SUBTITLE.

(B) PROCEDURE FOR RESOLVING NEGOTIABILITY DISPUTE.

(1) THE PROCEDURE FOR RESOLVING A NEGOTIABILITY DISPUTE SHALL FOLLOW THE PROCESS FOR REVIEWING UNFAIR LABOR PRACTICE CHARGES.

(2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, THE LABOR RELATIONS ADMINISTRATOR MAY SHORTEN THE TIME PERIODS OR ORDER ANY APPROPRIATE EXPEDITED PROCEDURE.

(C) ORDER TO WITHDRAW BARGAINING PROPOSAL.

THE LABOR RELATIONS ADMINISTRATOR MAY ORDER A PARTY TO WITHDRAW ALL OR PART OF A BARGAINING PROPOSAL THAT VIOLATES THIS SUBTITLE.

(D) DECISION AND ORDER FINAL.

UNLESS PETITIONED TO JUDICIAL REVIEW ON THE BASIS THAT THE DECISION OR ORDER IS ARBITRARY, IS CAPRICIOUS, OR EXCEEDS THE AUTHORITY OF A PARTY, ANY DECISION REACHED AND ORDER ISSUED UNDER THIS SUBTITLE IS FINAL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–112.1(k).

In subsection (a) of this section, the reference to a party "to the collective bargaining" is added for clarity.

Also in subsection (a) of this section, the statement that a party "may" petition the labor relations administrator is substituted for the former requirement that the party "shall" petition the labor relations administrator for accuracy.

In subsection (d) of this section, the reference to a decision or order being "petitioned to judicial review" is substituted for the former reference to a decision or order being "appealed" for accuracy.

Defined term: "Commission" § 14–101

16–209. MEDIATION–ARBITRATION.

(A) APPOINTMENT OF MEDIATOR–ARBITRATOR.

(1) IF THE PARTIES HAVE NOT REACHED AN AGREEMENT ON OR BEFORE DECEMBER 1 ON A COLLECTIVE BARGAINING AGREEMENT THAT

WOULD BECOME EFFECTIVE THE FOLLOWING JULY 1, THE PARTIES JOINTLY SHALL APPOINT A MEDIATOR–ARBITRATOR.

(2) IF THE PARTIES ARE UNABLE TO AGREE ON A MEDIATOR–ARBITRATOR, THE LABOR RELATIONS ADMINISTRATOR SHALL APPOINT THE MEDIATOR–ARBITRATOR ON OR BEFORE DECEMBER 7.

(3) NOTWITHSTANDING APPOINTMENT OF THE MEDIATOR–ARBITRATOR, THIS SECTION DOES NOT REQUIRE MEDIATION–ARBITRATION TO BEGIN BEFORE THE DATE SET FORTH IN SUBSECTION (C) OF THIS SECTION.

(B) WHEN SERVICES MAY BE REQUESTED.

DURING THE COURSE OF THE COLLECTIVE BARGAINING:

(1) EITHER PARTY MAY DECLARE AN IMPASSE AND REQUEST THE SERVICES OF THE MEDIATOR–ARBITRATOR; OR

(2) THE PARTIES JOINTLY MAY REQUEST THE SERVICES OF A MEDIATOR–ARBITRATOR BEFORE AN IMPASSE IS DECLARED.

(C) MEMORANDUM REQUIRED.

IF THE MEDIATOR–ARBITRATOR FINDS IN THE MEDIATOR–ARBITRATOR'S SOLE DISCRETION THAT THE PARTIES ARE AT A BONA FIDE IMPASSE OR ON FEBRUARY 1, WHICHEVER OCCURS EARLIER, THE MEDIATOR–ARBITRATOR SHALL DIRECT THE PARTIES TO SUBMIT:

(1) A JOINT MEMORANDUM LISTING ALL ITEMS TO WHICH THE PARTIES PREVIOUSLY AGREED; AND

(2) A SEPARATE MEMORANDUM OF EACH PARTY'S LAST FINAL OFFER PRESENTED IN NEGOTIATIONS ON ALL ITEMS TO WHICH THE PARTIES PREVIOUSLY DID NOT AGREE.

(D) CLOSED HEARING.

(1) ON OR BEFORE FEBRUARY 10, THE MEDIATOR–ARBITRATOR SHALL HOLD A CLOSED HEARING ON THE PARTIES' PROPOSALS AT A TIME, DATE, AND PLACE SELECTED BY THE MEDIATOR–ARBITRATOR.

(2) EACH PARTY SHALL SUBMIT EVIDENCE OR MAKE ORAL AND WRITTEN ARGUMENTS IN SUPPORT OF THE PARTY'S LAST FINAL OFFER.

(3) THE MEDIATOR–ARBITRATOR MAY NOT OPEN THE HEARING TO A PERSON THAT IS NOT A PARTY TO THE MEDIATION–ARBITRATION.

(E) REPORT.

(1) ON OR BEFORE FEBRUARY 15, THE MEDIATOR–ARBITRATOR SHALL ISSUE A REPORT SELECTING THE FINAL OFFER SUBMITTED BY THE PARTY THAT THE MEDIATOR–ARBITRATOR DETERMINES TO BE MORE REASONABLE WHEN VIEWED AS A WHOLE.

(2) IN DETERMINING WHICH OFFER IS MORE REASONABLE, THE MEDIATOR–ARBITRATOR:

(I) MAY CONSIDER ONLY:

1. PAST COLLECTIVE BARGAINING AGREEMENTS BETWEEN THE PARTIES, INCLUDING THE PAST BARGAINING HISTORY THAT LED TO THE AGREEMENT OR THE PRECOLLECTIVE BARGAINING HISTORY OF EMPLOYEE WAGES, HOURS, BENEFITS, AND OTHER WORKING CONDITIONS;

2. A COMPARISON OF WAGES, HOURS, BENEFITS, AND CONDITIONS OF EMPLOYMENT OF SIMILAR EMPLOYEES OF OTHER PUBLIC EMPLOYERS IN THE WASHINGTON METROPOLITAN AREA AND THE STATE;

3. A COMPARISON OF WAGES, HOURS, BENEFITS, AND CONDITIONS OF EMPLOYMENT OF SIMILAR EMPLOYEES OF PRIVATE EMPLOYERS IN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY;

4. THE PUBLIC INTEREST AND WELFARE;

5. THE ABILITY OF THE COMMISSION TO FINANCE ANY ECONOMIC ADJUSTMENTS REQUIRED UNDER THE PROPOSED AGREEMENT;

6. THE EFFECTS OF ANY ECONOMIC ADJUSTMENTS ON THE STANDARD OF PUBLIC SERVICES NORMALLY PROVIDED BY THE COMMISSION; AND

7. THE ANNUAL INCREASE OR DECREASE IN CONSUMER PRICES FOR ALL ITEMS AS REFLECTED IN THE MOST RECENT

CONSUMER PRICE INDEX – URBAN WAGE EARNERS AND CLERICAL WORKERS ("CPI–W") FOR THE WASHINGTON–BALTIMORE METROPOLITAN AREA; AND

(II) SHALL CONSIDER ALL ITEMS ON WHICH THE PARTIES AGREED BEFORE THE MEDIATION–ARBITRATION BEGAN TO BE INTEGRATED INTO EACH OFFER.

(3) (I) THE MEDIATOR–ARBITRATOR MAY NOT RECEIVE OR CONSIDER THE HISTORY OF COLLECTIVE BARGAINING RELATING TO THE IMMEDIATE DISPUTE, INCLUDING ANY OFFERS OF SETTLEMENT NOT CONTAINED IN THE OFFER SUBMITTED TO THE MEDIATOR–ARBITRATOR.

(II) THE MEDIATOR–ARBITRATOR MAY NOT COMPROMISE OR ALTER THE FINAL OFFER THAT THE MEDIATOR–ARBITRATOR SELECTS.

(F) FINAL AGREEMENT.

(1) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE OFFER SELECTED BY THE MEDIATOR–ARBITRATOR, AS INTEGRATED WITH THE ITEMS ON WHICH THE PARTIES PREVIOUSLY AGREED, SHALL BE THE FINAL AGREEMENT BETWEEN THE COMMISSION AND THE EXCLUSIVE REPRESENTATIVE WITHOUT RATIFICATION BY THE PARTIES.

(II) THE ECONOMIC PROVISIONS OF THE FINAL AGREEMENT ARE SUBJECT TO FUNDING BY THE MONTGOMERY COUNTY COUNCIL AND PRINCE GEORGE'S COUNTY COUNCIL.

(III) THE COMMISSION SHALL REQUEST FUNDS IN THE COMMISSION'S FINAL BUDGET FROM THE COUNTY COUNCILS FOR ALL ECONOMIC PROVISIONS OF THE FINAL AGREEMENT.

(2) THE PARTIES SHALL EXECUTE AN AGREEMENT INCORPORATING THE FINAL AGREEMENT, INCLUDING ARBITRATION AWARDS AND ALL ISSUES AGREED TO UNDER THIS SUBTITLE.

(G) COSTS.

THE COMMISSION AND THE EMPLOYEE ORGANIZATION SHALL SHARE EQUALLY THE COSTS OF THE MEDIATOR–ARBITRATOR'S SERVICES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–112.1(l).

In subsection (a)(2) of this section, the reference to "appoint[ing]" a mediator–arbitrator is substituted for the former reference to "nam[ing]" a mediator–arbitrator for consistency within this subsection.

In subsection (c)(2) of this section, the reference to "each" party's last final offer is substituted for the former reference to "the" party's last final offer for clarity.

In subsection (d)(1) of this section, the reference to a "closed" hearing is substituted for the former reference to "nonpublic" hearing for clarity and to conform to the terminology used in other revised articles of the Code.

In subsection (e)(2)(i)1 of this section, the reference to "agreements" is substituted for the former reference to "contracts" for consistency throughout this subtitle.

In subsection (e)(2)(i)5 and 6 of this section, the references to the "Commission" are substituted for the former references to the "employer" for clarity.

In subsection (e)(2)(i)7 of this section, the reference to the Consumer Price Index – "Urban" Wage Earners and Clerical Workers is added for accuracy.

In subsection (g) of this section, the former reference to the Commission and the employee organization sharing equally "in paying" the costs is deleted to conform to other similar provisions in this subtitle.

Defined terms: "Commission" § 14–101
"Person" § 14–101
"State" § 14–101

16–210. MEDIATION.

(A) IN GENERAL.

A MEDIATOR MAY BE USED IN THE COLLECTIVE BARGAINING PROCESS WHENEVER:

(1) THE COMMISSION AND THE EMPLOYEE ORGANIZATION AGREE TO MEDIATION; OR

(2) AN IMPASSE RESULTS, AND THE COMMISSION OR THE EMPLOYEE ORGANIZATION REQUESTS MEDIATION.

(B) SELECTION OF MEDIATOR.

(1) THE MEDIATOR SHALL BE SELECTED JOINTLY BY THE COMMISSION AND THE EMPLOYEE ORGANIZATION FROM A LIST SUPPLIED BY THE AMERICAN ARBITRATION ASSOCIATION OR THE FEDERAL MEDIATION AND CONCILIATION SERVICE.

(2) IF THE COMMISSION AND THE EMPLOYEE ORGANIZATION ARE UNABLE TO AGREE ON THE SELECTION OF A MEDIATOR, THE LABOR RELATIONS ADMINISTRATOR SHALL SELECT THE MEDIATOR.

(C) COSTS.

THE COMMISSION AND THE EMPLOYEE ORGANIZATION SHALL SHARE EQUALLY THE COSTS OF MEDIATION.

REVISOR'S NOTE: This section formerly was Art. 28, § 2–112.1(m).

The only changes are in style.

Defined term: "Commission" § 14–101

16–211. COLLECTIVE BARGAINING AGREEMENT.

(A) IN GENERAL.

THE COMMISSION AND AN EMPLOYEE ORGANIZATION CERTIFIED AS EXCLUSIVE REPRESENTATIVE OF A BARGAINING UNIT SHALL EXECUTE A COLLECTIVE BARGAINING AGREEMENT INCORPORATING ALL MATTERS AGREED.

(B) GRIEVANCE PROCEDURE.

IF A COLLECTIVE BARGAINING AGREEMENT PROVIDES FOR A GRIEVANCE PROCEDURE, THAT GRIEVANCE PROCEDURE SHALL BE THE SOLE PROCEDURE FOR EMPLOYEES IN THE BARGAINING UNIT.

(C) UNION SECURITY PROVISION ALLOWED.

THE COLLECTIVE BARGAINING AGREEMENT MAY INCLUDE AN AGENCY SHOP OR OTHER UNION SECURITY PROVISION.

(D) CONFLICTS BETWEEN AGREEMENT AND REGULATION OR ADMINISTRATIVE POLICY.

THE COLLECTIVE BARGAINING AGREEMENT SUPERSEDES ANY CONFLICTING REGULATION OR ADMINISTRATIVE POLICY OF THE COMMISSION.

(E) EXPIRATION OF AGREEMENT.

A SINGLE–YEAR OR MULTIPLE–YEAR COLLECTIVE BARGAINING AGREEMENT SHALL EXPIRE AT THE CLOSE OF THE APPROPRIATE FISCAL YEAR.

(F) WHEN AGREEMENT TAKES EFFECT.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A COLLECTIVE BARGAINING AGREEMENT SHALL BE EFFECTIVE ON THE APPROVAL OF THE COMMISSION AND THE MEMBERSHIP OF THE EMPLOYEE ORGANIZATION REPRESENTING THE BARGAINING UNIT.

(2) THE ECONOMIC REQUIREMENTS OF A COLLECTIVE BARGAINING AGREEMENT SHALL BE EFFECTIVE ON APPROVAL BY THE MONTGOMERY COUNTY COUNCIL AND PRINCE GEORGE'S COUNTY COUNCIL.

REVISOR'S NOTE: This section formerly was Art. 28, § 2–112.1(n).

In subsection (a) of this section, the reference to "all matters agreed" is substituted for the former reference to "all matters of agreement on wages, hours, and other terms and conditions of employment" for brevity.

In subsection (f)(1) of this section, the reference to the "employee organization" is substituted for the former reference to the "union" for consistency within this subtitle.

The only other changes are in style.

Defined term: "Commission" § 14–101

16–212. FUNDING OF COLLECTIVE BARGAINING AGREEMENTS.

(A) IN GENERAL.

THE COMMISSION SHALL INCLUDE IN ITS ANNUAL PROPOSED OPERATING BUDGET SUBMITTED TO THE COUNTY EXECUTIVES OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY ADEQUATE FUNDING TO CARRY OUT A COLLECTIVE BARGAINING AGREEMENT.

(B) REOPENING OF AGREEMENT.

UNLESS THE MONTGOMERY COUNTY COUNCIL AND PRINCE GEORGE'S COUNTY COUNCIL APPROVE THE COMMISSION'S BUDGET SO AS TO APPROVE THE TERMS OF THE COLLECTIVE BARGAINING AGREEMENT, THE COMMISSION AND THE EMPLOYEE ORGANIZATION, WITHIN 5 DAYS AFTER THE ANNUAL JOINT COUNTY COUNCIL BUDGET MEETING UNDER § 18–106 OF THIS ARTICLE, SHALL REOPEN THE NEGOTIATED AGREEMENT AND BARGAIN WITH RESPECT TO THE PROVISIONS OF THE AGREEMENT NOT APPROVED BY THE COUNTY COUNCILS.

(C) WHEN PROVISION OF AGREEMENT IS INVALIDATED OR NOT FUNDED.

IF A PROVISION OF A COLLECTIVE BARGAINING AGREEMENT IS RULED INVALID OR IS NOT FUNDED BY MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY, THE REMAINDER OF THE AGREEMENT REMAINS IN EFFECT UNLESS REOPENED UNDER SUBSECTION (B) OF THIS SECTION.

REVISOR'S NOTE: This section formerly was Art. 28, § 2–112.1(o) and (p).

In subsection (b) of this section, the references to the "annual" joint county council "budget" meeting "under § 18–106 of this article" are added for clarity.

The only other changes are in style.

Defined term: "Commission" § 14–101

16–213. IMPAIRMENT OF RIGHTS AND RESPONSIBILITIES OF COMMISSION.

(A) PROHIBITED.

THIS SUBTITLE AND ANY AGREEMENT MADE UNDER IT MAY NOT IMPAIR THE RIGHTS AND RESPONSIBILITIES OF THE COMMISSION TO:

(1) DETERMINE THE OVERALL BUDGET AND MISSION OF THE COMMISSION;

(2) MAINTAIN AND IMPROVE THE EFFICIENCY AND EFFECTIVENESS OF OPERATIONS;

(3) DETERMINE THE SERVICES TO BE RENDERED AND THE OPERATIONS TO BE PERFORMED;

(4) DETERMINE THE LOCATION OF FACILITIES AND THE OVERALL ORGANIZATIONAL STRUCTURE, METHODS, PROCESSES, MEANS, JOB CLASSIFICATIONS, AND PERSONNEL BY WHICH OPERATIONS ARE TO BE CONDUCTED;

(5) DIRECT AND SUPERVISE EMPLOYEES;

(6) HIRE, SELECT, AND ESTABLISH THE STANDARDS GOVERNING PROMOTION OF EMPLOYEES AND CLASSIFY POSITIONS;

(7) RELIEVE EMPLOYEES FROM DUTIES BECAUSE OF LACK OF WORK OR FUNDS OR WHEN THE COMMISSION DETERMINES CONTINUED WORK WOULD BE INEFFICIENT OR NONPRODUCTIVE;

(8) TAKE ACTIONS TO CARRY OUT THE MISSIONS OF GOVERNMENT IN EMERGENCY SITUATIONS;

(9) TRANSFER AND SCHEDULE EMPLOYEES;

(10) DETERMINE THE SIZE, GRADES, AND COMPOSITION OF THE WORKFORCE;

(11) SET THE STANDARDS OF PRODUCTIVITY AND TECHNOLOGY;

(12) ESTABLISH EMPLOYEE PERFORMANCE STANDARDS AND EVALUATE AND ASSIGN EMPLOYEES, EXCEPT THAT EVALUATION AND ASSIGNMENT PROCEDURES SHALL BE A SUBJECT FOR BARGAINING;

(13) ESTABLISH AND IMPLEMENT SYSTEMS FOR AWARDING OUTSTANDING SERVICE INCREMENTS, EXTRAORDINARY PERFORMANCE AWARDS, AND OTHER MERIT AWARDS;

(14) INTRODUCE NEW OR IMPROVED TECHNOLOGY, RESEARCH, DEVELOPMENT, AND SERVICES;

(15) CONTROL AND REGULATE THE USE OF MACHINERY, EQUIPMENT, AND OTHER PROPERTY AND FACILITIES OF THE COMMISSION, SUBJECT TO § 16–207(A)(6) OF THIS SUBTITLE;

(16) MAINTAIN INTERNAL SECURITY STANDARDS;

(17) CREATE, ALTER, COMBINE, CONTRACT OUT, OR ABOLISH ANY JOB CLASSIFICATION, OPERATION, DEPARTMENT, UNIT, OR OTHER DIVISION OR SERVICE;

(18) SUSPEND, DISCHARGE, OR OTHERWISE DISCIPLINE EMPLOYEES FOR CAUSE, SUBJECT TO THE GRIEVANCE PROCEDURE SET FORTH IN A COLLECTIVE BARGAINING AGREEMENT; AND

(19) ADOPT AND ENFORCE POLICIES AND REGULATIONS NECESSARY TO CARRY OUT THIS SECTION AND ALL OTHER MANAGERIAL FUNCTIONS THAT ARE NOT INCONSISTENT WITH FEDERAL OR STATE LAW OR THE TERMS OF A COLLECTIVE BARGAINING AGREEMENT.

(B) LIMITATION ON OUTSOURCING WORK.

THE COMMISSION MAY NOT SIGN A CONTRACT THAT WILL DISPLACE EMPLOYEES UNLESS THE COMMISSION GIVES WRITTEN NOTICE TO THE CERTIFIED REPRESENTATIVE AT LEAST 90 DAYS BEFORE SIGNING THE CONTRACT OR WITHIN A DIFFERENT PERIOD OF TIME AGREED TO BY THE PARTIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–112.1(q)(1).

In subsection (a)(19) of this section, the word "adopt" is substituted for the former word "[i]ssue" to conform to the terminology used throughout this article.

Also in subsection (a)(19) of this section, the former reference to "this article" is deleted as included in the reference to "State law".

Defined terms: "Commission" § 14–101
"State" § 14–101

16–214. PROHIBITED ACTIVITIES OF COMMISSION.

(A) IN GENERAL.

THE COMMISSION MAY NOT:

(1) INTERFERE WITH, COERCE, OR RESTRAIN AN EMPLOYEE IN THE EXERCISE OF THE EMPLOYEE'S RIGHTS UNDER THIS SUBTITLE;

(2) DOMINATE, INTERFERE WITH, OR ASSIST IN THE FORMATION, ADMINISTRATION, OR EXISTENCE OF AN EMPLOYEE ORGANIZATION OR CONTRIBUTE FINANCIAL ASSISTANCE OR OTHER SUPPORT TO AN EMPLOYEE ORGANIZATION;

(3) ENCOURAGE OR DISCOURAGE MEMBERSHIP IN AN EMPLOYEE ORGANIZATION BY DISCRIMINATING AGAINST THE EMPLOYEE THROUGH HIRING, TENURE, PROMOTION OR DEMOTION, OR OTHER CONDITIONS OF EMPLOYMENT;

(4) DISCHARGE OR DISCRIMINATE AGAINST AN EMPLOYEE BECAUSE THE EMPLOYEE HAS SIGNED OR FILED AN AFFIDAVIT, PETITION, OR COMPLAINT OR GIVEN ANY INFORMATION OR TESTIMONY UNDER THIS SUBTITLE; OR

(5) REFUSE TO BARGAIN IN GOOD FAITH WITH AN EMPLOYEE ORGANIZATION THAT IS CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE OF A BARGAINING UNIT OVER ANY SUBJECT OF BARGAINING OR REFUSE TO PARTICIPATE IN GOOD FAITH IN THE MEDIATION, FACT–FINDING, OR GRIEVANCE PROCEDURE UNDER THIS SUBTITLE.

(B) NEGOTIATION DURING WORK HOURS NOT PROHIBITED.

SUBSECTION (A)(2) OF THIS SECTION DOES NOT PROHIBIT THE COMMISSION FROM ALLOWING EMPLOYEES TO NEGOTIATE OR TO CONFER WITH THE COMMISSION OVER LABOR MATTERS DURING WORK HOURS WITHOUT THE LOSS OF PAY OR TIME.

REVISOR'S NOTE: This section formerly was Art. 28, § 2–112.1(q)(2) and (3).

In subsection (a)(1) of this section, the reference to "the employee's" rights is added for clarity and consistency with § 16–215(a)(1) of this subtitle.

In subsection (a)(3) of this section, the reference to promotion "or demotion" is added for clarity.

The only other changes are in style.

Defined term: "Commission" § 14–101

16–215. PROHIBITED ACTIVITIES OF EMPLOYEE ORGANIZATION.

(A) IN GENERAL.

AN EMPLOYEE ORGANIZATION MAY NOT:

(1) INTERFERE WITH, COERCE, OR RESTRAIN AN EMPLOYEE IN THE EXERCISE OF THE EMPLOYEE'S RIGHTS UNDER THIS SUBTITLE;

(2) CAUSE OR ATTEMPT TO CAUSE THE COMMISSION TO DISCRIMINATE AGAINST AN EMPLOYEE IN THE EXERCISE OF THE EMPLOYEE'S RIGHTS UNDER THIS SUBTITLE;

(3) COERCE, DISCIPLINE, FINE, OR ATTEMPT TO COERCE A MEMBER OF AN EMPLOYEE ORGANIZATION AS PUNISHMENT OR REPRISAL;

(4) COERCE, DISCIPLINE, FINE, OR ATTEMPT TO COERCE A MEMBER OF AN EMPLOYEE ORGANIZATION FOR THE PURPOSE OF IMPEDING THE MEMBER'S WORK PERFORMANCE;

(5) REFUSE TO NEGOTIATE IN GOOD FAITH WITH THE COMMISSION AS REQUIRED BY THIS SUBTITLE; OR

(6) FAIL OR REFUSE TO COOPERATE IN IMPASSE PROCEDURES AND IMPASSE DECISIONS AS REQUIRED BY THIS SUBTITLE.

(B) UNFAIR LABOR CHARGE.

ONLY AN ELIGIBLE EMPLOYEE MAY FILE AN UNFAIR LABOR CHARGE AGAINST AN EMPLOYEE ORGANIZATION FOR A VIOLATION OF SUBSECTION (A)(3) OR (4) OF THIS SECTION.

REVISOR'S NOTE: This section formerly was Art. 28, § 2–112.1(r).

The only changes are in style.

Defined term: "Commission" § 14–101

16–216. RIGHTS OF COMMISSION EMPLOYEES.

(A) IN GENERAL.

EMPLOYEES OF THE COMMISSION SHALL RETAIN THE RIGHT TO:

(1) FORM, JOIN, OR ASSIST AN EMPLOYEE ORGANIZATION;

(2) BARGAIN COLLECTIVELY THROUGH A REPRESENTATIVE THAT THE EMPLOYEES HAVE CHOSEN;

(3) ENGAGE IN OTHER LAWFUL CONCERTED ACTIVITIES FOR THE PURPOSE OF COLLECTIVE BARGAINING; OR

(4) REFRAIN FROM AN ACTIVITY DESCRIBED IN THIS SUBSECTION.

(B) GRIEVANCES ONLY THROUGH EXCLUSIVE REPRESENTATIVE.

AN EMPLOYEE MAY ONLY PRESENT A GRIEVANCE ARISING UNDER A COLLECTIVE BARGAINING AGREEMENT TO THE COMMISSION THROUGH THE EMPLOYEE ORGANIZATION CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE FOR THE BARGAINING UNIT.

REVISOR'S NOTE: This section formerly was Art. 28, § 2–112.1(s).

The only changes are in style.

Defined term: "Commission" § 14–101

16–217. STRIKES.

(A) "STRIKE" DEFINED.

IN THIS SECTION, "STRIKE" MEANS THE ACTION OF AN EMPLOYEE, IN CONCERT WITH OTHERS, TO:

(1) REFUSE TO REPORT TO WORK;

(2) STOP OR SLOW DOWN WORK; OR

(3) ABSTAIN WHOLLY OR PARTLY FROM THE FULL, FAITHFUL, AND PROPER PERFORMANCE OF DUTIES WHEN THE OBJECT IS TO INDUCE, INFLUENCE, OR COERCE A CHANGE IN THE TERMS, CONDITIONS, RIGHTS, OR PRIVILEGES OF EMPLOYMENT.

(B) ENGAGING, INDUCING, OR RATIFYING OF STRIKE BY EMPLOYEE OR EMPLOYEE ORGANIZATION PROHIBITED.

A COMMISSION EMPLOYEE, A GROUP OF COMMISSION EMPLOYEES, OR AN EMPLOYEE ORGANIZATION MAY NOT ENGAGE IN, INDUCE, INITIATE, OR RATIFY A STRIKE BY COMMISSION EMPLOYEES.

(C) ENJOINING OF STRIKE.

IF A STRIKE OCCURS, A COURT OF COMPETENT JURISDICTION MAY ENJOIN THE STRIKE ON REQUEST OF THE COMMISSION.

(D) COMPENSATION DURING STRIKE PROHIBITED.

AN EMPLOYEE MAY NOT RECEIVE COMPENSATION FROM THE COMMISSION WHILE THE EMPLOYEE IS ENGAGED IN A STRIKE.

(E) DISCIPLINARY ACTION.

(1) IF AN EMPLOYEE ENGAGES IN, INDUCES, INITIATES, OR RATIFIES A STRIKE, THE COMMISSION MAY TAKE APPROPRIATE DISCIPLINARY ACTION AGAINST THE EMPLOYEE, INCLUDING SUSPENSION OR DISCHARGE.

(2) IF DISCIPLINARY ACTION IS TAKEN AND APPEALED, THE LABOR RELATIONS ADMINISTRATOR SHALL HOLD A HEARING ON THE DISCIPLINARY ACTION AT WHICH THE COMMISSION, THE EMPLOYEE, AND ANY INTERESTED EMPLOYEE ORGANIZATION MAY PRESENT EVIDENCE AND ARGUMENT.

(F) DECERTIFICATION.

(1) IF AFTER A HEARING AN EMPLOYEE ORGANIZATION CERTIFIED AS AN EXCLUSIVE REPRESENTATIVE IS FOUND BY THE LABOR RELATIONS ADMINISTRATOR TO HAVE ASSISTED, AUTHORIZED, OR INITIATED A STRIKE INVOLVING THE REFUSAL OF COMMISSION EMPLOYEES TO REPORT FOR WORK, THE LABOR RELATIONS ADMINISTRATOR SHALL REVOKE THE CERTIFICATION OF THE EMPLOYEE ORGANIZATION FOR 1 YEAR AFTER THE END OF THE STRIKE.

(2) IF AFTER A HEARING AN EMPLOYEE ORGANIZATION CERTIFIED AS AN EXCLUSIVE REPRESENTATIVE IS FOUND BY THE LABOR RELATIONS ADMINISTRATOR TO HAVE ASSISTED, AUTHORIZED, OR INITIATED ANY OTHER TYPE OF STRIKE, THE LABOR RELATIONS ADMINISTRATOR MAY REVOKE THE CERTIFICATION OF THE EMPLOYEE ORGANIZATION FOR UP TO 1 YEAR AFTER THE END OF THE STRIKE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–112.1(t).

In subsection (e)(2) of this section, the phrase "[i]f disciplinary action is taken and appealed" is added for clarity.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in subsection (d) of this section, the prohibition against receiving "compensation" from the Commission during a strike may be ambiguous. It is unclear whether the word "compensation" in this context applies solely to "wages" or other direct monetary payment, or also to "benefits". The General Assembly may wish to specify whether this provision cuts off only wage payments or also benefits such as eligibility for health insurance and pension accrual.

Defined term: "Commission" § 14–101

16–218. UNFAIR LABOR PRACTICES.

(A) IN GENERAL.

IT IS AN UNFAIR LABOR PRACTICE FOR THE COMMISSION OR AN EMPLOYEE ORGANIZATION CERTIFIED AS AN EXCLUSIVE REPRESENTATIVE OF A BARGAINING UNIT TO VIOLATE THE RIGHTS OF A COMMISSION EMPLOYEE UNDER THIS SUBTITLE.

(B) WRITTEN CHARGE.

WITHIN 30 BUSINESS DAYS AFTER THE ALLEGED VIOLATION, THE PARTY CHARGING AN UNFAIR LABOR PRACTICE SHALL SUBMIT THE CHARGE IN WRITING TO THE PARTY ALLEGED TO HAVE COMMITTED THE UNFAIR LABOR PRACTICE.

(C) HEARING.

WITHIN 15 DAYS AFTER AN UNFAIR LABOR PRACTICE CHARGE IS SUBMITTED, THE COMMISSION AND THE EMPLOYEE ORGANIZATION SHALL REQUEST THE LABOR RELATIONS ADMINISTRATOR TO HOLD A HEARING AND DETERMINE WHETHER AN UNFAIR LABOR PRACTICE HAS OCCURRED.

(D) ROLE OF LABOR RELATIONS ADMINISTRATOR.

THE LABOR RELATIONS ADMINISTRATOR SHALL:

(1) ISSUE A FINDING OF FACTS AND CONCLUSION OF LAW;

(2) ORDER THE PARTY FOUND TO HAVE COMMITTED THE UNFAIR LABOR PRACTICE TO CEASE AND DESIST FROM THE PROHIBITED PRACTICE; AND

(3) ORDER ALL RELIEF NECESSARY TO REMEDY THE VIOLATION OF THIS SUBTITLE AND TO OTHERWISE MAKE WHOLE ANY INJURED EMPLOYEE OR EMPLOYEE ORGANIZATION OR THE COMMISSION, IF INJURED, INCLUDING REINSTATEMENT, RESTITUTION, BACK PAY, OR OTHER REMEDY AS NECESSARY TO RESTORE THE EMPLOYEE, THE EMPLOYEE ORGANIZATION, OR THE COMMISSION TO THE POSITION OR CONDITION IT WOULD HAVE BEEN IN BUT FOR THE VIOLATION.

(E) PROHIBITED DAMAGES.

THE LABOR RELATIONS ADMINISTRATOR MAY NOT ORDER PUNITIVE DAMAGES, CONSEQUENTIAL DAMAGES, DAMAGES FOR EMOTIONAL DISTRESS, PAIN, AND SUFFERING, OR ATTORNEY'S FEES FOR PURPOSES OF SATISFYING SUBSECTION (D)(3) OF THIS SECTION.

(F) DISMISSAL OF CHARGES.

IF THE LABOR RELATIONS ADMINISTRATOR FINDS THAT THE PARTY CHARGED HAS NOT COMMITTED AN UNFAIR LABOR PRACTICE, THE LABOR RELATIONS ADMINISTRATOR SHALL ISSUE AN ORDER DISMISSING THE CHARGES.

(G) JUDICIAL REVIEW OF ADMINISTRATOR'S DECISION.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE DECISION OF THE LABOR RELATIONS ADMINISTRATOR IS FINAL.

(2) A PARTY MAY SEEK JUDICIAL REVIEW OF THE DECISION ON THE BASIS THAT THE DECISION IS ARBITRARY, CAPRICIOUS, OR EXCEEDS THE AUTHORITY OF THE LABOR RELATIONS ADMINISTRATOR.

(H) COSTS.

THE COMMISSION AND THE EMPLOYEE ORGANIZATION SHALL SHARE EQUALLY THE COSTS OF ANY UNFAIR LABOR PRACTICE PROCEEDING.

(I) COURT ORDER.

IF THE PARTY FOUND TO HAVE COMMITTED THE UNFAIR LABOR PRACTICE FAILS OR REFUSES TO COMPLY WITH THE DECISION OF THE LABOR RELATIONS ADMINISTRATOR WHOLLY OR PARTLY, THE CHARGING PARTY MAY FILE AN ACTION TO ENFORCE THE ORDER WITH THE CIRCUIT COURT OF THE COUNTY IN WHICH ANY OF THE INVOLVED EMPLOYEES WORK.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–112.1(u).

In subsection (d)(2) of this section, the reference to the party "found to have committed" is substituted for the former reference to the party "charged with" for accuracy.

In subsection (d)(3) of this section, the reference to "other remedy" is substituted for the former reference to "injunctions" because a labor relations administrator may not issue an injunction; only a judge may issue an injunction.

In subsection (f) of this section, the reference to the party charged "has not committed an unfair labor practice" is substituted for the former reference to the party charged "with the unfair labor practice has not committed any prohibited practice" for brevity.

In subsection (g)(2) of this section, the reference to the authority of the "labor relations administrator" is added for clarity.

Also in subsection (g)(2) of this section, the reference to "seek[ing] judicial review" is substituted for the former reference to "appealed" for accuracy.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that any further judicial review of an unfair labor practice in the State courts, such as review by the Court of Special Appeals, would require specific statutory authorization. The General Assembly may wish to consider adding specific language to this section authorizing such a path for additional judicial review.

Defined terms: "Commission" § 14–101
"County" § 14–101

16–219. EXPRESSION OF PERSONAL VIEW, ARGUMENT, OPINION, OR STATEMENT.

(A) APPLICABILITY OF SECTION.

THIS SECTION APPLIES TO THE EXPRESSION OF ANY PERSONAL VIEW, ARGUMENT, OR OPINION OR THE MAKING OF ANY PERSONAL STATEMENT THAT:

(1) (I) PUBLICIZES THE FACT OF A REPRESENTATIONAL ELECTION AND ENCOURAGES EMPLOYEES TO EXERCISE THEIR RIGHT TO VOTE IN THE ELECTION;

(II) CORRECTS THE RECORD WITH RESPECT TO ANY FALSE OR MISLEADING STATEMENT MADE BY ANY PERSON; OR

(III) INFORMS EMPLOYEES OF THE COMMISSION'S POLICY RELATING TO LABOR–MANAGEMENT RELATIONS AND REPRESENTATION;

(2) DOES NOT CONTAIN A THREAT OF REPRISAL OR FORCE, OR A PROMISE OF BENEFIT; AND

(3) WAS NOT COERCED.

(B) EFFECT.

THE EXPRESSION OF ANY PERSONAL VIEW, ARGUMENT, OPINION, OR STATEMENT DESCRIBED IN SUBSECTION (A) OF THIS SECTION DOES NOT CONSTITUTE:

(1) AN UNFAIR LABOR PRACTICE UNDER THIS SUBTITLE; OR

(2) GROUNDS FOR SETTING ASIDE ANY ELECTION CONDUCTED UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was Art. 28, § 2–112.1(v).

The only changes are in style.

Defined terms: "Commission" § 14–101
"Person" § 14–101

SUBTITLE 3. COLLECTIVE BARGAINING — POLICE OFFICERS.

16–301. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 28, § 5–114.1(a)(1).

The only change is in style.

(B) ARBITRATION.

"ARBITRATION" MEANS A PROCEDURE BY WHICH THE PARTIES INVOLVED IN A GRIEVANCE SUBMIT THEIR DIFFERENCES TO AN IMPARTIAL THIRD PARTY FOR A FINAL AND BINDING DECISION.

REVISOR'S NOTE: This subsection formerly was Art. 28, § 5–114.1(a)(4).

The former reference to a grievance "dispute" is deleted as redundant in light of the use of the defined term "grievance".

The only other changes are in style.

Defined term: "Grievance" § 16–301

(C) BARGAINING UNIT.

"BARGAINING UNIT" MEANS ALL EMPLOYEES EXCEPT A CONFIDENTIAL EMPLOYEE.

REVISOR'S NOTE: This subsection formerly was Art. 28, § 5–114.1(a)(5).

The former reference to employees "who are ranked as sergeant or below the rank of sergeant" is deleted as redundant in light of the use of the defined term "employee[s]".

The only other changes are in style.

Defined terms: "Confidential employee" § 16–301
"Employee" § 16–301

(D) COLLECTIVE BARGAINING.

"COLLECTIVE BARGAINING" MEANS THE PERFORMANCE BY THE EXCLUSIVE REPRESENTATIVE OF THE BARGAINING UNIT AND THE COMMISSION OF THEIR MUTUAL OBLIGATIONS TO NEGOTIATE IN GOOD FAITH WITH RESPECT TO WAGES, HOURS, AND OTHER TERMS AND CONDITIONS OF EMPLOYMENT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 28, § 5–114.1(a)(6).

The reference to the performance by the "exclusive representative of the bargaining unit" of certain obligations is substituted for the former reference to the performance by the "certified employee organization through its designated representative" of certain obligations for clarity.

Defined terms: "Bargaining unit" § 16–301
"Commission" § 14–101
"Exclusive representative" § 16–301

(E) COLLECTIVE BARGAINING AGREEMENT.

"COLLECTIVE BARGAINING AGREEMENT" MEANS A WRITTEN CONTRACT BETWEEN THE COMMISSION AND AN EMPLOYEE ORGANIZATION IMPLEMENTING COLLECTIVE BARGAINING.

REVISOR'S NOTE: This subsection formerly was Art. 28, § 5–114.1(a)(3).

The phrase "implementing collective bargaining" is added for clarity.

The only other changes are in style.

Defined terms: "Collective bargaining" § 16–301
"Commission" § 14–101
"Employee organization" § 16–301

(F) CONFIDENTIAL EMPLOYEE.

"CONFIDENTIAL EMPLOYEE" MEANS AN EMPLOYEE WHO:

(1) ACTS IN A CONFIDENTIAL CAPACITY AND FORMULATES AND EFFECTUATES COMMISSION POLICIES THAT RELATE TO COLLECTIVE BARGAINING WITH EMPLOYEES; OR

(2) HAS ACCESS TO CONFIDENTIAL INFORMATION NOT GENERALLY AVAILABLE TO EMPLOYEES REGARDING THE FORMULATION AND EFFECTUATION OF COMMISSION POLICIES THAT RELATE TO COLLECTIVE BARGAINING.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 28, § 5–114.1(a)(8).

Defined terms: "Collective bargaining" § 16–301

"Commission" § 14–101
"Employee" § 16–301

(G) EMPLOYEE.

"EMPLOYEE" MEANS A POLICE OFFICER WHO IS RANKED AS A SERGEANT OR BELOW EMPLOYED BY THE COMMISSION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 28, § 5–114.1(a)(9).

Defined term: "Commission" § 14–101

(H) EMPLOYEE ORGANIZATION.

"EMPLOYEE ORGANIZATION" MEANS AN ORGANIZATION THAT HAS AS ONE OF ITS PRIMARY PURPOSES REPRESENTING EMPLOYEES IN COLLECTIVE BARGAINING.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 28, § 5–114.1(a)(10).

The former reference to "law enforcement" employees is deleted as included in the definition of "employee".

Defined terms: "Collective bargaining" § 16–301
"Employee" § 16–301

(I) EXCLUSIVE REPRESENTATIVE.

"EXCLUSIVE REPRESENTATIVE" MEANS AN EMPLOYEE ORGANIZATION THAT HAS BEEN CERTIFIED BY THE LABOR COMMISSIONER AS REPRESENTING THE EMPLOYEES IN THE BARGAINING UNIT.

REVISOR'S NOTE: This subsection formerly was Art. 28, § 5–114.1(a)(11).

The only changes are in style.

Defined terms: "Bargaining unit agreement" § 16–301
"Employee" § 16–301
"Employee organization" § 16–301
"Labor Commissioner" § 16–301

(J) GRIEVANCE.

"GRIEVANCE" MEANS A DISPUTE CONCERNING THE APPLICATION OR INTERPRETATION OF THE TERMS OF A COLLECTIVE BARGAINING AGREEMENT OR THE REGULATIONS OF THE COMMISSION THAT RELATE TO TERMS AND CONDITIONS OF EMPLOYMENT.

REVISOR'S NOTE: This subsection formerly was Art. 28, § 5–114.1(a)(12).

The reference to regulations "that relate to terms and conditions of employment" is added for clarity.

As to the deletion of the former reference to "rules", *see* General Revisor's Note to article.

The only other changes are in style.

Defined terms: "Collective bargaining agreement" § 16–301
"Commission" § 14–101

(K) IMPASSE.

"IMPASSE" MEANS FAILURE OF THE COMMISSION AND AN EXCLUSIVE REPRESENTATIVE TO ENTER INTO A COLLECTIVE BARGAINING AGREEMENT AT LEAST 30 DAYS BEFORE THE DAY ON WHICH THE COMMISSION'S BUDGET IS DUE FOR SUBMISSION TO THE MONTGOMERY COUNTY COUNCIL AND THE PRINCE GEORGE'S COUNTY COUNCIL.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 28, § 5–114.1(a)(13).

The reference to "enter[ing] into a collective bargaining agreement" is substituted for the former reference to "achiev[ing] agreement" for clarity.

Defined terms: "Collective bargaining agreement" § 16–301
"Commission" § 14–101
"Exclusive representative" § 16–301

(L) LABOR COMMISSIONER.

"LABOR COMMISSIONER" MEANS THE COMMISSIONER OF LABOR AND INDUSTRY OR THE COMMISSIONER'S DESIGNEE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 28, § 5–114.1(a)(7).

The defined term "Labor Commissioner" is substituted for the former defined term "Commissioner" to avoid conflict with the term "commissioner" as defined for this division. *See* § 14–101 of this article.

The former reference to the "State" Commissioner of Labor and Industry is deleted to use the proper name of the position.

(M) MEDIATION.

"MEDIATION" MEANS ASSISTANCE BY AN IMPARTIAL THIRD PARTY TO RECONCILE A DISPUTE ARISING OUT OF COLLECTIVE BARGAINING THROUGH INTERPRETATION, SUGGESTION, AND ADVICE.

REVISOR'S NOTE: This subsection formerly was Art. 28, § 5–114.1(a)(15).

The only change is in style.

Defined term: "Collective bargaining" § 16–301

(N) STRIKE.

"STRIKE" MEANS THE ACTION:

(1) OF AN EMPLOYEE, IN CONCERT WITH OTHERS, TO:

(I) REFUSE TO REPORT TO WORK;

(II) BE WILLFULLY ABSENT FROM THE EMPLOYEE'S POSITION;

(III) STOP OR SLOW DOWN WORK; OR

(IV) ABSTAIN WHOLLY OR PARTIALLY FROM THE PROPER PERFORMANCE OF DUTIES; AND

(2) TAKEN FOR THE PURPOSE OF INDUCING, INFLUENCING, OR COERCING A CHANGE IN WAGES, HOURS, OR OTHER TERMS AND CONDITIONS OF EMPLOYMENT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 28, § 5–114.1(a)(16).

In paragraph (1)(i) of this subsection, the reference to "slow[ing] down" work is added for clarity.

Defined term: "Employee" § 16–301

REVISOR'S NOTE TO SECTION:

Former Art. 28, § 5–114.1(a)(2), which defined "MNCPPC" to mean the Maryland–National Capital Park and Planning Commission, is revised in § 14–101 of this article.

Former Art. 28, § 5–114.1(a)(17), which defined "[s]upervisory employee" to mean an employee who serves at a certain rank, is deleted because the term is not used in this subtitle.

16–302. EMPLOYEE ORGANIZATION AS EXCLUSIVE REPRESENTATIVE OF BARGAINING UNIT.

(A) IN GENERAL.

THE COMMISSION SHALL RECOGNIZE THE RIGHT OF AN EMPLOYEE ORGANIZATION, CERTIFIED UNDER THIS SUBTITLE AS THE EXCLUSIVE REPRESENTATIVE OF THE BARGAINING UNIT, TO REPRESENT THE EMPLOYEES IN THE BARGAINING UNIT IN COLLECTIVE BARGAINING AND IN THE SETTLEMENT OF GRIEVANCES.

(B) PURPOSE OF EMPLOYEE ORGANIZATION.

AN EMPLOYEE ORGANIZATION CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE OF A BARGAINING UNIT SHALL:

(1) SERVE AS THE SOLE BARGAINING AGENT FOR THE BARGAINING UNIT IN COLLECTIVE BARGAINING; AND

(2) REPRESENT ALL EMPLOYEES IN THE BARGAINING UNIT FAIRLY, WITHOUT DISCRIMINATION, AND WITHOUT REGARD TO WHETHER AN EMPLOYEE IS A MEMBER OF THE EMPLOYEE ORGANIZATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–114.1(d)(1) and (2).

In subsection (a) of this section, the references to an employee organization certified "under this subtitle" as the exclusive representative "of the bargaining unit" to represent the employees "in the bargaining unit" are added for clarity.

Also in subsection (a) of this section, the references to the Commission "recogniz[ing]" the right "of" an employee organization to represent employees are substituted for the former references to the Commission "extend[ing]" the right "to" the employee organization for clarity.

In the introductory language to subsection (b) of this section, the reference to the exclusive representative "of a bargaining unit" is added for clarity. Similarly, in subsection (b)(2) of this section, the reference to employees "in the bargaining unit" is added for clarity.

In subsection (b)(1) of this section, the references to serving as the "sole" bargaining agent for the bargaining unit "in collective bargaining" are added for clarity.

In subsection (b)(2) of this section, the former reference to "public" employees is deleted for accuracy and consistency within this subtitle.

Defined terms: "Bargaining unit" § 16–301
"Collective bargaining" § 16–301
"Commission" § 14–101
"Employee" § 16–301
"Employee organization" § 16–301
"Exclusive representative" § 16–301
"Grievance" § 16–301

16–303. LABOR RELATIONS ADMINISTRATOR.

(A) INITIAL APPOINTMENT.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE COMMISSION AND THE EXCLUSIVE REPRESENTATIVE JOINTLY SHALL APPOINT AN EXPERIENCED NEUTRAL PARTY, FROM A LIST OF FIVE NOMINEES ON WHOM THEY HAVE AGREED, TO SERVE AS LABOR RELATIONS ADMINISTRATOR FOR A 2–YEAR TERM.

(2) IF AN EXCLUSIVE REPRESENTATIVE HAS NOT BEEN CERTIFIED TO REPRESENT EMPLOYEES OF THE BARGAINING UNIT, THE COMMISSION SHALL APPOINT THE LABOR RELATIONS ADMINISTRATOR FOR A TERM NOT EXCEEDING 1 YEAR.

(B) REAPPOINTMENT.

A LABOR RELATIONS ADMINISTRATOR:

(1) IS ELIGIBLE FOR REAPPOINTMENT; AND

(2) MAY BE THE SAME INDIVIDUAL AS THE LABOR RELATIONS ADMINISTRATOR APPOINTED UNDER § 16–203 OF THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–114.1(a)(14) and (b)(1).

Subsection (a)(1) of this section is revised to incorporate the substance of the definition of "labor relations administrator" contained in former Art. 28, § 5–114.1(a)(14) since the former law stated a qualification for appointment as a labor relations administrator rather than a definition of the term.

In subsection (a)(1) of this section, the phrase "[s]ubject to paragraph (2) of this subsection" is added to reflect that a condition to the appointment of a labor relations administrator as provided in subsection (a)(1) of this section is stated in subsection (a)(2).

Also in subsection (a)(1) of this section, the requirement to "jointly" appoint an experienced neutral party is added for clarity.

In subsection (b)(2) of this section, the reference to an "individual" is substituted for the former reference to a "person" because only a human being, and not the other entities included in the defined term "person", can serve as a labor relations administrator.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in subsection (a)(1) of this section, there does not seem to be a procedure for appointment of a neutral party as labor relations administrator if the Commission and the exclusive representative are unable to agree. The General Assembly may wish to consider adopting such a procedure.

Defined terms: "Bargaining unit" § 16–301
"Commission" § 14–101
"Employee" § 16–301
"Exclusive representative" § 16–301

16–304. CONSTITUTION, BYLAWS, AND ANNUAL REPORT OF EMPLOYEE ORGANIZATION.

(A) DUTY TO FILE CONSTITUTION AND BYLAWS.

AN EMPLOYEE ORGANIZATION THAT IS CERTIFIED OR THAT SEEKS CERTIFICATION AS AN EXCLUSIVE REPRESENTATIVE UNDER THIS SUBTITLE SHALL:

(1) FILE WITH THE COMMISSION AND THE LABOR COMMISSIONER A COPY OF THE EMPLOYEE ORGANIZATION'S CONSTITUTION AND BYLAWS; AND

(2) REPORT PROMPTLY ANY CHANGE IN THE CONSTITUTION OR BYLAWS.

(B) CONTENTS OF CONSTITUTION AND BYLAWS.

THE CONSTITUTION OR BYLAWS SHALL INCLUDE:

(1) A PLEDGE THAT THE EMPLOYEE ORGANIZATION ACCEPTS MEMBERS WITHOUT REGARD TO AGE, RACE, GENDER, RELIGION, MARITAL STATUS, OR NATIONAL ORIGIN;

(2) THE RIGHT OF MEMBERS TO PARTICIPATE IN THE AFFAIRS OF THE EMPLOYEE ORGANIZATION;

(3) PROCEDURES FOR PERIODIC ELECTIONS OF OFFICERS BY SECRET BALLOT;

(4) FAIR PROCEDURES GOVERNING DISCIPLINARY ACTIONS;

(5) PROCEDURES FOR THE ACCURATE ACCOUNTING OF INCOME AND EXPENDITURES;

(6) A REQUIREMENT THAT AN ANNUAL FINANCIAL REPORT BE PRODUCED; AND

(7) THE RIGHT OF MEMBERS TO INSPECT THE EMPLOYEE ORGANIZATION'S ACCOUNTS.

(C) DUTY TO FILE ANNUAL REPORT.

AN EMPLOYEE ORGANIZATION SHALL FILE AN ANNUAL REPORT WITH THE COMMISSION AND THE LABOR COMMISSIONER.

(D) CONTENTS OF ANNUAL REPORT.

THE ANNUAL REPORT SHALL INCLUDE A FINANCIAL REPORT THAT:

(1) IS SIGNED BY THE PRESIDENT AND TREASURER OR CORRESPONDING PRINCIPAL OFFICERS OF THE EMPLOYEE ORGANIZATION; AND

(2) CONTAINS INFORMATION IN DETAIL SUFFICIENT TO ACCURATELY DISCLOSE THE FINANCIAL CONDITION AND OPERATIONS OF THE EMPLOYEE ORGANIZATION.

(E) FAILURE TO FILE.

AN EMPLOYEE ORGANIZATION THAT HAS NOT FILED AN ANNUAL REPORT OR THE CONSTITUTION AND BYLAWS OF WHICH DO NOT CONFORM TO THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION MAY NOT BE OR REMAIN CERTIFIED AS AN EXCLUSIVE REPRESENTATIVE UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–114.1(d)(3) through (6).

In the introductory language to subsection (a) of this section, the reference to certification as an exclusive representative "under this subtitle" is added for clarity.

Subsection (a)(2) is revised in the active voice to clarify that it is the duty of an employee organization to report any change in the constitution or bylaws.

In subsection (a)(2) of this section, the former reference to any "amendments" is deleted as included in the reference to any "change".

In the introductory language to subsection (b) of this section, the former reference to the constitution or bylaws "of every employee organization" is deleted as implicit.

In subsection (b)(1) of this section, the word "gender" is substituted for the former word "sex" for clarity.

In subsection (b)(2) of this section, the former reference to "individual" members is deleted as implicit.

In subsection (b)(3) of this section, the reference to "procedures for" periodic elections is added for clarity and accuracy.

Also in subsection (b)(3) of this section, the reference to elections "of officers" is added for clarity.

In subsection (b)(4) of this section, the reference to procedures "governing" disciplinary actions is substituted for the former reference to procedures "in" disciplinary actions for clarity.

Also in subsection (b)(4) of this section, the former reference to "equitable" procedures is deleted as unnecessary in light of the reference to "fair" procedures.

In subsection (b)(5) of this section, the reference to "procedures for the accurate accounting" of income and expenditures is substituted for the former reference to "[a]ccurate accounts" of income and expenditures to clarify that "procedures" and not "accounts" must be included in an employee organization's constitution or bylaws.

In subsection (b)(6) of this section, the references to "a requirement that" an annual financial report "be produced" are added for clarity and accuracy.

Subsection (b)(7) of this section is revised as a requirement that an employee organization's constitution or bylaws include the "right of members to inspect the employee organization's accounts" for consistency within subsection (b).

In subsection (e) of this section, the reference to being or remaining certified "as an exclusive representative under this subtitle" is substituted for the former reference to being or remaining certified "for the purpose of negotiating with the MNCPPC" for clarity and consistency within this subtitle. *See, e.g.,* § 16–302 of this subtitle.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that it may be helpful to compare the nondiscrimination standards in subsection (b)(1) of this section with similar nondiscrimination standards required under other State laws in order to harmonize them. *See also* Revisor's Note to § 16–204 of this title.

Defined terms: "Commission" § 14–101
"Employee organization" § 16–301
"Exclusive representative" § 16–301
"Labor Commissioner" § 16–301

16–305. ELECTION OF EXCLUSIVE REPRESENTATIVE.

(A) SUBMISSION OF PETITION.

(1) A PETITION FOR AN ELECTION OF AN EXCLUSIVE REPRESENTATIVE MAY BE SUBMITTED TO THE LABOR COMMISSIONER BY:

(I) AN EMPLOYEE ORGANIZATION THAT DEMONSTRATES THAT AT LEAST 30% OF THE ELIGIBLE EMPLOYEES IN THE BARGAINING UNIT SUPPORT REPRESENTATION BY AN EXCLUSIVE REPRESENTATIVE FOR COLLECTIVE BARGAINING;

(II) AN EMPLOYEE, A GROUP OF EMPLOYEES, OR AN EMPLOYEE ORGANIZATION THAT DEMONSTRATES THAT AT LEAST 35% OF THE ELIGIBLE EMPLOYEES IN THE BARGAINING UNIT CERTIFY THAT A MAJORITY OF THE ELIGIBLE EMPLOYEES IN THE BARGAINING UNIT NO LONGER SUPPORT THE CURRENT EXCLUSIVE REPRESENTATIVE; OR

(III) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE COMMISSION, DEMONSTRATING THAT ONE OR MORE EMPLOYEE ORGANIZATIONS HAVE PRESENTED TO IT A CLAIM, SUPPORTED BY SUBSTANTIAL PROOF, TO BE CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE.

(2) THE LABOR COMMISSIONER MAY ACCEPT A PETITION FROM THE COMMISSION ONLY IF THE LABOR COMMISSIONER FINDS, ON INVESTIGATION OF THE PETITION, THAT A VALID QUESTION OF REPRESENTATION EXISTS.

(B) CONDUCT OF ELECTIONS.

ELECTIONS SHALL BE CONDUCTED BY:

(1) THE LABOR COMMISSIONER; AND

(2) SECRET BALLOT.

(C) CONTENTS OF BALLOT.

EACH BALLOT SHALL CONTAIN:

(1) THE NAME OF EACH EMPLOYEE ORGANIZATION THAT SUBMITS A VALID PETITION;

(2) THE NAME OF ANY OTHER EMPLOYEE ORGANIZATION SUPPORTED BY A VALID PETITION SIGNED BY MORE THAN 10% OF THE ELIGIBLE EMPLOYEES IN THE BARGAINING UNIT; AND

(3) AN OPTION FOR NO REPRESENTATION.

(D) RUNOFF ELECTION.

(1) IF NONE OF THE CHOICES ON THE BALLOT RECEIVES A MAJORITY OF THE VOTES CAST, THE LABOR COMMISSIONER SHALL CONDUCT A RUNOFF ELECTION.

(2) IN THE RUNOFF ELECTION, THE BALLOT SHALL CONTAIN THE TWO CHOICES RECEIVING THE HIGHEST NUMBER OF VOTES CAST IN THE INITIAL ELECTION.

(E) CERTIFICATION AS EXCLUSIVE REPRESENTATIVE.

(1) AFTER THE ELECTION, THE LABOR COMMISSIONER SHALL CERTIFY THE EMPLOYEE ORGANIZATION THAT RECEIVED A MAJORITY OF THE VOTES CAST AS THE EXCLUSIVE REPRESENTATIVE.

(2) AN EMPLOYEE ORGANIZATION MAY NOT BE CERTIFIED AS AN EXCLUSIVE REPRESENTATIVE EXCEPT AS PROVIDED IN THIS SUBTITLE.

(F) WHEN ELECTIONS MAY NOT BE CONDUCTED.

ELECTIONS MAY NOT BE CONDUCTED WITHIN 2 YEARS AFTER A VALID ELECTION HELD UNDER THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–114.1(c)(2) through (6).

In the introductory language to subsection (a) of this section, the reference to an election "of an exclusive representative" is added for clarity.

Also in the introductory language to subsection (a) of this section, the reference to submitting a petition "to the Labor Commissioner" is added for clarity.

In subsection (a)(1)(i) and (ii) of this section, the references to "at least" a certain percentage of employees are added to clarify that a minimum, and not an exact, percentage of employees is required.

Also in subsection (a)(1)(i) and (ii) of this section, the references to "eligible" employees are added to clarify that only employees who meet certain criteria may be considered for the purposes of subsection (a)(1).

In subsection (a)(1)(i) of this section, the defined term "employee[s]" is substituted for the former reference to "police officers" for consistency within this subtitle.

Also in subsection (a)(1)(i) of this section, the references to "support[ing] representation" is substituted for the former reference to "wish[ing] to be represented" for clarity.

In subsection (a)(1)(ii) of this section, the references to the employees "in the bargaining unit" are added for clarity.

Also in subsection (a)(1)(ii) of this section, the reference to a majority of employees no longer "support[ing]" the exclusive representative is substituted for the former reference to the exclusive representative no longer "[being] … the representative of" a majority of employees for consistency within this subsection.

Also in subsection (a)(1)(ii) of this section, the reference to the "current" exclusive representative is substituted for the former reference to the "designated" exclusive representative for clarity.

In subsection (c)(2) of this section, the reference to 10% of "the eligible employees in" the bargaining unit is added for clarity and accuracy.

Also in subsection (c)(2) of this section, the reference to an employee organization "supported by" a valid petition is substituted for the former reference to an employee organization "designated on" a valid petition for consistency with subsection (a) of this section.

Also in subsection (c)(2) of this section, the former reference to "organizations" is deleted in light of the reference to an "organization" and Art. 1, § 8, which provides that the singular generally includes the plural.

Subsection (d)(1) of this section is revised in the active voice to clarify that it is the duty of the Labor Commissioner to conduct a runoff election. This revision is consistent with subsection (b)(1) of this section, which requires all elections to be conducted by the Labor Commissioner.

In subsection (d)(2) of this section, the reference to the "initial" election is added for clarity.

Also in subsection (d)(2) of this section, the requirement that the ballot "contain" two choices is substituted for the former reference to the ballot "providing for a selection between" two choices for brevity.

Also in subsection (d)(2) of this section, the reference to "votes" cast is substituted for the former reference to "ballots" cast for consistency with subsections (d)(1) and (e)(1) of this section.

In subsection (e)(1) of this section, the phrase "[a]fter the election" is added for clarity. Correspondingly, the former reference to votes cast "in an election" is deleted as surplusage.

Also in subsection (e)(1) of this section, the former reference to the exclusive representative "for collective bargaining purposes" is deleted as implicit.

In subsection (f) of this section, the prohibition on elections being conducted "within 2 years after a valid election held under this section" is substituted for the former prohibition on elections being conducted "if a valid election has been held within the preceding 2 years" for clarity.

Former Art. 28, § 5–114.1(c)(1), which required that an election for an exclusive representative be conducted by the Commissioner of Labor and Industry after July 1, 1986, is deleted as obsolete. This election was conducted by the Labor Commissioner on July 31, 1986.

Defined terms: "Bargaining unit" § 16–301
"Collective bargaining" § 16–301
"Commission" § 14–101
"Employee" § 16–301
"Employee organization" § 16–301
"Exclusive representative" § 16–301
"Labor Commissioner" § 16–301

16–306. DISPUTE OVER ELIGIBILITY OF EMPLOYEE IN BARGAINING UNIT.

ANY DISPUTE ABOUT THE ELIGIBILITY OF AN EMPLOYEE IN THE BARGAINING UNIT SHALL BE SUBMITTED TO THE LABOR RELATIONS ADMINISTRATOR FOR FINAL AND BINDING ARBITRATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–114.1(b)(2).

Defined terms: "Arbitration" § 16–301
"Bargaining unit" § 16–301
"Employee" § 16–301

16–307. REQUIREMENTS AND PROCEDURES FOR COLLECTIVE BARGAINING.

(A) IN GENERAL.

THE COMMISSION AND THE EXCLUSIVE REPRESENTATIVE OF THE BARGAINING UNIT SHALL ENGAGE IN COLLECTIVE BARGAINING.

(B) AGREEMENT NOT REQUIRED.

SUBSECTION (A) OF THIS SECTION DOES NOT REQUIRE THE COMMISSION OR THE EXCLUSIVE REPRESENTATIVE TO AGREE TO ANY PROPOSAL OR TO MAKE ANY CONCESSION.

(C) SUBJECTS OF COLLECTIVE BARGAINING.

COLLECTIVE BARGAINING MAY INCLUDE NEGOTIATIONS ABOUT THE TERMS OF EMPLOYEE RETIREMENT SYSTEMS BUT NOT ABOUT THE HIRING PRACTICES OF THE COMMISSION.

(D) TIME FOR COLLECTIVE BARGAINING.

(1) (I) COLLECTIVE BARGAINING MAY NOT BEGIN LATER THAN SEPTEMBER 1 BEFORE THE BEGINNING OF A FISCAL YEAR FOR WHICH A COLLECTIVE BARGAINING AGREEMENT HAS NOT BEEN REACHED BETWEEN THE COMMISSION AND THE EXCLUSIVE REPRESENTATIVE.

(II) COLLECTIVE BARGAINING SHALL CONCLUDE ON OR BEFORE THE FOLLOWING FEBRUARY 4 OR ANY LATER DATE DETERMINED BY MUTUAL AGREEMENT OF THE PARTIES.

(2) DURING THE PERIOD BETWEEN THE DATES SET IN PARAGRAPH (1)(I) AND (II) OF THIS SUBSECTION, THE PARTIES SHALL NEGOTIATE IN GOOD FAITH.

(E) NEGOTIABILITY DISPUTES.

(1) IF A PARTY TO THE COLLECTIVE BARGAINING CONSIDERS A BARGAINING PROPOSAL TO VIOLATE THE RESPONSIBILITIES OF THE COMMISSION UNDER § 16–311(A) OF THIS SUBTITLE OR THE RIGHTS OF EMPLOYEES UNDER § 16–314 OF THIS SUBTITLE OR TO OTHERWISE VIOLATE THIS SUBTITLE, THE PARTY MAY PETITION THE LABOR RELATIONS ADMINISTRATOR FOR A DETERMINATION OF WHETHER THE BARGAINING

PROPOSAL CONSTITUTES A NEGOTIABILITY DISPUTE THAT VIOLATES THIS SUBTITLE.

(2) THE LABOR RELATIONS ADMINISTRATOR SHALL RESOLVE A NEGOTIABILITY DISPUTE IN ACCORDANCE WITH THE PROCEDURES FOR RESOLVING AN UNFAIR LABOR PRACTICE CHARGE, EXCEPT THAT THE LABOR RELATIONS ADMINISTRATOR MAY SHORTEN THE TIME PERIODS OR ORDER ANY APPROPRIATE EXPEDITED PROCEDURES.

(3) THE LABOR RELATIONS ADMINISTRATOR MAY ORDER A PARTY TO WITHDRAW ALL OR PART OF A BARGAINING PROPOSAL THAT VIOLATES THIS SUBTITLE.

(4) UNLESS PETITIONED TO JUDICIAL REVIEW ON THE BASIS THAT THE DECISION OR ORDER IS ARBITRARY, IS CAPRICIOUS, OR EXCEEDS THE AUTHORITY OF A PARTY, ANY DECISION MADE OR ORDER ISSUED UNDER THIS SECTION IS FINAL.

(F) MEDIATION.

(1) A MEDIATOR MAY BE USED DURING COLLECTIVE BARGAINING:

(I) ON REQUEST OF BOTH PARTIES; OR

(II) IF AN IMPASSE EXISTS, ON REQUEST OF EITHER PARTY.

(2) THE MEDIATOR SHALL BE SELECTED BY THE PARTIES FROM A LIST SUPPLIED BY THE AMERICAN ARBITRATION ASSOCIATION OR THE FEDERAL MEDIATION AND CONCILIATION SERVICE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–114.1(e)(1) through (4) and (f)(3).

In subsections (a) and (d)(1)(i) of this section, the defined term "exclusive representative" is substituted for the former references to the "certified employee organization" for consistency within this subtitle.

In subsection (a) of this section, the reference to the exclusive representative "of the bargaining unit" is added for clarity.

In subsection (b) of this section, the reference to "[s]ubsection (a) of this section" is substituted for the former reference to "[t]his obligation" for clarity.

Also in subsection (b) of this section, the reference to "the Commission or the exclusive representative" is substituted for the former reference to "either party" for clarity.

Also in subsection (b) of this section, the former reference to the Commission or the exclusive representative making a concession "to the other" is deleted as implicit.

In subsection (c) of this section, the reference to "negotiations" is substituted for the former reference to "discussion" for clarity.

In subsection (d)(1)(i) of this section, the former reference to the beginning of an "entire" fiscal year is deleted as implicit.

In subsection (e)(1) of this section, the reference to a party "to the collective bargaining" is added for clarity.

Also in subsection (e)(1) of this section, the former reference to employees "of the MNCPPC" is deleted as unnecessary in light of the defined term "employee".

Subsection (e)(2) of this section is revised in the active voice to clarify that it is the duty of the labor relations administrator to resolve a negotiability dispute.

In subsection (e)(2) of this section, the reference to the procedures for "resolving" an unfair labor practice charge is substituted for the former reference to "reviewing" an unfair labor practice charge for consistency with § 16–317 of this subtitle.

In subsection (e)(4) of this section, the references to any decision "made" or order "issued" are substituted for the former reference to any decision or order "reached" for clarity and accuracy.

Also in subsection (e)(4) of this section, the reference to a decision or order being "petitioned to judicial review" is substituted for the former reference to a decision or order being "appealed" for accuracy.

Defined terms: "Bargaining unit" § 16–301
"Collective bargaining" § 16–301
"Collective bargaining agreement" § 16–301
"Commission" § 14–101

"Employee" § 16–301
"Exclusive representative" § 16–301
"Impasse" § 16–301
"Mediation" § 16–301

16–308. ARBITRATION.

(A) DECLARATION OF IMPASSE AND APPOINTMENT OF ARBITRATOR.

(1) IF THE PARTIES TO COLLECTIVE BARGAINING HAVE NOT REACHED AN AGREEMENT ON OR BEFORE DECEMBER 1 OR ANY LATER DATE DETERMINED BY MUTUAL AGREEMENT OF THE PARTIES ON A COLLECTIVE BARGAINING AGREEMENT THAT WOULD SUCCEED THE EXISTING COLLECTIVE BARGAINING AGREEMENT:

(I) EITHER PARTY MAY DECLARE A BARGAINING IMPASSE; AND

(II) THE PARTIES JOINTLY SHALL APPOINT AN ARBITRATOR.

(2) IF THE PARTIES ARE UNABLE TO AGREE ON AN ARBITRATOR, THE LABOR RELATIONS ADMINISTRATOR SHALL APPOINT THE ARBITRATOR ON OR BEFORE DECEMBER 7 OR ANY LATER DATE DETERMINED BY MUTUAL AGREEMENT OF THE PARTIES.

(3) NOTWITHSTANDING APPOINTMENT OF THE ARBITRATOR, THIS SUBTITLE DOES NOT REQUIRE ARBITRATION TO BEGIN BEFORE FEBRUARY 1 OR ANY LATER DATE DETERMINED BY MUTUAL AGREEMENT OF THE PARTIES.

(B) MEMORANDUM REQUIRED.

ON OR BEFORE FEBRUARY 1 OR ANY LATER DATE DETERMINED BY MUTUAL AGREEMENT OF THE PARTIES, THE ARBITRATOR SHALL DIRECT THE PARTIES TO SUBMIT:

(1) A JOINT MEMORANDUM LISTING ALL ITEMS TO WHICH THE PARTIES PREVIOUSLY AGREED; AND

(2) A SEPARATE MEMORANDUM OF EACH PARTY'S LAST FINAL OFFER PRESENTED IN NEGOTIATIONS ON ALL ITEMS TO WHICH THE PARTIES PREVIOUSLY DID NOT AGREE.

(C) CLOSED HEARING.

(1) ON OR BEFORE FEBRUARY 10 OR ANY LATER DATE DETERMINED BY MUTUAL AGREEMENT OF THE PARTIES, THE ARBITRATOR SHALL HOLD A CLOSED HEARING ON THE PARTIES' PROPOSALS AT A TIME, DATE, AND PLACE SELECTED BY THE ARBITRATOR.

(2) EACH PARTY SHALL SUBMIT EVIDENCE OR MAKE ORAL AND WRITTEN ARGUMENTS IN SUPPORT OF THE PARTY'S LAST FINAL OFFER.

(3) THE ARBITRATOR MAY NOT OPEN THE HEARING TO A PERSON THAT IS NOT A PARTY TO THE ARBITRATION.

(D) REPORT.

(1) ON OR BEFORE FEBRUARY 15 OR ANY LATER DATE DETERMINED BY MUTUAL AGREEMENT OF THE PARTIES, THE ARBITRATOR SHALL ISSUE A REPORT SELECTING THE LAST FINAL OFFER SUBMITTED BY THE PARTIES THAT THE ARBITRATOR DETERMINES TO BE MORE REASONABLE WHEN VIEWED AS A WHOLE.

(2) IN DETERMINING WHICH LAST FINAL OFFER IS MORE REASONABLE, THE ARBITRATOR MAY CONSIDER ONLY:

(I) PAST COLLECTIVE BARGAINING AGREEMENTS BETWEEN THE PARTIES, INCLUDING THE PAST BARGAINING HISTORY THAT LED TO THE COLLECTIVE BARGAINING AGREEMENT OR THE PRECOLLECTIVE BARGAINING HISTORY OF EMPLOYEE WAGES, HOURS, BENEFITS, AND OTHER WORKING CONDITIONS;

(II) A COMPARISON OF WAGES, HOURS, BENEFITS, AND OTHER CONDITIONS OF EMPLOYMENT OF POLICE OFFICERS IN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY;

(III) THE PUBLIC INTEREST AND WELFARE;

(IV) THE ABILITY OF THE COMMISSION TO FINANCE ANY ECONOMIC ADJUSTMENTS REQUIRED UNDER THE PROPOSED COLLECTIVE BARGAINING AGREEMENT; AND

(V) THE EFFECTS OF ANY ECONOMIC ADJUSTMENTS ON THE STANDARD OF PUBLIC SERVICES NORMALLY PROVIDED BY THE COMMISSION.

(3) IN DETERMINING WHICH LAST FINAL OFFER IS MORE REASONABLE, THE ARBITRATOR SHALL CONSIDER ALL ITEMS ON WHICH THE PARTIES AGREED BEFORE THE ARBITRATION BEGAN TO BE INTEGRATED INTO EACH OFFER.

(4) THE ARBITRATOR MAY NOT:

(I) RECEIVE OR CONSIDER THE HISTORY OF COLLECTIVE BARGAINING RELATING TO THE IMMEDIATE DISPUTE, INCLUDING ANY OFFERS OF SETTLEMENT NOT CONTAINED IN THE LAST FINAL OFFER SUBMITTED TO THE ARBITRATOR; OR

(II) COMPROMISE OR ALTER THE LAST FINAL OFFER THAT THE ARBITRATOR SELECTS.

(E) FINAL AGREEMENT.

(1) SUBJECT TO § 16–310(A) OF THIS SUBTITLE, THE LAST FINAL OFFER SELECTED BY THE ARBITRATOR, AS INTEGRATED WITH THE ITEMS ON WHICH THE PARTIES PREVIOUSLY AGREED, SHALL BE THE FINAL AGREEMENT BETWEEN THE COMMISSION AND THE EXCLUSIVE REPRESENTATIVE WITHOUT RATIFICATION BY THE PARTIES.

(2) THE PARTIES SHALL EXECUTE A COLLECTIVE BARGAINING AGREEMENT INCORPORATING THE FINAL AGREEMENT, INCLUDING ARBITRATION AWARDS AND ALL ISSUES AGREED TO UNDER THIS SECTION.

(F) COSTS.

THE COMMISSION AND THE EXCLUSIVE REPRESENTATIVE SHALL SHARE EQUALLY THE COSTS OF THE ARBITRATOR'S SERVICES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–114.1(e)(5).

In the introductory language to subsection (a)(1) of this section, the reference to the parties "to collective bargaining" is added for clarity.

In subsection (a)(2) of this section, the requirement to "appoint" the arbitrator is substituted for the former requirement to "name" the arbitrator for clarity and consistency within subsection (a) of this section.

In subsection (b)(2) of this section, the reference to "each" party's last final offer is substituted for the former reference to "the" party's last final offer for clarity.

In subsection (c)(1) of this section, the reference to a "closed" hearing is substituted for the former reference to a "nonpublic" hearing for clarity and to conform to the terminology used in other revised articles of the Code.

In subsection (d)(1) and (4)(ii) of this section, the references to the "last" final offer are added for consistency within this section. Similarly, in subsections (d)(2), (3), and (4)(i) and (e)(1) of this section, the references to the "last final" offer are added.

In subsection (d)(2)(i) of this section, the reference to collective bargaining "agreements" is substituted for the former reference to collective bargaining "contracts" for consistency within this subtitle.

In subsection (d)(2)(iv) and (v) of this section, the defined term "Commission" is substituted for the former references to the "employer" for clarity.

In subsection (f) of this section, the defined term "exclusive representative" is substituted for the former reference to the "employee organization" for accuracy and consistency with subsection (e) of this section.

Also in subsection (f) of this section, the former reference to the Commission and the exclusive representative sharing equally "in paying" certain costs is deleted as surplusage.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in subsection (a)(1) of this section, the ability of either party to declare an "impasse" on or after December 1 may conflict with the definition of "impasse" in § 16–301(k) of this subtitle, which provides that the impasse occurs 30 days before the deadline for budget submission. The General Assembly may wish to alter or eliminate the definition of "impasse", or otherwise harmonize the definition with the substantive provision of subsection (a) of this section.

Defined terms: "Arbitration" § 16–301
"Collective bargaining" § 16–301
"Collective bargaining agreement" § 16–301
"Commission" § 14–101
"Exclusive representative" § 16–301
"Impasse" § 16–301

"Person" § 14–101

16–309. PROVISIONS OF COLLECTIVE BARGAINING AGREEMENT.

(A) IN GENERAL.

THE COMMISSION AND THE EXCLUSIVE REPRESENTATIVE SHALL EXECUTE A COLLECTIVE BARGAINING AGREEMENT INCORPORATING ALL MATTERS AGREED.

(B) PROVISIONS ALLOWED.

A COLLECTIVE BARGAINING AGREEMENT MAY INCLUDE A PROVISION FOR:

(1) DUES AND MAINTENANCE OR SERVICE FEES PAID BY PAYROLL DEDUCTION; AND

(2) THE ARBITRATION OF GRIEVANCES ARISING UNDER THE COLLECTIVE BARGAINING AGREEMENT.

(C) CONFLICTS BETWEEN AGREEMENT AND REGULATION OR ADMINISTRATIVE POLICY.

THE COLLECTIVE BARGAINING AGREEMENT SUPERSEDES ANY CONFLICTING RULE, REGULATION, OR ADMINISTRATIVE POLICY OF THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–114.1(f)(1), (2), and (4).

In subsection (a) of this section, the reference to "all matters agreed" is substituted for the former reference to "any matters of agreement reached on wages, hours, and other terms and conditions of employment" for brevity and consistency with the corresponding provision of § 16–211(a) of this title.

In subsection (b)(1) of this section, the reference to dues and fees "paid by" payroll deduction is substituted for the former reference to dues and fees "taken from" payroll deduction for accuracy.

In subsection (c) of this section, the former reference to the "terms of the" collective bargaining agreement is deleted as surplusage.

Defined terms: "Arbitration" § 16–301
"Collective bargaining agreement" § 16–301
"Commission" § 14–101
"Exclusive representative" § 16–301
"Grievance" § 16–301

16–310. FUNDING OF COLLECTIVE BARGAINING AGREEMENTS.

(A) REQUEST FOR FUNDS.

(1) THE ECONOMIC PROVISIONS OF A FINAL COLLECTIVE BARGAINING AGREEMENT ARE SUBJECT TO FUNDING BY THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.

(2) THE COMMISSION SHALL REQUEST FUNDS IN THE COMMISSION'S FINAL BUDGET FROM THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY FOR ALL ECONOMIC PROVISIONS OF A FINAL COLLECTIVE BARGAINING AGREEMENT.

(B) REOPENING OF AGREEMENT.

IF THE REQUEST FOR FUNDS NECESSARY TO IMPLEMENT THE COLLECTIVE BARGAINING AGREEMENT IS REDUCED, MODIFIED, OR REJECTED BY THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY, THE COMMISSION OR THE EXCLUSIVE REPRESENTATIVE, WITHIN 5 DAYS AFTER FINAL BUDGET ACTION BY THE COUNTY COUNCILS, SHALL REOPEN THE NEGOTIATED COLLECTIVE BARGAINING AGREEMENT AND BARGAIN WITH RESPECT TO THE PROVISIONS OF THE COLLECTIVE BARGAINING AGREEMENT NOT APPROVED BY THE COUNTY COUNCILS.

(C) WHEN PROVISION OF AGREEMENT IS INVALIDATED OR NOT FUNDED.

IF A PROVISION OF A COLLECTIVE BARGAINING AGREEMENT IS RULED INVALID OR IS NOT FUNDED BY MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY, THE REMAINDER OF THE COLLECTIVE BARGAINING AGREEMENT REMAINS IN EFFECT UNLESS REOPENED UNDER SUBSECTION (B) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–114.1(f)(5), (6), and (7).

In subsection (b) of this section, the references to "county councils" are substituted for the former references to "governing bodies" for clarity and consistency within this section.

Also in subsection (b) of this section, the reference to "the Commission or the exclusive representative" is substituted for the former reference to "either party to the agreement" for clarity.

Defined terms: "Collective bargaining agreement" § 16–301
"Commission" § 14–101
"Exclusive representative" § 16–301

16–311. IMPAIRMENT OF RIGHTS AND RESPONSIBILITIES OF COMMISSION.

(A) PROHIBITED.

THIS SUBTITLE AND ANY COLLECTIVE BARGAINING AGREEMENT MADE UNDER IT MAY NOT IMPAIR THE RIGHTS AND RESPONSIBILITIES OF THE COMMISSION TO:

(1) DETERMINE THE OVERALL BUDGET AND MISSION OF THE COMMISSION;

(2) MAINTAIN AND IMPROVE THE EFFICIENCY AND EFFECTIVENESS OF OPERATIONS;

(3) DETERMINE THE SERVICES TO BE RENDERED AND THE OPERATIONS TO BE PERFORMED;

(4) DETERMINE THE LOCATION OF FACILITIES AND THE OVERALL ORGANIZATIONAL STRUCTURE, METHODS, PROCESSES, MEANS, JOB CLASSIFICATIONS, AND PERSONNEL BY WHICH OPERATIONS ARE TO BE PERFORMED;

(5) DIRECT AND SUPERVISE EMPLOYEES;

(6) HIRE, SELECT, AND ESTABLISH THE STANDARDS GOVERNING PROMOTION OF EMPLOYEES AND CLASSIFY POSITIONS;

(7) RELIEVE EMPLOYEES FROM DUTIES BECAUSE OF LACK OF WORK OR FUNDS OR WHEN THE COMMISSION DETERMINES CONTINUED WORK WOULD BE INEFFICIENT OR NONPRODUCTIVE;

(8) TRANSFER AND SCHEDULE EMPLOYEES;

(9) DETERMINE THE SIZE, GRADES, AND COMPOSITION OF THE WORKFORCE;

(10) SET THE STANDARDS OF PRODUCTIVITY AND TECHNOLOGY;

(11) ESTABLISH EMPLOYEE PERFORMANCE STANDARDS AND EVALUATE AND ASSIGN EMPLOYEES, EXCEPT THAT EVALUATION AND ASSIGNMENT PROCEDURES SHALL BE A SUBJECT FOR COLLECTIVE BARGAINING;

(12) ESTABLISH AND IMPLEMENT SYSTEMS FOR AWARDING OUTSTANDING SERVICE INCREMENTS, EXTRAORDINARY PERFORMANCE AWARDS, AND OTHER MERIT AWARDS;

(13) INTRODUCE NEW OR IMPROVED TECHNOLOGY, RESEARCH DEVELOPMENT, AND SERVICES;

(14) CONTROL AND REGULATE THE USE OF MACHINERY, EQUIPMENT, AND OTHER PROPERTY AND FACILITIES OF THE COMMISSION, SUBJECT TO NEGOTIATION RELATED TO MATTERS AFFECTING THE HEALTH AND SAFETY OF EMPLOYEES;

(15) MAINTAIN INTERNAL SECURITY STANDARDS;

(16) CREATE, ALTER, COMBINE, CONTRACT OUT, OR ABOLISH ANY JOB CLASSIFICATION, OPERATION, DEPARTMENT, UNIT, OR OTHER DIVISION OR SERVICE, SUBJECT TO SUBSECTION (B) OF THIS SECTION;

(17) SUSPEND, DISCHARGE, OR OTHERWISE DISCIPLINE EMPLOYEES FOR CAUSE, SUBJECT TO THE GRIEVANCE PROCEDURE SET FORTH IN A COLLECTIVE BARGAINING AGREEMENT; AND

(18) ADOPT AND ENFORCE REGULATIONS AND POLICIES NECESSARY TO CARRY OUT THIS SECTION AND ALL OTHER MANAGERIAL FUNCTIONS THAT ARE NOT INCONSISTENT WITH FEDERAL OR STATE LAW OR THE TERMS OF A COLLECTIVE BARGAINING AGREEMENT.

(B) LIMITATION ON OUTSOURCING WORK.

THE COMMISSION MAY NOT SIGN A CONTRACT THAT WILL DISPLACE EMPLOYEES IN THE BARGAINING UNIT UNLESS THE COMMISSION GIVES

WRITTEN NOTICE TO THE EXCLUSIVE REPRESENTATIVE OF THE BARGAINING UNIT AT LEAST 90 DAYS BEFORE SIGNING THE CONTRACT OR WITHIN A DIFFERENT PERIOD OF TIME AGREED TO BY THE PARTIES.

(C) EFFECT OF SECTION.

THIS SECTION MAY NOT PRECLUDE OR IMPAIR COLLECTIVE BARGAINING AS TO ANY SUBJECT MATTER INCLUDED IN ANY WRITTEN COLLECTIVE BARGAINING AGREEMENT MADE BETWEEN THE COMMISSION AND THE EXCLUSIVE REPRESENTATIVE OF THE BARGAINING UNIT ON OR BEFORE DECEMBER 31, 2001.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–114.1(g).

In the introductory language to subsection (a) of this section, the former phrase "[s]ubject to the applicable laws and regulations" is deleted as unnecessary in light of standard rules of statutory construction.

In subsection (a)(18) of this section, the reference to "adopt[ing]" regulations and policies is substituted for the former reference to "[i]ssu[ing]" regulations and policies for accuracy and consistency within this article and with other revised articles of the Code.

Also in subsection (a)(18) of this section, the former reference to "this article" is deleted as included in the reference to "State law".

In subsection (b) of this section, the reference to employees "in the bargaining unit" is added for clarity. Correspondingly, in subsections (b) and (c) of this section, the reference to the exclusive representative "of the bargaining unit" is added.

Also in subsection (b) of this section, the prohibition against "sign[ing] a contract" is substituted for the former prohibition against "contracting of work … [being] undertaken" for clarity.

Also in subsection (b) of this section, the defined term "exclusive representative" is substituted for the former reference to the "certified representative" for clarity and consistency within this subtitle.

In subsection (c) of this section, the former reference to "negotiability" is deleted as implicit in the defined term "collective bargaining".

As to the deletion of the former reference to "rules" in subsection (a)(18) of this section, *see* General Revisor's Note to article.

Defined terms: "Bargaining unit" § 16–301
"Collective bargaining" § 16–301
"Collective bargaining agreement" § 16–301
"Commission" § 14–101
"Employee" § 16–301
"Exclusive representative" § 16–301
"Grievance" § 16–301
"State" § 14–101

16–312. PROHIBITED ACTIVITIES OF COMMISSION.

(A) IN GENERAL.

THE COMMISSION, ITS AGENTS, OR ITS REPRESENTATIVES MAY NOT:

(1) INTERFERE WITH, INTIMIDATE, RESTRAIN, COERCE, OR DISCRIMINATE AGAINST AN EMPLOYEE IN THE EXERCISE OF THE EMPLOYEE'S RIGHTS UNDER THIS SUBTITLE;

(2) DOMINATE, INTERFERE WITH, OR ASSIST IN THE FORMATION, ADMINISTRATION, OR EXISTENCE OF AN EMPLOYEE ORGANIZATION OR CONTRIBUTE FINANCIAL OR OTHER SUPPORT TO AN EMPLOYEE ORGANIZATION;

(3) ENCOURAGE OR DISCOURAGE MEMBERSHIP IN AN EMPLOYEE ORGANIZATION BY DISCRIMINATING AGAINST THE EMPLOYEE THROUGH HIRING, TENURE, PROMOTION OR DEMOTION, OR ANY TERM OR CONDITION OF EMPLOYMENT;

(4) DISCHARGE OR OTHERWISE DISCRIMINATE AGAINST AN EMPLOYEE BECAUSE THE EMPLOYEE HAS SIGNED OR FILED AN AFFIDAVIT, PETITION, OR COMPLAINT OR GIVEN ANY INFORMATION OR TESTIMONY UNDER THIS SUBTITLE;

(5) REFUSE TO ENGAGE IN COLLECTIVE BARGAINING IN GOOD FAITH WITH THE EXCLUSIVE REPRESENTATIVE OF THE BARGAINING UNIT AS REQUIRED BY § 16–307(D)(2) OF THIS SUBTITLE; OR

(6) FAIL TO COMPLY WITH ANY PROVISION OF THIS SUBTITLE.

(B) NEGOTIATION DURING WORK HOURS NOT PROHIBITED.

SUBSECTION (A)(2) OF THIS SECTION DOES NOT PROHIBIT THE COMMISSION FROM ALLOWING EMPLOYEES TO NEGOTIATE OR CONFER WITH AN

EMPLOYEE ORGANIZATION DURING WORK HOURS WITHOUT LOSS OF PAY OR TIME.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–114.1(i)(1).

In subsection (a)(1) and (3) of this section, the former references to "public" employees are deleted for consistency within this subtitle.

In subsection (a)(1) of this section, the reference to taking certain actions against an employee "in" the exercise of certain rights is substituted for the former reference to taking certain actions against an employee "because of" the exercise of certain rights for consistency with § 16–313(1) of this subtitle.

In subsections (a)(2) and (3) and (b) of this section, the defined term "employee organization" is substituted for the former references to a "labor organization" for consistency within this subtitle.

In subsection (a)(3) of this section, the reference to "promotion or demotion" is added for consistency with the corresponding provision of § 16–214(a)(3) of this title.

In subsection (a)(5) of this section, the reference to the exclusive representative "of the bargaining unit" is added for clarity.

Also in subsection (a)(5) of this section, the defined term "exclusive representative" is substituted for the former reference to a "certified employee organization" for clarity and consistency within this subtitle.

In subsection (a)(6) of this section, the former reference to "[r]efus[ing]" to comply with any provision of this subtitle is deleted as included in the reference to "fail[ing]" to comply with any provision of this subtitle.

Defined terms: "Bargaining unit" § 16–301
"Collective bargaining" § 16–301
"Commission" § 14–101
"Employee" § 16–301
"Employee organization" § 16–301
"Exclusive representative" § 16–301

16–313. PROHIBITED ACTIVITIES OF COMMISSION EMPLOYEES OR EMPLOYEE ORGANIZATION.

AN EMPLOYEE OR AN EMPLOYEE ORGANIZATION OR ITS AGENTS OR REPRESENTATIVES MAY NOT:

(1) INTERFERE WITH, INTIMIDATE, RESTRAIN, COERCE, OR DISCRIMINATE AGAINST AN EMPLOYEE IN THE EXERCISE OF THE EMPLOYEE'S RIGHTS UNDER THIS SUBTITLE;

(2) CAUSE OR ATTEMPT TO CAUSE THE COMMISSION TO DISCRIMINATE AGAINST AN EMPLOYEE IN VIOLATION OF § 16–312(A)(3) OF THIS SUBTITLE;

(3) REFUSE TO ENGAGE IN COLLECTIVE BARGAINING IN GOOD FAITH WITH THE COMMISSION AS REQUIRED BY § 16–307(D)(2) OF THIS SUBTITLE IF THE EMPLOYEE ORGANIZATION HAS BEEN CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE OF EMPLOYEES IN THE BARGAINING UNIT IN ACCORDANCE WITH § 16–305 OF THIS SUBTITLE;

(4) ENGAGE IN A STRIKE IN VIOLATION OF § 16–315(A) OF THIS SUBTITLE; OR

(5) FAIL TO COMPLY WITH ANY PROVISION OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–114.1(i)(2).

In the introductory language to and in item (3) of this section, the defined term "employee organization" is substituted for the former references to a "labor organization" for consistency within this subtitle.

In item (2) of this section, the former reference to a "public" employee is deleted for consistency within this subtitle.

In item (3) of this section, the reference to the "bargaining" unit is added for clarity.

Also in item (3) of this section, the reference to an employee organization "certified" as the exclusive representative is substituted for the former reference to an employee organization "designated" as the exclusive representative for accuracy and consistency with § 16–305 of this subtitle.

In item (5) of this section, the former reference to "[r]efus[ing]" to comply with any provision of this subtitle is deleted as included in the reference to "fail[ing]" to comply with any provision of this subtitle.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in item (5) of this section, an employee organization and its agents and representatives are prohibited from engaging in a "strike". However, the term "strike" is defined in § 16–301 as actions taken – or not taken – by an "employee". It does not appear from the definition that any person other than an employee can engage in a strike, although an employee organization could induce, initiate, or ratify a strike by Commission employees, as is prohibited for employees other than police under § 16–217(b) of this title, or assist or authorize a strike, for which penalties are provided under § 16–217(f)(1) of this title. This issue also arises in § 16–315(d) of this subtitle which provides penalties for an "employee organization" that engages in a "strike". The General Assembly may wish to consider and address the nature of activities relating to strikes that employee organizations and their agents and representatives may or may not engage in, and harmonize them in this subtitle and in the corresponding provisions of Subtitle 2 of this title.

Defined terms: "Bargaining unit" § 16–301
"Collective bargaining" § 16–301
"Commission" § 14–101
"Employee" § 16–301
"Employee organization" § 16–301
"Exclusive representative" § 16–301
"Strike" § 16–301

16–314. RIGHTS OF EMPLOYEES.

(A) IN GENERAL.

EMPLOYEES MAY:

(1) FORM, JOIN, OR ASSIST AN EMPLOYEE ORGANIZATION;

(2) BARGAIN COLLECTIVELY THROUGH A REPRESENTATIVE THAT THE EMPLOYEES HAVE CHOSEN;

(3) ENGAGE IN OTHER LAWFUL CONCERTED ACTIVITIES FOR THE PURPOSE OF COLLECTIVE BARGAINING; AND

(4) REFRAIN FROM ANY OF THE ACTIVITIES DESCRIBED IN THIS SUBSECTION.

(B) GRIEVANCES.

(1) AN EMPLOYEE OR GROUP OF EMPLOYEES IN THE BARGAINING UNIT MAY:

(I) PRESENT TO THE COMMISSION AT ANY TIME A GRIEVANCE ARISING UNDER A COLLECTIVE BARGAINING AGREEMENT; AND

(II) HAVE THE GRIEVANCE ADJUSTED WITHOUT THE INTERVENTION OF THE EXCLUSIVE REPRESENTATIVE OF THE BARGAINING UNIT.

(2) THE COMMISSION SHALL HEAR THE GRIEVANCE AND PARTICIPATE IN ITS ADJUSTMENT.

(3) AN ADJUSTMENT MAY NOT BE INCONSISTENT WITH THE COLLECTIVE BARGAINING AGREEMENT.

(4) THE COMMISSION SHALL GIVE PROMPT NOTICE OF ALL ADJUSTMENTS TO THE EXCLUSIVE REPRESENTATIVE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–114.1(h)(1) and (2).

In subsection (a)(4) of this section, the reference to activities "described in this subsection" is substituted for the former reference to "these" activities for clarity.

Also in subsection (a)(4) of this section, the former reference to "all" activities is deleted as unnecessary in light of the reference to "any" activities.

In the introductory language to subsection (b)(1) of this section, the reference to an employee or group of employees "in the bargaining unit" is added for clarity. Similarly, in subsection (b)(1)(ii) of this section, the reference to the exclusive representative "of the bargaining unit" is added.

In subsection (b)(1)(i) and (3) of this section, the former references to "the terms of" a collective bargaining agreement are deleted as surplusage.

In subsection (b)(1)(i) of this section, the reference to a "collective bargaining" agreement is added for clarity and consistency with subsection (b)(3) of this section.

In subsection (b)(3) of this section, the former reference to the collective bargaining agreement "then in effect" is deleted as implicit.

Former Art. 28, § 5–114.1(h)(3), which prohibited the Commission and an employee organization from taking certain actions against an employee in the exercise of the employee's rights under former Art. 28, § 5–114.1(h)(1) and (2), is deleted as unnecessary in light of §§ 16–312(1) and 16–313(1) of this subtitle, which prohibit the same actions relating to the exercise of an employee's rights under this subtitle.

Defined terms: "Bargaining unit" § 16–301
"Collective bargaining" § 16–301
"Collective bargaining agreement" § 16–301
"Commission" § 14–101
"Employee" § 16–301
"Employee organization" § 16–301
"Exclusive representative" § 16–301
"Grievance" § 16–301

16–315. STRIKES.

(A) PROHIBITED.

EMPLOYEES MAY NOT ENGAGE IN A STRIKE.

(B) ENJOINING OF STRIKE.

IF A STRIKE OCCURS, A COURT OF COMPETENT JURISDICTION MAY ENJOIN THE STRIKE ON REQUEST OF THE COMMISSION.

(C) COMPENSATION DURING STRIKE PROHIBITED.

AN EMPLOYEE MAY NOT RECEIVE COMPENSATION FROM THE COMMISSION WHILE THE EMPLOYEE IS ENGAGED IN A STRIKE.

(D) DECERTIFICATION.

(1) IF AN EMPLOYEE ORGANIZATION CERTIFIED AS AN EXCLUSIVE REPRESENTATIVE ENGAGES IN A STRIKE, THE LABOR COMMISSIONER SHALL REVOKE ITS CERTIFICATION.

(2) AN EMPLOYEE ORGANIZATION THAT IS DECERTIFIED UNDER PARAGRAPH (1) OF THIS SUBSECTION OR ANY OTHER EMPLOYEE ORGANIZATION THAT ENGAGES IN A STRIKE IS INELIGIBLE TO BE CERTIFIED AS AN EXCLUSIVE REPRESENTATIVE FOR 1 YEAR AFTER THE END OF THE STRIKE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–114.1(e)(6) through (9).

In subsection (b) of this section, the former reference to a strike "of employees" is deleted as unnecessary in light of the defined term "strike".

In subsection (c) of this section, the prohibition against receiving compensation "while" an employee is engaged in a strike is substituted for the former prohibition against receiving compensation "for any period during which" an employee is engaged in a strike for brevity.

Also in subsection (c) of this section, the former reference to "pay" is deleted as included in the reference to "compensation".

In subsection (d)(1) of this section, the former reference to the Labor Commissioner revoking an employee organization's certification "as exclusive representative" is deleted as implicit.

In subsection (d)(2) of this section, the reference to an employee organization "that is decertified under paragraph (1) of this subsection" is substituted for the former reference to "that" employee organization for clarity.

Defined terms: "Commission" § 14–101
"Employee" § 16–301
"Employee organization" § 16–301
"Exclusive representative" § 16–301
"Labor Commissioner" § 16–301
"Strike" § 16–301

16–316. SERVICE FEES.

(A) AUTHORIZED AS CONDITION OF EMPLOYMENT.

THIS SUBTITLE DOES NOT PRECLUDE THE COMMISSION FROM ENTERING INTO A COLLECTIVE BARGAINING AGREEMENT WITH AN EXCLUSIVE REPRESENTATIVE THAT REQUIRES AN EMPLOYEE, AS A CONDITION OF EMPLOYMENT, TO PAY A MAINTENANCE OR SERVICE FEE AS A CONTRIBUTION TOWARDS THE COST OF THE NEGOTIATION AND ADMINISTRATION OF THE COLLECTIVE BARGAINING AGREEMENT.

(B) AMOUNT OF FEE.

A MAINTENANCE OR SERVICE FEE UNDER SUBSECTION (A) OF THIS SECTION MAY NOT EXCEED THE ANNUAL DUES PAID TO THE EXCLUSIVE REPRESENTATIVE.

(C) DISCHARGE OF EMPLOYEE.

BEFORE THE COMMISSION DISCHARGES AN EMPLOYEE WHO FAILS TO PAY A MAINTENANCE OR SERVICE FEE, IT SHALL GIVE THE EMPLOYEE:

(1) WRITTEN NOTICE OF THE DELINQUENT PAYMENT; AND

(2) ADEQUATE TIME TO CORRECT THE DELINQUENCY.

(D) DISPUTES ABOUT FEE.

IF THE COMMISSION AND AN EMPLOYEE ARE UNABLE TO RESOLVE ANY ISSUE RELATING TO THE PAYMENT OF A MAINTENANCE OR SERVICE FEE, THE ISSUE SHALL BE SUBMITTED TO AN UMPIRE IN ACCORDANCE WITH § 16–317 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–114.1(j).

In subsection (a) of this section, the reference to the Commission "entering into" a collective bargaining agreement is substituted for the former reference to the Commission "making" a collective bargaining agreement for clarity.

In subsection (b) of this section, the former reference to "regular" annual dues is deleted as unnecessary because there is only one type of annual dues payable to an exclusive representative.

In subsection (d) of this section, the reference to "any issue relating to the payment of a maintenance or service fee" is substituted for the former reference to "the fee issue" for clarity.

Defined terms: "Commission" § 14–101
"Collective bargaining agreement" § 16–301
"Employee" § 16–301
"Exclusive representative" § 16–301

16–317. UNFAIR LABOR PRACTICES.

(A) REQUIREMENTS FOR CHARGE.

ANY CHARGE THAT THE COMMISSION, AN EMPLOYEE, OR AN EMPLOYEE ORGANIZATION HAS ENGAGED IN AN UNFAIR LABOR PRACTICE SHALL:

(1) BE IN WRITING;

(2) STATE CONCISELY AND SIMPLY THE FACTS THAT ARE ASSERTED OR, IF THE FACTS CANNOT BE STATED IN DETAIL, THE ISSUES THAT ARE INVOLVED; AND

(3) BE SERVED PERSONALLY ON THE PARTY ALLEGED TO HAVE ENGAGED IN THE UNFAIR LABOR PRACTICE WITHIN 180 DAYS AFTER THE ALLEGED UNFAIR LABOR PRACTICE OCCURRED.

(B) SUBMISSION OF CHARGE TO UMPIRE.

IF THE PARTY CHARGING AN UNFAIR LABOR PRACTICE AND THE PARTY CHARGED ARE UNABLE TO RESOLVE THE MATTER, THE CHARGE SHALL BE SUBMITTED TO AN UMPIRE.

(C) APPOINTMENT AND TERM OF UMPIRE.

(1) THE COMMISSION SHALL APPOINT THE UMPIRE FROM A LIST OF FIVE NOMINEES AGREED ON BY THE EXCLUSIVE REPRESENTATIVE AND THE EXECUTIVE DIRECTOR OF THE COMMISSION.

(2) THE UMPIRE SHALL SERVE FOR A 2–YEAR TERM AND IS ELIGIBLE FOR REAPPOINTMENT.

(D) EMPLOYMENT OF UMPIRE BY COMMISSION OR EXCLUSIVE REPRESENTATIVE.

THE UMPIRE MAY NOT BE OTHERWISE EMPLOYED BY THE COMMISSION OR THE EXCLUSIVE REPRESENTATIVE.

(E) POWER OF UMPIRE.

THE POWER OF THE UMPIRE IS EXCLUSIVE.

(F) RULES OF EVIDENCE.

THE TECHNICAL RULES OF EVIDENCE DO NOT APPLY.

(G) DUTIES OF UMPIRE.

THE UMPIRE:

(1) SHALL INVESTIGATE AND ATTEMPT TO RESOLVE, AS PROVIDED IN THIS SUBTITLE, A CHARGE OF ENGAGING IN AN UNFAIR LABOR PRACTICE;

(2) SHALL DEFER TO ANY VALID GRIEVANCE PROCEDURE ADOPTED BY THE COMMISSION AND THE EXCLUSIVE REPRESENTATIVE FOR THE RESOLUTION OF DISPUTES SUBJECT TO THE GRIEVANCE PROCEDURE, UNLESS THE DEFERRAL WOULD RESULT IN A VIOLATION OF THE PURPOSES OF THIS SUBTITLE;

(3) SHALL DEFER TO THE LAW ENFORCEMENT OFFICERS' BILL OF RIGHTS FOR THE RESOLUTION OF DISPUTES SUBJECT TO THAT LAW;

(4) SHALL RECOGNIZE FUNDAMENTAL DISTINCTIONS BETWEEN PRIVATE AND PUBLIC EMPLOYMENT; AND

(5) MAY NOT REGARD STATE OR FEDERAL LAW THAT IS APPLICABLE TO PRIVATE EMPLOYMENT AS CONTROLLING PRECEDENT.

(H) WRITTEN FINDINGS AND ORDER.

(1) BASED ON THE PREPONDERANCE OF THE EVIDENCE, THE UMPIRE SHALL SUBMIT WRITTEN FINDINGS OF FACT AND CONCLUSIONS OF LAW TO THE PARTIES WITHIN 40 DAYS AFTER THE DAY ON WHICH THE UMPIRE IS APPOINTED.

(2) IF THE UMPIRE DETERMINES THAT A PARTY NAMED IN THE CHARGES HAS ENGAGED OR IS ENGAGING IN AN UNFAIR LABOR PRACTICE, THE UMPIRE SHALL ISSUE AN ORDER REQUIRING THE PARTY TO CEASE THE PRACTICE.

(3) AN ORDER MAY:

(I) INCLUDE ANY REMEDY, INCLUDING REINSTATEMENT OF AN EMPLOYEE WITH OR WITHOUT BACK PAY;

(II) REQUIRE PERIODIC REPORTS ON THE EXTENT TO WHICH THE PARTY FOUND TO HAVE ENGAGED IN AN UNFAIR LABOR PRACTICE HAS COMPLIED WITH THE ORDER; AND

(III) BE DESIGNED TO PREVENT FUTURE UNFAIR LABOR PRACTICES.

(I) JUDICIAL REVIEW OF UMPIRE'S DECISION.

(1) WITHIN 30 DAYS AFTER THE ISSUANCE OF A FINAL ORDER, A PARTY WHO IS AGGRIEVED BY A FINAL DECISION OF AN UMPIRE MAY FILE A PETITION FOR JUDICIAL REVIEW OF THE DECISION WITH THE CIRCUIT COURT FOR MONTGOMERY COUNTY OR THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY.

(2) THE CIRCUIT COURT MAY NOT CONSIDER EVIDENCE THAT WAS NOT OFFERED IN THE PROCEEDING BEFORE THE UMPIRE UNLESS THE COURT DETERMINES THAT THE FAILURE TO OFFER THE EVIDENCE SHOULD BE EXCUSED BECAUSE OF EXTRAORDINARY CIRCUMSTANCES.

(3) THE CIRCUIT COURT MAY NOT OVERTURN THE UMPIRE'S DECISION UNLESS THE COURT FINDS THAT THE UMPIRE'S DECISION IS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE.

(J) COSTS.

UNLESS OTHERWISE PROVIDED BY WRITTEN AGREEMENT, THE PARTIES SHALL SHARE EQUALLY THE COSTS OF THE UMPIRE'S SERVICES.

(K) COURT ORDER.

(1) A PARTY CHARGING AN UNFAIR LABOR PRACTICE MAY PETITION THE CIRCUIT COURT FOR MONTGOMERY COUNTY OR THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY FOR ENFORCEMENT OF AN ORDER OF AN UMPIRE.

(2) UNLESS A PETITION FOR JUDICIAL REVIEW HAS BEEN FILED IN ACCORDANCE WITH SUBSECTION (I) OF THIS SECTION, A PETITION FOR ENFORCEMENT OF AN ORDER OF AN UMPIRE MAY NOT BE USED TO OBTAIN JUDICIAL REVIEW OF THE FINAL DECISION OF THE UMPIRE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–114.1(k).

In the introductory language to subsection (a) and in subsection (h)(3)(i) of this section, the former references to a "public" employee are deleted for consistency within this subtitle.

In the introductory language to subsection (a) of this section, the defined term "employee organization" is substituted for the former reference to a "labor organization" for consistency within this subtitle.

In subsection (a)(3) of this section, the references to an "unfair labor practice" are substituted for the former references to a "violation" for clarity and consistency within this subsection.

In subsections (b) and (k)(1) of this section, the references to the "party charging an unfair labor practice" are substituted for the former references to the "charging party" for clarity.

In subsection (b) of this section, the former reference to an umpire "selected according to the following rules" is deleted as unnecessary and misleading. Of the "rules" for selection listed in former Art. 28, § 5–114.1(k)(2)(i) through (iv), only one (revised in subsection (c)(1) of this section) relates to the selection of the umpire, while the remaining source law (revised in subsections (c)(2), (d), and (j) of this section) governed the term, restrictions on employment, and payment of the costs of the umpire.

In subsection (g)(1) of this section, the reference to engaging in "an unfair labor practice" is substituted for the former reference to engaging in "prohibited practices" for clarity and consistency within this section.

Also in subsection (g)(1) of this section, the former reference to attempting to "settle" an unfair labor practice is deleted as unnecessary in light of the reference to attempting to "resolve" an unfair labor practice.

In subsection (g)(3) of this section, the reference to that "law" is substituted for the former reference to that "subtitle" for clarity since there is no prior reference to a subtitle in subsection (g)(3).

Also in subsection (g)(3) of this section, the former reference to the "Maryland" Law Enforcement Officers' Bill of Rights is deleted for accuracy.

In subsection (k)(2) of this section, the reference to "obtain[ing] judicial review" of the final decision of the umpire is substituted for the former reference to "appeal[ing]" the final decision for accuracy.

Defined terms: "Commission" § 14–101
"Employee" § 16–301
"Employee organization" § 16–301
"Exclusive representative" § 16–301
"Grievance" § 16–301
"State" § 14–101

16–318. EXPRESSION OF VIEWPOINT, ARGUMENT, OR OPINION.

IF THE EXPRESSION DOES NOT CONTAIN A THREAT OF REPRISAL OR FORCE, A PROMISE OF BENEFIT, OR A MISREPRESENTATION OF FACT, AN EXPRESSION OF ANY VIEW, ARGUMENT, OR OPINION, WHETHER ORAL OR IN WRITTEN, PRINTED, GRAPHIC, OR VISUAL FORM, DOES NOT CONSTITUTE AN UNFAIR LABOR PRACTICE UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–114.1(i)(3).

The former reference to certain expressions not "be[ing] evidence of" an unfair labor practice is deleted as unnecessary in light of the reference to the expressions not "constitut[ing]" an unfair labor practice.

SUBTITLE 4. SERVICE CONTRACTS.

16–401. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 28, § 2–112.2(a)(1).

The only change is in style.

(B) ADVERSELY AFFECT.

(1) "ADVERSELY AFFECT" MEANS TO:

(I) ELIMINATE MORE THAN TWO EMPLOYEE POSITIONS ASSIGNED TO PERFORM BARGAINING UNIT WORK IF THE POSITIONS ARE:

1. AUTHORIZED;

2. FULLY FUNDED; AND

3. A. VACANT FOR LESS THAN 90 DAYS; OR

B. OCCUPIED AT THE TIME THE COMMISSION SOLICITS A SERVICE CONTRACT; OR

(II) PERMANENTLY AND INVOLUNTARILY REDUCE:

1. BELOW THE NUMBER OF HOURS FOR REGULAR FULL–TIME EMPLOYMENT FOR MORE THAN FIVE EMPLOYEES CURRENTLY ASSIGNED TO A REGULAR FULL–TIME WORK SCHEDULE TO PERFORM BARGAINING UNIT WORK WHEN THE COMMISSION SOLICITS A SERVICE CONTRACT;

2. THE PAY GRADE FOR MORE THAN FIVE EMPLOYEES CURRENTLY ASSIGNED TO A REGULAR FULL–TIME WORK SCHEDULE TO PERFORM BARGAINING UNIT WORK WHEN THE COMMISSION SOLICITS A SERVICE CONTRACT; OR

3. THE BASE PAY OR FRINGE BENEFITS OTHERWISE APPLICABLE TO A JOB CLASSIFICATION COVERING MORE THAN FIVE EMPLOYEES CURRENTLY ASSIGNED ON A FULL–TIME BASIS TO PERFORM BARGAINING UNIT WORK WHEN THE COMMISSION SOLICITS A SERVICE CONTRACT.

(2) "ADVERSELY AFFECT" DOES NOT INCLUDE AN ACTION THE COMMISSION TAKES IN ACCORDANCE WITH:

(I) A BONA FIDE DISCIPLINARY PROCEEDING;

(II) AN APPLICABLE COLLECTIVE BARGAINING AGREEMENT IN ACCORDANCE WITH SUBTITLE 2 OF THIS TITLE; OR

(III) A REALLOCATION OR REASSIGNMENT TO ANOTHER BARGAINING UNIT WORK OR OTHER DUTIES THAT DOES NOT RESULT IN A CHANGE IN JOB CLASSIFICATION OR GRADE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 28, § 2–112.2(a)(2).

In paragraph (1)(i)3A of this subsection and throughout this subtitle, the former references to "calendar" days are deleted in light of Art. 1, § 36, which provides that any period exceeding 7 days is assumed to mean calendar days, not business days.

Defined terms: "Bargaining unit work" § 16–401
"Commission" § 14–101
"Service contract" § 16–401

(C) BARGAINING UNIT WORK.

"BARGAINING UNIT WORK" MEANS WORK DUTIES ASSIGNED OR ALLOCATED TO A POSITION OCCUPIED WITHIN THE PRECEDING 90 DAYS BY AN EMPLOYEE WHO IS REPRESENTED BY A CERTIFIED REPRESENTATIVE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 28, § 2–112.2(a)(3).

Defined term: "Certified representative" § 16–401

(D) CERTIFIED REPRESENTATIVE.

"CERTIFIED REPRESENTATIVE" MEANS AN EMPLOYEE ORGANIZATION CERTIFIED AS AN EXCLUSIVE REPRESENTATIVE IN ACCORDANCE WITH SUBTITLE 2 OF THIS TITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 28, § 2–112.2(a)(4).

The reference to an employee organization certified as "an exclusive representative" is substituted for the former reference to an employee organization certified as "the collective bargaining representative of Commission employees" for consistency with Subtitle 2 of this title and for brevity.

(E) SECRETARY–TREASURER.

"SECRETARY–TREASURER" MEANS THE SECRETARY–TREASURER OF THE COMMISSION.

REVISOR'S NOTE: This subsection formerly was Art. 28, § 2–112.2(a)(5).

The only changes are in style.

Defined term: "Commission" § 14–101

(F) SERVICE CONTRACT.

"SERVICE CONTRACT" MEANS A PROCUREMENT CONTRACT FOR SERVICES THAT WILL BE PROVIDED TO THE COMMISSION.

REVISOR'S NOTE: This subsection formerly was Art. 28, § 2–112.2(a)(6).

No changes are made.

Defined term: "Commission" § 14–101

16–402. APPLICATION OF SUBTITLE.

(A) IN GENERAL.

THIS SUBTITLE APPLIES TO A SERVICE CONTRACT THAT:

(1) THE COMMISSION SOLICITS AS A MANAGEMENT PLAN INTENDED TO ADVERSELY AFFECT EMPLOYEES OF THE COMMISSION REPRESENTED BY A CERTIFIED REPRESENTATIVE; AND

(2) A PROCUREMENT OFFICER OF THE COMMISSION ESTIMATES WILL EXCEED A YEARLY COST OF $75,000 AS CALCULATED UNDER SUBSECTION (B) OF THIS SECTION.

(B) ADJUSTMENT OF ESTIMATE OF COST OF SERVICE CONTRACT.

THE COMMISSION SHALL ADJUST THE ESTIMATE OF THE YEARLY COST DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION TO THE NEAREST $100 EVERY 2 YEARS TO REFLECT ANY AGGREGATE INCREASE IN THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS, FOR THE WASHINGTON–BALTIMORE METROPOLITAN AREA, OR ANY SUCCESSOR INDEX, FOR THE PREVIOUS 2 YEARS.

(C) EXCLUSIONS.

THIS SUBTITLE DOES NOT APPLY TO:

(1) SOLICITATION OF A SERVICE CONTRACT AS PART OF A MANAGEMENT PLAN OR PROGRAM INTENDED TO AUGMENT BARGAINING UNIT WORK AND NOT FOR A PRESENT OR EVENTUAL PURPOSE OF ADVERSELY

AFFECTING EMPLOYEES OF THE COMMISSION REPRESENTED BY A CERTIFIED REPRESENTATIVE;

(2) SOLICITATION OF A SERVICE CONTRACT FOR WHICH THE PRIMARY PURPOSE IS TO OBTAIN GOODS OR CONSTRUCTION SERVICES;

(3) SOLICITATION OF A SERVICE CONTRACT THAT THE COMMISSION'S PURCHASING OFFICIALS REASONABLY BELIEVE AND EXPRESS IN WRITING MAY NEGATIVELY AFFECT THE POTENTIAL FOR PARTICIPATION BY A MINORITY BUSINESS ENTERPRISE ACCORDING TO A MINORITY BUSINESS ENTERPRISE UTILIZATION PROGRAM AUTHORIZED UNDER TITLE 15, SUBTITLE 2 OF THIS ARTICLE;

(4) SOLICITATION OF A SERVICE CONTRACT FOR A SERVICE PROVIDED BY A CONSULTANT;

(5) SOLICITATION OF A SERVICE CONTRACT FOR A PROFESSIONAL SERVICE, UNLESS THE SCOPE OF SERVICE IS PROVIDED BY EMPLOYEES OF A BARGAINING UNIT WHEN THE SERVICE CONTRACT IS SOLICITED;

(6) SOLICITATION OF A SERVICE CONTRACT THAT THE COMMISSION REASONABLY BELIEVES IS:

(I) NECESSARY TO MEET AN EMERGENT OR IMMINENT THREAT TO PUBLIC HEALTH, WELFARE, OR SAFETY;

(II) REQUIRED TO COMPLY WITH THE REQUIREMENTS OF A GRANT RELATED TO THE FUNDING OF THE SERVICE CONTRACT; OR

(III) RELATED TO THE SETTLEMENT OF AN INSURANCE CLAIM;

(7) SOLICITATION OF A SERVICE CONTRACT THAT IS IN THE BEST INTEREST OF AN EMPLOYEE BASED ON A NEED FOR SPECIALIZED SAFETY EXPERIENCE OR EXPERTISE;

(8) SOLICITATION OF A SERVICE CONTRACT FOR A SERVICE PROVIDED BY A PUBLIC ENTITY OR PROVIDED TO THE COMMISSION IN ACCORDANCE WITH A PUBLIC–PRIVATE PARTNERSHIP WITH A PRIVATE ENTITY;

(9) SOLICITATION OF A SERVICE CONTRACT TO BE AWARDED ON A NONCOMPETITIVE BASIS IN ACCORDANCE WITH APPLICABLE LAWS REGARDING SERVICE CONTRACTS AWARDED ON A NONCOMPETITIVE BASIS;

(10) A SERVICE CONTRACT ENTERED INTO BEFORE OCTOBER 31, 2007;

(11) THE RENEWAL OR REBIDDING OF A SERVICE CONTRACT ENTERED INTO BEFORE OCTOBER 31, 2007, IF THE RENEWAL OR REBIDDING OF THE SERVICE CONTRACT DOES NOT RESULT IN A GREATER ADVERSE EFFECT ON EMPLOYEES OF A BARGAINING UNIT THAN EXISTED BEFORE ITS RENEWAL OR REBIDDING;

(12) SOLICITATION OF A SERVICE CONTRACT FOR A CAPITAL IMPROVEMENT PROJECT OR ASSET MANAGEMENT PROJECT;

(13) SOLICITATION OF A CLASS, TYPE, CATEGORY, OR PARTICULAR SERVICE CONTRACT THAT THE COMMISSION REASONABLY BELIEVES SHOULD BE PERFORMED BY AN INDEPENDENT CONTRACTOR TO ELIMINATE A CONFLICT OF INTEREST OTHERWISE APPARENT IF THE SERVICES ARE PERFORMED BY AN EMPLOYEE OF A BARGAINING UNIT;

(14) SOLICITATION OF A CLASS, TYPE, CATEGORY, OR PARTICULAR SERVICE CONTRACT WHEN THE NEED FOR THE SERVICE OR ACTIVITY IS SUCH THAT THE TIME NECESSARY FOR THE ANALYSIS REQUIRED UNDER § 16–404 OF THIS SUBTITLE WOULD:

(I) RESULT IN DAMAGE TO PROPERTY OF THE COMMISSION;

(II) RESULT IN INJURY TO AN INDIVIDUAL; OR

(III) SUBSTANTIALLY HINDER THE OBJECTIVE OF CONSTRUCTING OR MAINTAINING SAFE AND SANITARY PROPERTIES AND FACILITIES; OR

(15) A SERVICE CONTRACT THAT THE MONTGOMERY COUNTY COUNCIL OR THE PRINCE GEORGE'S COUNTY COUNCIL AUTHORIZES OR REQUIRES TO BE PROVIDED BY AN INDEPENDENT CONTRACTOR.

(D) CONSTRUCTION OF SUBTITLE.

THIS SUBTITLE DOES NOT APPLY TO OR LIMIT THE AUTHORITY OF THE COMMISSION TO ABOLISH A BARGAINING UNIT POSITION OR CONDUCT A REDUCTION IN FORCE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–112.2(b).

In subsection (b) of this section, the former reference to an adjustment of an estimate of annual costs "beginning on October 1, 2007" is deleted as obsolete.

In subsection (c)(9) of this section, the reference to "laws" regarding a service contract awarded on a noncompetitive basis is substituted for the former reference to "laws, rules, and regulations" for brevity.

Defined terms: "Adversely affect" § 16–401
"Bargaining unit work" § 16–401
"Certified representative" § 16–401
"Commission" § 14–101
"Service contract" § 16–401

16–403. CERTIFICATION OF COMPLIANCE BY SECRETARY–TREASURER.

BEFORE THE COMMISSION SOLICITS A SERVICE CONTRACT UNDER THIS SUBTITLE, THE SECRETARY–TREASURER SHALL CERTIFY THAT THE COMMISSION HAS COMPLIED WITH §§ 16–404 AND 16–405 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–112.2(c).

Defined terms: "Commission" § 14–101
"Secretary–treasurer" § 16–401
"Service contract" § 16–401

16–404. ANALYSIS AND ESTIMATES BY COMMISSION.

(A) DUTIES OF COMMISSION.

THE SECRETARY–TREASURER MAY NOT CERTIFY THAT THE COMMISSION COMPLIED WITH THE REQUIREMENTS OF THIS SUBTITLE UNLESS THE COMMISSION:

(1) HAS TAKEN STEPS TO CONSIDER ALTERNATIVES TO THE SERVICE CONTRACT, INCLUDING REORGANIZATION, REEVALUATION OF SERVICE, AND REEVALUATION OF PERFORMANCE;

(2) HAS CONSULTED WITH THE CERTIFIED REPRESENTATIVE OF ALL EMPLOYEES OF THE COMMISSION WHO WILL BE ADVERSELY AFFECTED IF THE COMMISSION ENTERS INTO THE SERVICE CONTRACT; AND

(3) HAS DEMONSTRATED, BASED ON A COST COMPARISON ANALYSIS AND GOOD FAITH ESTIMATES, THAT BY ENTERING INTO THE SERVICE CONTRACT THE COMMISSION WILL SAVE AT LEAST AN AMOUNT EQUAL TO THE LESSER OF $200,000 OR 20% OF THE ESTIMATED NET PRESENT VALUE OF THE COST OF THE SERVICE CONTRACT.

(B) CONTENTS OF COST COMPARISON ANALYSIS.

THE COMMISSION SHALL ESTIMATE AND COMPARE AT LEAST THE FOLLOWING IN THE COST COMPARISON ANALYSIS:

(1) DIRECT COSTS, INCLUDING FRINGE BENEFITS AND THE ASSUMPTION THAT THE CONTRACTOR WILL PAY EMPLOYEES WHO PERFORM WORK UNDER THE SERVICE CONTRACT AT THE LESSER OF THE LABOR RATE ESTABLISHED AS THE COUNTY LIVING WAGE RATE FOR MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY;

(2) INDIRECT OVERHEAD COSTS PROPERLY ALLOCABLE TO THE BARGAINING UNIT WORK OR SERVICE CONTRACT ACCORDING TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES; AND

(3) COSTS ASSOCIATED WITH UNEMPLOYMENT COMPENSATION OR OUTPLACEMENT ASSISTANCE FOR DISPLACED EMPLOYEES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–112.2(d).

Defined terms: "Adversely affect" § 16–401
"Bargaining unit work" § 16–401
"Certified representative" § 16–401
"Commission" § 14–101
"County" § 14–101
"Secretary–treasurer" § 16–401
"Service contract" § 16–401

16–405. PLAN OF OUTPLACEMENT ASSISTANCE.

(A) DUTIES OF COMMISSION.

THE COMMISSION SHALL PROVIDE AT LEAST 60 DAYS' ADVANCE NOTICE, AND MAINTAIN AT ALL TIMES A FORMAL PLAN OF OUTPLACEMENT ASSISTANCE, FOR EACH EMPLOYEE OF THE COMMISSION WHO IS REPRESENTED BY A CERTIFIED REPRESENTATIVE AND WILL BE ADVERSELY AFFECTED BY A SERVICE CONTRACT THAT IS SUBJECT TO THIS SUBTITLE.

(B) CONTENTS OF PLAN.

A PLAN DESCRIBED IN SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:

(1) EFFORTS TO TRANSFER OR PLACE EACH ADVERSELY AFFECTED EMPLOYEE OF THE COMMISSION IN A VACANT POSITION OF THE COMMISSION THAT THE EMPLOYEE IS QUALIFIED TO PERFORM;

(2) INCLUSION OF A REQUIREMENT IN THE SERVICE CONTRACT THAT THE CONTRACTOR SHALL:

(I) NOTIFY THE COMMISSION OF EACH VACANT POSITION FOR WHICH DISPLACED EMPLOYEES OF THE COMMISSION MAY APPLY; AND

(II) CONSIDER AND GIVE PREFERENCE TO HIRING DISPLACED EMPLOYEES OF THE COMMISSION; AND

(3) WRITTEN NOTIFICATION OF THE ANTICIPATED ADVERSE EFFECT ON ONE OR MORE JOB CLASSIFICATIONS TO THE CERTIFIED REPRESENTATIVE AT LEAST 90 DAYS BEFORE THE ANTICIPATED ADVERSE EFFECT WILL OCCUR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–112.2(e).

Defined terms: "Adversely affect" § 16–401
"Certified representative" § 16–401
"Commission" § 14–101
"Service contract" § 16–401

16–406. PROPOSAL FOR SAVINGS BY CERTIFIED REPRESENTATIVE.

THE CERTIFIED REPRESENTATIVE OF AN ADVERSELY AFFECTED EMPLOYEE OF THE COMMISSION MAY SUBMIT A PROPOSAL FOR EXISTING BARGAINING UNIT EMPLOYEES TO CONTINUE PERFORMING THE SERVICES DESCRIBED IN A SOLICITATION WHILE ACHIEVING THE TARGETED SAVINGS.

REVISOR'S NOTE: This section formerly was Art. 28, § 2–112.2(f).

The only changes are in style.

Defined terms: "Adversely affect" § 16–401
"Certified representative" § 16–401
"Commission" § 14–101

16–407. FAILURE TO COMPLY WITH SUBTITLE.

(A) RIGHT OF EMPLOYEE TO ADMINISTRATIVE HEARING.

IF THE COMMISSION FAILS TO COMPLY WITH THIS SUBTITLE AND AN EMPLOYEE OF THE COMMISSION IS ADVERSELY AFFECTED, THE CERTIFIED REPRESENTATIVE OF THE EMPLOYEE MAY FILE AN APPEAL ON THE RECORD ON BEHALF OF THE EMPLOYEE BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS IN ACCORDANCE WITH THE CONTESTED CASE PROVISIONS OF THE ADMINISTRATIVE PROCEDURE ACT, TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(B) AWARD OF ACTUAL DAMAGES.

(1) IF THE ADMINISTRATIVE LAW JUDGE FINDS THAT THE COMMISSION WAS ARBITRARY AND CAPRICIOUS IN SOLICITING OR ENTERING INTO A SERVICE CONTRACT THAT IS SUBJECT TO THIS SUBTITLE, AND THE EMPLOYEE OF THE COMMISSION HAS BEEN ADVERSELY AFFECTED, THE ADMINISTRATIVE LAW JUDGE MAY AWARD THE EMPLOYEE ACTUAL DAMAGES FOR BACK PAY AND FRONT PAY FOR A COMBINED PERIOD OF UP TO 2 YEARS BEGINNING ON THE DATE THE EMPLOYEE WAS FIRST ADVERSELY AFFECTED.

(2) THE EMPLOYEE IS OBLIGATED TO MITIGATE THE ACTUAL DAMAGES.

(3) AN AWARD OF ACTUAL DAMAGES AUTHORIZED UNDER THIS SUBSECTION SHALL BE THE SOLE AND EXCLUSIVE REMEDY FOR A VIOLATION OF THIS SUBTITLE THAT IS AVAILABLE TO THE EMPLOYEE, AND LIABILITY MAY NOT ACCRUE FOR PUNITIVE DAMAGES, CONSEQUENTIAL DAMAGES, OR DAMAGES FOR EMOTIONAL DISTRESS OR PAIN AND SUFFERING.

(C) EFFECT OF NONCOMPLIANCE ON AWARD OF CONTRACT OR PROPOSED CONTRACT.

NONCOMPLIANCE WITH THIS SUBTITLE MAY NOT INVALIDATE A CONTRACT AWARD OR PROPOSED CONTRACT AWARD THAT THE COMMISSION HAS OTHERWISE VALIDLY AWARDED OR ISSUED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–112.2(g).

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in subsection (b)(1) of this section, the standard that may be used to calculate a pay award is unclear. It is not clear whether the award is in nominal dollars, or should be calculated as future earnings and then reduced to present value. The General Assembly may wish to compare this provision to other pay provisions in the Code and adjust this provision accordingly.

Defined terms: "Adversely affect" § 16–401
"Certified representative" § 16–401
"Commission" § 14–101
"Service contract" § 16–401

SUBTITLE 5. PRINCE GEORGE'S COUNTY PARKS AND RECREATION EMPLOYEES.

16–501. "FULL–TIME PARK EMPLOYEE" DEFINED.

IN THIS SUBTITLE, "FULL–TIME PARK EMPLOYEE" MEANS AN INDIVIDUAL EMPLOYED BY THE COUNTY PARKS AND RECREATION DEPARTMENT WHO:

(1) WORKS AT LEAST 37.5 HOURS EACH WEEK, EXCLUDING COMMISSION HOLIDAYS; AND

(2) HAS BEEN EMPLOYED BY THE DEPARTMENT FOR MORE THAN 1 YEAR WITHOUT INTERRUPTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–203(a).

In this section and throughout this subtitle, the references to an "employee" are substituted for the former references to "personnel" for clarity.

In the introductory language to this section, the reference to "an individual" is substituted for the former reference to "any personnel" because only an individual may be employed by and accrue benefits under a merit system.

For substantive provisions relating to the Prince George's County Recreation Program, *see* Title 25, Subtitle 8 of this article.

Defined terms: "Commission" § 14–101
"Park" § 14–101

16–502. SCOPE OF SUBTITLE.

THIS SUBTITLE APPLIES ONLY IN PRINCE GEORGE'S COUNTY.

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

16–503. COORDINATOR.

THE COUNTY PLANNING BOARD SHALL DESIGNATE A DIRECTOR TO COORDINATE ITS COUNTY RECREATION PROGRAM WITH THE COMMISSION'S PARK FUNCTIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–203(b)(1).

Defined terms: "Commission" § 14–101
"County planning board" § 14–101
"Park" § 14–101

16–504. PERSONNEL — GENERALLY.

THE COUNTY PLANNING BOARD SHALL EMPLOY FULL–TIME PARK EMPLOYEES AND PART–TIME EMPLOYEES AS NECESSARY TO CARRY OUT THE FUNCTIONS AND PROGRAMS OF TITLE 25, SUBTITLE 8 OF THIS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 28, § 5–203(b)(2).

The phrase "of Title 25, Subtitle 8 of this article" is substituted for the former phrase "provided herein" for clarity.

Defined terms: "County planning board" § 14–101
"Full–time park employee" § 16–501
"Park" § 14–101

16–505. FULL–TIME PARK EMPLOYEES.

(A) IN GENERAL.

THE COUNTY PLANNING BOARD SHALL EMPLOY FULL–TIME PARK EMPLOYEES UNDER THE COMMISSION'S MERIT SYSTEM, AS PROVIDED IN SUBTITLE 1 OF THIS TITLE.

(B) REQUIRED BENEFITS.

FULL–TIME PARK EMPLOYEES SHALL RECEIVE THE SAME EMPLOYMENT BENEFITS THAT OTHER EMPLOYEES RECEIVE UNDER THE COMMISSION'S MERIT SYSTEM, INCLUDING:

(1) ANNUAL LEAVE;

(2) SICK LEAVE;

(3) HEALTH BENEFITS; AND

(4) RETIREMENT BENEFITS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–203(c) and the second sentence of (b)(2).

In subsection (a) of this section, the former phrase "according to and shall be placed" is deleted as surplusage.

Defined terms: "Commission" § 14–101
"County planning board" § 14–101
"Full–time park employee" § 16–501
"Park" § 14–101

16–506. PART–TIME AND TEMPORARY EMPLOYEES; VOLUNTEERS.

(A) PART–TIME OR TEMPORARY EMPLOYEES.

THE COUNTY PLANNING BOARD MAY EMPLOY PART–TIME OR TEMPORARY EMPLOYEES FOR A PERIOD OF TIME AND AT A SALARY AS THE COUNTY PLANNING BOARD MAY DETERMINE.

(B) VOLUNTEERS.

THE COUNTY PLANNING BOARD MAY ACCEPT THE SERVICES OF VOLUNTEERS WITHOUT COMPENSATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–203(b)(3).

In subsection (a) of this section, the reference to the county planning board "employ[ing]" employees is substituted for the former reference to personnel "appointed by" the board for consistency throughout this subtitle.

Defined terms: "County planning board" § 14–101
"Full–time park employee" § 16–501

16–507. EMPLOYEES EMPLOYED ON JULY 1, 1970.

(A) IN GENERAL.

EMPLOYEES EMPLOYED BY THE RECREATION DEPARTMENT ON JULY 1, 1970, WHO ARE EMPLOYED UNDER THE COUNTY MERIT SYSTEM SHALL BE EMPLOYED BY THE COMMISSION:

(1) TO FURTHER THE FUNCTIONS AND PROGRAMS OF TITLE 25, SUBTITLE 8 OF THIS ARTICLE;

(2) IN A POSITION CLASSIFICATION THAT THE COUNTY PLANNING BOARD MAY ESTABLISH; AND

(3) AT A PAY GRADE NOT LESS THAN THAT HELD BY THE EMPLOYEE UNDER THE COUNTY MERIT SYSTEM.

(B) EFFECT ON BENEFITS.

EMPLOYEES TRANSFERRED TO THE COMMISSION UNDER THIS SUBTITLE SHALL BE GIVEN CREDIT FOR SICK AND ANNUAL LEAVE ACCRUED UNDER THE COUNTY MERIT SYSTEM AND FOR ANY OTHER BENEFITS, PRIVILEGES, AND RIGHTS ACCRUED WHILE EMPLOYED BY THE COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–203(b)(4).

In subsection (b) of this section, the reference to leave "accrued" is substituted for the former reference to leave "purposes for service" for clarity and consistency within the subsection.

Defined terms: "Commission" § 14–101
"County" § 14–101

"County planning board" § 14–101

16–508. REGULATIONS.

THE COUNTY PLANNING BOARD MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–205.

The reference to the county planning board adopting "regulations to carry out this subtitle" is substituted for the former reference to the board adopting "whatever rules and regulations as it may deem necessary for the conduct of the programs as authorized and prescribed for it under this article" for clarity and brevity.

Defined term: "County planning board" § 14–101

TITLE 17. POWERS AND PROPERTY.

SUBTITLE 1. PROPERTY ACQUISITION.

PART I. GENERAL PROVISIONS.

17–101. AUTHORIZED.

(A) IN GENERAL.

THE COMMISSION MAY ACQUIRE PROPERTY FOR THE PURPOSES STATED IN SUBSECTION (B) OF THIS SECTION TO CARRY OUT THE COMMISSION'S GENERAL PLAN FOR THE PHYSICAL DEVELOPMENT OF THE METROPOLITAN DISTRICT.

(B) AUTHORIZED PURPOSES.

THE PURPOSES FOR ACQUISITION INCLUDE:

(1) IN THE METROPOLITAN DISTRICT:

(I) PARKS;

(II) FORESTS;

(III) ROADS; AND

(IV) OTHER PUBLIC WAYS, GROUNDS, AND SPACES; AND

(2) PUBLIC RECREATION, INCLUDING THE CONSTRUCTION OF PUBLIC RECREATION CENTERS, COMMUNITY BUILDINGS, OR OTHER PUBLIC BUILDINGS NECESSARY TO HOUSE A PUBLIC RECREATION PROGRAM.

(C) POWERS.

THE COMMISSION:

(1) MAY IMPROVE AND DEVELOP PROPERTY THAT IT ACQUIRES UNDER THIS SECTION FOR THE PURPOSES STATED IN SUBSECTION (B) OF THIS SECTION; AND

(2) CONTROLS THE MAINTENANCE AND OPERATION OF THE PROPERTY.

(D) LIMITATION.

A GENERAL REGULATION GOVERNING PROPERTY ACQUIRED FOR A PURPOSE UNDER SUBSECTION (B)(1) OF THIS SECTION IN EITHER COUNTY MAY NOT TAKE EFFECT UNTIL THE REGULATION RECEIVES THE AFFIRMATIVE VOTE OF AT LEAST THREE MEMBERS OF THE COMMISSION FROM THAT COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–101(a) and (b).

In subsections (a) and (c)(1) of this section and throughout this subtitle, the former references to "land or other" property are deleted as implicit in the comprehensive reference to "property".

In subsection (a) of this section, the former reference to acquisition of property "by means of donations, purchases, or condemnation" is deleted as surplusage. Even though the deletion of the reference to "condemnation" might appear to be substantive, that power is specifically authorized in Part II of this subtitle, *below*. No substantive change is intended. The Land Use Article Review Committee brings this deletion to the attention of the General Assembly.

In the introductory language to subsection (b) of this section, the former reference to acquiring property "whether by purchase or condemnation" is deleted as surplusage.

In subsection (b)(1) of this section, the former references to "parkways", "streets", and "boulevards" are deleted as included in the defined term "road".

Defined terms: "Commission" § 14–101
"Metropolitan district" § 14–101
"Park" § 14–101
"Road" § 14–101

17–102. CONSTRUCTION NEAR ROCK CREEK.

(A) PURPOSE OF SECTION.

THIS SECTION IS FOR THE PURPOSE OF PRESERVING AND ENHANCING THE SCENIC BEAUTY OF ROCK CREEK.

(B) APPROVAL REQUIRED.

NOTWITHSTANDING ANY POWER OF THE COMMISSION TO ACQUIRE PROPERTY, WITHOUT THE APPROVAL OF THE MAJORITY OF THE MEMBERS OF THE MONTGOMERY COUNTY COUNCIL, ON OR AFTER JULY 1, 1969, THE COMMISSION MAY NOT CONSTRUCT A NEW ROAD ADJACENT TO ROCK CREEK WITHIN 1500 FEET FROM THE BANKS OF THE CREEK.

(C) LIMITATION.

THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT THE CONSTRUCTION OF A BRIDGE OR ROAD NECESSARY TO CROSS ROCK CREEK.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–101(c).

In subsections (b) and (c) of this section, the former references to any "parkway, boulevard, [or] street" are deleted as included in the defined term "road".

In subsection (b) of this section, the reference to a new road "on or after July 1, 1969," is added for clarity. *See* Ch. 304, Acts of 1969.

Defined terms: "Commission" § 14–101
"Road" § 14–101

17–103. CONTRIBUTIONS IN SUPPORT.

(A) IN GENERAL.

TO FINANCE WHOLLY OR PARTLY THE ACQUISITION OF PROPERTY UNDER § 17–101(B) OF THIS SUBTITLE, THE COMMISSION MAY RECEIVE AND EXPEND ANY CONTRIBUTION OR APPROPRIATION BY THE UNITED STATES, THE DISTRICT OF COLUMBIA, THE STATE, ANY OTHER POLITICAL SUBDIVISION, OR ANY PERSON.

(B) PRINCE GEORGE'S COUNTY.

TO FINANCE WHOLLY OR PARTLY LAND ACQUISITION, DESIGN, DEVELOPMENT, REDEVELOPMENT, OR REVITALIZATION IN PRINCE GEORGE'S COUNTY, THE COMMISSION MAY RECEIVE AND EXPEND ANY CONTRIBUTION OR APPROPRIATION BY THE UNITED STATES, THE DISTRICT OF COLUMBIA, THE STATE, ANY OTHER POLITICAL SUBDIVISION, OR ANY PERSON.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–102.

In this section, the references to a political "subdivision" are substituted for the former references to a political "community" for consistency within this article.

Also in this section, the references to financing "wholly or partly" the acquisition are substituted for the former references to financing "or assisting in the financing" of the acquisition for clarity.

Also in this section, the former references to a "private" person are deleted as implicit in the meaning of the defined term "person". *See* Revisor's Note to § 14–101 of this article.

In subsection (a) of this section, the reference to property acquisition "under § 17–101(b) of this subtitle" is substituted for the former reference to acquisition "for parks, parkways, forests, streets, roads, boulevards, or other public ways, grounds, or spaces within the metropolitan district, or for the purposes of public recreation, or for its improvement or development," for clarity and brevity.

Defined terms: "Commission" § 14–101
"Person" § 14–101
"State" § 14–101

17–104. PROPERTY TITLE AND CONTROL.

(A) PARKWAY PROPERTY.

TITLE TO LANDS ACQUIRED UNDER § 1(A) OF THE CAPPER–CRAMTON ACT, PUBLIC LAW 71–284, 46 STAT. 482, SHALL VEST IN THE UNITED STATES, AS PROVIDED IN THAT ACT.

(B) OTHER PROPERTY — TITLE AND CONTROL.

EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, WITHOUT THE APPROVAL OF THE GENERAL ASSEMBLY:

(1) TITLE TO ANY OTHER PROPERTY ACQUIRED MAY NOT BE PLACED IN OR GRANTED TO THE UNITED STATES OR ANY PERSON OR POLITICAL SUBDIVISION OTHER THAN THE METROPOLITAN DISTRICT ITSELF OR THE STATE; AND

(2) THE CONTROL, MAINTENANCE, OPERATION, OR POLICING OF ANY OTHER PARK, FOREST, ROAD, OR OTHER PUBLIC WAY, GROUND, OR SPACE IN THE METROPOLITAN DISTRICT MAY NOT BE PLACED IN OR GRANTED TO THE UNITED STATES OR TO ANY OTHER PERSON OR POLITICAL SUBDIVISION OTHER THAN THE COMMISSION ITSELF.

(C) OTHER PROPERTY — PRINCE GEORGE'S COUNTY.

IN PRINCE GEORGE'S COUNTY, THE TITLE, CONTROL, MAINTENANCE, OR OPERATION OF PROPERTY ACQUIRED IN THE PRINCE GEORGE'S COUNTY PORTION OF THE METROPOLITAN DISTRICT MAY BE TRANSFERRED BY COUNTY LOCAL LAW TO:

(1) THE REDEVELOPMENT AUTHORITY OF PRINCE GEORGE'S COUNTY; OR

(2) THE REVENUE AUTHORITY OF PRINCE GEORGE'S COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–103.

In subsection (a) of this section, the reference to "§ 1(a) of the Capper–Cramton Act, Public Law 71–284, 46 Stat. 482" is substituted for the former reference to "subsection 1(a) of Public Law No. 284, 71st Congress, as amended" for consistency within this division.

In subsection (b) of this section, the references to a political "subdivision" are substituted for the former references to a political "community" for consistency within this article.

In subsection (b)(2) of this section, the former references to "parkways", "street", and "boulevard" are deleted as included in the defined term "road".

Defined terms: "Commission" § 14–101
"Local law" § 14–101
"Metropolitan district" § 14–101
"Park" § 14–101
"Person" § 14–101
"Road" § 14–101
"State" § 14–101

17–105. ACQUISITION OUTSIDE METROPOLITAN DISTRICT.

(A) AUTHORIZED.

THE COMMISSION MAY ACQUIRE LAND FOR THE PURPOSES STATED IN § 17–213 OF THIS TITLE AND TITLE 18, SUBTITLE 2 OF THIS ARTICLE OUTSIDE THE METROPOLITAN DISTRICT BUT IN THE REGIONAL DISTRICT.

(B) REQUIRED FINDING.

THE COMMISSION MAY ACQUIRE LAND UNDER SUBSECTION (A) OF THIS SECTION IF THE COMMISSION FINDS THAT THE ACQUISITION IS NECESSARY TO PRESERVE ANY PORTION OF THE COMMISSION'S REGIONAL PARK PLAN FOR THE METROPOLITAN DISTRICT.

(C) FUNDING.

(1) TO ACQUIRE LAND UNDER THIS SECTION, THE COMMISSION MAY EXPEND ANY CURRENT FUNDS THAT MAY BE EXPENDED UNDER THIS DIVISION FOR LAND ACQUISITION IN THE METROPOLITAN DISTRICT FOR THE PURPOSES AUTHORIZED BY THIS SECTION.

(2) FUNDS USED FOR LAND ACQUISITION IN THE MONTGOMERY COUNTY PORTION OF THE METROPOLITAN DISTRICT MAY INCLUDE THE PROCEEDS OF BONDS THE COMMISSION ISSUES UNDER TITLE 18, SUBTITLE 2 OF THIS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–104.

In subsection (b) of this section, the former reference to the plan for the metropolitan district "in Montgomery County and Prince George's County, respectively" is deleted as surplusage.

Also in subsection (b) of this section, the former phrase "which plan is a part of the Commission's general plan for the physical development of the Maryland–Washington Regional District" is deleted as surplusage.

In subsection (c)(1) of this section, the phrase "[t]o acquire land under this section" is substituted for the former phrase "for the foregoing purposes" for clarity.

Also in subsection (c)(1) of this section, the former reference to land acquisition in "the respective counties within" the metropolitan district is deleted as surplusage.

In subsection (c)(2) of this section, the reference to the "Montgomery County portion of the metropolitan district" is substituted for the former obsolete reference to "that portion of the Maryland–Washington Regional District known as the Upper Montgomery County Metropolitan District" for clarity in light of the incorporation of the former Upper Montgomery County Metropolitan District into the rest of the Montgomery County portion of the metropolitan district in 1965. *See* Revisor's Note to Title 19 of this article; § 11 of Ch. ___, Acts of 2012; *cf.* Ch. 365, Acts of 1965.

Defined terms: "Commission" § 14–101
"Metropolitan district" § 14–101
"Park" § 14–101
"Regional district" § 14–101

17–106. RESERVED.

17–107. RESERVED.

PART II. PURCHASE AND CONDEMNATION.

17–108. AUTHORIZED.

(A) FROM OWNER.

WHENEVER THE COMMISSION CONSIDERS IT NECESSARY TO ACQUIRE ANY PROPERTY FOR A PURPOSE STATED IN § 17–101(B) OF THIS SUBTITLE, THE COMMISSION MAY:

(1) PURCHASE THE PROPERTY FROM THE OWNER; OR

(2) IF THE COMMISSION FAILS TO AGREE WITH THE OWNER, CONDEMN THE PROPERTY BY PROCEEDINGS IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE PROPERTY IS LOCATED.

(B) FROM TENANT OR OTHER PERSON.

AT THE SAME TIME, THE COMMISSION MAY ACQUIRE THE INTEREST OF ANY TENANT, LESSEE, OR OTHER PERSON HAVING AN INTEREST IN THE PROPERTY.

REVISOR'S NOTE: This section is new language derived without substantive change from the first and third sentences of former Art. 28, § 5–105.

In the introductory language to subsection (a) of this section, the former reference to "tak[ing]" is deleted as included in the reference to "acquir[ing]".

Also in the introductory language to subsection (a) of this section, the comprehensive reference to acquisition of "property" is substituted for the former reference to acquisition of "lands, water rights, structures, or buildings, either in fee or as an easement" for brevity and clarity.

Also in the introductory language to subsection (a) of this section, the reference to acquisition for "a purpose stated in § 17–101(b) of this subtitle," is substituted for the former reference to acquisition for "parks, parkways, forests, roads, streets, boulevards, or highways, ground or spaces, or for the purposes of recreation," for brevity and clarity.

In subsection (a)(1) of this section, the reference to "the property" is substituted for the former word "them" for clarity.

In subsection (a)(2) of this section, the reference to the "property" is substituted for the former reference to the "land, water rights, structures, or buildings" for brevity and clarity.

Defined terms: "Commission" § 14–101
"County" § 14–101
"Person" § 14–101

17–109. PROCEDURE.

THE COMMISSION SHALL CONDEMN PROPERTY USING THE PROCEDURES FOR CONDEMNATION OF LAND BY A PUBLIC SERVICE COMPANY IN ACCORDANCE WITH TITLE 12 OF THE REAL PROPERTY ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from the second sentence of former Art. 28, § 5–105.

Defined term: "Commission" § 14–101

17–110. POSSESSION; APPEAL.

(A) ENTRY AND POSSESSION.

SUBJECT TO SUBSECTION (B) OF THIS SECTION, AT ANY TIME AFTER 10 DAYS AFTER THE RETURN AND RECORDATION OF THE VERDICT OR AWARD IN THE PROCEEDINGS, THE COMMISSION MAY ENTER AND TAKE POSSESSION OF THE CONDEMNED PROPERTY, NOTWITHSTANDING ANY APPEAL OR FURTHER PROCEEDINGS ON THE PART OF THE DEFENDANT.

(B) APPEAL.

(1) BEFORE ENTERING THE PROPERTY, THE COMMISSION SHALL PAY TO THE CLERK OF THE CIRCUIT COURT THE AMOUNT OF THE AWARD AND ALL COSTS ASSESSED TO DATE.

(2) AT THE TIME OF PAYMENT, THE COMMISSION SHALL AGREE TO ABIDE BY AND FULFILL ANY JUDGMENT FOLLOWING APPEAL, OR UNTIL THE TIME TO REQUEST AN APPEAL EXPIRES.

REVISOR'S NOTE: This section is new language derived without substantive change from the fourth and fifth sentences of former Art. 28, § 5–105.

In subsection (b)(1) of this section, the reference to costs "assessed" is substituted for the former reference to costs "taxed" for accuracy.

In subsection (b)(2) of this section, the reference to the Commission "agree[ing]" to abide by a judgment is substituted for the former reference to the Commission "giv[ing] its corporate undertaking" to abide by a judgment for clarity.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that while the process for taking possession of

condemned property under this section is similar to that found in Title 12, Subtitle 2 of the Maryland Rules, it is not identical. The General Assembly may wish to compare the provisions on condemnation under this section and this part with those found in the Maryland Rules with an intent to harmonize the two.

For general provisions on condemnation, entry, and appeals, *see* Maryland Rule 12–210.

Defined term: "Commission" § 14–101

17–111. RESERVED.

17–112. RESERVED.

PART III. RELOCATION EXPENSES.

17–113. DEFINITIONS.

(A) IN GENERAL.

IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 28, § 5–105.1(a)(1).

In this subsection and throughout this part, the references to this "part" are substituted for the former references to this "section" to reflect the reorganization of material derived from former Art. 28, § 5–105.1.

The only other changes are in style.

(B) BUSINESS.

(1) "BUSINESS" MEANS A LAWFUL ACTIVITY CONDUCTED PRIMARILY:

(I) FOR THE PURCHASE, SALE, LEASE, OR RENTAL OF PROPERTY;

(II) FOR THE MANUFACTURE, PROCESSING, OR MARKETING OF PRODUCTS OR OTHER PERSONAL PROPERTY;

(III) FOR THE SALE OF SERVICES TO THE PUBLIC; OR

(IV) BY A NOT–FOR–PROFIT ORGANIZATION.

(2) "BUSINESS" DOES NOT INCLUDE A FARM OPERATION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 28, § 5–105.1(a)(5).

In paragraph (1)(ii) of this subsection, the reference to "commodities" is deleted as included in the reference to "products".

Defined term: "Farm operation" § 17–113

(C) DISPLACED.

"DISPLACED", WITH RESPECT TO A PERSON, MEANS MOVING FROM REAL PROPERTY, OR MOVING THE PERSON'S PERSONAL PROPERTY FROM REAL PROPERTY:

(1) WHOLLY OR PARTLY AS A RESULT OF THE COMMISSION'S ACQUISITION OF THE REAL PROPERTY; OR

(2) AS THE RESULT OF A WRITTEN ORDER OF THE COMMISSION TO VACATE THE REAL PROPERTY FOR A PUBLIC WORKS PROGRAM OR PROJECT THE COMMISSION UNDERTAKES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 28, § 5–105.1(a)(4).

In the introductory language to this subsection, the phrase "with respect to a person" is substituted for the former inclusion of the word "person" in the defined term "displaced person" because the source material did not consistently use the term as defined. *See*, *e.g.*, former Art. 28, § 5–105.1(a)(2), which defined "relocation payment", revised as subsection (e) of this section.

Also in the introductory language to this subsection, the former obsolete reference to moving "after July 1, 1975," is deleted because any moving for which a relocation payment may be made under this part will have taken place after that date.

In item (1) of this subsection, the reference to acquisition of the "real" property is added for clarity.

Defined terms: "Commission" § 14–101
"Person" § 14–101

(D) FARM OPERATION.

"FARM OPERATION" MEANS AN ACTIVITY THAT:

(1) IS CONDUCTED PRIMARILY FOR THE PRODUCTION OF ONE OR MORE AGRICULTURAL PRODUCTS, INCLUDING TIMBER, FOR SALE OR HOME USE; AND

(2) CUSTOMARILY PRODUCES THOSE PRODUCTS IN SUFFICIENT QUANTITY TO BE ABLE TO CONTRIBUTE MATERIALLY TO THE OPERATOR'S INCOME.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 28, § 5–105.1(a)(6).

The former references to "commodities" are deleted as included in the references to "products".

In item (1) of this subsection, the reference to an activity conducted "solely" is deleted as included in the reference to an activity conducted "primarily" for the listed purposes.

In item (2) of this subsection, the reference to the operator's "income" is substituted for the former reference to the operator's "support" for clarity.

(E) RELOCATION PAYMENT.

"RELOCATION PAYMENT" MEANS A PAYMENT THE COMMISSION MAKES TO A DISPLACED PERSON IN ACCORDANCE WITH THIS PART.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 28, § 5–105.1(a)(2).

The defined term "person" is substituted for the former reference to an "individual, family, business concern, farm operator, or nonprofit organization" for brevity.

Defined terms: "Commission" § 14–101
"Displaced" § 17–113
"Person" § 14–101

REVISOR'S NOTE TO SECTION:

Former Art. 28, § 5–105.1(a)(3), which defined "person", is deleted in light of the same term defined in § 14–101 of this article.

Former Art. 28, § 5–105.1(a)(7), which defined "mortgage", is deleted because it merely repeats the dictionary definition.

For comparable provisions on relocation expenses in condemnation proceedings, *see* RP, Title 12, Subtitle 2.

17–114. RELOCATION PAYMENT — IN GENERAL.

(A) "AVERAGE ANNUAL NET EARNINGS" DEFINED.

IN THIS SECTION, "AVERAGE ANNUAL NET EARNINGS":

(1) MEANS ONE–HALF OF ANY NET EARNINGS OF THE BUSINESS OR FARM OPERATION, BEFORE FEDERAL, STATE, AND LOCAL INCOME TAXES, DURING:

(I) THE 2 TAXABLE YEARS IMMEDIATELY PRECEDING THE TAXABLE YEAR WHEN THE BUSINESS OR FARM OPERATION MOVES FROM THE REAL PROPERTY ACQUIRED FOR THE PROJECT; OR

(II) A DIFFERENT PERIOD THE COMMISSION DETERMINES TO BE MORE EQUITABLE FOR ESTABLISHING THE EARNINGS; AND

(2) INCLUDES ANY COMPENSATION PAID BY THE BUSINESS OR FARM OPERATION TO THE OWNER OR THE OWNER'S SPOUSE OR DEPENDENTS DURING THE PERIOD.

(B) APPLICATION FOR PAYMENT.

A PERSON WHO IS DISPLACED BY THE ACQUISITION OF REAL PROPERTY FOR A PROGRAM OR PROJECT THE COMMISSION UNDERTAKES MAY APPLY TO THE APPROPRIATE COUNTY PLANNING BOARD FOR A RELOCATION PAYMENT UNDER THIS SECTION.

(C) PAYMENT ON APPROVAL.

THE COMMISSION SHALL MAKE THE RELOCATION PAYMENT TO THE DISPLACED PERSON AFTER THE COUNTY PLANNING BOARD APPROVES THE APPLICATION.

(D) REQUIRED COMPENSATION.

(1) THE RELOCATION PAYMENT SHALL INCLUDE:

(I) ACTUAL REASONABLE EXPENSES TO MOVE THE PERSON AND THE PERSON'S FAMILY, BUSINESS, FARM OPERATION, OR OTHER PERSONAL PROPERTY;

(II) ACTUAL DIRECT LOSSES OF TANGIBLE PERSONAL PROPERTY AS A RESULT OF MOVING OR DISCONTINUING A BUSINESS OR FARM OPERATION; AND

(III) ACTUAL REASONABLE EXPENSES IN SEARCHING FOR A REPLACEMENT BUSINESS OR FARM.

(2) THE LOSSES PAYABLE UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION MAY NOT EXCEED THE REASONABLE EXPENSES THAT WOULD HAVE BEEN REQUIRED TO RELOCATE THE PROPERTY, AS DETERMINED BY THE APPROPRIATE COUNTY PLANNING BOARD.

(E) ALTERNATE RELOCATION PAYMENT — DWELLING.

A DISPLACED PERSON ELIGIBLE FOR A RELOCATION PAYMENT UNDER SUBSECTION (C) OF THIS SECTION WHO IS DISPLACED FROM A DWELLING AND WHO CHOOSES TO ACCEPT A RELOCATION PAYMENT UNDER THIS SUBSECTION INSTEAD OF A RELOCATION PAYMENT UNDER SUBSECTION (C) OF THIS SECTION MAY RECEIVE:

(1) A MOVING EXPENSE ALLOWANCE DETERMINED ACCORDING TO A SCHEDULE ESTABLISHED BY THE COMMISSION, NOT TO EXCEED $300; AND

(2) A RELOCATION ALLOWANCE OF $200.

(F) ALTERNATE RELOCATION PAYMENT — BUSINESS OR FARM OPERATION.

(1) SUBJECT TO SUBSECTION (G) OF THIS SECTION, A DISPLACED PERSON ELIGIBLE FOR A RELOCATION PAYMENT UNDER SUBSECTION (C) OF THIS SECTION WHO IS DISPLACED FROM THE PERSON'S PLACE OF BUSINESS OR FARM OPERATION AND WHO CHOOSES TO ACCEPT A RELOCATION PAYMENT UNDER THIS SUBSECTION INSTEAD OF A RELOCATION PAYMENT UNDER SUBSECTION (C) OF THIS SECTION MAY RECEIVE A FIXED PAYMENT IN AN

AMOUNT EQUAL TO THE AVERAGE ANNUAL NET EARNINGS OF THE BUSINESS OR FARM OPERATION.

(2) A RELOCATION PAYMENT UNDER THIS SUBSECTION SHALL BE AT LEAST $2,500 AND MAY NOT EXCEED $10,000.

(G) LIMITATION — BUSINESS.

A BUSINESS IS NOT ELIGIBLE TO RECEIVE A RELOCATION PAYMENT UNDER SUBSECTION (F) OF THIS SECTION UNLESS THE COMMISSION IS SATISFIED THAT THE BUSINESS:

(1) CANNOT BE RELOCATED WITHOUT A SUBSTANTIAL LOSS OF ITS EXISTING PATRONAGE; AND

(2) IS NOT A PART OF A COMMERCIAL ENTERPRISE THAT HAS AT LEAST ONE OTHER LOCATION THAT:

(I) THE COMMISSION IS NOT ACQUIRING; AND

(II) IS ENGAGED IN THE SAME OR A SIMILAR BUSINESS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–105.1(d).

In this section and throughout this part, the defined term "relocation payment" is substituted for the former word "payment[s]" for clarity.

In subsection (a)(1)(ii) of this section, the reference to "a different" period is substituted for the former reference to "whatever other" period for clarity.

In subsection (b) of this section, the former obsolete reference to displacement of any person "on or after July 1, 1975," is deleted as surplusage.

In subsection (g)(2) of this section, the reference to a "location" is substituted for the former reference to an "establishment" for clarity.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in subsection (c) of this section, the references to the "Commission" and the "county planning board" are substituted for each other to reflect the proper roles of each unit and for clarity. To the knowledge of the Commission and of this committee, no relocation

payment has ever actually been paid under this section. The committee draws the substitution to the attention of the General Assembly.

The Land Use Article Review Committee also notes, for consideration by the General Assembly, that in subsection (d)(1)(i) of this section, the reference to expenses to move a person's "family" may have implications under the federal Fair Housing Act. The General Assembly may wish to consider whether a reference to a person's "household" or some other term might better comport with the federal law.

Defined terms: "Business" § 17–113
"Commission" § 14–101
"County planning board" § 14–101
"Displaced" § 17–113
"Farm operation" § 17–113
"Person" § 14–101
"Relocation payment" § 17–113
"State" § 14–101

17–115. ADDITIONAL RELOCATION PAYMENT — DWELLING.

(A) PAYMENT AUTHORIZED.

IN ADDITION TO ANY OTHER AUTHORIZED PAYMENT, THE COMMISSION SHALL MAKE AN ADDITIONAL RELOCATION PAYMENT NOT TO EXCEED $15,000 TO A PERSON WHO IS DISPLACED FROM A DWELLING THAT THE PERSON OWNS AND HAS OCCUPIED FOR AT LEAST 180 DAYS IMMEDIATELY PRECEDING THE START OF NEGOTIATIONS TO ACQUIRE THE PROPERTY.

(B) REQUIRED COMPENSATION.

THE ADDITIONAL RELOCATION PAYMENT SHALL INCLUDE:

(1) ANY ADDITIONAL AMOUNT THAT, ADDED TO THE ACQUISITION COST OF THE DWELLING ACQUIRED BY THE COMMISSION, EQUALS THE REASONABLE COST OF A COMPARABLE REPLACEMENT DWELLING THAT IS A HABITABLE DWELLING:

(I) ADEQUATE TO ACCOMMODATE THE DISPLACED PERSON;

(II) REASONABLY ACCESSIBLE TO PUBLIC SERVICES AND PLACES OF EMPLOYMENT; AND

(III) AVAILABLE ON THE PRIVATE MARKET;

(2) SUBJECT TO SUBSECTION (C) OF THIS SECTION, ANY ADDITIONAL AMOUNT THAT THE DISPLACED PERSON MUST PAY TO FINANCE ACQUISITION OF A COMPARABLE REPLACEMENT DWELLING; AND

(3) REASONABLE EXPENSES THE DISPLACED PERSON INCURS FOR TITLE INSURANCE, RECORDING AND TRANSFER FEES AND TAXES, AND OTHER TAXES AND CLOSING COSTS INCIDENT TO THE PURCHASE OF THE REPLACEMENT DWELLING, OTHER THAN PREPAID EXPENSES.

(C) LIMITATION — FINANCING.

(1) THE COMMISSION SHALL INCLUDE FINANCING UNDER SUBSECTION (B)(2) OF THIS SECTION IN AN ADDITIONAL RELOCATION PAYMENT ONLY IF THE DWELLING WAS ENCUMBERED BY A MORTGAGE THAT WAS A VALID LIEN ON THE DWELLING FOR AT LEAST 180 DAYS IMMEDIATELY PRECEDING THE START OF NEGOTIATIONS TO ACQUIRE THE DWELLING.

(2) THE AMOUNT PAYABLE UNDER SUBSECTION (B)(2) OF THIS SECTION SHALL BE COMPUTED FOR THE PERIOD OF TIME REMAINING UNDER THE MORTGAGE ON THE ACQUIRED DWELLING AS THE PRODUCT OF:

(I) THE NET PRESENT VALUE OF THE DIFFERENCE, IF ANY, BETWEEN:

1. THE INTEREST AND OTHER DEBT SERVICE COSTS TO BE INCURRED TO FINANCE THE REPLACEMENT DWELLING FOR THAT PERIOD; AND

2. THOSE COSTS THAT WOULD HAVE BEEN INCURRED FOR THAT PERIOD TO FINANCE THE ACQUIRED DWELLING; AND

(II) THE UNPAID PRINCIPAL BALANCE OF THE MORTGAGE ON THE ACQUIRED DWELLING AT THE TIME OF ACQUISITION DIVIDED BY THE PRINCIPAL AMOUNT OF THE PURCHASE MONEY MORTGAGE ON THE REPLACEMENT DWELLING.

(3) THE DISCOUNT RATE SHALL BE THE PREVAILING INTEREST RATE PAID ON SAVINGS DEPOSITS BY COMMERCIAL BANKS IN THE GENERAL AREA WHERE THE REPLACEMENT DWELLING IS LOCATED.

(D) LIMITATION — TIME.

THE COMMISSION SHALL MAKE THE ADDITIONAL RELOCATION PAYMENT ONLY TO A DISPLACED PERSON WHO PURCHASES AND OCCUPIES A HABITABLE REPLACEMENT DWELLING BY THE LATER OF:

(1) 1 YEAR AFTER THE PERSON RECEIVES FROM THE COMMISSION FINAL PAYMENT OF ALL COSTS OF THE ACQUIRED DWELLING; OR

(2) THE DATE WHEN THE PERSON MOVES FROM THE ACQUIRED DWELLING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–105.1(b) and (c).

In the introductory language to subsections (b)(1) and (d) of this section, the references to a "habitable" dwelling are substituted for the former references to a "decent, safe, and sanitary" dwelling for clarity.

In subsection (b)(2) of this section, the reference to the amount the displaced person "must pay to finance" the acquisition is substituted for the former reference to "any increased interest costs which he is required to pay for financing" for brevity.

In subsection (b)(3) of this section, the reference to expenses for "title insurance, recording and transfer fees and taxes, and other taxes and closing costs" is substituted for the former reference to expenses for "evidence of title, recording fees, and other closing costs" for clarity and to bring the terminology of the statute closer to that found in current real estate settlement practice. The Land Use Article Review Committee draws the substitution to the attention of the General Assembly. No substantive change is intended.

In subsection (c)(1) of this section, the phrase "[t]he Commission shall include financing under subsection (b)(2) of this section in an additional relocation payment" is substituted for the former phrase "[t]his amount shall be paid" for clarity.

In subsection (c)(2) of this section, the reference to the amount being "computed for the period of time remaining under the mortgage on the acquired dwelling as the product of: (i) the net present value of the difference, if any, between … the interest and other debt service costs to be incurred to finance the replacement dwelling for that period … and … those costs that would have been incurred for that period to finance the acquired dwelling; and (ii) the unpaid principal balance of the mortgage on the acquired dwelling at the time of acquisition divided by the principal amount of the purchase money mortgage on the replacement

dwelling" is substituted for the former reference to the amount being "equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the acquired dwelling, over the remainder term of the mortgage on the acquired dwelling, reduced to discounted present value" for clarity. The Land Use Article Review Committee brings this substitution to the attention of the General Assembly. No substantive change is intended.

Defined terms: "Commission" § 14–101
"Displaced" § 17–113
"Person" § 14–101
"Relocation payment" § 17–113

17–116. REFERRAL TO RELOCATION ADVISORY SERVICES.

(A) REQUIRED REFERRAL.

WHENEVER THE ACQUISITION OF REAL PROPERTY FOR A PROGRAM OR PROJECT THE COMMISSION UNDERTAKES WILL RESULT IN A PERSON BEING DISPLACED, THE COMMISSION SHALL REFER EACH DISPLACED PERSON WHO NEEDS RELOCATION ADVISORY SERVICES TO THE APPROPRIATE COUNTY AGENCY THAT PROVIDES THOSE SERVICES IN ACCORDANCE WITH § 12–206 OF THE REAL PROPERTY ARTICLE.

(B) REQUIRED SERVICES.

THE AGENCY SHALL PROVIDE RELOCATION ADVISORY SERVICES TO THE DISPLACED PERSON THE COMMISSION REFERS TO THE AGENCY UNDER THE AGENCY'S RELOCATION ADVISORY SERVICES PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–105.1(e).

In subsection (a) of this section, the former obsolete reference to displacement "on or after July 1, 1975" is deleted as surplusage.

Defined terms: "Commission" § 14–101
"County" § 14–101
"Displaced" § 17–113
"Person" § 14–101

17–117. REGULATIONS AND PROCEDURES.

(A) IN GENERAL.

THE COMMISSION MAY ESTABLISH REGULATIONS AND PROCEDURES NECESSARY TO ENSURE THAT:

(1) RELOCATION PAYMENTS AND ASSISTANCE ARE ADMINISTERED IN A MANNER THAT IS FAIR AND REASONABLE AND IS AS UNIFORM AS PRACTICABLE;

(2) A DISPLACED PERSON WHO MAKES PROPER APPLICATION FOR A RELOCATION PAYMENT FOR THAT PERSON SHALL BE PAID PROMPTLY AFTER A MOVE OR, IN CASE OF HARDSHIP, BE PAID IN ADVANCE; AND

(3) A PERSON AGGRIEVED BY A DETERMINATION AS TO ELIGIBILITY FOR A RELOCATION PAYMENT, OR THE AMOUNT OF A RELOCATION PAYMENT, MAY HAVE THE PERSON'S APPLICATION REVIEWED BY THE APPROPRIATE COUNTY PLANNING BOARD.

(B) REQUIRED CONSULTATION.

IN ORDER TO PROMOTE UNIFORM AND EFFECTIVE ADMINISTRATION OF RELOCATION ASSISTANCE AND LAND ACQUISITION, THE COMMISSION SHALL CONSULT STATE AND LOCAL AGENCIES PROVIDING SIMILAR SERVICES ON THE ESTABLISHMENT OF REGULATIONS AND PROCEDURES FOR THE IMPLEMENTATION OF THE PROGRAMS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–105.1(f).

Defined terms: "Commission" § 14–101
"County planning board" § 14–101
"Displaced" § 17–113
"Person" § 14–101
"Relocation payment" § 17–113
"State" § 14–101

17–118. TAX STATUS.

PAYMENT RECEIVED UNDER THIS PART MAY NOT BE CONSIDERED AS INCOME FOR THE PURPOSES OF TITLE 10 OF THE TAX – GENERAL ARTICLE.

REVISOR'S NOTE: This section formerly was Art. 28, § 5–105.1(g).

The only change is in style.

SUBTITLE 2. USE OF PROPERTY.

17–201. LAND HELD FOR GENERAL BENEFIT.

(A) IN GENERAL.

THE STATE OR THE COMMISSION, AS APPROPRIATE, SHALL HOLD ANY LAND ACQUIRED UNDER THIS DIVISION TO WHICH IT TAKES TITLE:

(1) FOR THE GENERAL BENEFIT OF THE RESIDENTS OF THE STATE; AND

(2) ESPECIALLY FOR THE BENEFIT OF THE RESIDENTS IN THE METROPOLITAN DISTRICT.

(B) RESTRICTIONS.

WITHOUT THE APPROVAL OF THE COMMISSION BY RESOLUTION:

(1) TITLE TO THE LAND MAY NOT BE CONVEYED BY THE STATE; OR

(2) PUBLIC USE MAY NOT BE TERMINATED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–107.

In subsection (a) of this section, the former reference to "Montgomery and Prince George's counties" is deleted as unnecessary because these are the only two counties within the metropolitan district.

In subsection (a)(1) of this section, the reference to "residents" of the State is substituted for the former reference to "citizens" of the State because the relationship between residency in the State and property held for the general benefit of the State is relatively clear, whereas the relationship between citizenship and the same benefit is uncertain. Similarly, in subsection (a)(2) of this section, the former reference to "citizens" is deleted for clarity.

In subsection (b)(2) of this section, the reference to "public" use is substituted for the former reference to "such" use for clarity.

Defined terms: "Commission" § 14–101
"Metropolitan district" § 14–101
"State" § 14–101

17–202. POLICE POWERS OF STATE, COUNTIES, AND MUNICIPAL CORPORATIONS.

(A) IN GENERAL.

THIS DIVISION DOES NOT LIMIT THE POLICE POWER OF THE STATE, EITHER COUNTY, OR ANY MUNICIPAL CORPORATION WHERE ANY PARK, ROAD, OR PUBLIC SPACE IS LOCATED.

(B) MUNICIPAL POWERS.

THE CONCURRENT POLICE POWER OF A MUNICIPAL CORPORATION EXTENDS ONLY TO AREAS LOCATED WITHIN ITS BOUNDARIES FOR PURPOSES OF THIS DIVISION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–108.

In subsection (a) of this section, the reference to any "park, road, or public space" is substituted for the former reference to any "park, parkway, forest, street, road, boulevard, or other public way, ground, or space" for brevity.

Also in subsection (a) of this section, the former reference to "restrict[ing]" police power is deleted as included in the reference to "limit[ing]" police power.

Defined terms: "Park" § 14–101
"Road" § 14–101
"State" § 14–101

17–203. TAX EXEMPTION FOR PROPERTY ACQUIRED.

(A) IN GENERAL.

ALL PROPERTY ACQUIRED BY THE COMMISSION FOR ANY PURPOSE SPECIFIED IN THIS SUBTITLE AND SUBTITLE 1 OF THIS TITLE IS EXEMPT FROM STATE, COUNTY, AND MUNICIPAL TAXES.

(B) TAX EXEMPTION OF DEDICATED LAND.

ALL LAND DEDICATED TO THE COMMISSION IN ACCORDANCE WITH COUNTY SUBDIVISION REGULATIONS IS PROPERTY ACQUIRED BY THE COMMISSION WITHIN THE MEANING OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–109.

In subsection (a) of this section, the reference to "this subtitle and Subtitle 1 of this title" is substituted for the former word "hereinabove" for clarity.

In subsection (b) of this section, the reference to "county subdivision regulations" is substituted for the former obsolete reference to "§ 50–15 of the Montgomery County Code (1984 Edition) or § 7–132 of the Code of Public Local Laws of Prince George's County (1987 Edition)" for clarity and accuracy.

Defined terms: "Commission" § 14–101
"State" § 14–101

17–204. LEASES, PERMITS, AND CONCESSIONS.

(A) LEASE AGREEMENTS.

(1) THE COMMISSION MAY LEASE TO ANY RESPONSIBLE PERSON ANY LAND IN THE METROPOLITAN DISTRICT ACQUIRED FOR PARK PURPOSES UNDER THIS DIVISION.

(2) (I) THE TERM OF A LEASE MAY NOT EXCEED 20 YEARS WITHOUT THE PRIOR APPROVAL OF THE LEASE BY LEGISLATIVE ENACTMENT OF THE COUNTY WHERE THE LEASE PROPERTY IS LOCATED.

(II) THE INITIAL TERM OF A LEASE MAY NOT EXCEED 40 YEARS.

(III) A LEASE MAY BE RENEWED FOR ADDITIONAL TERMS NOT EXCEEDING 10 YEARS EACH.

(3) A LEASE AGREEMENT SHALL CONTAIN PROVISIONS FOR REVERSION WITHOUT COST TO THE COMMISSION OF THE PROPERTY AND ITS IMPROVEMENTS REGARDLESS OF WHETHER THE IMPROVEMENTS WERE ADDED TO THE PROPERTY BY THE LESSEE DURING THE TERM OF THE LEASE OR ANY EXTENSION OF THE LEASE.

(B) PRIVILEGES, PERMITS, AND CONCESSIONS.

(1) THE COMMISSION MAY GRANT PRIVILEGES, PERMITS, AND CONCESSIONS, AND MAY ENTER INTO CONTRACTS RELATING TO THEM, WITH ANY RESPONSIBLE PERSON TO ENGAGE IN ANY BUSINESS OR ENTERPRISE ON LAND IN THE METROPOLITAN DISTRICT ACQUIRED FOR PARK PURPOSES UNDER THIS DIVISION.

(2) ANY PRIVILEGE, PERMIT, OR CONCESSION GRANTED UNDER THIS SUBSECTION SHALL BE ON TERMS AND CONDITIONS THE COMMISSION CONSIDERS ADVANTAGEOUS TO THE DEVELOPMENT OF THE PARK SYSTEM AS A PART OF THE PLAN FOR THE PHYSICAL DEVELOPMENT OF THE METROPOLITAN DISTRICT AND THE PLAN OF THE REGIONAL DISTRICT WITHIN THE METROPOLITAN DISTRICT.

(C) CONDITIONS.

(1) THE PURPOSE FOR WHICH PROPERTY IS LEASED, OR FOR WHICH A PRIVILEGE, PERMIT, OR CONCESSION IS GRANTED, MAY NOT BE INCONSISTENT WITH THE USE OF THE PROPERTY FOR PARK PURPOSES.

(2) ANY LEASE OR CONTRACT EXECUTED UNDER THIS SECTION SHALL CONTAIN A CONDITION STATING SPECIFICALLY THE PURPOSES FOR WHICH THE PROPERTY IS LEASED OR FOR WHICH THE PRIVILEGE, PERMIT, OR CONCESSION IS GRANTED.

(3) AN AGREEMENT THE COMMISSION ENTERS INTO IN ACCORDANCE WITH THIS DIVISION SHALL CONTAIN PROVISIONS PROHIBITING THE ASSIGNMENT OF THE AGREEMENT WITHOUT THE CONSENT OF THE COMMISSION.

(D) RESTRICTION ON CLOSING OF PARK IN MONTGOMERY COUNTY.

IN MONTGOMERY COUNTY, A LEASE, CONTRACT, OR AGREEMENT ENTERED INTO UNDER THIS SECTION MAY NOT:

(1) AUTHORIZE A PERSON OTHER THAN THE COMMISSION TO CLOSE A PARK OR PARK FACILITY; OR

(2) GRANT A PERSON OTHER THAN THE COMMISSION THE AUTHORITY TO CLOSE OR REQUIRE THE CLOSING OF AN EXISTING PARK OR

PARK FACILITY UNDER THE JURISDICTION OF THE COMMISSION TO PREVENT COMPETITION.

(E) EFFECT OF DIVISION.

THIS DIVISION DOES NOT LIMIT THE COMMISSION'S AUTHORITY TO REQUIRE AN AGREEMENT TO CONTAIN MORE RESTRICTIVE PROVISIONS THE COMMISSION CONSIDERS TO BE IN THE PUBLIC INTEREST.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–110(b) and the first through seventh sentences of (a).

In subsection (a)(2)(i) of this section, the former reference to the county in which the lease property is located "in whole or in part" is deleted as implicit.

In subsection (a)(2)(ii) of this section, the reference to the "initial" term of a lease is added for clarity.

In subsection (a)(2)(iii) of this section, the former phrase "from time to time" is deleted as surplusage.

In subsection (d) of this section, the former phrase "[n]otwithstanding subsection (a) of this section" is deleted as surplusage.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that subsection (d)(2) of this section, which prohibits granting authority to require closing an existing park or park facility to prevent competition, appears to be subsumed entirely within the limitation stated in subsection (d)(1) of this section, which prohibits authorizing a person other than the Commission to close a park or park facility. The General Assembly may wish to consider clarifying subsection (d)(2) of this section, if it is intended to be different than subsection (d)(1) of this section, or eliminating it entirely.

The eighth and ninth sentences of former Art. 28, § 5–110(a), which limited the validation and renegotiation of certain leases and agreements executed before July 1, 1972, are not retained in the Code because they are apparently obsolete. They are transferred to the Session Laws to avoid any inadvertent substantive effect their repeal might have. *See* § 8 of Ch. __, Acts of 2012.

Defined terms: "Commission" § 14–101
"Metropolitan district" § 14–101
"Park" § 14–101

"Person" § 14–101
"Regional district" § 14–101

17–205. POWER TO TRANSFER UNNEEDED PROPERTY.

THE COMMISSION MAY TRANSFER ANY LAND THAT IT HOLDS UNDER THIS TITLE AND DETERMINES NOT TO BE NEEDED FOR PARK PURPOSES OR OTHER PURPOSES AUTHORIZED UNDER THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–111.

The former words "sell", "convey", "lease", and "exchange" are deleted as included in the comprehensive word "transfer".

The reference to other purposes "authorized under" this title is substituted for the former reference to other purposes "of" this title for clarity.

Defined terms: "Commission" § 14–101
"Park" § 14–101

17–206. DISPOSAL OR EXCHANGE OF LAND AND RECREATIONAL FACILITIES.

(A) PLAYGROUNDS AND RECREATIONAL FACILITIES.

THE COMMISSION:

(1) MAY SELL OR OTHERWISE DISPOSE OF ANY PLAYGROUND OR RECREATIONAL FACILITY NO LONGER NEEDED FOR PUBLIC USE; AND

(2) SHALL USE THE PROCEEDS OF THE SALE OR DISPOSITION FOR THE CONSTRUCTION, ACQUISITION, OR IMPROVEMENT OF ANY OTHER PLAYGROUND OR RECREATIONAL FACILITY IN THE METROPOLITAN DISTRICT.

(B) EXCHANGE OF LAND.

(1) EXCEPT FOR PARKLAND ACQUIRED UNDER AN AGREEMENT WITH THE NATIONAL CAPITAL PLANNING COMMISSION, THE COMMISSION MAY EXCHANGE PLAYGROUND OR RECREATIONAL LAND HELD OR ACQUIRED BY THE COMMISSION IN ITS OWN NAME OR IN THE NAME OF THE STATE FOR ANY OTHER LAND HELD OR ACQUIRED BY THE UNITED STATES, THE STATE, OR ANY OTHER PUBLIC BODY OR AGENCY, WHICH THE COMMISSION DETERMINES TO BE MORE SUITABLE FOR PLAYGROUND AND RECREATIONAL PURPOSES.

(2) AN EXCHANGE UNDER THIS SUBSECTION:

(I) MAY BE ACCOMPANIED BY A PARTIAL CASH PAYMENT MOVING EITHER TO OR FROM THE COMMISSION; AND

(II) SHALL BE CONSIDERED AN ACQUISITION OF LAND FOR THE PUBLIC USES PROVIDED IN THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–112.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in subsection (a)(2) of this section, the word "shall" is substituted for the former word "may", thus explicitly requiring proceeds from the sale or disposition of a playground or recreational facility to be applied to a similar use. The former law was ambiguous on this point. If the General Assembly instead meant to allow the Commission the discretion to apply the proceeds to any other use, the substitution should be undone. No substantive change is intended.

Defined terms: "Commission" § 14–101
"Metropolitan district" § 14–101
"Park" § 14–101
"State" § 14–101

17–207. REGULATIONS.

(A) AUTHORITY TO ADOPT.

THE COMMISSION MAY ADOPT REGULATIONS FOR THE USE OF ANY PROPERTY UNDER ITS JURISDICTION.

(B) NOTICE.

(1) THE COMMISSION SHALL:

(I) POST THE REGULATIONS OUTSIDE EACH PARK HEADQUARTERS BUILDING, COMMUNITY CENTER, RECREATION CENTER, OR SIMILAR BUILDING IN A DEVELOPED PARK AREA; AND

(II) AFTER POSTING THE REGULATIONS, PUBLISH THEM AT LEAST THREE TIMES WITHIN 60 DAYS IN ONE OR MORE NEWSPAPERS OF GENERAL CIRCULATION PUBLISHED IN THE METROPOLITAN DISTRICT.

(2) THE POSTING AND PUBLICATION OF THE REGULATIONS SHALL BE SUFFICIENT NOTICE TO ALL PERSONS.

(3) THE SWORN CERTIFICATE OF A COMMISSIONER AS TO THE POSTING AND PUBLICATION OF THE REGULATIONS IS PRIMA FACIE EVIDENCE OF POSTING AND PUBLICATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–113(a).

Throughout this section, the former references to "rules" are deleted as included in the comprehensive reference to "regulations". *See* General Revisor's Note to article.

In subsection (a) of this section, the reference to "any property" is substituted for the former reference to "all land or other property" for brevity.

Also in subsection (a) of this section, the former reference to the "government" of property is deleted as implicit in the reference to the "use" of property.

Also in subsection (a) of this section, the former reference to property "acquired by [the Commission]" is deleted as included in the reference to property "under [the Commission's] jurisdiction".

In subsection (b)(1)(ii) of this section, the reference to newspapers "of general circulation" is added for clarity.

Defined terms: "Commission" § 14–101
"Commissioner" § 14–101
"Metropolitan district" § 14–101
"Park" § 14–101
"Person" § 14–101

17–208. COMMISSION INFRACTIONS.

(A) IN GENERAL.

(1) A VIOLATION OF A REGULATION UNDER § 17–207 OF THIS SUBTITLE IS A COMMISSION INFRACTION UNLESS THE VIOLATION IS DECLARED BY LAW TO BE A CRIME.

(2) (I) A COMMISSION INFRACTION IS A CIVIL OFFENSE.

(II) THE ADJUDICATION OF A COMMISSION INFRACTION:

1. IS NOT A CRIMINAL CONVICTION; AND

2. DOES NOT IMPOSE ANY OF THE CIVIL DISABILITIES ORDINARILY IMPOSED BY A CRIMINAL CONVICTION.

(B) CITATIONS.

(1) A COMMISSION PARK POLICE OFFICER MAY DELIVER A CITATION TO ANY PERSON CHARGED WITH A COMMISSION INFRACTION.

(2) THE COMMISSION SHALL:

(I) RETAIN A COPY OF THE CITATION; AND

(II) INCLUDE ON THE CITATION A CERTIFICATION ATTESTING TO THE TRUTH OF THE MATTER SPECIFIED IN THE CITATION.

(3) THE CITATION SHALL ALSO CONTAIN:

(I) THE NAME AND ADDRESS OF THE PERSON CHARGED;

(II) THE NATURE OF THE INFRACTION;

(III) THE LOCATION AND TIME THAT THE INFRACTION OCCURRED;

(IV) THE AMOUNT OF THE FINE ASSESSED FOR THE INFRACTION;

(V) THE MANNER, LOCATION, AND TIME IN WHICH THE FINE MAY BE PAID TO THE COMMISSION; AND

(VI) NOTICE OF THE PERSON'S RIGHT TO A TRIAL FOR THE INFRACTION.

(C) PRESET FINES.

(1) THE COMMISSION MAY:

(I) ESTABLISH A SCHEDULE OF FINES FOR EACH CONVICTION OF A COMMISSION INFRACTION;

(II) IMPOSE A FINE NOT TO EXCEED $50 FOR EACH CONVICTION OF A COMMISSION INFRACTION; AND

(III) IMPOSE A FINE NOT TO EXCEED $100 FOR EACH REPEAT VIOLATION.

(2) THE RECIPIENT OF A CITATION FOR A COMMISSION INFRACTION SHALL PAY THE FINE TO THE COMMISSION WITHIN 20 DAYS AFTER THE RECEIPT OF THE CITATION.

(D) FAILURE TO PAY FINE.

(1) IF A PERSON WHO RECEIVES A CITATION FOR A COMMISSION INFRACTION FAILS TO PAY THE FINE BY THE PAYMENT DUE DATE SPECIFIED IN THE CITATION AND FAILS TO FILE A NOTICE OF THE PERSON'S INTENT TO STAND TRIAL FOR THE OFFENSE, THE COMMISSION SHALL SEND A NOTICE OF THE INFRACTION TO THE PERSON'S LAST KNOWN ADDRESS.

(2) A PERSON WHO FAILS TO PAY THE FINE WITHIN 15 DAYS AFTER THE DATE OF THE NOTICE IS LIABLE FOR AN ADDITIONAL FINE NOT TO EXCEED TWICE THE ORIGINAL FINE.

(3) (I) IF THE FINE IS NOT PAID WITHIN 35 DAYS AFTER THE DATE OF NOTICE, THE COMMISSION MAY REQUEST ADJUDICATION OF THE CASE THROUGH THE DISTRICT COURT.

(II) THE DISTRICT COURT PROMPTLY SHALL SCHEDULE THE CASE FOR TRIAL AND SUMMON THE DEFENDANT TO APPEAR.

(E) TRIAL.

(1) A PERSON WHO RECEIVES A CITATION FOR A COMMISSION INFRACTION MAY ELECT TO STAND TRIAL BY FILING WITH THE COMMISSION A NOTICE OF THE PERSON'S INTENT TO STAND TRIAL.

(2) THE NOTICE SHALL BE GIVEN AT LEAST 5 DAYS BEFORE THE PAYMENT DUE DATE SPECIFIED IN THE CITATION.

(3) ON RECEIPT OF THE NOTICE OF INTENT TO STAND TRIAL, THE COMMISSION SHALL FORWARD TO THE DISTRICT COURT HAVING VENUE A COPY OF THE CITATION AND A COPY OF THE NOTICE OF INTENT TO STAND TRIAL THAT WAS FILED BY THE PERSON WHO RECEIVED THE CITATION.

(4) ON RECEIPT OF THE CITATION AND THE NOTICE OF INTENT TO STAND TRIAL, THE DISTRICT COURT SHALL SCHEDULE THE CASE FOR TRIAL AND NOTIFY THE DEFENDANT AND THE COMMISSION OF THE TRIAL DATE.

(5) THE DISTRICT COURT SHALL REMIT TO THE COMMISSION ALL FINES, PENALTIES, OR FORFEITURES THE DISTRICT COURT COLLECTS FOR COMMISSION INFRACTIONS.

(F) DISTRICT COURT FINES.

A PERSON FOUND BY THE DISTRICT COURT TO HAVE COMMITTED A COMMISSION INFRACTION SHALL PAY A FINE NOT TO EXCEED:

(1) $50 FOR A FIRST VIOLATION; OR

(2) $100 FOR A REPEAT VIOLATION.

(G) PROCEDURE FOR INFRACTIONS IN DISTRICT COURT.

IN A PROCEEDING FOR A COMMISSION INFRACTION BEFORE THE DISTRICT COURT, THE VIOLATION SHALL BE PROSECUTED IN THE SAME MANNER AND TO THE SAME EXTENT AS PROVIDED FOR MUNICIPAL INFRACTIONS UNDER ARTICLE 23A, § 3(B) OF THE CODE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–113(b)(1) through (4) and (6) through (8) and the first through fourth sentences of (5).

In subsection (a)(1) of this section, the former reference to a "rule" is deleted as included in the comprehensive reference to a "regulation" and for consistency with § 17–207 of this subtitle. *See* General Revisor's Note to article.

In subsection (a)(2)(ii)1 of this section, the former phrase "for any purpose" is deleted as surplusage.

In subsection (b)(1) of this section, the reference to any person "charged with" committing a Commission infraction is substituted for the former reference to any person "whom they adjudge to be" committing a

Commission infraction for brevity and to clarify that the police officer cannot adjudge anyone to be committing an infraction.

In the introductory language to subsection (b)(2) of this section, the reference to the "Commission" is substituted for the former reference to the "issuing authority" for clarity.

In subsection (b)(2)(ii) of this section, the reference to the matter "specified in the citation" is substituted for the former reference to the matter "therein set forth" for clarity.

In subsection (b)(3)(vi) of this section, the reference to the citation containing "notice of" a person's right to stand trial is added for clarity.

Also in subsection (b)(3)(vi) of this section, the reference to a person's "right to a trial" is substituted for the former reference to a person's "right to elect to stand trial" for brevity.

In subsection (c) of this section, the former references to "pre–set" fines are deleted as implicit in the comprehensive reference to a "schedule of fines".

In subsection (c)(1)(iii) of this section, the former reference to imposing a fine on "[r]epeat offenders" is deleted as unnecessary in light of the reference to imposing a fine for a "repeat violation".

In subsection (c)(2) of this section, the former reference to "calendar" days is deleted in light of Art. 1, § 36, which provides that any period exceeding 7 days is assumed to mean calendar days, not business days.

In subsections (d)(1) and (e)(2) of this section, the references to the "payment due date" are substituted for the former references to the "date of payment" for clarity.

In subsection (d)(1) of this section, the requirement that the "Commission" send a notice is added for clarity.

Also in subsection (d)(1) of this section, the reference to the "person's" last known address is substituted for the former reference to the "owner's" last known address for clarity.

Also in subsection (d)(1) of this section, the former reference to a "formal" notice is deleted as surplusage.

Also in subsection (d)(1) of this section, the former reference to the fine "for the infraction" is deleted as surplusage.

In subsection (d)(2) of this section, the reference to a person "fail[ing] to pay the fine" is substituted for the former reference to a "citation … not be[ing] satisfied" to use more modern terminology. Similarly, in subsection (d)(3)(i) of this section, the reference to a "fine [that] is not paid" is substituted for the former reference to a "citation [that] has not been satisfied".

In subsection (d)(3)(i) of this section, the reference to 35 days after "the date of notice" is added for clarity.

In subsection (e)(1) of this section, the reference to a person "filing" notice is added for clarity.

Also in subsection (e)(1) of this section, the former reference to standing trial "for the offense" is deleted as unnecessary.

In subsection (e)(3) of this section, the reference to a "copy of the" notice of intent to stand trial is added to clarify that the original need not be sent.

In subsection (e)(4) of this section, the reference to the receipt of the "notice of intent to stand trial" is added for clarity.

Also in subsection (e)(4) of this section, the reference to notifying the defendant "and the Commission" is added for clarity. No substantive change is intended.

In subsection (f)(1) of this section, the reference to a $50 fine "for a first violation" is added for clarity.

The fifth sentence of former Art. 28, § 5–113(b)(5), which provided that the failure to appear for a citation is contempt of court, is deleted as violating the separation of powers. *See* Article 8 of the Maryland Declaration of Rights and Article IV, § 1 of the Maryland Constitution.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that the reference to "penalties, or forfeitures" in subsection (e)(5) of this section may be unnecessary. There is no authorization elsewhere relating to any penalties or forfeitures that may be imposed for a Commission infraction. The General Assembly may wish to amend this provision.

Defined terms: "Commission" § 14–101
"Person" § 14–101

17–209. HUNTING — IN GENERAL.

(A) DEFINITIONS.

(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "ANIMAL" MEANS ANY BIRD OR MAMMAL OR ANY PART, EGG, OFFSPRING, OR DEAD BODY PART OF ANY BIRD OR MAMMAL.

(3) "HUNT" MEANS TO PURSUE, CAPTURE, KILL, GIG, TRAP, SHOOT, OR ATTEMPT TO PURSUE, CAPTURE, KILL, GIG, TRAP, OR SHOOT, OR IN ANY MANNER REDUCE ANY ANIMAL TO PERSONAL POSSESSION.

(B) PROHIBITED CONDUCT.

A PERSON MAY NOT HUNT AN ANIMAL ON PROPERTY OWNED BY, OPERATED BY, OR LEASED BY THE COMMISSION WITHOUT PRIOR WRITTEN AUTHORIZATION FROM THE COMMISSION.

(C) SEPARATE VIOLATIONS.

FOR THE PURPOSE OF THIS SECTION, EACH ANIMAL TAKEN ILLEGALLY BY HUNTING, OFFERED FOR PURCHASE, SOLD, BARTERED, OR EXCHANGED IN EXCESS OF THE BAG LIMIT OR POSSESSED ILLEGALLY CONSTITUTES A SEPARATE VIOLATION.

(D) PENALTY.

(1) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

(I) FOR A FIRST VIOLATION, A FINE NOT EXCEEDING $1,500, WITH COSTS IMPOSED AT THE DISCRETION OF THE COURT; AND

(II) FOR EACH SUBSEQUENT VIOLATION, IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING $4,000 OR BOTH, WITH COSTS IMPOSED AT THE DISCRETION OF THE COURT.

(2) FOR THE PURPOSE OF THIS SUBSECTION, A SUBSEQUENT VIOLATION IS A VIOLATION WHICH:

(I) OCCURS WITHIN 2 YEARS AFTER ANY PRIOR VIOLATION OF THIS SECTION; AND

(II) ARISES OUT OF A SEPARATE SET OF CIRCUMSTANCES.

(3) IN ADDITION TO THE PENALTIES IN PARAGRAPH (1)(II) OF THIS SUBSECTION, THE COURT MAY ORDER THE LICENSE UNDER WHICH THE PERSON OPERATED IN COMMITTING THE VIOLATION TO BE SUSPENDED FOR 12 MONTHS FROM THE DATE OF THE SUBSEQUENT CONVICTION.

(E) REGULATIONS.

(1) THE COMMISSION MAY ADOPT REGULATIONS NECESSARY TO ADMINISTER AND ENFORCE THIS SECTION.

(2) VIOLATION OF ANY REGULATION ADOPTED BY THE COMMISSION UNDER THIS SUBSECTION IS A MISDEMEANOR AND IS PUNISHABLE AS PROVIDED IN SUBSECTION (D) OF THIS SECTION.

(F) PREPAYMENT OF FINES.

(1) THE CHIEF JUDGE OF THE DISTRICT COURT MAY ESTABLISH, BY ADMINISTRATIVE REGULATION UNDER § 1–605 OF THE COURTS ARTICLE, A SCHEDULE OF PREPAYABLE FINES FOR A FIRST OFFENSE MISDEMEANOR VIOLATION OF THIS SECTION AND REGULATIONS ADOPTED UNDER THIS SECTION.

(2) THE AMOUNT OF A PREPAYABLE FINE MAY BE NOT MORE THAN THE MAXIMUM AND NOT LESS THAN THE MINIMUM CRIMINAL PENALTY ESTABLISHED IN THIS SECTION.

(3) BY PAYING A FINE SET UNDER THIS SECTION INSTEAD OF APPEARING FOR TRIAL IN DISTRICT COURT, A PERSON IS VOLUNTARILY ACCEPTING A CONVICTION FOR THE VIOLATION CHARGED.

(G) FINES REMITTED TO COMMISSION.

IF THE DISTRICT COURT OR CIRCUIT COURT IMPOSES A FINE FOR A VIOLATION OF THIS SECTION, THE COURT SHALL COLLECT THE FINE AND REMIT IT TO THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–113.1.

In subsection (e)(1) of this section, the former reference to "rules" is deleted as included in the comprehensive reference to "regulations". *See* General Revisor's Note to article.

Defined terms: "Commission" § 14–101
"Person" § 14–101

17–210. HUNTING — CITATION.

(A) ISSUANCE.

IF A PARK POLICE OFFICER APPREHENDS A PERSON FOR VIOLATING ANY LAW PUNISHABLE AS A MISDEMEANOR UNDER § 17–209 OF THIS SUBTITLE, THE OFFICER MAY PREPARE AND SIGN A WRITTEN CITATION.

(B) CONTENTS.

A CITATION ISSUED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:

(1) A NOTICE TO APPEAR IN COURT;

(2) THE NAME AND ADDRESS OF THE PERSON CHARGED;

(3) APPROPRIATE LICENSE NUMBERS, IF ANY;

(4) THE VIOLATION CHARGED;

(5) THE TIME AND PLACE THE PERSON SHALL APPEAR IN COURT; AND

(6) OTHER PERTINENT INFORMATION THE COMMISSION REQUIRES.

(C) WRITTEN PROMISE TO APPEAR.

(1) A PERSON CHARGED UNDER SUBSECTION (A) OF THIS SECTION MAY GIVE A WRITTEN PROMISE TO APPEAR IN COURT BY SIGNING THE CITATION PREPARED BY THE OFFICER.

(2) AN OFFICER SHALL ARREST A PERSON CHARGED UNDER SUBSECTION (A) OF THIS SECTION IF:

(I) THE PERSON DOES NOT FURNISH SATISFACTORY IDENTIFICATION;

(II) THE OFFICER HAS REASONABLE GROUNDS TO BELIEVE THE PERSON WILL DISREGARD A WRITTEN PROMISE TO APPEAR; OR

(III) THE PERSON REFUSES TO SIGN A WRITTEN PROMISE TO APPEAR.

(D) WHEN APPEARANCE NOT REQUIRED.

A PERSON SHALL COMPLY WITH THE WRITTEN PROMISE TO APPEAR IN COURT UNLESS THE PERSON:

(1) POSTS SUFFICIENT COLLATERAL FOR THE VIOLATION;

(2) PAYS THE FINE IN ADVANCE OF TRIAL; OR

(3) IS REPRESENTED BY COUNSEL IN COURT.

(E) PENALTY FOR FAILURE TO APPEAR.

(1) IF A PERSON FAILS TO COMPLY WITH THE NOTICE TO APPEAR IN A CITATION ISSUED UNDER THIS SECTION, THE COURT MAY:

(I) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, ISSUE A WARRANT FOR THE PERSON'S ARREST; OR

(II) AFTER 5 DAYS, NOTIFY THE COURT CLERK OF THE PERSON'S NONCOMPLIANCE.

(2) ON RECEIPT OF NOTICE OF NONCOMPLIANCE FROM THE COURT, THE CLERK SHALL NOTIFY THE PERSON BY MAIL AT THE ADDRESS INDICATED ON THE CITATION THAT THE COURT MAY ISSUE A WARRANT FOR THE PERSON'S ARREST UNLESS, WITHIN 15 DAYS AFTER THE NOTICE IS MAILED, THE PERSON:

(I) PAYS THE FINE ON THE CHARGE AS PROVIDED FOR IN THE ORIGINAL CITATION AND AN ADDITIONAL FINE OF $100 FOR FAILING TO APPEAR; OR

(II) POSTS BOND OR A PENALTY DEPOSIT AND REQUESTS A NEW TRIAL DATE.

(3) IF A PERSON FAILS TO PAY THE FINES OR POST THE BOND OR PENALTY DEPOSIT UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE COURT MAY ISSUE A WARRANT FOR THE PERSON'S ARREST.

(4) IF THE ORIGINAL VIOLATION IS NOT PUNISHABLE BY IMPRISONMENT, THE COURT MAY NOT ISSUE A WARRANT FOR THE PERSON'S ARREST UNDER THIS SUBSECTION FOR AT LEAST 20 DAYS AFTER THE ORIGINAL TRIAL DATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–120.1.

In subsections (b)(4), (d)(1), and (e)(4) of this section, the references to a "violation" are substituted for the former references to an "offense" for consistency with the Criminal Law Article and other recently revised articles.

Subsection (c)(2) of this section is revised for clarity and to state affirmatively what a police officer is required to do under specified circumstances, rather than what the officer is not required to do except under specified circumstances.

In the introductory language to subsection (c)(2) of this section, the reference to "arrest[ing] a person charged under subsection (a) of this section" is substituted for the former reference to "tak[ing] the person into physical custody for the violation" for clarity.

In subsection (e)(2)(i) of this section, the former reference to the fine on the "original" charge is deleted as redundant of the reference to the charge "as provided for in the original citation".

In subsection (e)(3) of this section, the reference to a warrant "for the person's arrest" is added for clarity.

Defined terms: "Commission" § 14–101
"Person" § 14–101

17–211. HOUSING OF CARETAKERS.

THE COMMISSION MAY ASSIGN LIVING QUARTERS IN A HOUSE OR BUILDING IN ITS JURISDICTION TO A PERSON:

(1) CONNECTED WITH THE COMMISSION; AND

(2) HAVING THE DUTIES OF CARETAKER OR SUPERVISORY ATTENTION OVER THE HOUSE OR BUILDING.

REVISOR'S NOTE: This section formerly was Art. 28, § 5–115.

The only changes are in style.

Defined terms: "Commission" § 14–101
"Person" § 14–101

17–212. STREET NAMES AND HOUSE NUMBERS.

(A) COMMISSION AUTHORITY.

THE COMMISSION MAY:

(1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, NAME AND RENAME ANY STREET OR HIGHWAY AND NUMBER AND RENUMBER THE HOUSES IN THE METROPOLITAN DISTRICT IF EACH NEW NUMBER OR CHANGE OF NUMBER IS REPORTED TO THE OWNER OR OCCUPANT OF THE BUILDING FOR THE PURPOSE OF:

(I) CORRECTING MISTAKES;

(II) REMOVING CONFUSION BECAUSE OF A DUPLICATION OF STREET NAMES; AND

(III) SECURING A UNIFORMITY OF STREET NAMES AND NUMBERING OF HOUSES;

(2) PLACE OR HAVE PLACED NEW NUMBERS ON THE BUILDINGS OR PREMISES AND PROPER SIGNS INDICATING THE NAMES OF STREETS AND HIGHWAYS; AND

(3) APPROPRIATE AND EXPEND AS MUCH OF ANY SURPLUS FROM FEES FOR BUILDING PERMITS ISSUED IN EACH COUNTY AS IS NECESSARY TO PAY FOR THE EXPENSES IN CARRYING OUT THIS SECTION.

(B) REGULATIONS.

(1) THE COMMISSION MAY ADOPT REASONABLE REGULATIONS FOR CARRYING OUT ANY CHANGES IN STREET OR HIGHWAY NAMES OR THE NUMBERING OF HOUSES.

(2) A VIOLATION OF A REGULATION ADOPTED UNDER THIS SUBSECTION IS A MISDEMEANOR PUNISHABLE UNDER THE GENERAL PENALTY PROVISIONS OF THIS DIVISION.

(C) PRINCE GEORGE'S COUNTY.

(1) THE COMMISSION MAY NOT RENAME ANY STREET OR RENUMBER ANY HOUSE LOCATED IN A MUNICIPAL CORPORATION IN PRINCE GEORGE'S COUNTY UNLESS THE PROPOSED CHANGE IS APPROVED BY THE LEGISLATIVE BODY OF THE MUNICIPAL CORPORATION.

(2) (I) ANY PARTY AGGRIEVED BY THE REFUSAL OF A MUNICIPAL CORPORATION TO APPROVE A PROPOSED CHANGE MAY APPEAL TO THE PRINCE GEORGE'S COUNTY COUNCIL.

(II) AFTER PUBLIC HEARING AND ON A FINDING OF NEED FOR PUBLIC HEALTH, SAFETY, AND WELFARE, THE COUNTY COUNCIL BY RESOLUTION MAY AUTHORIZE THE CHANGE NOTWITHSTANDING THE OBJECTIONS OF THE MUNICIPAL CORPORATION.

(III) THE RESOLUTION SHALL REQUIRE THE AFFIRMATIVE VOTE OF TWO–THIRDS OF ALL THE MEMBERS OF THE COUNTY COUNCIL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–117.

In the introductory language to subsection (a)(1) of this section, the former references to "chang[ing] existing names of streets and highways, and renam[ing] the streets and highways from time to time" and "chang[ing] existing numbers of houses and chang[ing] these numbers from time to time" are deleted as implicit in the reference to "nam[ing] and renam[ing] any street or highway and number[ing] and renumber[ing] the houses".

In subsection (a)(3) of this section, the former reference to a surplus "as on hand from time to time" is deleted as surplusage.

Also in subsection (a)(3) of this section, the former reference to "costs" is deleted as included in the reference to "expenses".

In subsection (b) of this section, the former references to "rules" are deleted as included in the comprehensive references to "regulations". *See* General Revisor's Note to article.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in subsection (a)(1) of this section, the authority of the Commission to name streets and number houses in the "metropolitan district" should instead refer to the "regional district". The General Assembly may wish to make this substitution by substantive legislation.

Defined terms: "Commission" § 14–101
"Metropolitan district" § 14–101

17–213. FLOOD CONTROL.

(A) CONDEMNATION AUTHORITY.

(1) IF IN THE COMMISSION'S JUDGMENT IT IS NECESSARY TO PROVIDE FOR FLOOD CONTROL IN THE METROPOLITAN DISTRICT, THE COMMISSION MAY CONDEMN LAND AND EASEMENTS NECESSARY IN THE CONSTRUCTION OF LEVEES AND OTHER FLOOD CONTROL WORKS.

(2) THE CONDEMNATION PROCEEDINGS SHALL BE IN ACCORDANCE WITH THE GENERAL POWERS PROVIDED IN THIS DIVISION.

(3) THE COMMISSION MAY ASSUME ALL DAMAGES INCIDENT TO ANY FLOOD CONTROL WORKS OR IMPROVEMENTS THAT IT FINDS NECESSARY TO CONSTRUCT, EXCEPT DAMAGES TO LAND AND EASEMENTS OF RAILROADS OR OTHER PUBLIC UTILITIES.

(4) THE COMMISSION MAY AGREE TO:

(I) FURNISH, WITHOUT COST TO THE UNITED STATES, ALL LAND AND EASEMENTS THAT MAY BE NECESSARY IN THE CONSTRUCTION OF ANY FLOOD CONTROL WORKS OR IMPROVEMENTS; AND

(II) TAKE OVER, OPERATE, AND MAINTAIN THE WORKS WHEN CONSTRUCTED.

(B) USE OF FLOOD CONTROL LAND FOR PARK PURPOSES.

THE COMMISSION MAY USE FOR PARK PURPOSES THE LAND ACQUIRED FOR FLOOD CONTROL AND NAVIGATION PROJECTS AS PROVIDED IN TITLE 25, SUBTITLE 7 OF THIS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–118.

In subsection (a)(4)(i) of this section, the former reference to "or any agency thereof" is deleted as implicit in the reference to "the United States".

Defined terms: "Commission" § 14–101
"Metropolitan district" § 14–101
"Park" § 14–101

SUBTITLE 3. PARK POLICE.

17–301. APPOINTMENT OF POLICE OFFICERS.

THE COMMISSION MAY APPOINT PARK POLICE OFFICERS AS NECESSARY TO PROVIDE PROTECTION FOR THE ACTIVITIES AND PROPERTY OF THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 28, § 5–114(a).

Defined terms: "Commission" § 14–101
"Park" § 14–101

17–302. POWERS AND DUTIES.

(A) POWERS.

THE PARK POLICE:

(1) POSSESS ALL THE POWERS AND AUTHORITY VESTED BY EXISTING LAW IN THE MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY POLICE;

(2) ARE RESPONSIBLE TO AND UNDER THE SUPERVISION OF THE COMMISSION; AND

(3) SHALL EXERCISE SUPERVISORY JURISDICTION OVER THE PARK SYSTEM.

(B) DUTIES.

THE PARK POLICE SHALL:

(1) PREVENT CRIME;

(2) APPREHEND CRIMINALS;

(3) ENFORCE THE CRIMINAL AND MOTOR VEHICLE LAWS OF THE STATE;

(4) ENFORCE PARK REGULATIONS; AND

(5) PERFORM OTHER RELATED DUTIES THAT THE COMMISSION IMPOSES.

REVISOR'S NOTES: This section is new language derived without substantive change from the second and fourth sentences of former Art. 28, § 5–114(a).

In subsection (b) of this section, the former phrase "[i]n connection with the responsibility to provide that protection," is deleted as redundant of § 17–301 of this subtitle.

Defined terms: "Commission" § 14–101
"Park" § 14–101
"State" § 14–101

17–303. JURISDICTION.

(A) CONCURRENT JURISDICTION.

THE PARK POLICE HAVE CONCURRENT GENERAL POLICE JURISDICTION WITH THE MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY POLICE:

(1) WITHIN THE PARKS AND OTHER AREAS UNDER THE JURISDICTION OF THE COMMISSION;

(2) WITHIN BUILDINGS UNDER THE JURISDICTION OF THE COMMISSION; AND

(3) ON THE PORTION OF ALL ROADS AND SIDEWALKS IMMEDIATELY ADJACENT TO PROPERTY UNDER THE JURISDICTION OF THE COMMISSION.

(B) RECIPROCAL AGREEMENTS.

(1) THE PARK POLICE HAVE JURISDICTION OFF PARK PROPERTY THAT MAY BE PROVIDED BY ANY RECIPROCAL AGREEMENT ENTERED INTO UNDER § 2–105 OF THE CRIMINAL PROCEDURE ARTICLE.

(2) A RECIPROCAL AGREEMENT SHALL SPECIFY THE CIRCUMSTANCES UNDER WHICH A PARK POLICE OFFICER MAY MAKE ARRESTS OFF OF PARK PROPERTY.

(3) NOTWITHSTANDING § 2–105 OF THE CRIMINAL PROCEDURE ARTICLE, A RECIPROCAL AGREEMENT MAY ALLOW ARRESTS IN EMERGENCY OR NONEMERGENCY SITUATIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from the third, fifth, sixth, and seventh sentences of former Art. 28, § 5–114(a).

Defined terms: "Commission" § 14–101
"Park" § 14–101
"Road" § 14–101

17–304. JURISDICTION AND POWERS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY POLICE.

THE MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY POLICE HAVE THE SAME GENERAL POLICE JURISDICTION AND RESPONSIBILITY FOR THE APPREHENSION OF CRIMINALS AND DETECTION OF CRIME WITHIN THE PARKS AND OTHER AREAS AND BUILDINGS UNDER THE JURISDICTION OF THE COMMISSION AS THEY HAVE ELSEWHERE IN THEIR RESPECTIVE COUNTIES.

REVISOR'S NOTE: This section formerly was the eighth sentence of Art. 28, § 5–114(a).

The only changes are in style.

Defined terms: "Commission" § 14–101
"Park" § 14–101

17–305. PRINCE GEORGE'S COUNTY — DEPUTY CHIEF.

(A) IN GENERAL.

(1) IN PRINCE GEORGE'S COUNTY, THE COUNTY PLANNING BOARD MAY APPOINT A DEPUTY CHIEF OF THE COUNTY DIVISION OF THE PARK POLICE.

(2) THE DEPUTY CHIEF HAS THE SAME JURISDICTION, POWERS, AND AUTHORITY AS PARK POLICE OFFICERS APPOINTED BY THE COMMISSION.

(B) TENURE.

THE DEPUTY CHIEF SHALL SERVE AT THE PLEASURE OF THE COUNTY PLANNING BOARD.

(C) COMPENSATION.

THE COUNTY PLANNING BOARD SHALL SET THE COMPENSATION OF THE DEPUTY CHIEF.

REVISOR'S NOTE: This section formerly was Art. 28, § 5–114(b).

In subsection (c) of this section, the former phrase "from time to time" is deleted as surplusage.

The only other changes are in style.

Defined terms: "Commission" § 14–101
"County planning board" § 14–101
"Park" § 14–101

SUBTITLE 4. MISCELLANEOUS PROPERTY.

17–401. LAND FOR ADMINISTRATION BUILDING.

THE COMMISSION MAY NOT ACQUIRE NEW LAND OR USE LAND ALREADY HELD BY THE COMMISSION FOR THE PURPOSE OF CONSTRUCTING AN ADMINISTRATION BUILDING WITHOUT THE PRIOR APPROVAL OF THE COUNTY EXECUTIVE AND COUNTY COUNCIL OF MONTGOMERY COUNTY AND THE COUNTY EXECUTIVE AND COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–125.

The former phrase "acting jointly" is deleted as implicit in the requirement that the county executives and county councils of both Montgomery County and Prince George's County give approval.

Defined term: "Commission" § 14–101

17–402. GLENN DALE HOSPITAL PROPERTY.

(A) ACQUISITION OF TITLE.

THE COMMISSION HAS ACQUIRED TITLE TO THE ENTIRE PARCEL OF PROPERTY KNOWN AS GLENN DALE HOSPITAL FOR USE IN ACCORDANCE WITH THIS SECTION.

(B) DUTIES OF COMMISSION.

(1) THE COMMISSION:

(I) SHALL MAINTAIN THE APPROXIMATELY 150 ACRES THAT HAVE NOT BEEN DEVELOPED AS PART OF THE EXISTING HOSPITAL CAMPUS IN THE COMMISSION'S PARK SYSTEM; AND

(II) MAY SELL, LEASE, OR OTHERWISE TRANSFER THE APPROXIMATELY 60 ACRES THAT HAVE BEEN DEVELOPED AS A HOSPITAL CAMPUS TO A PERSON WHO WILL USE THE PROPERTY AS A CONTINUING CARE RETIREMENT COMMUNITY IN ACCORDANCE WITH TITLE 10, SUBTITLE 4 OF THE HUMAN SERVICES ARTICLE.

(2) IF THE COMMISSION IS UNABLE TO FIND A QUALIFIED PERSON TO CARRY OUT THE INTENT OF PARAGRAPH (1)(II) OF THIS SUBSECTION, THE COMMISSION SHALL RETAIN POSSESSION OF THE APPROXIMATELY 60 ACRES UNTIL THE GENERAL ASSEMBLY APPROVES AN ALTERNATE USE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–127.

In subsection (a) of this section, the former obsolete requirement for the Commission to acquire title to certain property on the sale of all or part of the property by the District of Columbia is deleted because the acquisition has already occurred. Similarly, in subsection (b) of this section, the former obsolete reference to "incorporat[ing] [certain property] into the Commission's park system" is deleted because the incorporation has already occurred.

Also in subsection (a) of this section, the reference to acquiring title to "the entire parcel of property known as Glenn Dale Hospital" is substituted for the former references to acquiring title to "the approximately 150 acres that have not been developed as part of the existing hospital campus" and "the approximately 60 acres that have been developed as a hospital campus" for brevity and clarity.

In subsection (b)(1)(i) of this section, the former phrase "in perpetuity" is deleted as being implicit.

In subsection (b)(2) of this section, the reference to "paragraph (1)(ii) of this subsection" is substituted for the former reference to "this section" for accuracy.

Defined terms: "Commission" § 14–101
"Park" § 14–101
"Person" § 14–101

17–403. JESUP BLAIR PARK.

(A) GIFT OF PROPERTY.

(1) THE COMMISSION HAS RECEIVED PROPERTY AS A GIFT UNDER THE LAST WILL OF VIOLET BLAIR JANIN TO ESTABLISH A PUBLIC PARK IN MEMORY OF JESUP BLAIR.

(2) THE PROPERTY RECEIVED UNDER PARAGRAPH (1) OF THIS SUBSECTION IS THE PORTION OF THE FARM, "THE MOORINGS", FROM THE TREES FRONTING ON GEORGIA AVENUE AND BLAIR ROAD, INCLUDING ALL IMPROVEMENTS.

(3) IN ACCORDANCE WITH THE CONDITIONS SET FORTH IN THE WILL, THE COMMISSION SHALL:

(I) MAKE AMPLE PROVISION FOR THE MAINTENANCE OF THE PROPERTY AS A PUBLIC PARK;

(II) UNLESS IT IS ABSOLUTELY NECESSARY TO REMOVE TREES IN CONNECTION WITH THE LAYING OUT OF THE PUBLIC PARK, PRESERVE ALL OF THE TREES ON THE PROPERTY; AND

(III) REPLACE ANY TREES ON THE PROPERTY THAT ARE DESTROYED OR DIE.

(B) AUTHORITY OF COMMISSION.

THE COMMISSION MAY POSSESS, MANAGE, CONTROL, AND MAINTAIN THE PROPERTY AS A PUBLIC PARK AND MEMORIAL TO JESUP BLAIR BY:

(1) PRESERVING TREES ON THE PROPERTY;

(2) MAINTAINING GOOD ORDER IN THE PUBLIC PARK;

(3) BUILDING AND MAINTAINING ROADS, BUILDINGS, AND CONVENIENCES AS NECESSARY OR ADVISABLE;

(4) REPLACING TREES THAT DIE OR ARE DESTROYED; AND

(5) TAKING OTHER ACTIONS NECESSARY TO MAINTAIN THE PUBLIC PARK IN GOOD CONDITION AND CARRY OUT THE PURPOSES OF THE GIFT.

(C) COST OF MAINTENANCE.

THE COMMISSION SHALL MAKE YEARLY EXPENDITURES FROM THE GENERAL REVENUES OF THE COMMISSION RECEIVED UNDER THIS DIVISION TO PAY THE COST OF THE MAINTENANCE, DEVELOPMENT, AND USE OF THE PUBLIC PARK AS NECESSARY TO ACCOMPLISH THE PURPOSES OF THIS DIVISION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–106(a) through (c).

Throughout this section, the references to "public park" are substituted for the former references to "park open to the public" for brevity and consistency throughout this section.

Also throughout this section, the word "gift" is substituted for the former word "devise" to use more modern terminology.

Also throughout this section, the former terms "perpetual", "perpetually", and "in perpetuity" are deleted as being implicit.

In subsection (a)(2) of this section, the reference to "Georgia Avenue" is substituted for the former obsolete reference to "Brookville Pike" for clarity. Similarly, also in subsection (a)(2) of this section, the reference to "Blair Road" is substituted for the former reference to "the road on the south" for clarity and accuracy.

In subsection (b)(5) of this section, the reference to "necessary" actions is substituted for the former reference to "right and proper" actions for brevity.

In subsection (c) of this section, the references to this "division" are substituted for the former references to this "title" for clarity.

Former Art. 28, § 5–106(d), which required the Commission to have a survey made and mark certain boundaries, is not retained in the Code because it is apparently obsolete, the survey and marks having already been completed. It is transferred to the Session Laws to avoid any inadvertent substantive effect its repeal might have. *See* § 9 of Ch. 426, Acts of 2012.

Defined terms: "Commission" § 14–101
"Park" § 14–101
"Road" § 14–101

TITLE 18. FINANCES.

SUBTITLE 1. BUDGET.

PART I. ANNUAL BUDGETS.

18–101. APPLICATION OF OTHER LAWS.

THE PUBLIC GENERAL LAWS GOVERNING THE PREPARATION AND FILING OF BUDGETS BY STATE UNITS DO NOT APPLY TO THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of the introductory language to former Art. 28, § 2–118(a).

The reference to "units" is substituted for the former reference to "agencies" for consistency with other revised articles of the Code. *See* General Revisor's Note to article.

Defined terms: "Commission" § 14–101
"State" § 14–101

18–102. REQUIRED.

THE COMMISSION SHALL PREPARE ANNUAL CAPITAL AND OPERATING BUDGETS FOR EACH FISCAL YEAR BEGINNING ON JULY 1 AND ENDING ON JUNE 30 OF THE SUBSEQUENT YEAR.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 28, § 2–118(a)(1), as it related to the requirement to prepare annual budgets.

The second sentence of former Art. 28, § 2–118(a)(1), which provided that "[t]he proposed budget shall be established as hereinafter set forth", is deleted as unnecessary.

Defined term: "Commission" § 14–101

18–103. CONTENTS.

THE BUDGETS SHALL CONTAIN:

(1) SEPARATELY FOR EACH COUNTY FOR WHICH ITEMS ARE ALLOCABLE AND FOR WHICH A TAX IS IMPOSED, THE PROPOSED EXPENDITURES AND ESTIMATES OF ANTICIPATED REVENUE;

(2) A COMPLETE PLANNING WORK PROGRAM FOR EACH COUNTY IN THE REGIONAL DISTRICT, INCLUDING A SCHEDULE FOR THE PRODUCTION OF ALL PLANS AND AMENDMENTS;

(3) ITEMS ALLOCABLE JOINTLY TO BOTH COUNTIES, INCLUDING PROVISIONS FOR:

(I) THE OPERATION OF THE UNITS OF THE COMMISSION ESTABLISHED BY LAW; AND

(II) THE REGIONAL PLANNING PROGRAM; AND

(4) A SCHEDULE OF RECREATION ACTIVITIES AND PROGRAMS FOR PRINCE GEORGE'S COUNTY IN ACCORDANCE WITH § 25–806 OF THIS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from the third through fifth sentences and, as it related to the required contents of the budgets, the first sentence of former Art. 28, § 2–118(a)(1).

In item (1) of this section, the reference to a tax "imposed" is substituted for the former reference to a tax "levied" for consistency with other recently revised articles of the Code.

In item (2) of this section, the former phrase "hereinafter called the planning schedule of the Commission" is deleted as unnecessary because the term "planning schedule" is not used in this subtitle.

In item (3)(i) of this section, the reference to "units" is substituted for the former reference to "departments" for consistency with other revised articles of the Code. *See* General Revisor's Note to article.

Defined terms: "Commission" § 14–101
"County" § 14–101
"Regional district" § 14–101

18–104. SUBMISSION TO COUNTY EXECUTIVES.

THE COMMISSION SHALL SUBMIT THE PROPOSED BUDGETS ON OR BEFORE JANUARY 15 OF EACH YEAR TO THE COUNTY EXECUTIVES OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–118(a)(2).

Defined terms: "Commission" § 14–101
"County" § 14–101

18–105. SUBMISSION TO COUNTY COUNCILS.

(A) MONTGOMERY COUNTY.

IN MONTGOMERY COUNTY, THE COUNTY EXECUTIVE SHALL SUBMIT THE PROPOSED BUDGETS TO THE COUNTY COUNCIL, TOGETHER WITH THE COUNTY EXECUTIVE'S RECOMMENDATIONS, ON OR BEFORE MARCH 1 OF EACH YEAR.

(B) PRINCE GEORGE'S COUNTY.

IN PRINCE GEORGE'S COUNTY, THE COUNTY EXECUTIVE SHALL SUBMIT THE PROPOSED BUDGETS TO THE COUNTY COUNCIL, TOGETHER WITH THE COUNTY EXECUTIVE'S RECOMMENDATIONS, ON OR BEFORE APRIL 1 OF EACH YEAR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–118(a)(3).

In this section, the references to "submit[ting]" the proposed budgets are substituted for the former references to "transmit[ting]" the proposed budget for consistency throughout this subtitle.

Defined term: "County" § 14–101

18–106. APPROVAL BY COUNTY COUNCILS.

(A) PUBLIC HEARING.

AFTER PUBLIC NOTICE, EACH COUNTY COUNCIL SHALL HOLD A PUBLIC HEARING ON THE COMMISSION'S PROPOSED BUDGETS AT LEAST 21 DAYS AFTER RECEIVING THE BUDGETS FROM THE COUNTY EXECUTIVE.

(B) APPROVAL.

ON OR BEFORE JUNE 1 OF EACH YEAR, EACH COUNTY COUNCIL SHALL, BY RESOLUTION:

(1) APPROVE THE PORTION OF THE BUDGETS ALLOCABLE TO THAT COUNTY, WITH ANY ALTERATIONS MADE UNDER SUBSECTION (C) OF THIS SECTION; AND

(2) SUBJECT TO THE REQUIREMENTS AND LIMITATIONS OF SUBTITLES 3 AND 4 OF THIS TITLE AND TITLE 21 OF THIS ARTICLE, IMPOSE TAXES IN THE AMOUNTS THE COUNTY COUNCIL DETERMINES TO BE NECESSARY TO FINANCE THE PORTION OF THE BUDGETS ALLOCABLE TO THAT COUNTY.

(C) ALTERATION.

EACH COUNTY COUNCIL MAY ADD TO, DELETE FROM, INCREASE, OR DECREASE ANY PART OF THE BUDGETS ALLOCABLE SOLELY TO THAT COUNTY.

(D) CONCURRENCE; EFFECT OF FAILURE TO CONCUR.

(1) BUDGET ITEMS ALLOCABLE TO BOTH COUNTIES AS SUBMITTED BY THE COMMISSION SHALL BE CONCURRED IN BY BOTH COUNTY COUNCILS.

(2) THE COUNTY COUNCILS MAY CONCUR IN ADDITIONS TO, DELETIONS FROM, INCREASES TO, OR DECREASES FROM BUDGET ITEMS ALLOCABLE TO BOTH COUNTIES.

(3) FAILURE OF THE COUNTY COUNCILS TO CONCUR IN ANY BUDGET ITEM ALLOCABLE TO BOTH COUNTIES BY JUNE 15 SHALL CONSTITUTE APPROVAL OF THE ITEM AS SUBMITTED BY THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–118(a)(4).

In the introductory language to subsection (b) of this section, the phrase "by resolution" is added for clarity.

Also in the introductory language to subsection (b) of this section, the former phrase "in Montgomery County and Prince George's County" is deleted as surplusage.

In subsection (b)(1) of this section, the phrase "with any alterations made under subsection (c) of this section" is substituted for the former phrase "which may be altered as hereinafter provided" for clarity.

Also in subsection (b)(1) of this section, the reference to "impos[ing] taxes" is substituted for the former reference to "establish[ing] tax levies" for consistency with other recently revised articles of the Code.

In subsection (d)(2) of this section, the former phrase "[w]ith respect to such budget items" is deleted as surplusage.

Defined terms: "Commission" § 14–101
"County" § 14–101

18–107. COUNTY EXECUTIVE; VETO.

(A) SUBMISSION.

WITHIN 3 CALENDAR DAYS AFTER APPROVAL OF THE BUDGETS, EACH COUNTY COUNCIL SHALL SUBMIT THE BUDGETS TO THE RESPECTIVE COUNTY EXECUTIVE.

(B) DISAPPROVAL OR REDUCTION.

WITHIN 10 DAYS AFTER DELIVERY OF THE BUDGETS BY THE COUNTY COUNCIL, THE COUNTY EXECUTIVE MAY DISAPPROVE OR REDUCE ANY ITEM CONTAINED IN THE BUDGETS OR THE PLANNING WORK PROGRAM.

(C) RETURN TO COUNTY COUNCIL.

IF THE COUNTY EXECUTIVE DISAPPROVES OR REDUCES ANY ITEM IN THE BUDGETS, THE COUNTY EXECUTIVE SHALL RETURN THE BUDGETS TO THE RESPECTIVE COUNTY COUNCIL WITH THE REASONS FOR THE COUNTY EXECUTIVE'S DISAPPROVAL OR REDUCTION STATED IN WRITING.

(D) VOTE TO OVERRIDE.

WITHIN 30 DAYS AFTER THE RESPECTIVE COUNTY EXECUTIVE RETURNS THE BUDGETS, EACH COUNTY COUNCIL MAY, BY AFFIRMATIVE VOTE OF SIX OF ITS MEMBERS, REAPPROVE OR RESTORE ANY ITEM OVER THE DISAPPROVAL OF THE COUNTY EXECUTIVE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–118(a)(5).

In subsection (c) of this section, the former reference to "modif[ying]" any item is deleted for consistency within this section.

In subsection (d) of this section, the reference to 30 days "after the respective county executive returns the budgets" is added for clarity.

Defined term: "County" § 14–101

18–108. BUDGET AMENDMENTS.

(A) IN GENERAL.

AFTER ADOPTION OF THE BUDGETS BY THE COUNTY COUNCILS, THE BUDGETS MAY BE AMENDED BY RESOLUTION BY THE COUNTY COUNCILS ON THEIR INITIATIVE OR AT THE REQUEST OF THE COMMISSION.

(B) RECOMMENDATIONS; PUBLIC HEARING.

BEFORE ADOPTING A BUDGET AMENDMENT UNDER THIS SUBSECTION, A COUNTY COUNCIL SHALL:

(1) RECEIVE RECOMMENDATIONS FROM THE RESPECTIVE COUNTY EXECUTIVE; AND

(2) HOLD A PUBLIC HEARING ON REASONABLE NOTICE TO THE PUBLIC.

(C) CONCURRENCE REQUIRED.

AN AMENDMENT TO A BUDGET ITEM ALLOCABLE TO BOTH COUNTIES IS NOT EFFECTIVE UNLESS IT HAS RECEIVED THE CONCURRENCE OF BOTH COUNTY COUNCILS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–118(a)(6).

In subsection (a) of this section, the former references to the "respective" county councils are deleted as surplusage.

Defined terms: "Commission" § 14–101
"County" § 14–101

18–109. LIMITATIONS ON EXPENDITURES.

(A) IN GENERAL.

UNLESS APPROVED BY EITHER OR BOTH COUNTY COUNCILS, AS APPLICABLE, AFTER RECEIVING RECOMMENDATIONS FROM EITHER OR BOTH COUNTY EXECUTIVES, THE COMMISSION MAY NOT MAKE OR AUTHORIZE AN EXPENDITURE OF FUNDS EXCEEDING 110% OF THE AVAILABLE APPROVED BUDGET AMOUNTS FOR:

(1) EACH PARK AND RECREATION PROJECT AND EACH ADMINISTRATIVE OR OPERATING DEPARTMENT OR FUNCTION OF THE COMMISSION, AS SET FORTH IN EACH COUNTY'S LEGISLATION APPROVING THE BUDGETS; AND

(2) EACH PLANNING PROJECT CONTAINED IN THE PLANNING WORK PROGRAM FOR EACH COUNTY.

(B) TOTAL APPROVED BUDGETS.

EXCEPT FOR ENTERPRISE FUNDS, THE COMMISSION MAY NOT EXCEED THE TOTAL APPROVED BUDGETS FOR EACH OF ITS FUNDS, WITHOUT THE PRIOR APPROVAL OF EITHER OR BOTH COUNTY COUNCILS, AS APPLICABLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–118(a)(7).

In the introductory language to subsection (a) of this section, the phrase "as applicable" is substituted for the former phrase "as the case may require" for clarity and consistency within this subsection.

Also in the introductory language to subsection (a) of this section, the phrase "110% of the available approved budget amounts" is substituted for the former phrase "the available approved budget amounts plus 10 percent thereof" for clarity.

Defined terms: "Commission" § 14–101
"County" § 14–101

18–110. RESERVED.

18–111. RESERVED.

PART II. CAPITAL IMPROVEMENTS PROGRAM.

18–112. PREPARATION AND SUBMISSION TO COUNTIES.

THE COMMISSION SHALL PREPARE AND SUBMIT A 6–YEAR CAPITAL IMPROVEMENTS PROGRAM:

(1) BEFORE NOVEMBER 1 OF EACH ODD–NUMBERED CALENDAR YEAR TO THE COUNTY EXECUTIVE AND COUNTY COUNCIL OF MONTGOMERY COUNTY; AND

(2) BEFORE JANUARY 15 OF EACH CALENDAR YEAR TO THE COUNTY GOVERNING BODY OF PRINCE GEORGE'S COUNTY.

REVISOR'S NOTE: This section formerly was Art. 28, § 2–118(b)(1)(i).

The only change is in style.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in this part the term "county governing body" is used inconsistently. While it is the only term used for provisions relating to Prince George's County, there are specific references to the "County Executive and County Council of Montgomery County", which seem to be the county governing body of that county under charter home rule. The General Assembly may wish to clarify the term in this part by using the term "local governing body", which is consistent with many other provisions in this article, or if the intention is to mean only the county council, to use that term or the term "legislative body" as defined and used throughout Division I of this article.

Defined terms: "Commission" § 14–101
"County" § 14–101

18–113. CONTENTS.

THE CAPITAL IMPROVEMENTS PROGRAM SHALL:

(1) INCLUDE A STATEMENT OF THE OBJECTIVES OF THE CAPITAL PROGRAMS AND THE RELATIONSHIP OF THE PROGRAMS TO THE COUNTY'S ADOPTED LONG RANGE DEVELOPMENT PLANS;

(2) RECOMMEND CAPITAL PROJECTS AND A CONSTRUCTION SCHEDULE;

(3) PROVIDE AN ESTIMATE OF COST AND A STATEMENT OF ALL FUNDING SOURCES; AND

(4) INCLUDE ALL PROGRAMMED PARKLAND ACQUISITION, ALL MAJOR PARK IMPROVEMENT AND DEVELOPMENT, AND MAJOR ACQUISITION OF EQUIPMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–118(b)(1)(ii).

In item (4) of this section, the reference to major "park" improvement is substituted for the former reference to major "parkland" improvement for clarity.

Defined terms: "County" § 14–101
"Park" § 14–101

18–114. RECOMMENDATIONS BY MONTGOMERY COUNTY EXECUTIVE.

IN MONTGOMERY COUNTY, THE COUNTY EXECUTIVE SHALL SUBMIT RECOMMENDATIONS WITH RESPECT TO THE COMMISSION'S PROPOSED PROGRAM, INCLUDING ANY SUGGESTED AMENDMENTS, REVISIONS, OR MODIFICATIONS, TO THE COUNTY COUNCIL AS PART OF THE COMPREHENSIVE 6–YEAR CAPITAL IMPROVEMENTS PROGRAM REQUIRED BY THE COUNTY CHARTER IN EACH EVEN–NUMBERED CALENDAR YEAR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–118(b)(1)(iii).

The former reference to "an integral" part of the program is deleted as surplusage.

Defined terms: "Commission" § 14–101

"County" § 14–101

18–115. ADOPTION BY COUNTY GOVERNING BODIES.

(A) SCHEDULE.

ON OR BEFORE ADOPTION OF ITS ANNUAL BUDGET AND APPROPRIATIONS RESOLUTION, EACH COUNTY GOVERNING BODY SHALL ADOPT THE 6–YEAR CAPITAL IMPROVEMENTS PROGRAM:

(1) EACH EVEN–NUMBERED CALENDAR YEAR IN MONTGOMERY COUNTY; AND

(2) EACH YEAR IN PRINCE GEORGE'S COUNTY.

(B) PUBLIC HEARING.

(1) EACH COUNTY GOVERNING BODY SHALL HOLD A PUBLIC HEARING BEFORE ADOPTING THE 6–YEAR CAPITAL IMPROVEMENTS PROGRAM.

(2) THE PUBLIC HEARING MAY BE CONDUCTED IN CONJUNCTION WITH PUBLIC HEARINGS ON THE 6–YEAR PROGRAMS OR CAPITAL BUDGETS OF THE COUNTY AND OTHER UNITS.

(C) AMENDMENT.

(1) EACH COUNTY GOVERNING BODY MAY AMEND, REVISE, OR MODIFY THE 6–YEAR CAPITAL IMPROVEMENTS PROGRAM.

(2) AN AMENDMENT, REVISION, OR MODIFICATION MADE UNDER THIS PARAGRAPH MAY NOT BECOME FINAL UNTIL AT LEAST 30 DAYS AFTER IT IS SUBMITTED TO THE COMMISSION FOR WRITTEN COMMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–118(b)(2)(i) and (ii).

In subsection (b)(1) of this section, the reference to the "county governing body" holding a public hearing is added for clarity.

In subsection (b)(2) of this section, the reference to "units" is substituted for the former reference to "agencies"' for consistency with other revised articles of the Code. *See* General Revisor's Note to article.

In subsection (c)(1) of this section, the former phrase "as it may determine" is deleted as surplusage.

In subsection (c)(2) of this section, the reference to "30 days after" is substituted for the former reference to "30 days' notice" for clarity.

Defined terms: "Commission" § 14–101
"County" § 14–101

18–116. AMENDMENT OF APPROVED PROGRAM IN MONTGOMERY COUNTY.

IN MONTGOMERY COUNTY, THE COUNTY COUNCIL MAY AMEND AN APPROVED 6–YEAR CAPITAL IMPROVEMENTS PROGRAM AT ANY TIME BY AN AFFIRMATIVE VOTE OF SIX OF ITS MEMBERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–118(b)(2)(iii).

Defined term: "County" § 14–101

18–117. COMMISSION'S CAPITAL BUDGET.

(A) CONFORMITY REQUIRED.

THE COMMISSION'S CAPITAL BUDGET FOR EACH FISCAL YEAR MAY INCLUDE ONLY PROJECTS THAT FULLY CONFORM WITH THE PART OF THE MOST RECENTLY ADOPTED 6–YEAR CAPITAL IMPROVEMENTS PROGRAM APPLICABLE TO THAT YEAR.

(B) AMENDMENT.

(1) UNLESS THE 6–YEAR CAPITAL IMPROVEMENTS PROGRAM HAS BEEN AMENDED IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION, A CAPITAL PROJECT MAY NOT BE UNDERTAKEN, WHOLLY OR PARTLY, THAT IS NOT IN CONFORMITY WITH THE PART OF THE PROGRAM APPLICABLE TO THAT YEAR.

(2) THE 6–YEAR CAPITAL IMPROVEMENTS PROGRAM MAY BE AMENDED BY THE COUNTY GOVERNING BODY:

(I) ON ITS OWN INITIATIVE OR AT THE REQUEST OF THE COMMISSION; AND

(II) AFTER A PUBLIC HEARING ON REASONABLE NOTICE TO THE PUBLIC.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–118(b)(3).

In subsection (a) of this section, the reference to the program "applicable to that year" is added for clarity and consistency with subsection (b)(1) of this section.

Also in subsection (a) of this section, the reference to "each" fiscal year is substituted for the former reference to the "succeeding" fiscal year for clarity.

Defined terms: "Commission" § 14–101
"County" § 14–101

GENERAL REVISOR'S NOTE TO SUBTITLE

The second sentence of the introductory language to former Art. 28, § 2–118(a), which ratified the "budget programs and procedures heretofore followed by the Commission", is not retained in the Code because it is apparently obsolete. It is transferred to the Session Laws to avoid any inadvertent substantive effect its repeal might have. *See* § 10 of Ch. 426, Acts of 2012.

SUBTITLE 2. DEBT AND SECURITIES.

18–201. "BOND" DEFINED.

IN THIS SUBTITLE, "BOND" MEANS A BOND, NOTE, OR OTHER EVIDENCE OF INDEBTEDNESS ISSUED UNDER THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 6–101(a), as it related to the definition of "bond[s]".

18–202. CONSTRUCTION OF SUBTITLE.

A REQUIREMENT FOR SIGNATURE UNDER THIS SUBTITLE MAY BE SATISFIED BY MANUAL OR FACSIMILE SIGNATURE.

REVISOR'S NOTE: This section is new language added for clarity and consistency within this subtitle.

18–203. BONDS — IN GENERAL.

(A) AUTHORIZATION.

THE COMMISSION MAY ISSUE AND SELL BONDS IN AMOUNTS NECESSARY FOR THE PURPOSES UNDER SUBSECTION (B) OF THIS SECTION AND UNDER REGULATIONS THE COMMISSION DETERMINES.

(B) PURPOSES.

THE COMMISSION MAY ISSUE THE BONDS TO PAY FOR THE ACQUISITION OF PROPERTY IN THE METROPOLITAN DISTRICT FOR THE PURPOSES OF § 17–101(B) OF THIS ARTICLE.

(C) TIMING.

THE COMMISSION MAY ISSUE THE BONDS PERIODICALLY IN ONE OR MORE SERIES.

(D) BONDS OUTSTANDING.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE AMOUNT OF BONDS OUTSTANDING AT ANY TIME MAY NOT EXCEED AN AMOUNT THAT IS REDEEMABLE WITHIN 30 YEARS FROM THE DATE OF ISSUE BY THE TAX AUTHORIZED AND PLEDGED TO PAY THE BONDS, TO THE EXTENT THAT THE TAX IS PROPOSED TO BE IMPOSED IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY OR BOTH.

(2) TO DETERMINE THE AMOUNT OF BONDS THAT MAY BE OUTSTANDING UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSION MAY ASSUME:

(I) FUTURE IMPOSITION OF THE TAX AT THE RATE ESTABLISHED BY EACH COUNTY;

(II) 100% COLLECTION OF THE TAX IN EACH FISCAL YEAR; AND

(III) THE ASSESSED VALUE OF PROPERTY AT THE TIME THE BONDS ARE ISSUED WILL REMAIN CONSTANT.

(E) TERMS AND CONDITIONS.

THE BONDS SHALL:

(1) BE REGISTERED OR COUPON BONDS IN DENOMINATIONS DETERMINED BY THE COMMISSION;

(2) BEAR INTEREST:

(I) ANNUALLY AT A RATE THE COMMISSION DETERMINES TO BE ADVANTAGEOUS AND OTHERWISE IN THE PUBLIC INTEREST; AND

(II) PAYABLE SEMIANNUALLY OR AT A TIME DETERMINED BY THE COMMISSION;

(3) MATURE WITHIN 50 YEARS FROM THE DATE OF ISSUE; AND

(4) BE ISSUED UNDER THE HAND AND SEAL OF THE COMMISSION, BY MANUAL OR FACSIMILE SIGNATURE.

(F) SALE.

NOTWITHSTANDING ANY OTHER LAW, THE COMMISSION MAY SELL THE BONDS BY COMPETITIVE OR NEGOTIATED SALE IN A MANNER, FOR A PRICE, AND AT RATES THE COMMISSION DETERMINES TO BE IN ITS BEST INTERESTS.

(G) REDEMPTION.

(1) IN THE ISSUE OF BONDS, THE COMMISSION MAY PROVIDE FOR THE REDEMPTION OF SOME OR ALL OF THE BONDS BEFORE THEIR STATED MATURITY.

(2) THE REDEMPTION PRICE OF THE BONDS MAY BE GREATER THAN THE PAR VALUE OF THE BONDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 6–101(b) and (c), and, as it related to the authorization of bonds, notes, and other obligations, (a).

In subsection (a) of this section, the reference to "the purposes under subsection (b) of this section" is substituted for the former reference to "these purposes" for clarity.

Also in subsection (a) of this section, the former word "serial" is deleted as unnecessary in light of the authorization in subsection (c) to issue bonds in one or more series.

Also in subsection (a) of this section, the former reference to amounts "[the Commission] deems" necessary is deleted as implicit in the authority to issue the bonds.

In subsection (b) of this section and throughout this title, the former reference to the acquisition of "lands or other" property is deleted as included in the comprehensive reference to "property". *See* General Revisor's Note to article.

Also in subsection (b) of this section and throughout this title, the former reference to acquisition "whether by condemnation or purchase" is deleted as surplusage. The comprehensive reference to "acquisition" is not limited as to method of payment or form of consideration, and within the context of this subtitle, acquisition by payment financed by bonds is assumed. No substantive change is intended.

Also in subsection (b) of this section, the reference to the "metropolitan" district is added for clarity.

Also in subsection (b) of this section, the former reference to the acquisition of land or other property "by the Commission" is deleted as implicit in the reference to the Commission issuing bonds to pay for the acquisition.

In subsection (c) of this section, the reference to issuing bonds "in one or more series" is substituted for the former phrase "which need not be serial," for clarity.

In subsection (d)(1) of this section, the reference to "the tax authorized and pledged" is substituted for the former reference to the "means of so much of the tax or taxes hereinafter authorized as is pledged" for brevity.

Also in subsection (d)(1) of this section, the reference to a tax to be "imposed" is substituted for the former reference to a tax to be "levied" for consistency with other revised articles of the Code. *See*, *e.g.*, PU §§ 17–201 and 22–106. Similarly, in subsection (d)(2)(i) of this section, the reference to "imposition" is substituted for the former reference to "levy".

In the introductory language to subsection (d)(2) of this section, the phrase "[t]o determine the amount of bonds that may be outstanding under paragraph (1) of this subsection" is substituted for the former

phrase "[i]n making the calculation to determine compliance with the limitation contained in this subsection" for clarity.

In subsection (d)(2)(i) of this section, the former reference to "taxes" is deleted in light of the reference to "tax" and Art. 1, § 8, which provides that the singular generally includes the plural.

Also in subsection (d)(2)(i) of this section, the former reference to "continued" future imposition of the tax is deleted as surplusage.

As to the deletion of the former reference to "rules" in subsection (a) of this section, *see* General Revisor's Note to article.

Defined terms: "Bond" § 18–201
"Commission" § 14–101
"Metropolitan district" § 14–101

18–204. BONDS — FULL FAITH AND CREDIT; LIABILITY.

(A) FULL FAITH AND CREDIT.

THE BONDS SHALL BE ISSUED ON THE FULL FAITH AND CREDIT OF THE COMMISSION AND THE COUNTY GUARANTEEING THE BONDS.

(B) USE OF BOND PROCEEDS — METROPOLITAN DISTRICT.

(1) IF THE COMMISSION DECIDES TO SPEND THE PROCEEDS OF A BOND ISSUE THROUGHOUT THE METROPOLITAN DISTRICT, MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SHALL GUARANTEE THE PAYMENT OF PRINCIPAL OF AND INTEREST ON THE BONDS.

(2) THE FOLLOWING GUARANTEE SHALL BE STATED ON EACH BOND:

"THE PAYMENT OF INTEREST WHEN DUE AND OF THE PRINCIPAL ON MATURITY IS GUARANTEED BY MONTGOMERY AND PRINCE GEORGE'S COUNTIES, MARYLAND.".

(3) THE COUNTY EXECUTIVES OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SHALL SIGN THE ENDORSEMENT BY MANUAL OR FACSIMILE SIGNATURE ON EACH BOND.

(4) IF THERE IS ANY LIABILITY UNDER THE GUARANTEE, EACH COUNTY'S LIABILITY SHALL BE IN THE PROPORTION THE ASSESSABLE BASIS

FOR THAT PART OF THE COUNTY IN THE METROPOLITAN DISTRICT BEARS TO THE ASSESSABLE BASIS OF THE WHOLE DISTRICT.

(C) USE OF BOND PROCEEDS — MONTGOMERY COUNTY.

(1) IF THE PROCEEDS OF A BOND ISSUE ARE TO BE EXPENDED ONLY IN OR FOR THE BENEFIT OF A PORTION OF THE METROPOLITAN DISTRICT THAT IS IN MONTGOMERY COUNTY, MONTGOMERY COUNTY SHALL GUARANTEE THE PAYMENT OF PRINCIPAL OF AND INTEREST ON THE BONDS.

(2) THE FOLLOWING GUARANTY SHALL BE STATED ON EACH BOND:

"THE PAYMENT OF INTEREST WHEN DUE AND OF THE PRINCIPAL ON MATURITY IS GUARANTEED BY MONTGOMERY COUNTY, MARYLAND.".

(3) THE COUNTY EXECUTIVE OF MONTGOMERY COUNTY SHALL SIGN THE ENDORSEMENT BY MANUAL OR FACSIMILE SIGNATURE ON EACH BOND.

(D) USE OF BOND PROCEEDS — PRINCE GEORGE'S COUNTY.

(1) IF THE PROCEEDS OF A BOND ISSUE ARE TO BE EXPENDED ONLY IN OR FOR THE BENEFIT OF A PORTION OF THE METROPOLITAN DISTRICT THAT IS IN PRINCE GEORGE'S COUNTY, PRINCE GEORGE'S COUNTY SHALL GUARANTEE THE PAYMENT OF PRINCIPAL OF AND INTEREST ON THE BONDS.

(2) THE FOLLOWING GUARANTY SHALL BE ENDORSED ON EACH BOND:

"THE PAYMENT OF INTEREST WHEN DUE AND OF THE PRINCIPAL ON MATURITY IS GUARANTEED BY PRINCE GEORGE'S COUNTY, MARYLAND.".

(3) THE COUNTY EXECUTIVE OF PRINCE GEORGE'S COUNTY SHALL SIGN THE ENDORSEMENT BY MANUAL OR FACSIMILE SIGNATURE ON EACH BOND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 6–101(d).

In subsection (a) of this section, the former reference to "counties" is deleted in light of the reference to "county" and Art. 1, § 8, which provides that the singular generally includes the plural.

Also in subsection (a) of this section, the former phrase "as hereinafter provided" is deleted as surplusage.

In subsection (d)(2) and (3) of this section, the references to "[t]he following guarantee shall be endorsed on each bond: 'The payment of interest when due and of the principal on maturity is guaranteed by Prince George's County, Maryland'" and "[t]he County Executive of Prince George's County shall sign the endorsement by manual or facsimile signature on each bond" are substituted for the former phrase "in the same form and manner as is above provided for Montgomery County" for clarity and accuracy.

Defined terms: "Bond" § 18–201
"Commission" § 14–101
"Metropolitan district" § 14–101

18–205. BONDS — USE OF PROCEEDS.

(A) USE IN METROPOLITAN DISTRICT.

SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION, IF THE PROCEEDS OF A BOND ISSUE ARE TO BE EXPENDED THROUGHOUT THE METROPOLITAN DISTRICT, THE PROCEEDS SHALL BE EXPENDED IN THE PORTION OF EACH COUNTY IN THE METROPOLITAN DISTRICT IN THE PROPORTION THAT THE ASSESSABLE BASE OF THAT PORTION OF EITHER COUNTY BEARS TO THE ASSESSABLE BASE OF THE ENTIRE METROPOLITAN DISTRICT.

(B) CORPORATE PURPOSES.

THE COMMISSION MAY ISSUE BONDS TO CARRY OUT THE COMMISSION'S CORPORATE PURPOSES IN THE METROPOLITAN DISTRICT IN EITHER COUNTY.

(C) RECOMMENDATION.

(1) THE PROCEEDS OF THE SALE OF BONDS TO BE EXPENDED IN OR FOR THE BENEFIT OF THE PORTION OF THE METROPOLITAN DISTRICT IN MONTGOMERY COUNTY SHALL BE EXPENDED ONLY ON THE RECOMMENDATION OF THE COMMISSIONERS FROM MONTGOMERY COUNTY.

(2) THE PROCEEDS OF THE SALE OF BONDS TO BE EXPENDED IN OR FOR THE BENEFIT OF THE PORTION OF THE METROPOLITAN DISTRICT IN PRINCE GEORGE'S COUNTY SHALL BE EXPENDED ONLY ON THE

RECOMMENDATION OF THE COMMISSIONERS FROM PRINCE GEORGE'S COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 6–101(e).

In subsection (b) of this section, the former reference to "that portion of" the metropolitan district is deleted as surplusage.

In subsection (c)(2) of this section, the qualification "or for the benefit of" the portion of the metropolitan district in Prince George's County is added for clarity and consistency within this section in conformity with the recommendation of the Commission's bond counsel.

Also in subsection (c)(2) of this section, the former phrase "[i]n like manner" is deleted as surplusage.

Also in subsection (c)(2) of this section, the former reference to bonds "issued" to be expended is deleted as surplusage.

Defined terms: "Bond" § 18–201
"Commission" § 14–101
"Commissioner" § 14–101
"Metropolitan district" § 14–101

18–206. REVENUE BONDS.

(A) AUTHORIZATION; PURPOSES.

(1) TO ACCOMPLISH THE PURPOSES UNDER § 18–203(B) OF THIS SUBTITLE, THE COMMISSION MAY ISSUE BONDS TO FINANCE THE COST OF REVENUE–PRODUCING FACILITIES IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY, INCLUDING:

(I) THE COST OF ACQUIRING OR CONSTRUCTING A FACILITY;

(II) THE COST OF ENLARGING, IMPROVING, REMODELING, OR RESTORING AN ACQUIRED FACILITY;

(III) THE COST OF SURVEYS, STUDIES, DRAWINGS, AND ARCHITECTURAL AND ENGINEERING PLANS AND SPECIFICATIONS;

(IV) THE COST OF SITE ASSEMBLY, INCLUDING LEGAL PROCEEDINGS, TITLE FEES, AND SETTLEMENT CHARGES;

(V) THE COST OF ISSUANCE OF BONDS UNDER THIS SECTION, INCLUDING ADVERTISING AND PRINTING CHARGES AND LEGAL FEES;

(VI) THE COST OF INTEREST ON THE BONDS DURING CONSTRUCTION OF A FACILITY AND FOR 1 YEAR AFTER COMPLETION OF THE FACILITY; AND

(VII) THE COST TO THE COMMISSION OF PERFORMANCE OF ANY OF THE FUNCTIONS UNDER THIS PARAGRAPH BY COMMISSION STAFF.

(2) THE COMMISSION MAY BE REIMBURSED FOR PERFORMANCE OF ANY OF THE FUNCTIONS UNDER PARAGRAPH (1) OF THIS SUBSECTION FROM THE PROCEEDS OF THE BONDS ISSUED TO FINANCE THE FACILITY WITH RESPECT TO WHICH THE SERVICES WERE PERFORMED.

(3) THE BONDS ARE PAYABLE AS TO PRINCIPAL AND INTEREST SOLELY FROM REVENUES OF THE COMMISSION FROM FEES, RATES, RENTS, OR OTHER CHARGES RECEIVED BY THE COMMISSION FOR:

(I) THE USE OF THE FACILITY; OR

(II) THE USE OF A FACILITY THAT IS NOT FINANCED BY THE BORROWING.

(4) THE COMMISSION MAY SECURE ANY BORROWING BY A PLEDGE OF THE REVENUES.

(B) FEES, RATES, RENTALS, OR OTHER CHARGES.

(1) THE COMMISSION MAY SET AND PERIODICALLY AMEND FEES, RATES, RENTALS, OR OTHER CHARGES FOR THE USE OF THE COMMISSION'S FACILITIES IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY:

(I) TO PROVIDE REVENUE TO PAY DEBT SERVICE:

1. ON BONDS ISSUED UNDER THIS SECTION TO FINANCE THE COST OF A FACILITY EITHER SEPARATELY OR TOGETHER WITH OTHER REVENUE–PRODUCING FACILITIES OF THE COMMISSION IN EITHER COUNTY; OR

2. ON BONDS ISSUED TO FINANCE THE COST OF OTHER REVENUE–PRODUCING FACILITIES OF THE COMMISSION IN EITHER COUNTY; AND

(II) TO PAY THE EXPENSES OF THE COMMISSION FOR THE FACILITY, INCLUDING OPERATING AND MAINTENANCE EXPENSES, UNLESS THE COMMISSION AUTHORIZES THE USE OF FUNDS FROM ANOTHER SOURCE FOR PAYMENT OF OTHER EXPENSES.

(2) TO SELL AND SECURE THE BONDS OF THE COMMISSION AUTHORIZED UNDER THIS SECTION, THE COMMISSION MAY ENTER INTO AGREEMENTS TO SET THE FEES, RATES, RENTALS, OR OTHER CHARGES AND THE COLLECTION AND APPLICATION OF THE FEES, RATES, RENTALS, OR OTHER CHARGES.

(C) TERMS AND CONDITIONS.

(1) THE COMMISSION MAY DETERMINE THE FORM, TERMS AND CONDITIONS, ISSUANCE, AND SALE AND DELIVERY OF AN OBLIGATION ISSUED UNDER THIS SECTION, INCLUDING:

(I) THE INTEREST RATE OR METHOD OF DETERMINING THE INTEREST RATE OF THE OBLIGATION;

(II) THE MATURITY DATE OF THE OBLIGATION AND ANY PROVISIONS FOR REDEMPTION PRIOR TO MATURITY;

(III) THE PRICE AT WHICH THE OBLIGATION IS TO BE SOLD, WHICH MAY BE ABOVE OR BELOW PAR VALUE; AND

(IV) THE SECURITY FOR THE OBLIGATION.

(2) THE COMMISSION MAY SELL THE BONDS BY COMPETITIVE OR NEGOTIATED SALE IN A MANNER, FOR A PRICE, AND AT RATES THE COMMISSION DETERMINES TO BE IN ITS BEST INTERESTS.

(3) NOTWITHSTANDING ANY OTHER LAW OR ANY RECITALS IN ANY INSTRUMENTS CREATING THE OBLIGATION, THE OBLIGATIONS ARE NEGOTIABLE INSTRUMENTS.

(4) THE CHAIR OF THE COMMISSION SHALL EXECUTE THE OBLIGATION ON BEHALF OF THE COMMISSION BY MANUAL OR FACSIMILE SIGNATURE.

(5) THE SECRETARY–TREASURER OF THE COMMISSION SHALL ATTEST TO THE EXECUTION OF THE OBLIGATION BY MANUAL OR FACSIMILE SIGNATURE.

(6) THE SEAL OF THE COMMISSION SHALL BE IMPRESSED OR IMPRINTED ON THE OBLIGATION.

(7) AN OFFICER'S SIGNATURE OR FACSIMILE SIGNATURE ON AN OBLIGATION REMAINS VALID EVEN IF THE OFFICER LEAVES OFFICE BEFORE THE OBLIGATION IS DELIVERED.

(D) TRUST AGREEMENT.

(1) THE COMMISSION MAY ENTER INTO A TRUST AGREEMENT WITH, AND DESIGNATE AS TRUSTEE UNDER THE TRUST AGREEMENT, A BANK WITH TRUST POWERS, OR A TRUST COMPANY, LOCATED IN OR OUTSIDE THE STATE TO SECURE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON AN OBLIGATION ISSUED UNDER THIS SECTION.

(2) THE TRUST AGREEMENT MAY PROVIDE FOR:

(I) THE DEPOSIT OF THE PROCEEDS OF THE SALE OF THE OBLIGATIONS SECURED BY THE TRUST AGREEMENT WITH THE TRUSTEE; AND

(II) THE APPLICATION OF THE PROCEEDS TO PAY THE COST OF THE FACILITY FINANCED BY THE OBLIGATIONS.

(3) THE COMMISSION MAY ENTER INTO COVENANTS AND AGREEMENTS IN THE TRUST AGREEMENT FOR:

(I) THE SETTING OF FEES, CHARGES, AND RENTALS FOR THE USE AND ENJOYMENT OF THE FACILITY;

(II) THE PAYMENT OF GROSS OR NET REVENUES FROM THE FACILITY AND OTHER FUNDS PLEDGED UNDER THIS SECTION TO THE TRUSTEE;

(III) THE APPLICATION OF THE PAYMENTS BY THE TRUSTEE TO THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE OBLIGATIONS SECURED BY THE TRUST AGREEMENT; AND

(IV) THE ESTABLISHMENT AND MAINTENANCE OF RESERVES OR A SINKING FUND.

(4) THE TRUST AGREEMENT MAY CONTAIN A PLEDGE OF AND CONSTITUTE A LIEN ON:

(I) THE REVENUES AND FUNDS PLEDGED BY THE COMMISSION FOR THE PAYMENT OF OBLIGATIONS ISSUED UNDER THIS SECTION; AND

(II) THE PROCEEDS OF SALE OF THE OBLIGATIONS, THE INVESTMENT OF THE PROCEEDS, AND THE INCOME OR GAIN RESULTING FROM THE INVESTMENT OF THE PROCEEDS.

(5) THE TRUST AGREEMENT MAY CREATE A SECURITY INTEREST FOR THE BENEFIT OF THE HOLDERS OF THE OBLIGATIONS IN THE FACILITY THAT IS FINANCED WITH THE PROCEEDS OF THE OBLIGATIONS, BUT NOT IN ANY OTHER FACILITY THE REVENUES FROM WHICH ARE PLEDGED BY THE COMMISSION TO THE PAYMENT OF DEBT SERVICE ON THE OBLIGATIONS.

(6) THE TRUST AGREEMENT MAY PROVIDE FOR THE PROTECTION OF THE HOLDERS OF THE OBLIGATIONS IF THE COMMISSION FAILS TO PERFORM ANY OF THE COVENANTS UNDER THE AGREEMENT, INCLUDING THE RIGHT OF THE TRUSTEE TO SELL ANY OF THE FACILITIES AT PUBLIC OR PRIVATE SALE AND THE APPLICATION OF THE PROCEEDS OF THE SALE TO THE PAYMENT OF THE OBLIGATIONS SECURED BY THE AGREEMENT.

(E) RETIREMENT OF BONDS.

(1) THE COMMISSION MAY APPLY GENERAL FUNDS NOT OTHERWISE COMMITTED TO THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON BONDS ISSUED UNDER THIS SECTION, EITHER ON MATURITY OR REDEMPTION.

(2) THE COMMISSION MAY RETIRE AN ENTIRE ISSUE OF THE BONDS ISSUED UNDER THIS SUBSECTION FROM THE PROCEEDS OF GENERAL OBLIGATION REFUNDING BONDS ISSUED UNDER § 18–207 OF THIS SUBTITLE.

(3) THE COMMISSION MAY:

(I) CONTINUE TO CHARGE FOR THE USE OR ENJOYMENT OF A FACILITY ON THE RETIREMENT OF AN ISSUE OF BONDS FROM:

1. THE REVENUES OF THE FACILITY FINANCED BY THE BONDS;

2. OTHER FUNDS OF THE COMMISSION; OR

3. REFUNDING AS AUTHORIZED UNDER § 18–207 OF THIS SUBTITLE; AND

(II) APPLY THE REVENUES FROM THE CHARGE TO ANY OTHER FUNCTION, OBJECTIVE, OR PURPOSE OF THE COMMISSION.

(F) FACILITY RULES AND REGULATIONS.

(1) THE COMMISSION MAY ADOPT RULES AND REGULATIONS FOR THE USE AND ENJOYMENT BY THE GENERAL PUBLIC OF A FACILITY FINANCED UNDER THIS SUBSECTION.

(2) THE RULES AND REGULATIONS MAY NOT EXCLUDE A PERSON THAT PAYS THE REQUIRED CHARGE OR FEE FOR USE AND ENJOYMENT OF THE FACILITY BECAUSE OF CREED, RACE, OR GENDER OF THE PERSON.

(3) A LEASE OF A FACILITY BY THE COMMISSION SHALL CONTAIN ENFORCEABLE COVENANTS BY THE LESSEE TO COMPLY WITH THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 6–101(f)(1) through (5), (7), and (8).

In subsection (a)(1)(i) and (vii) of this section, the former references to the "actual" cost are deleted as surplusage.

In subsection (a)(1)(vi) of this section, the reference to completion "of the facility" is substituted for the former reference to completion "thereof" for clarity.

In the introductory language to subsection (a)(3) of this section, the former reference to "notes or other obligations" is deleted as included in the defined term "bond[s]".

Also in the introductory language to subsection (a)(3) of this section, the former phrase "available for such purpose" is deleted as unnecessary.

In subsection (a)(3)(ii) of this section, the reference to a facility "that is not financed by the borrowing" is substituted for the former reference to a

facility "other than the facility or facilities being financed by any such borrowing" for brevity and clarity.

In the introductory language to subsection (b)(1) of this section, the former reference to "alter[ing]" fees is deleted as included in the reference to "amend[ing]" fees.

In subsection (b)(1)(i) of this section, the requirement to "pay" debt service is substituted for the former requirement to "meet" debt service for clarity.

In subsection (b)(1)(i)1 of this section, the former reference to "its" bonds is deleted as implicit in the reference to "bonds issued under this section".

In subsections (b)(1)(ii), (d)(2)(ii) and (5), and (e)(3)(i)1 of this section, the former references to "facilities" are deleted in light of the references to "facility" and Art. 1, § 8, which provides that the singular generally includes the plural.

In subsection (b)(1)(ii) of this section, the word "including" is substituted for the former phrase "such as, without limitation," for brevity.

In subsection (b)(2) of this section, the reference to "sell[ing] and secur[ing]" the bonds is substituted for the former reference to "market[ing]" the bonds for clarity.

Also in subsection (b)(2) of this section, the former phrase "as it may deem requisite" is deleted as surplusage.

In the introductory language to subsection (c)(1) of this section, the former phrase "any and all matters relating to" is deleted as surplusage.

Also in the introductory language to subsection (c)(1) of this section, the former phrase ", without limitation," is deleted as unnecessary in light of Art. 1, § 30, which provides that the term "including" is used "by way of illustration and not by way of limitation".

In subsection (c)(1)(i) of this section, the former references to "rates" is deleted in light of the reference to "rate" and Art. 1, § 8, which provides that the singular generally includes the plural. Similarly, in subsection (c)(1)(ii) of this section, the former reference to "dates" is deleted, and in subsection (c)(1)(iii) of this section, the former reference to "prices" is deleted.

Also in subsection (c)(1)(i) of this section, the word "of" is substituted for the former phrase "to be borne by" for brevity.

In subsection (c)(1)(ii) of this section, the reference to the maturity date "of the obligation" is substituted for the former reference to the maturity date "thereof" for clarity.

In subsection (c)(2) of this section, the reference to selling bonds at "competitive or negotiated sale in a manner, for a price, and at rates the Commission determines to be in its best interests" is substituted for the former reference to sale "at public or private sale, as the Commission may determine" for clarity and consistency within this subtitle. *Cf.* § 18–203(f) of this subtitle.

In subsection (c)(4) of this section, the reference to the "chair" is substituted for the former reference to the "chairman" because SG § 2–1238 requires the use of words that are neutral as to gender to the extent practicable.

In subsection (c)(6) of this section, the reference to imprinting the seal "on the obligation" is substituted for the former reference to imprinting the seal "thereon" for clarity.

In subsection (d)(2)(i) of this section, the reference to obligations secured "by the trust agreement" is substituted for the former reference to obligations secured "thereby" for clarity.

In the introductory language to subsection (d)(3) of this section, the reference to "covenants and agreements" is substituted for the former reference to "appropriate covenants" for consistency with current bond practice.

In subsection (d)(5) of this section, the reference to the facility "that is financed" is substituted for the former reference to the facility "the cost of which is being financed" for brevity.

In subsection (d)(6) of this section, the phrase "if the Commission fails to perform" is substituted for the former phrase "in the event of a default by the Commission in the performance of" for brevity.

In subsection (e)(1) of this section, the phrase "[t]he Commission may" apply funds is substituted for the former phrase "[t]hese provisions may not be construed to prevent the Commission from voluntarily" applying funds for brevity.

In subsection (e)(2) of this section, the phrase "[t]he Commission may" is substituted for the former phrase "[t]his authority shall be deemed to include the power to" for brevity.

Also in subsection (e)(2) of this section, the former reference to bonds issued "by the Commission" is deleted as surplusage.

In subsection (e)(3)(i)3 of this section, the reference to refunding bonds "under § 18–207" of this title is substituted for the former reference to "herein" for clarity.

In subsection (e)(3)(ii) of this section, the reference to the revenues "from the charge" is substituted for the former reference to the revenues "so derived" for clarity.

In subsection (f)(1) of this section, the former reference to "from time to time, amend[ing]" rules and regulations is deleted as implicit in the authority to "adopt" rules and regulations.

In subsection (f)(2) of this section, the reference to a person "that pays" a charge or fee is substituted for the former reference to a person "tendering" a charge or fee for clarity.

Also in subsection (f)(2) of this section, the word "gender" is substituted for the former word "sex" for clarity.

Also in subsection (f)(2) of this section, the former reference to "be[ing] so drawn as to" exclude a person is deleted as surplusage.

In subsection (f)(3) of this section, the reference to this "section" is substituted for the former reference to this "limitation" for clarity.

Also in subsection (f)(3) of this section, the former reference to "appropriate" covenants is deleted as implicit in the reference to "enforceable" covenants.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in subsection (f)(3) of this section, the prohibition against discrimination because of "creed, race, or gender" is relatively narrow compared with more recent statutory prohibitions against discrimination based on an individual's status. The General Assembly may wish to consider comparing this provision to other similar antidiscrimination provisions and harmonizing this provision with more recent provisions.

Defined terms: "Bond" § 18–201
"Commission" § 14–101
"Person" § 14–101
"State" § 14–101

18–207. REFUNDING BONDS.

(A) AUTHORIZED.

IF ANY BONDS ARE ISSUED UNDER THIS TITLE SUBJECT TO REDEMPTION OR REPURCHASE, THE COMMISSION MAY:

(1) REDEEM OR REPURCHASE THE BONDS AT THE STATED REDEMPTION PRICES PLUS ACCRUED INTEREST; AND

(2) ISSUE AND SELL REFUNDING BONDS AS PROVIDED UNDER THIS SECTION TO PROVIDE FUNDS FOR THE REDEMPTION OR REPURCHASE.

(B) AMOUNT AND PURPOSE.

(1) THE REFUNDING BONDS MAY BE:

(I) ISSUED IN AMOUNTS SUFFICIENT TO ACCOMPLISH THE REDEMPTION OR REPURCHASE AND IN UNITS CORRESPONDING TO THE BONDS TO BE REPURCHASED OR REFUNDED; OR

(II) ISSUED IN AN AMOUNT SUFFICIENT TO PROVIDE FOR THE REFUNDING OR REPURCHASE OF SEVERAL ISSUES OF BONDS.

(2) BONDS INITIALLY ISSUED ON ACCOUNT OF LANDS PURCHASED IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY MAY NOT BE REFUNDED OR REPURCHASED THROUGH THE FLOTATION OF A SINGLE ISSUE OF REFUNDING BONDS.

(C) TERMS AND CONDITIONS.

(1) THE REFUNDING BONDS MAY BE IDENTIFIED AS REFUNDING BONDS OR DESIGNATED IN ANY OTHER APPROPRIATE FASHION.

(2) THE COMMISSION MAY DETERMINE:

(I) THE TERMS AND CONDITIONS OF THE BONDS; AND

(II) THE MANNER, METHOD, AND PLACE OF SALE OF THE BONDS.

(3) THE MATURITY DATE OF AN ISSUE OF BONDS MAY NOT EXCEED 60 YEARS FROM THE EARLIEST OF THE RESPECTIVE DATES OF ISSUE OF THE CORRESPONDING SERIES OF BONDS OR NOTES IN SUBSTITUTION FOR WHICH ANY ISSUE OF BONDS IS ISSUED.

(D) SALE.

THE COMMISSION MAY:

(1) SELL THE BONDS, AT NOT LESS THAN PAR VALUE, BY COMPETITIVE OR NEGOTIATED SALE IN A MANNER, FOR A PRICE, AND AT RATES THE COMMISSION DETERMINES TO BE IN ITS BEST INTERESTS;

(2) ISSUE THE BONDS IN SERIAL MATURITY FORM OR WITH A SINGLE FIXED DATE OR MATURITY;

(3) MAKE THE BONDS REDEEMABLE WHOLLY OR PARTLY BY LOT OR OTHERWISE AFTER A CERTAIN PERIOD OR DATE;

(4) ISSUE THE BONDS SUBJECT TO REGISTRATION AS TO PRINCIPAL AND INTEREST OR AS TO PRINCIPAL ONLY;

(5) ESTABLISH AND MAINTAIN A SINKING FUND FOR THE PAYMENT OF THE MATURING PRINCIPAL AND INTEREST OF THE BONDS;

(6) SET THE INTEREST RATE PAYABLE ON THE BONDS AT THE RATE THE COMMISSION DETERMINES TO BE ADVANTAGEOUS AND IN THE PUBLIC INTEREST OR OTHERWISE ESTABLISH THE MANNER OF DETERMINING THE INTEREST RATE; AND

(7) GENERALLY DETERMINE ALL OF THE PROVISIONS OF THE BONDS.

(E) PAYMENT GUARANTEE.

(1) MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SHALL GUARANTEE THE PAYMENT OF PRINCIPAL OF AND INTEREST ON THE BONDS ISSUED UNDER THIS SUBSECTION BY ENDORSEMENT AS PROVIDED UNDER § 18–204 OF THIS SUBTITLE.

(2) THE BONDS SHALL BE ISSUED ON THE FULL FAITH AND CREDIT OF THE COUNTY GUARANTEEING THEM.

(3) THE PRINCIPAL OF AND INTEREST ON THE BONDS SHALL BE PAID FROM THE PROCEEDS OF THE COLLECTION OF THE TAXES AUTHORIZED TO PROVIDE FUNDS FOR SERVICING THE BONDS IN SUBSTITUTION FOR WHICH THE BONDS ARE ISSUED.

(4) THE FUNDS NEEDED FOR PRINCIPAL AND INTEREST PAYMENTS OF THE BONDS AUTHORIZED MAY NOT BE PREFERRED IN THE DIVISION OF TAX PROCEEDS OVER THE FUNDS NEEDED FOR PRINCIPAL AND INTEREST PAYMENT OR ANY OTHER ISSUE OF BONDS PAYABLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 6–104.

In subsection (a)(2) of this section, the phrase "as provided under this section" is substituted for the former phrase "in the manner and upon the terms and conditions hereinafter set forth" for brevity.

Also in subsection (a)(2) of this section, the former phrase "from time to time" is deleted as surplusage.

In subsection (b)(2) of this section, the former reference to refunding bonds "authorized hereinabove" is deleted as surplusage.

In subsection (c)(1) of this section, the former reference to the refunding bonds "so authorized" is deleted as surplusage. Similarly, in subsections (c)(3) and (e)(3) of this section, the former references to bonds "hereby authorized" is deleted.

In subsection (c)(3) of this section, the former phrase "subject only to the condition that" is deleted as surplusage.

In the introductory language to subsection (d) of this section, the former phrase "[i]n pursuance of the foregoing," is deleted as surplusage.

Subsection (d)(1) of this section is rewritten in standard language to conform to similar provisions of this subtitle for clarity. *See* § 18–203(f) of this subtitle.

In subsection (d)(6) of this section, the former reference to "rates" is deleted in light of the reference to "rate" and Art. 1, § 8, which provides that the singular generally includes the plural.

In subsection (e)(1) of this section, the reference to "issu[ance] under this subsection" is substituted for the former phrase "in accordance with the foregoing provisions" for brevity and clarity.

Also in subsection (e)(1) of this section, the phrase "as provided under § 18–204 of this subtitle" is substituted for the former phrase "in the manner hereinabove prescribed for all other issues of bonds of the Commission" for clarity and accuracy.

In subsection (e)(3) of this section, the former phrase "either directly or through the medium of a sinking fund," is deleted as surplusage.

Defined terms: "Bond" § 18–201
"Commission" § 14–101

18–208. TAX ANTICIPATION NOTES.

(A) AUTHORIZED.

(1) THE COMMISSION MAY BORROW MONEY TO MEET ITS EXPENSES, INCLUDING DEBT SERVICE FOR ANY BONDS ISSUED UNDER THIS TITLE, WITHIN EITHER COUNTY BY ISSUING TAX ANTICIPATION NOTES.

(2) THE TAX ANTICIPATION NOTES SHALL:

(I) BEAR INTEREST AT AN ANNUAL RATE THAT THE COMMISSION DETERMINES TO BE ADVANTAGEOUS AND IN THE PUBLIC INTEREST; AND

(II) BE SIGNED BY THE CHAIR AND SECRETARY–TREASURER OF THE COMMISSION BY MANUAL OR FACSIMILE SIGNATURE.

(3) THE TAX ANTICIPATION NOTES MAY BE ISSUED TO ANY BANK, INSTITUTION, OR PERSON WILLING TO LEND THE MONEY.

(B) RENEWAL.

THE COMMISSION MAY REISSUE OR RENEW ITS TAX ANTICIPATION NOTES AT THE SAME OR A GREATER INTEREST RATE.

(C) AMOUNT BORROWED.

THE TOTAL AMOUNT BORROWED UNDER THIS SECTION AND OUTSTANDING IN ANY FISCAL YEAR MAY NOT EXCEED 75% OF THE TOTAL REVENUES RECEIVED BY THE COMMISSION FROM THE TAXES IMPOSED AND DERIVED DURING THE COMMISSION'S PRECEDING FISCAL YEAR UNDER THIS TITLE.

(D) REPAYMENT.

MONEY BORROWED DURING ANY FISCAL YEAR SHALL BE REPAID NOT LATER THAN DURING THE NEXT FISCAL YEAR FROM THE REVENUES DERIVED FROM THE TAXES UNDER THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 6–105.

In subsections (a) and (b) of this section, the references to "tax anticipation notes" are substituted for the former references to "tax anticipation certificates of indebtedness" for brevity.

In subsection (a)(1) of this section, the former phrase "from time to time during any fiscal year" is deleted as surplusage. Similarly, in subsection (b) of this section, the former phrase "from time to time" is deleted.

Also in subsection (a)(1) of this section, the former reference to "promissory notes, to be known as" tax anticipation notes is deleted as surplusage.

In subsection (a)(2)(i) of this section, the former reference to "rates" is deleted in light of the reference to "rate" and Art. 1, § 8, which provides that the singular generally includes the plural.

In subsection (a)(2)(ii) of this section, the reference to the "chair" is substituted for the former reference to the "chairman" because SG § 2–1238 requires the use of words that are neutral as to gender to the extent practicable.

In subsection (a)(3) of this section, the phrase "[t]he tax anticipation notes may be issued to" is substituted for the former phrase "these sums of money to be borrowed from" for clarity.

In subsection (c) of this section, the reference to a tax being "imposed" is substituted for the former reference to a tax being "levied" for consistency with other revised articles of the Code. *See*, *e.g.*, PU §§ 17–201 and 22–106.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in subsection (b) of this section, it may at times be advantageous to reissue or renew tax anticipation notes at a lower interest rate than the original issue. The General Assembly may wish to consider substituting a standard such as "an interest rate that the

Commission determines to be advantageous" for the existing phrase "the same or a greater interest rate".

Defined terms: "Bond" § 18–201
"Commission" § 14–101
"Person" § 14–101

18–209. PLEDGE OF TAX PROCEEDS.

(A) AUTHORIZATION; PURPOSE.

THE REVENUES DERIVED FROM THE COLLECTION OF THE TAXES AUTHORIZED UNDER THIS TITLE SHALL PAY THE PRINCIPAL OF AND INTEREST ON BONDS ISSUED UNDER THIS TITLE.

(B) INADEQUATE TAX REVENUE.

(1) IF THE REVENUES FROM THE TAXES ARE INADEQUATE TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS, THE COUNTY GUARANTEEING THE BONDS SHALL IMPOSE, IN EACH YEAR THE TAXES ARE INADEQUATE, AN ADDITIONAL TAX ON ALL ASSESSABLE PROPERTY IN THE PORTION OF THE METROPOLITAN DISTRICT IN THAT COUNTY SUFFICIENT TO MAKE UP THE DEFICIENCY.

(2) IF THE REVENUES FROM THE ADDITIONAL TAX UNDER PARAGRAPH (1) OF THIS SUBSECTION ARE INADEQUATE, THE COUNTY SHALL IMPOSE A TAX ON ALL ASSESSABLE PROPERTY IN THE CORPORATE LIMITS OF THE COUNTY SUFFICIENT TO PAY THE DEFICIENCY IN THE REVENUES AVAILABLE TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS.

(C) POWER OF COMMISSION UNCHANGED.

THIS DIVISION MAY NOT BE CONSTRUED TO MODIFY THE LIMITATIONS ON THE POWERS OF THE COMMISSION TO ISSUE BONDS UNDER §§ 18–203 THROUGH 18–207 OF THIS SUBTITLE OR IN ANY OTHER LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 6–102.

In subsection (b)(1) and (2) of this section, the references to a tax being "impose[d]" are substituted for the former references to a tax being "lev[ied]" for consistency with other revised articles of the Code. *See*, *e.g.*, PU §§ 17–201 and 22–106.

In subsection (b)(1) of this section, the reference to the "metropolitan" district is added for clarity.

Also in subsection (b)(1) of this section, the phrase "[i]f the revenues from the taxes are inadequate" is substituted for the former reference to "[i]n the event of the inadequacy of the taxes" for clarity.

In subsection (b)(2) of this section, the reference to "pay[ing]" the deficiency is substituted for the former reference to "mak[ing] up" the inadequacy for clarity.

Also in subsection (b)(2) of this section, the former reference to the principal and interest "maturities" is deleted as surplusage.

In subsection (c) of this section, the former reference to "increasing or decreasing or otherwise" modifying is deleted as included in the comprehensive reference to "modify[ing]".

Defined terms: "Bond" § 18–201
"Commission" § 14–101
"Metropolitan district" § 14–101

18–210. TAX STATUS OF BONDS.

THE PRINCIPAL AMOUNT OF BONDS ISSUED UNDER THIS TITLE, THE INTEREST ON THE BONDS, TRANSFER OF THE BONDS, AND ANY INCOME DERIVED FROM THE BONDS, INCLUDING ANY PROFIT FROM THE SALE OR TRANSFER OF THE BONDS, ARE EXEMPT FROM STATE AND LOCAL TAXES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, §§ 6–103 and 6–101(f)(6).

The word "are" is substituted for the former phrase "shall be and remain" for brevity.

The reference to "State and local taxes" is substituted for the former reference to "taxation by the State of Maryland and the several counties and municipalities of this State" for brevity.

Defined terms: "Bond" § 18–201
"State" § 14–101

18–211. APPLICATION OF OTHER LAWS.

THE SALE OF THE BONDS UNDER THIS TITLE IS EXEMPT FROM ARTICLE 31, §§ 10 AND 11 OF THE CODE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 6–101(g).

Defined term: "Bond" § 18–201

SUBTITLE 3. TAXES.

18–301. CONSTRUCTION OF SUBTITLE.

ANY PROVISION OF THIS SUBTITLE OR THIS DIVISION THAT PROVIDES THAT A TAX IMPOSED FOR THE COMMISSION SHALL BE IMPOSED AND COLLECTED AS COUNTY TAXES ARE IMPOSED AND COLLECTED, HAVE THE SAME PRIORITY RIGHTS, BEAR THE SAME INTEREST AND PENALTIES, AND IN ANY OTHER RESPECT BE TREATED THE SAME AS A COUNTY TAX:

(1) APPLIES ONLY TO THE AUTHORITY TO ENFORCE AND COLLECT THE TAX IMPOSED FOR THE COMMISSION; AND

(2) MAY NOT BE DEEMED OR CONSTRUED TO MEAN THAT THE TAX IMPOSED FOR THE COMMISSION IS A COUNTY PROPERTY TAX UNDER THE TAX – PROPERTY ARTICLE.

REVISOR'S NOTE: This section is new language patterned after § 2(b) of Chapter 336, Acts of 2010.

For relevant tax provisions, *see*, *e.g.*, §§ 18–304(e), 18–305(d), 18–307(e), and 18–308(c) of this subtitle.

Defined terms: "Commission" § 14–101
"County" § 14–101

18–302. IMPOSITION OF TAXES ON PROPERTY ASSESSED FOR COUNTY TAXATION.

THE TAXES IMPOSED UNDER THIS SUBTITLE SHALL BE IMPOSED ON PROPERTY ASSESSED FOR THE PURPOSE OF COUNTY TAXATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, the first and fifth sentences of § 6–106(a), the first sentence of (c), the first sentence of (d), and the first sentence of (e), the first and second sentences of § 6–107(a), and the second sentence of §

6–108, as they related to the imposition of taxes on property assessed for the purpose of county taxation.

In this section and throughout this subtitle, the references to "impos[ing]" a tax are substituted for the former references to "lev[ying]" a tax for consistency with other revised articles of the Code. *See, e.g.,* PU §§ 17–201 and 22–106.

Defined term: "County" § 14–101

18–303. EXEMPTION FROM LIMITATIONS FOR PRINCE GEORGE'S COUNTY.

NOTWITHSTANDING ANY PROVISION OF CHARTER OR LAW, THE TAXES AUTHORIZED UNDER THIS SUBTITLE ARE NOT SUBJECT TO ANY LIMITATION ON THE TAX RATE OR TAX REVENUES OF PRINCE GEORGE'S COUNTY.

REVISOR'S NOTE: This section formerly was Art. 28, § 6–111.

The only changes are in style.

18–304. PARK TAXES.

(A) MANDATORY PARK TAX FOR MONTGOMERY COUNTY.

(1) THE TAX REQUIRED UNDER THIS SUBSECTION:

(I) APPLIES TO PROPERTY IN THE METROPOLITAN DISTRICT IN MONTGOMERY COUNTY; AND

(II) SHALL BE IMPOSED WHETHER ANY BONDS HAVE BEEN ISSUED UNDER THIS TITLE OR WHETHER INTEREST IS DUE ON ANY BONDS ISSUED UNDER THIS TITLE.

(2) EACH YEAR, MONTGOMERY COUNTY SHALL IMPOSE ON EACH $100 OF ASSESSED VALUATION OF:

(I) REAL PROPERTY, A TAX OF 3.6 CENTS; AND

(II) PERSONAL PROPERTY AND OPERATING REAL PROPERTY DESCRIBED IN § 8–109(C) OF THE TAX – PROPERTY ARTICLE, A TAX OF 9 CENTS.

(3) EVERY 60 DAYS THE COUNTY SHALL PAY TO THE COMMISSION THE TAX COLLECTED UNDER THIS SUBSECTION.

(4) THE COMMISSION MAY USE THE REVENUES FROM THE TAX IMPOSED UNDER THIS SUBSECTION, AFTER PROVIDING FOR DEBT SERVICE ON BONDS ISSUED UNDER SUBTITLE 2 OF THIS TITLE, TO:

(I) POLICE THE PARKS OR OTHER AREAS UNDER ITS JURISDICTION;

(II) ACQUIRE, DEVELOP, BEAUTIFY, OR MAINTAIN PARKS OR OTHER AREAS; OR

(III) ESTABLISH PLAYGROUND AND RECREATIONAL FACILITIES IN THE PARKS OR OTHER AREAS.

(B) MANDATORY PARK TAX FOR PRINCE GEORGE'S COUNTY.

(1) IT IS THE INTENT OF THIS SUBSECTION TO PROVIDE THE COMMISSION WITH FUNDS TO:

(I) FINANCE THE ACQUISITION OF PARKLANDS IN THE METROPOLITAN DISTRICT IN PRINCE GEORGE'S COUNTY FROM CURRENT REVENUES OR BY THE ISSUE OF BONDS; AND

(II) MAINTAIN, OPERATE, AND DEVELOP ACQUIRED PARKLANDS.

(2) THE TAX REQUIRED UNDER THIS SUBSECTION:

(I) APPLIES TO PROPERTY IN THE METROPOLITAN DISTRICT IN PRINCE GEORGE'S COUNTY; AND

(II) SHALL BE IMPOSED WHETHER ANY BONDS HAVE BEEN ISSUED UNDER THIS TITLE OR WHETHER INTEREST IS DUE ON ANY BONDS ISSUED UNDER THIS TITLE.

(3) EACH FISCAL YEAR, PRINCE GEORGE'S COUNTY SHALL IMPOSE ON EACH $100 OF ASSESSED VALUATION OF:

(I) REAL PROPERTY, A TAX OF AT LEAST 4 CENTS; AND

(II) PERSONAL PROPERTY AND OPERATING REAL PROPERTY DESCRIBED IN § 8–109(C) OF THE TAX – PROPERTY ARTICLE, A TAX OF AT LEAST 10 CENTS.

(4) EVERY 60 DAYS THE COUNTY SHALL PAY TO THE COMMISSION THE TAX COLLECTED UNDER THIS SUBSECTION.

(5) THE COMMISSION SHALL USE THE REVENUES FROM THE TAX IMPOSED UNDER THIS SUBSECTION PRIMARILY TO PAY THE PRINCIPAL OF AND INTEREST ON ANY BONDS ISSUED BY THE COMMISSION FOR THE ACQUISITION OF PARKLANDS IN THE METROPOLITAN DISTRICT IN PRINCE GEORGE'S COUNTY AS AUTHORIZED UNDER THIS TITLE.

(6) THE COUNTY SHALL PAY TO THE COMMISSION THE TAX COLLECTED UNDER THIS SUBSECTION WHETHER ANY PRINCIPAL OR INTEREST IS DUE ON ANY BONDS ISSUED FOR THE ACQUISITION OF PARKLANDS OR WHETHER ANY BONDS FOR THAT PURPOSE HAVE BEEN ISSUED OR ARE OUTSTANDING IN THE FISCAL YEAR IN WHICH THE TAX IS COLLECTED.

(C) OPTIONAL PARK TAX FOR BOTH COUNTIES.

(1) THE TAX AUTHORIZED UNDER THIS SUBSECTION APPLIES TO PROPERTY IN THE METROPOLITAN DISTRICT IN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.

(2) EACH YEAR THE COUNTY COUNCIL OF MONTGOMERY COUNTY AND THE COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY MAY IMPOSE AN AD VALOREM TAX IN ADDITION TO ALL OTHER TAXES IMPOSED FOR THE BENEFIT OF AND ON BEHALF OF THE COMMISSION.

(3) EACH COUNTY MAY PAY TO THE COMMISSION THE AGGREGATE AMOUNT COLLECTED UNDER THIS SUBSECTION IN THE SAME MANNER AS THE COUNTY PAYS OTHER TAXES UNDER THIS SUBTITLE.

(4) THE COMMISSION SHALL USE THE PROCEEDS OF THE TAX UNDER THIS SUBSECTION TO:

(I) ACQUIRE, MAINTAIN, DEVELOP, AND OPERATE THE PARK SYSTEMS IN THE COUNTIES; AND

(II) PAY THE DEBT SERVICE REQUIRED BY ITS OUTSTANDING BONDS OR BONDS ISSUED IN THE FUTURE.

(5) THE COMMISSION SHALL EXPEND OR DISBURSE THAT PROPORTION OF TAX COLLECTED FROM MONTGOMERY COUNTY IN

MONTGOMERY COUNTY AND THAT PROPORTION COLLECTED FROM PRINCE GEORGE'S COUNTY IN PRINCE GEORGE'S COUNTY.

(D) ADDITIONAL TAX FOR MONTGOMERY COUNTY.

(1) THE TAX AUTHORIZED UNDER THIS SUBSECTION:

(I) APPLIES TO PROPERTY IN THE METROPOLITAN DISTRICT IN MONTGOMERY COUNTY; AND

(II) SHALL BE IN LIEU OF, AND IN COMPLETE SATISFACTION OF, ANY OBLIGATIONS OF MONTGOMERY COUNTY TO PAY FOR MAINTENANCE OF THE COMMISSION'S PARK SYSTEM IN ACCORDANCE WITH CHAPTER 761, § 8 OF THE ACTS OF 1953 AND ALL AGREEMENTS EXECUTED UNDER THE TERMS OF THAT LAW.

(2) EACH YEAR, IN ADDITION TO THE TAX IMPOSED UNDER SUBSECTION (A) OF THIS SECTION, MONTGOMERY COUNTY SHALL IMPOSE ON EACH $100 OF ASSESSED VALUATION OF:

(I) REAL PROPERTY, A TAX OF 0.8 CENTS; AND

(II) PERSONAL PROPERTY AND OPERATING REAL PROPERTY DESCRIBED IN § 8–109(C) OF THE TAX – PROPERTY ARTICLE, A TAX OF 2 CENTS.

(E) PROCEDURAL PROVISIONS.

A TAX AUTHORIZED UNDER THIS SECTION SHALL:

(1) BE IMPOSED AND COLLECTED AS COUNTY TAXES ARE IMPOSED AND COLLECTED;

(2) HAVE THE SAME PRIORITY RIGHTS AS COUNTY TAXES;

(3) BEAR THE SAME INTEREST AND PENALTIES AS COUNTY TAXES; AND

(4) BE TREATED THE SAME AS COUNTY TAXES IN EVERY OTHER RESPECT.

(F) UNEXPENDED BALANCES.

(1) (I) AT LEAST 30 DAYS BEFORE THE END OF THE FISCAL YEAR, THE COMMISSION SHALL CERTIFY AND SUBMIT TO THE APPROPRIATE FISCAL OFFICERS OF THE COUNTIES THE NET UNEXPENDED BALANCES FROM MONEY RECEIVED BY THE COMMISSION FROM TAXES IMPOSED UNDER THIS SECTION.

(II) IN MONTGOMERY COUNTY, THE COMMISSION ALSO SHALL FURNISH AT THE TIME REQUESTED BY THE COUNTY COUNCIL AN ESTIMATE OF UNEXPENDED BALANCES AS OF THE END OF THE FISCAL YEAR AS INFORMATION FOR THE COUNTY'S TAX RESOLUTION.

(2) TO CALCULATE THE NET UNEXPENDED BALANCE FOR EACH COUNTY, THE COMMISSION SHALL DEDUCT, FROM ITS ACTUAL UNEXPENDED CASH RECEIPTS FROM TAXES COLLECTED UNDER THIS SECTION, AN AMOUNT EQUAL TO THE SUM OF:

(I) THE DEBT SERVICE FOR THE NEXT SUCCEEDING FISCAL YEAR ON BONDS ISSUED BY IT AND OUTSTANDING WITH RESPECT TO PROPERTY ACQUIRED BY IT IN THE COUNTY;

(II) THE COMMISSION'S FIXED OBLIGATIONS UNDER CONTRACTS THE FIRST 6 MONTHS OF THE FISCAL YEAR;

(III) THE AMOUNTS CREDITED TO THE COMMISSION'S SELF–INSURANCE FUND;

(IV) $200,000 WITH RESPECT TO MONTGOMERY COUNTY; AND

(V) $150,000 WITH RESPECT TO PRINCE GEORGE'S COUNTY.

(3) (I) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, WHEN THE COUNTY RECEIVES THE CERTIFICATION FROM THE COMMISSION OF ITS NET UNEXPENDED BALANCE WITH RESPECT TO THAT COUNTY AS CALCULATED UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE COUNTY MAY:

1. DEDUCT THE NET UNEXPENDED BALANCE FROM ITS ESTIMATE OF THE AMOUNT OF MONEY TO BE RAISED IN THE NEXT SUCCEEDING FISCAL YEAR BY TAXES COLLECTED UNDER THIS SECTION; AND

2. IMPOSE THE TAX FOR THE NEXT SUCCEEDING FISCAL YEAR AT A RATE THAT THE COUNTY ESTIMATES WILL PRODUCE THE AMOUNT CALCULATED UNDER ITEM 1 OF THIS SUBPARAGRAPH.

(II) THE AMOUNT CALCULATED UNDER SUBPARAGRAPH (I)1 OF THIS PARAGRAPH SHALL BE THE AMOUNT THE COUNTY IS OBLIGATED TO PAY THE COMMISSION IN THAT FISCAL YEAR UNDER THIS SECTION.

(4) THE TAX RATE MAY NOT BE REDUCED UNDER THIS SUBSECTION TO A RATE INSUFFICIENT TO PAY DEBT SERVICE ON BONDS ISSUED BY THE COMMISSION AND GUARANTEED BY THE COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, §§ 6–106(b) and (f) and, except as they related to property assessed for the purposes of county taxation, (a), (c), and (d) and 6–110(a), (c), and the first and second sentences of (b).

In subsection (a)(3) of this section, the former reference to the tax "so levied" is deleted as included in the reference to the tax "collected".

Also in subsection (a)(3) of this section, the former reference to the tax collected "to date by the county" is deleted as surplusage.

In subsection (a)(4)(iii) of this section, the former reference to establishing facilities "as the Commission determines" is deleted as redundant of the authority of the Commission to establish the facilities.

In subsection (b) of this section, the former reference to the tax being "levied and paid over to the Commission in the manner prescribed elsewhere in this title" is deleted as unnecessary in light of the specific provisions for imposing and paying over taxes being included in that subsection.

In subsection (b)(2)(ii) of this section, the reference to the tax "be[ing] imposed whether any bonds have been issued under this title or whether interest is due on any bonds issued under this title" is substituted for the former authority for Prince George's County to "levy … any or all of the taxes authorized in subsection (a) in like manner and upon the same basis as set forth in subsection (a), in which event all the provisions of subsection (a) apply equally to both counties" for clarity.

In subsection (b)(3) of this section, the former introductory clause "[o]f the tax which Prince George's County is authorized to levy in this title," is deleted as surplusage.

In subsection (b)(4) of this section, the requirement that "[e]very 60 days the county shall pay to the Commission the tax collected under this subsection" is substituted for the former reference to Prince George's County "pay[ing] over to the Commission any or all taxes authorized in subsection (a) in like manner and upon the same basis as set forth in subsection (a)" for clarity.

In subsection (b)(5) of this section, the former reference to the proceeds "of the collection" is deleted as surplusage.

Also in subsection (b)(5) of this section, the former reference to bonds issued "within the limitations on indebtedness prescribed in this title" is deleted as implicit.

In subsection (b)(6) of this section, the reference to bonds "issued for the acquisition of parklands" is added for clarity.

Also in subsection (b)(6) of this section, the reference to bonds "for that purpose" is added for clarity.

Also in subsection (b)(6) of this section, the reference to bonds outstanding in "the fiscal year in which the tax is collected" is substituted for the former reference to bonds outstanding "in any one fiscal year" for clarity.

In subsection (c)(1) of this section, the reference to the tax applying to property in the metropolitan district "in Montgomery County and Prince George's County" is substituted for the former reference to "all the property" in the metropolitan district for clarity.

Also in subsection (c)(1) of this section, the former phrase "as the metropolitan district is defined at the time of the levy" is deleted as surplusage.

In subsection (c)(2) of this section, the former reference to the county councils imposing an ad valorem tax "in Prince George's County and in Montgomery County" is deleted as implicit.

In subsection (c)(3) of this section, the reference to the amount collected "under this subsection" is substituted for the former reference to the amount collected "by the tax" for clarity.

Also in subsection (c)(3) of this section, the reference to payment of other "taxes under this subtitle" is substituted for the former reference to payment of other "funds collected by taxation for the benefit of the Commission" for brevity and clarity.

In the introductory language to subsection (d)(2) of this section, the word "shall" is substituted for the former word "may" to clarify that the tax under subsection (d) is a mandatory tax.

In subsection (f)(1)(i) of this section, the reference to the "fiscal year" is substituted for the former reference to the "fiscal years of Montgomery and Prince George's Counties, respectively," because the fiscal year for each county is the same.

Also in subsection (f)(1)(i) of this section, the former reference to balances "in the hands of the Commission" is deleted as surplusage.

In the introductory language to subsection (f)(3)(i) of this section, the reference to the balance "as calculated under paragraph (2) of this subsection" is substituted for the former reference to the balance "as above defined" for clarity.

In subsection (f)(3)(i)2 of this section, the reference to the amount "calculated under item 1 of this subparagraph" is substituted for the former reference to an amount "equal to the difference so arrived at" for clarity. Correspondingly, in subsection (f)(3)(ii) of this section, the reference to the "amount calculated under subparagraph (i)1 of this paragraph" is substituted for the former reference to "which amount".

In subsection (f)(3)(ii) of this section, the reference to payment "under this section" is substituted for the former reference to payment "pursuant to provisions elsewhere in this title" for clarity and accuracy.

In subsection (f)(4) of this section, the former reference to a rate insufficient "to produce the amount of money necessary" is deleted as surplusage.

The Land Use Article Review Committee notes, that although subsection (e)(4) of this section provides that "[a] tax authorized under this section shall be treated the same as county taxes in every other respect", it is unclear whether exemptions and credits that apply to property assessed for taxation by a county apply to the taxes imposed under this subtitle. The General Assembly may wish to consider explicitly applying or curtailing the application of those exemptions and credits to these taxes.

The third sentence of former Art. 28, § 6–110(b), which provided for the application of the net unexpended balance to sums payable to the Commission, is deleted as surplusage in light of subsection (f)(2) of this section.

Defined terms: "Commission" § 14–101
"County" § 14–101
"Metropolitan district" § 14–101
"Park" § 14–101

18–305. MONTGOMERY COUNTY BOND TAX.

(A) CERTIFICATION OF BOND ISSUE.

WHENEVER BONDS THAT THE COMMISSION ISSUES UNDER SUBTITLE 2 OF THIS TITLE FOR ACQUISITION OF PROPERTY IN MONTGOMERY COUNTY ARE SOLD, THE COMMISSION SHALL PROMPTLY CERTIFY TO THE COUNTY THE AMOUNT OF BONDS ISSUED, THE RATE OF INTEREST, AND THE MATURITIES.

(B) PURPOSE.

THE REVENUE FROM THE TAX UNDER THIS SECTION SHALL BE THE PRIMARY SOURCE OF REVENUE FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS.

(C) IMPOSITION.

WHILE ANY BOND IS OUTSTANDING AND UNPAID, THE COUNTY SHALL IMPOSE ON ALL PROPERTY IN THE COUNTY IN THE METROPOLITAN DISTRICT AN ANNUAL TAX IN AN AMOUNT SUFFICIENT TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS.

(D) STATUS.

THE TAX SHALL:

(1) BE IMPOSED AND COLLECTED AS COUNTY TAXES ARE IMPOSED AND COLLECTED;

(2) HAVE THE SAME PRIORITY RIGHTS AS COUNTY TAXES;

(3) BEAR THE SAME INTEREST AND PENALTIES AS COUNTY TAXES; AND

(4) BE TREATED THE SAME AS COUNTY TAXES IN EVERY OTHER RESPECT.

(E) COLLECTION.

MONTGOMERY COUNTY SHALL:

(1) COLLECT THE TAX; AND

(2) REMIT TO THE COMMISSION THE TAX COLLECTED EVERY 60 DAYS.

REVISOR'S NOTE: This section is new language derived without substantive change from the first, third, fourth, and fifth sentences, and, as it related to the levying of a tax, the second sentence of former Art. 28, § 6–108.

In subsection (a) of this section, the reference to "acquisition of property" is substituted for the former phrase "account of lands" for clarity and consistency with Subtitle 1 of this title.

In subsection (b) of this section, the former reference to proceeds "of the collection" is deleted as surplusage.

In subsection (e)(2) of this section, the former reference to the tax collected "to date" is deleted as surplusage.

Defined terms: "Commission" § 14–101
"County" § 14–101
"Metropolitan district" § 14–101

18–306. RECREATION TAX FOR PRINCE GEORGE'S COUNTY.

(A) SCOPE OF SECTION.

THE TAX REQUIRED UNDER THIS SECTION APPLIES TO PROPERTY IN PRINCE GEORGE'S COUNTY.

(B) TAX REQUIRED.

EACH FISCAL YEAR, PRINCE GEORGE'S COUNTY SHALL IMPOSE ON EACH $100 OF ASSESSED VALUATION OF:

(1) REAL PROPERTY, A TAX FOR RECREATION OF AT LEAST 2 CENTS; AND

(2) PERSONAL PROPERTY AND OPERATING REAL PROPERTY DESCRIBED IN § 8–109(C) OF THE TAX – PROPERTY ARTICLE, A TAX FOR RECREATION OF AT LEAST 5 CENTS.

(C) PAYMENT TO COUNTY.

EVERY 60 DAYS THE COUNTY SHALL PAY TO THE COMMISSION THE TAX COLLECTED UNDER THIS SECTION.

(D) USE OF REVENUES.

THE COMMISSION SHALL USE THE REVENUES FROM THE TAX IMPOSED UNDER THIS SECTION TO FINANCE ITS ADOPTED BUDGET TO REGULATE, OPERATE, AND MAINTAIN RECREATION FUNCTIONS, PROGRAMS, FACILITIES, AND PERSONNEL IN PRINCE GEORGE'S COUNTY AS THE COMMISSION DETERMINES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 6–106(e), except as it related to property assessed for the purposes of county taxation.

In the introductory language to subsection (b) of this section, the word "shall" is substituted for the former word "may" because the tax is required to be imposed at the minimum rates specified in subsection (b)(1) and (2) of this section.

Also in the introductory language to subsection (b) of this section, the former reference to each fiscal year "beginning July 1, 1970" is deleted as obsolete.

In subsection (c) of this section, the former reference to the tax "so levied" is deleted as included in the reference to the tax "collected".

Also in subsection (c) of this section, the former reference to the tax collected "to date by the county" is deleted as surplusage.

Defined term: "Commission" § 14–101

18–307. ADMINISTRATIVE TAX.

(A) SCOPE OF SECTION.

THE TAX REQUIRED UNDER THIS SECTION APPLIES TO PROPERTY IN THE REGIONAL DISTRICT IN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.

(B) PURPOSE OF TAX.

THE PURPOSE OF THE TAX REQUIRED UNDER THIS SECTION IS FOR PAYING THE CURRENT OPERATING OR ADMINISTRATIVE EXPENSES OF THE COMMISSION, INCLUDING THE COST OF:

(1) THE DEVELOPMENT OF ANY PART OF THE PLAN OF THE REGIONAL DISTRICT; AND

(2) THE EXERCISE OF THE POWERS AND DUTIES OF THE COMMISSION.

(C) TAX REQUIRED; RATE.

EACH YEAR, EACH COUNTY SHALL IMPOSE ON EACH $100 OF ASSESSED VALUATION OF:

(1) REAL PROPERTY, A TAX OF 1.2 CENTS; AND

(2) PERSONAL PROPERTY AND OPERATING REAL PROPERTY DESCRIBED IN § 8–109(C) OF THE TAX – PROPERTY ARTICLE, A TAX OF 3 CENTS.

(D) ADMINISTRATIVE FUND.

(1) THERE IS AN ADMINISTRATIVE FUND OF THE COMMISSION.

(2) THE ADMINISTRATIVE FUND CONSISTS OF:

(I) THE REVENUES FROM THE TAX IMPOSED UNDER THIS SECTION THAT ARE PAID TO THE COMMISSION; AND

(II) ADDITIONAL MONEY APPROPRIATED OR CONTRIBUTED TO THE COMMISSION FOR OPERATING OR ADMINISTRATIVE PURPOSES BY THE TWO COUNTIES, THE GENERAL ASSEMBLY OF MARYLAND, THE UNITED STATES, OR PRIVATE DONORS.

(3) OPERATING AND ADMINISTRATIVE EXPENSES OF THE COMMISSION SHALL BE LIMITED TO THE MONEY IN THE ADMINISTRATIVE FUND.

(E) PROCEDURAL PROVISIONS.

A TAX REQUIRED UNDER THIS SECTION SHALL:

(1) BE IMPOSED AND COLLECTED AS COUNTY TAXES ARE IMPOSED AND COLLECTED;

(2) HAVE THE SAME PRIORITY RIGHTS AS COUNTY TAXES;

(3) BEAR THE SAME INTEREST AND PENALTIES AS COUNTY TAXES; AND

(4) BE TREATED THE SAME AS COUNTY TAXES IN EVERY OTHER RESPECT.

(F) UNEXPENDED BALANCES.

(1) AT LEAST 30 DAYS BEFORE THE END OF THE FISCAL YEAR, THE COMMISSION SHALL CERTIFY AND SUBMIT TO THE APPROPRIATE FISCAL OFFICERS OF THE COUNTIES THE UNEXPENDED BALANCES FROM MONEY RECEIVED BY THE COMMISSION FROM THE TAX IMPOSED UNDER THIS SECTION.

(2) (I) IF THE UNEXPENDED BALANCE WITH RESPECT TO EITHER COUNTY EXCEEDS THE SUM OF $100,000, THAT COUNTY MAY:

1. DEDUCT THE EXCESS FROM ITS ESTIMATE OF THE AMOUNT OF MONEY TO BE RAISED IN THE NEXT SUCCEEDING FISCAL YEAR BY THE IMPOSITION OF THE TAX IMPOSED UNDER THIS SECTION; AND

2. IMPOSE THE TAX FOR THE NEXT SUCCEEDING FISCAL YEAR AT A RATE THAT THE COUNTY ESTIMATES WILL PRODUCE THE AMOUNT CALCULATED UNDER ITEM 1 OF THIS SUBPARAGRAPH.

(II) THE AMOUNT CALCULATED UNDER SUBPARAGRAPH (I)1 OF THIS PARAGRAPH SHALL BE THE AMOUNT THE COUNTY IS OBLIGATED TO PAY THE COMMISSION FOR ADMINISTRATION IN THAT FISCAL YEAR UNDER THIS SECTION.

(3) ON OR BEFORE THE 30TH DAY OF THE MONTH IMMEDIATELY BEFORE THE BEGINNING OF THE FISCAL YEAR, THE MONTGOMERY COUNTY COUNCIL AND THE PRINCE GEORGE'S COUNTY COUNCIL SHALL SET THE RATE OF THE TAX AS AUTHORIZED UNDER THIS SECTION.

(4) ON OR BEFORE THE 5TH DAY OF THE MONTH IMMEDIATELY BEFORE THE BEGINNING OF THE FISCAL YEAR, THE COMMISSION SHALL SUBMIT TO EACH COUNTY COUNCIL:

(I) ITS COMPLETE BUDGET ESTIMATES FOR THE NEXT FISCAL YEAR; AND

(II) STATEMENTS THAT JUSTIFY THE ADMINISTRATIVE BUDGET AND ADMINISTRATIVE TAX RATE REQUESTED BY THE COMMISSION.

(5) THE COMMISSION MAY USE ANY COMMISSION MONEY IN EXCESS OF THE AMOUNT NECESSARY FOR OPERATING AND ADMINISTRATIVE PURPOSES OR NOT SPECIFICALLY PLEDGED BY LAW IN THE RESPECTIVE COUNTIES OF THE REGIONAL DISTRICT, IN THE SAME PROPORTION AS THEY WERE COLLECTED FROM THESE COUNTIES, TO ACQUIRE, DEVELOP, MAINTAIN, AND OPERATE PARKS IN THE COUNTIES.

(6) THE COMMISSION MAY USE ANY FUNDS NOT COLLECTED IN THE COUNTIES FOR THE BEST INTERESTS OF THE REGIONAL DISTRICT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 6–107(c), (d), (e), and, except as it applied to property assessed for purposes of county taxation, (a).

In subsection (a) of this section, the former reference to the requirement to impose the tax "except as hereinafter provided" is deleted as surplusage.

Subsection (d)(1) of this section is added as standard language for establishing a fund.

In subsection (d)(2)(i) of this section, the former reference to the proceeds "of the collection" of the tax is deleted as surplusage.

In subsection (d)(3) of this section, the reference to operating and administrative expenses being "limited to the money in the administrative fund" is substituted for the former reference to the expenditures for operating or administrative purposes being "within the amount of the fund" for clarity.

In subsection (f)(1) of this section, the reference to the "fiscal year" is substituted for the former reference to the "fiscal years of Montgomery and Prince George's counties, respectively" because the fiscal year for each county is the same.

Also in subsection (f)(1) of this section, the reference to the "tax imposed under this section" is substituted for the former reference to the

"administrative taxes theretofore levied by the counties, respectively, as hereinabove provided" for brevity.

Also in subsection (f)(1) of this section, the former reference to balances "in the hands of the Commission" is deleted as surplusage.

In subsection (f)(2)(i)2 of this section, the reference to the amount "calculated under item 1 of this subparagraph" is substituted for the former reference to an amount "equal to the difference so arrived at" for clarity. Correspondingly, in subsection (f)(2)(ii) of this section, the reference to the "amount calculated under subparagraph (i)1 of this paragraph" is substituted for the former reference to "which amount".

In subsection (f)(3) and (4) of this section, the former references to the "Commission's" fiscal year are deleted because it is the same as the State's and the counties' fiscal year.

In subsection (f)(3) of this section, the word "shall" is substituted for the former phrase "are authorized and directed" for brevity.

Also in subsection (f)(3) of this section, the reference to "set[ting] the rate" is substituted for the former reference to "fix[ing] the amount" for accuracy.

In subsection (f)(4)(ii) of this section, the former reference to "suitable" statements is deleted as implicit.

In subsection (f)(5) of this section, the former reference to funds "which remain in the hands of the Commission" is deleted as surplusage.

In subsection (f)(6) of this section, the former phrase "in its discretion" is deleted as unnecessary in light of the authorization of the Commission to use certain money.

Former Art. 28, § 6–107(b), which provided for the repeal and reinstatement of certain Acts if the administrative tax imposed under this section were enjoined by a court, is deleted as obsolete.

Defined terms: "Commission" § 14–101
"County" § 14–101
"Park" § 14–101
"Regional district" § 14–101

18–308. ADVANCE LAND ACQUISITION REVOLVING FUNDS TAX.

(A) MONTGOMERY COUNTY.

(1) THE MONTGOMERY COUNTY COUNCIL SHALL IMPOSE AGAINST ALL OF THE PROPERTY ASSESSED FOR THE PURPOSES OF COUNTY TAXATION AN ANNUAL TAX OF:

(I) NOT LESS THAN 0.4 CENTS OR MORE THAN 1.2 CENTS ON EACH $100 OF ASSESSED VALUATION OF REAL PROPERTY; AND

(II) NOT LESS THAN 1 CENT OR MORE THAN 3 CENTS ON EACH $100 OF ASSESSED VALUATION OF PERSONAL PROPERTY AND OPERATING REAL PROPERTY DESCRIBED IN § 8–109(C) OF THE TAX – PROPERTY ARTICLE.

(2) THE COUNTY COUNCIL SHALL IMPOSE THE TAX EVEN IF NO INTEREST IS DUE ON THE BONDS OR NOTES OR NO BONDS OR NOTES HAVE BEEN ISSUED UNDER SUBTITLE 2 OF THIS TITLE.

(3) SUBJECT TO THE LIMITS IN PARAGRAPH (1) OF THIS SUBSECTION, IF A TAX IS IMPOSED UNDER THIS SECTION, THE COUNTY COUNCIL SHALL CONTINUE TO IMPOSE A TAX SUFFICIENT TO PAY THE INTEREST ON THE BONDS AS THE INTEREST COMES DUE AND TO PAY THE PRINCIPAL OF THE BONDS AS THEY MATURE.

(4) THE COUNTY COUNCIL DOES NOT NEED TO IMPOSE THE TAX REQUIRED UNDER THIS SECTION IF MONEY IS AVAILABLE TO MAKE THE PAYMENTS IN ANY YEAR AND HAVE BEEN APPLIED TO OR AUTHORIZED FOR PAYMENT BY THE COMMISSION.

(5) EVERY 60 DAYS, THE COUNTY SHALL REMIT THE TAX COLLECTED UNDER THIS SECTION TO THE COMMISSION.

(6) THE COMMISSION MAY USE ANY PROCEEDS FROM THE TAX THAT ARE NOT USED FOR DEBT SERVICE ON THE PRINCIPAL AND INTEREST OF THE BONDS FOR:

(I) THE ADVANCE LAND ACQUISITION REVOLVING FUNDS UNDER SUBTITLE 4 OF THIS TITLE FOR THE USES SPECIFIED IN THIS SECTION AND SUBTITLE 4 OF THIS TITLE; OR

(II) PAYMENT OF DEBT SERVICE BONDS ISSUED UNDER THIS SECTION.

(B) PRINCE GEORGE'S COUNTY.

IF THE PRINCE GEORGE'S COUNTY COUNCIL HAS APPROVED THE ISSUE AND SALE OF BONDS UNDER SUBTITLE 2 OF THIS TITLE, THE COUNTY COUNCIL SHALL IMPOSE AN ANNUAL AMOUNT ON ALL PROPERTY ASSESSED FOR THE PURPOSES OF COUNTY TAXATION THAT IS SUFFICIENT TO PAY THE INTEREST ON THE BONDS AS THEY BECOME DUE AND TO PAY THE PRINCIPAL OF THE BONDS AS THEY MATURE.

(C) PROCEDURAL PROVISIONS.

SUBJECT TO § 18–303 OF THIS SUBTITLE, A TAX AUTHORIZED UNDER THIS SECTION SHALL:

(1) BE IMPOSED AND COLLECTED AS COUNTY TAXES ARE IMPOSED AND COLLECTED;

(2) HAVE THE SAME PRIORITY RIGHTS AS COUNTY TAXES;

(3) BEAR THE SAME INTEREST AS COUNTY TAXES; AND

(4) BE TREATED THE SAME AS COUNTY TAXES IN EVERY OTHER RESPECT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–106(e–1) and (e)(2) and (1)(i), (ii), and the first and second sentences of (iii).

In subsection (a)(3) of this section, the cross–reference to "paragraph (1) of this subsection" is substituted for the first clause of the first sentence of former Art. 28, § 7–106(e)(1)(ii) and for the former phrase "the tax in any one year not to exceed the limit heretofore provided" for brevity and clarity.

In subsection (a)(4) of this section, the former phrase "from the sources" is deleted as surplusage.

In subsection (a)(5) of this section, the former reference to the tax collected "to date" is deleted as surplusage.

Also in subsection (a)(5) of this section, the former reference to the tax "so levied" is deleted as included in the reference to the tax "collected".

Defined terms: "Commission" § 14–101
"County" § 14–101

SUBTITLE 4. LAND ACQUISITION FUNDING.

18–401. ADVANCE LAND ACQUISITION FUND; SALE OF BONDS.

(A) "FUND" DEFINED.

IN THIS SECTION, "FUND" MEANS AN ADVANCE LAND ACQUISITION FUND.

(B) ESTABLISHED.

THERE IS AN ADVANCE LAND ACQUISITION FUND IN EACH COUNTY.

(C) PURPOSE.

THE PURPOSE OF EACH FUND IS TO PURCHASE LAND AND RELATED FACILITIES CONSISTENT WITH THE PURPOSES OF THIS SECTION AND §§ 18–402 AND 18–403 OF THIS SUBTITLE.

(D) ADMINISTRATION.

THE COMMISSION SHALL ADMINISTER EACH FUND.

(E) NATURE OF FUNDS.

EACH FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO REVERSION UNDER § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE OR PROVISIONS OF THIS DIVISION RELATING TO UNEXPENDED BALANCES.

(F) CONTENTS.

EACH FUND CONSISTS OF:

(1) MONEY ALLOCATED TO THE FUND FOR THE RESPECTIVE COUNTY IN THE ANNUAL BUDGETS OF THE COMMISSION UNDER SUBTITLE 1 OF THIS TITLE;

(2) PROCEEDS OF BONDS ISSUED UNDER THIS SECTION AND ALLOCATED TO THE FUND;

(3) INVESTMENT EARNINGS OF THE FUND; AND

(4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(G) INVESTMENT.

ANY INVESTMENT EARNINGS OF A FUND SHALL BE PAID INTO THE FUND.

(H) EXPENDITURES.

EXPENDITURES FROM A FUND MAY BE MADE ONLY IN ACCORDANCE WITH THIS SECTION AND §§ 18–402 AND 18–403 OF THIS SUBTITLE.

(I) TRANSFER, USE, AND DISPOSAL OF LAND ACQUIRED THROUGH FUNDS.

(1) AT ANY TIME AFTER ACQUIRING LAND, ON REPAYMENT TO THE COMMISSION OF THE AMOUNT DISBURSED BY THE COMMISSION FOR THE LAND PLUS INTEREST, THE COMMISSION MAY TRANSFER THE LAND TO:

(I) A CONSTRUCTION AGENCY OF THE STATE;

(II) MONTGOMERY COUNTY;

(III) PRINCE GEORGE'S COUNTY;

(IV) THE REDEVELOPMENT AUTHORITY OF PRINCE GEORGE'S COUNTY;

(V) THE REVENUE AUTHORITY OF PRINCE GEORGE'S COUNTY; OR

(VI) A MUNICIPAL CORPORATION OR GOVERNED SPECIAL TAXING DISTRICT IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY.

(2) THE COMMISSION SHALL PLACE ANY AMOUNT RECEIVED IN REPAYMENT FOR LAND IN THE FUND.

(3) (I) IF THE STATE CONSTRUCTION AGENCY FOR MONTGOMERY COUNTY OR A MUNICIPAL CORPORATION OR GOVERNED DISTRICT IN MONTGOMERY COUNTY DETERMINES THAT ACQUIRED LAND IS NOT REQUIRED FOR A PUBLIC USE SPECIFIED ON THE COUNTY'S PLAN

REQUIRED UNDER § 18–402(B) OF THIS SUBTITLE, THE COMMISSION MAY USE THE LAND AS A PART OF ITS PARK SYSTEM.

(II) A USE OF LAND BY THE COMMISSION FOR PARK OR RECREATION PURPOSES UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IS NOT A DEDICATION FOR THESE PURPOSES.

(III) IF THE COMMISSION AT ANY TIME DETERMINES THAT THE LAND IS NOT NEEDED FOR PARK PURPOSES, THE COMMISSION MAY DISPOSE OF THE LAND IN THE MANNER PROVIDED FOR ELSEWHERE IN THIS DIVISION.

(4) (I) IF THE STATE CONSTRUCTION AGENCY FOR PRINCE GEORGE'S COUNTY OR A MUNICIPAL CORPORATION OR GOVERNED DISTRICT IN PRINCE GEORGE'S COUNTY, THE REDEVELOPMENT AUTHORITY FOR PRINCE GEORGE'S COUNTY, OR THE REVENUE AUTHORITY OF PRINCE GEORGE'S COUNTY DETERMINES THAT ACQUIRED LAND IS NOT REQUIRED FOR PUBLIC USE, THE COMMISSION MAY USE THE LAND AS A PART OF ITS PARK SYSTEM, SUBJECT TO THE APPROVAL OF THE PRINCE GEORGE'S COUNTY COUNCIL.

(II) A USE OF LAND BY THE COMMISSION FOR PARK OR RECREATION PURPOSES UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IS NOT A DEDICATION FOR THESE PURPOSES.

(III) IF THE COMMISSION AT ANY TIME DETERMINES THAT THE LAND IS NOT NEEDED FOR PARK PURPOSES, THE COMMISSION MAY DISPOSE OF THE LAND IN THE MANNER PROVIDED FOR ELSEWHERE IN THIS DIVISION.

(J) SALE OF BONDS.

(1) (I) THE COMMISSION MAY ISSUE AND SELL BONDS IN AMOUNTS IT CONSIDERS NECESSARY FOR THE PURPOSES OF THE FUNDS.

(II) IN PRINCE GEORGE'S COUNTY, THE COMMISSION'S ISSUANCE AND SALE OF BONDS CONCERNING THE COUNTY IS SUBJECT TO APPROVAL BY THE COUNTY COUNCIL.

(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE AMOUNT OF THE BONDS OUTSTANDING AT ANY TIME MAY NOT EXCEED AN AMOUNT THAT IS REDEEMABLE WITHIN 30 YEARS FROM THE DATE OF ISSUE BY A TAX OF 1.2 CENTS ON EACH $100 ASSESSED VALUATION OF REAL PROPERTY IN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY AND 3 CENTS ON

EACH $100 ASSESSED VALUATION OF PERSONAL PROPERTY AND OPERATING REAL PROPERTY DESCRIBED IN § 8–109(C) OF THE TAX – PROPERTY ARTICLE.

(II) TO DETERMINE THE AMOUNT OF BONDS OUTSTANDING UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE COMMISSION MAY ASSUME:

1. FUTURE IMPOSITION OF THE TAX AT THE RATE ESTABLISHED BY EACH COUNTY;

2. 100% COLLECTION OF THE TAX IN EACH FISCAL YEAR; AND

3. THE ASSESSED VALUE OF PROPERTY AT THE TIME THE BONDS ARE ISSUED WILL REMAIN CONSTANT.

(3) THE PROVISIONS OF SUBTITLE 2 OF THIS TITLE RELATING TO FORM, INTEREST RATE, SALE, REDEMPTION, GUARANTY, AND LIABILITY APPLY TO BONDS ISSUED UNDER THIS SUBSECTION.

REVISOR'S NOTE: Subsection (a) of this section is new language added to avoid repetition of the full reference to a "land acquisition revolving fund".

Subsections (b) through (j) of this section are new language derived without substantive change from former Art. 28, § 7–106(b), (c), (f), the second and third sentences of (e)(1)(iii), and the introductory language to (e).

Subsections (e), (f), and (g) of this section are restated in standard language for clarity.

In subsection (e) of this section, the reference to "reversion under § 7–302 of the State Finance and Procurement Article" is added for clarity.

In subsections (f)(3) and (g) of this section, the references to "investment earnings of the Fund" and "investment earnings [being] paid into the Fund", respectively, are added as implicit in the nature of a revolving fund.

In subsection (i)(4)(i) of this section, the reference to the Prince George's "County Council" is substituted for the former obsolete reference to the Prince George's "County Commissioners" to accurately reflect the current form of county government in Prince George's County.

In subsection (j)(1)(i), the former reference to "serial" bonds is deleted as redundant of the reference to the application of "Subtitle 2 of this title ... to bonds issued under this section" in subsection (j)(3) of this section.

Subsection (j)(2)(ii) of this section is revised to set forth in the text of the section the assumptions that were formerly cross–referenced.

Defined terms: "Commission" § 14–101
"County" § 14–101
"Governed special taxing district" § 14–101
"Park" § 14–101
"State" § 14–101

18–402. ACQUISITION OF LAND BY COMMISSION IN MONTGOMERY COUNTY.

(A) AUTHORIZATION TO ACQUIRE LAND IN MONTGOMERY COUNTY — GENERALLY.

THE COMMISSION MAY INCLUDE IN ITS ANNUAL BUDGETS PROVISIONS FOR ACQUIRING LAND NEEDED FOR PUBLIC USES IN MONTGOMERY COUNTY, INCLUDING:

(1) STATE HIGHWAYS, STREETS AND ROADS, AND MASS TRANSIT FACILITIES, INCLUDING BUSWAYS AND LIGHT RAIL FACILITIES;

(2) SCHOOLS;

(3) LIBRARIES;

(4) PARKS AND RECREATION CENTERS; AND

(5) GOVERNMENT BUILDINGS.

(B) ACQUISITION IN GENERAL PLAN.

(1) THE COMMISSION SHALL SHOW EACH PUBLIC USE TO BE ACQUIRED UNDER THIS SUBTITLE ON THE COMMISSION'S GENERAL OR ADOPTED PLAN FOR THE PHYSICAL DEVELOPMENT OF THE REGIONAL DISTRICT.

(2) AN ACQUISITION BY THE COMMISSION UNDER THIS SECTION SHALL RECEIVE APPROVAL BY FORMAL RESOLUTION OF THE DISTRICT COUNCIL OF MONTGOMERY COUNTY.

(C) ACQUISITION OF LAND IN PUBLIC CONSTRUCTION PROGRAM.

A PUBLIC USE THAT IS NOT A STATE HIGHWAY, STREET, ROAD, OR MASS TRANSIT FACILITY MAY NOT BE WITHIN A PUBLIC CONSTRUCTION PROGRAM AT THE TIME THAT THE COMMISSION ACQUIRES THE LAND.

(D) ACQUISITION OF SCHOOL SITE — APPROVAL.

THE COMMISSION MAY NOT ACQUIRE A SCHOOL SITE UNDER THIS SECTION WITHOUT THE PRIOR APPROVAL OF THE MONTGOMERY COUNTY BOARD OF EDUCATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–106(a).

In subsection (a) of this section, the former reference to "sites for" schools, libraries, and other public uses is deleted as surplusage.

In subsection (b)(1) of this section, the former reference to a "highway, street, road, mass transit facility, school site, library site, park site, recreation center site, [or] government building site" is deleted as unnecessary in light of the comprehensive reference to a "public use". Similarly, in subsection (c) of this section, the former reference to a "school site, library site, park site, recreation center site, [or] government building site" is deleted.

In subsection (c) of this section, the former word "current" is deleted as unnecessary in light of the reference to "at the time that".

Defined terms: "Commission" § 14–101
"District council" § 14–101
"Park" § 14–101
"Regional district" § 14–101
"Road" § 14–101
"State" § 14–101

18–403. ACQUISITION OF LAND BY COMMISSION IN PRINCE GEORGE'S COUNTY.

(A) AUTHORIZATION FOR TRANSPORTATION PURPOSES.

THE COMMISSION MAY ACQUIRE LAND IN PRINCE GEORGE'S COUNTY THAT IS NEEDED FOR STATE HIGHWAYS, STREETS, ROADS, OR MASS TRANSIT FACILITIES THAT ARE SHOWN ON ADOPTED AND APPROVED MASTER PLANS AND

ARE INCLUDED IN THE MARYLAND TRANSPORTATION PLAN DESCRIBED IN § 2–103.1 OF THE TRANSPORTATION ARTICLE.

(B) AUTHORIZATION FOR OTHER PUBLIC USES.

(1) THE COMMISSION MAY INCLUDE IN ITS BUDGET PROVISIONS FOR ACQUIRING LAND NEEDED FOR PUBLIC USES IN PRINCE GEORGE'S COUNTY, INCLUDING:

(I) SCHOOLS;

(II) LIBRARIES;

(III) RECREATION CENTERS;

(IV) HEALTH SERVICES FACILITIES; AND

(V) ELDER CARE FACILITIES.

(2) THE COMMISSION MAY NOT ACQUIRE LAND FOR ANY PROJECT THAT IS IN THE CAPITAL BUDGET OF THE APPROVED CAPITAL IMPROVEMENT PROGRAM OF PRINCE GEORGE'S COUNTY.

(C) EFFECT OF LOCAL LAW.

ALL LAND ACQUISITIONS BY THE COMMISSION IN PRINCE GEORGE'S COUNTY ARE SUBJECT TO ENACTMENT OF A LOCAL LAW BY THE PRINCE GEORGE'S COUNTY COUNCIL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–106(d).

In subsection (a) of this section, the word "acquire" is substituted for the former phrase "[p]rovision also may be made for acquisition" for brevity and clarity.

Also in subsection (a) of this section, the reference to the "Maryland Transportation Plan described in § 2–103.1 of the Transportation Article" is substituted for the former reference to the "Maryland twenty–year highway needs study". Section 2–103.1(d) of the Transportation Article describes the plan as a forecast of the needs of the State for the next 20 years and is likely the correct term to reference.

Defined terms: "Commission" § 14–101

"Local law" § 14–101
"Road" § 14–101
"State" § 14–101

18–404. GRANTS BY COUNTIES; AGREEMENTS RELATING TO COUNTY PROPERTY.

(A) GRANTS BY COUNTIES.

(1) ON REQUEST BY THE COMMISSION, MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY MAY GRANT MONEY TO THE COMMISSION FOR ANY OF THE PURPOSES OF SUBTITLES 2 AND 3 OF THIS TITLE.

(2) THE COMMISSION SHALL USE THE MONEY GRANTED UNDER THIS SUBSECTION IN THE COUNTY MAKING THE GRANT.

(3) (I) EACH YEAR, MONTGOMERY COUNTY MAY NOT GRANT MORE THAN ONE–HALF OF THE COUNTY'S SHARE OF THE STATE INCOME TAX PLUS ONE–HALF THE PROFITS OF THE COUNTY DISPENSARY DISTRIBUTED TO THE COUNTY.

(II) EACH YEAR, PRINCE GEORGE'S COUNTY MAY NOT GRANT MORE THAN ONE–HALF OF THE COUNTY'S SHARE OF THE STATE INCOME TAX.

(B) AGREEMENTS RELATING TO COUNTY PROPERTY.

THE GOVERNING BODY OF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY MAY CONVEY, LEASE, OR ENTER INTO A CONTRACT OR AGREEMENT WITH THE COMMISSION FOR USE, DEVELOPMENT, AND MAINTENANCE BY THE COMMISSION OF COUNTY PROPERTY FOR THE PURPOSES OF THIS DIVISION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 6–109.

In subsection (a)(1) of this section, the former reference to the granting of money "from time to time" is deleted as surplusage.

In subsection (a)(3)(i) of this section, the reference to profits "distributed to the county" is substituted for the former reference to profits "as turned over to the county treasurer" for brevity and accuracy.

Defined terms: "Commission" § 14–101
"State" § 14–101

SUBTITLE 5. PAYMENT OF OBLIGATIONS.

18–501. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 28, § 2–201(a).

No changes are made.

(B) PAYMENT DATE.

"PAYMENT DATE" MEANS THE DATE OF THE COMMISSION'S CHECK.

REVISOR'S NOTE: This subsection formerly was Art. 28, § 2–201(b).

No changes are made.

Defined term: "Commission" § 14–101

(C) PROPER INVOICE.

"PROPER INVOICE" MEANS AN INVOICE THAT:

(1) CONTAINS:

(I) THE CONTRACTOR'S FEDERAL EMPLOYER IDENTIFICATION NUMBER OR SOCIAL SECURITY NUMBER; AND

(II) THE CONTRACT OR PURCHASE ORDER NUMBER OR OTHER DESCRIPTION OF THE CONTRACT; AND

(2) CONTAINS OR IS ACCOMPANIED BY SUBSTANTIATING INFORMATION AND DOCUMENTATION AS REQUIRED BY REGULATION OR CONTRACT.

REVISOR'S NOTE: This subsection formerly was Art. 28, § 2–201(c).

The only changes are in style.

(D) RECEIPT DATE.

"RECEIPT DATE" MEANS THE DATE THAT A PROPER INVOICE IS RECEIVED BY THE COMMISSION.

REVISOR'S NOTE: This subsection formerly was Art. 28, § 2–201(d).

No changes are made.

Defined terms: "Commission" § 14–101
"Proper invoice" § 18–501

18–502. PAYMENT OF PROCUREMENT CONTRACT.

IT IS THE POLICY OF THE COMMISSION THAT PAYMENT UNDER AN AUTHORIZED, WRITTEN PROCUREMENT CONTRACT SHALL BE MADE BY THE COMMISSION TO THE CONTRACTOR WITHIN 30 DAYS AFTER THE RECEIPT DATE OF A PROPER INVOICE.

REVISOR'S NOTE: This section formerly was Art. 28, § 2–202.

The former reference to "calendar" days is deleted in light of Art. 1, § 36, which provides that any period exceeding 7 days is assumed to mean calendar days, not business days.

The only other changes are in style.

Defined terms: "Commission" § 14–101
"Proper invoice" § 18–501
"Receipt date" § 18–501

18–503. INTEREST ON UNPAID CONTRACTS.

AN AMOUNT DUE AND PAYABLE UNDER AN AUTHORIZED, WRITTEN PROCUREMENT CONTRACT AND IN ACCORDANCE WITH LAW THAT REMAINS UNPAID FOR MORE THAN 45 DAYS AFTER THE RECEIPT DATE SHALL ACCRUE INTEREST:

(1) FOR THE PERIOD THAT BEGINS 31 DAYS AFTER THE RECEIPT DATE; AND

(2) AT THE RATE SPECIFIED IN § 11–107(A) OF THE COURTS ARTICLE.

REVISOR'S NOTE: This section formerly was Art. 28, § 2–203.

In the introductory language to and in item (1) of this section, the former references to "calendar" days are deleted in light of Art. 1, § 36, which provides that any period exceeding 7 days is assumed to mean calendar days, not business days.

The only other changes are in style.

Defined term: "Receipt date" § 18–501

18–504. LIABILITY OF COMMISSION.

THE COMMISSION IS NOT LIABLE FOR THE PAYMENT OF INTEREST UNDER THIS SUBTITLE:

(1) IF A PROPER INVOICE FOR ACCRUED INTEREST IS NOT SUBMITTED WITHIN 30 DAYS AFTER THE PAYMENT DATE OF THE AMOUNT ON WHICH THE INTEREST ACCRUED;

(2) FOR MORE THAN 1 YEAR AND 31 DAYS AFTER THE RECEIPT DATE;

(3) ON AMOUNTS REPRESENTING UNPAID INTEREST; OR

(4) IF THE COMMISSION DETERMINES THERE IS A DISPUTE REGARDING ANY MATERIAL FACTOR IN THE CONTRACT OR PURCHASE ORDER.

REVISOR'S NOTE: This section formerly was Art. 28, § 2–204.

In items (1) and (2) of this section, the former references to "calendar" days are deleted in light of Art. 1, § 36, which provides that any period exceeding 7 days is assumed to mean calendar days, not business days.

The only other changes are in style.

Defined terms: "Commission" § 14–101
"Payment date" § 18–501
"Proper invoice" § 18–501
"Receipt date" § 18–501

TITLE 19. MARYLAND–WASHINGTON METROPOLITAN DISTRICT.

19–101. METROPOLITAN DISTRICT.

(A) CONTINUED.

THE AREA IN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY WITHIN THE BOUNDARIES SPECIFIED IN THIS TITLE IS KNOWN AS THE MARYLAND–WASHINGTON METROPOLITAN DISTRICT.

(B) STATUS.

THE METROPOLITAN DISTRICT IS THE AUTHORITY OF THE COMMISSION FOR THE PURPOSES SET FORTH IN THIS DIVISION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 3–101.

Defined terms: "Commission" § 14–101
"Metropolitan district" § 14–101

19–102. BOUNDARIES.

THE BOUNDARIES OF THE METROPOLITAN DISTRICT ARE THE SAME AS EXISTED ON OCTOBER 1, 2012, WITH THE EXCLUSION OF ANY PROPERTY ANNEXED INTO THE CITY OF ROCKVILLE, THE CITY OF GAITHERSBURG, OR THE TOWN OF WASHINGTON GROVE UNDER CHAPTER 429 OF THE ACTS OF THE GENERAL ASSEMBLY OF 2007.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 3–106(1) and (2), as it related to the effect of certain annexations on the boundaries of the metropolitan district, and the introductory language to § 3–102(a).

The reference to the boundaries being "the same as existed on October 1, 2012" is substituted for the former reference to the boundaries being "as follows" for clarity.

The remainder of former Art. 28, § 3–102 and §§ 3–103 through 3–107, which provided the specific, detailed boundaries for the Maryland–Washington Metropolitan District, are transferred to the Session Laws. *See* § 11 of Ch. 426, Acts of 2012.

Defined term: "Metropolitan district" § 14–101

GENERAL REVISOR'S NOTE TO TITLE

Former Art. 28, §§ 3–102 through 3–107, which specified the boundaries of the metropolitan district, are transferred to the Session Laws because the boundaries rarely change and to avoid confusion for users of the Annotated Code. *See* § 11 of Ch. 426, Acts of 2012.

TITLE 20. MARYLAND–WASHINGTON REGIONAL DISTRICT.

SUBTITLE 1. GENERAL PROVISIONS.

20–101. MARYLAND–WASHINGTON REGIONAL DISTRICT.

(A) ESTABLISHED.

THERE IS A MARYLAND–WASHINGTON REGIONAL DISTRICT.

(B) COMPOSITION.

THE REGIONAL DISTRICT CONSISTS OF:

(1) THE ENTIRE AREA OF MONTGOMERY COUNTY, SUBJECT TO THE LIMITATIONS IN SUBTITLE 7, PART I OF THIS TITLE AND TITLE 24, SUBTITLE 2 OF THIS ARTICLE; AND

(2) THE ENTIRE AREA OF PRINCE GEORGE'S COUNTY, EXCEPT FOR THE CITY OF LAUREL AS IT EXISTED ON JULY 1, 2008.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–103(a) and the first sentence of (b) and the third sentence of § 7–102.

In subsection (a) of this section, the former reference to the Maryland–Washington Regional District being "referred to as the 'regional district' or as 'district'" is deleted as unnecessary in light of the definition of "regional district" in § 14–101 of this article.

The first and second sentences of former Art. 28, § 7–102, which provided for the continuity of the boundaries of the regional district through several recodifications, are deleted as unnecessary. The references to the various Chapters of the Acts are unnecessary as each one repealed the former, creating very specific boundaries for the regional district. References to specific boundaries are unnecessary, as former § 7–103 did not include boundaries for the regional district, except to the extent that specified municipal corporations are excluded.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in subsection (b)(2) of this section, the exclusion from the regional district of "the City of Laurel as it existed on July 1, 2008" precludes the application of the land use powers of the City of Laurel to land annexed to that municipal corporation after July 1, 2008, absent specific subsequent substantive legislation altering the boundaries of the regional district.

Defined term: "Regional district" § 14–101

SUBTITLE 2. COUNTY PLANNING BOARDS.

20–201. MEMBERSHIP.

THE COMMISSIONERS FROM EACH COUNTY ARE DESIGNATED AS THE MONTGOMERY COUNTY PLANNING BOARD OR THE PRINCE GEORGE'S COUNTY PLANNING BOARD, RESPECTIVELY.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 28, § 7–111(a).

Defined term: "Commissioner" § 14–101

20–202. POWERS AND DUTIES.

(A) IN GENERAL.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A COUNTY PLANNING BOARD:

(I) IS RESPONSIBLE FOR PLANNING, SUBDIVISION, AND ZONING FUNCTIONS THAT ARE PRIMARILY LOCAL IN SCOPE; AND

(II) SHALL EXERCISE, WITHIN THE COUNTY PLANNING BOARD'S JURISDICTION, THE FOLLOWING POWERS:

1. PLANNING;

2. ZONING;

3. SUBDIVISION;

4. ASSIGNMENT OF STREET NAMES AND HOUSE NUMBERS; AND

5. ANY RELATED MATTER.

(2) THE FUNCTIONS UNDER PARAGRAPH (1) OF THIS SUBSECTION DO NOT INCLUDE THE REGIONAL PLANNING FUNCTIONS OF THE COMMISSION RELATING TO OR AFFECTING THE REGIONAL DISTRICT AS A PLANNING UNIT.

(B) EXCLUSIVE JURISDICTION.

(1) A COUNTY PLANNING BOARD HAS EXCLUSIVE JURISDICTION OVER:

(I) LOCAL FUNCTIONS, INCLUDING:

1. THE ADMINISTRATION OF SUBDIVISION REGULATIONS;

2. THE PREPARATION AND ADOPTION OF RECOMMENDATIONS TO THE DISTRICT COUNCIL WITH RESPECT TO ZONING MAP AMENDMENTS; AND

3. THE ASSIGNMENT OF STREET NAMES AND HOUSE NUMBERS IN THE REGIONAL DISTRICT; AND

(II) MANDATORY REFERRALS MADE IN ACCORDANCE WITH SUBTITLE 3, PART I OF THIS TITLE BY THE COUNTY PLANNING BOARD'S RESPECTIVE COUNTY GOVERNMENT OR ANY UNIT OF THE COUNTY GOVERNMENT.

(2) THE MONTGOMERY COUNTY PLANNING BOARD HAS EXCLUSIVE JURISDICTION OVER A MANDATORY REFERRAL MADE IN ACCORDANCE WITH SUBTITLE 3, PART I OF THIS TITLE BY THE COUNTY BOARD OF EDUCATION, A MUNICIPAL CORPORATION OR SPECIAL TAXING DISTRICT, OR A PUBLICLY OWNED OR PRIVATELY OWNED PUBLIC UTILITY.

(C) REVIEW OF CAPITAL BUDGETS BY MONTGOMERY COUNTY PLANNING BOARD.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE MONTGOMERY COUNTY PLANNING BOARD SHALL:

(I) REVIEW THE ANNUAL CAPITAL BUDGETS OF THE COUNTY AND FUTURE CAPITAL BUDGET PROJECTIONS; AND

(II) SUBMIT RECOMMENDATIONS TO THE COUNTY COUNCIL.

(2) THE COUNTY GOVERNMENT SHALL HAVE SOLE RESPONSIBILITY FOR THE PREPARATION OF THE CAPITAL BUDGETS AND PROGRAMS OF PUBLIC WORKS.

(D) MEETINGS.

EACH COUNTY PLANNING BOARD SHALL:

(1) MEET FROM TIME TO TIME WITH ITS RESPECTIVE COUNTY COUNCIL; AND

(2) PERFORM SURVEYS, STUDIES, AND OTHER PLANNING DUTIES THE COUNTY COUNCIL ASSIGNS TO THE COUNTY PLANNING BOARD.

REVISOR'S NOTE: This section is new language derived without substantive change from the second through sixth sentences of former Art. 28, § 7–111(a) and the fifth sentence of (b).

In subsection (a)(1)(i) of this section, the defined term "subdivision" is substituted for the former word "platting" for clarity.

In subsection (a)(1)(ii) of this section, the former reference to the planning boards "hav[ing]" powers is deleted as implicit in the county planning boards "exercis[ing]" powers.

In subsection (b)(1)(i) of this section, the former phrase "but are not limited to" is deleted as unnecessary in light of Art. 1, § 30, which provides that the term "including" is used "by way of illustration and not by way of limitation".

In subsection (b)(1)(ii) of this section, the reference to any "unit" of county government is substituted for the former reference to any "agency" of county government for consistency with other revised articles of the Code.

In subsection (c)(2) of this section, the reference to the county government having "sole responsibility" for preparing the capital budgets is substituted for the former reference to the responsibility being in the county government and "not in the staff of the Commission and the county planning board" for brevity.

Defined terms: "Commission" § 14–101
"County planning board" § 14–101

"District council" § 14–101
"Regional district" § 14–101
"Subdivision" § 14–101

20–203. REGIONAL FUNCTIONS.

(A) JURISDICTION OF COMMISSION.

THE REGIONAL FUNCTIONS WITHIN THE JURISDICTION OF THE COMMISSION INCLUDE:

(1) PREPARATION, ADOPTION, AND AMENDMENT OF THE GENERAL PLAN OR PARTS OF THE GENERAL PLAN FOR THE PHYSICAL DEVELOPMENT OF THE REGIONAL DISTRICT IN ACCORDANCE WITH TITLE 21 OF THIS ARTICLE; AND

(2) MANDATORY REFERRALS FROM THE UNITED STATES OR THE STATE, OR ANY UNIT OF THE UNITED STATES OR THE STATE, IN ACCORDANCE WITH SUBTITLE 3, PART I OF THIS TITLE.

(B) RECOMMENDATIONS.

THE COMMISSION OR THE COUNTY PLANNING BOARDS MAY RECOMMEND TO THE PROPER AUTHORITIES AMENDMENTS TO THE ZONING LAWS, SUBDIVISION REGULATIONS, AND ANY OTHER RULES AND REGULATIONS AUTHORIZED IN THIS TITLE.

(C) ADOPTION OF RESOLUTIONS OR RECOMMENDATIONS.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE ADOPTION OF A RESOLUTION OR RECOMMENDATION RELATING TO A REGIONAL MATTER SHALL BE BY A MAJORITY VOTE OF THE COMMISSION.

(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE MAJORITY VOTE SHALL INCLUDE AT LEAST THREE MEMBERS FROM MONTGOMERY COUNTY AND AT LEAST THREE MEMBERS FROM PRINCE GEORGE'S COUNTY.

(II) IF A REGIONAL PLAN AFFECTS ONLY ONE COUNTY, THE AFFIRMATIVE VOTE OF THREE MEMBERS OF THE COUNTY PLANNING BOARD FOR THE COUNTY AFFECTED SHALL CONTROL.

REVISOR'S NOTE: This section is new language derived without substantive change from the first through fourth sentences of former Art. 28, § 7–111(b).

In the introductory language to subsection (a) of this section, the former phrase "but are not to be limited to" is deleted as unnecessary in light of Art. 1, § 30, which provides that the term "includes" is used "by way of illustration and not by way of limitation".

In subsection (a)(2) of this section, the reference to a "unit" is substituted for the former reference to an "agency" for consistency with other revised articles of the Code.

In subsection (b) of this section, the former reference to "text" amendments is deleted as unnecessary.

In subsection (c)(1) of this section, the phrase "a majority vote" is substituted for the former phrase "the affirmative votes of not less than six members" for brevity.

Defined terms: "Commission" § 14–101
"County planning board" § 14–101
"Regional district" § 14–101
"State" § 14–101
"Subdivision" § 14–101
"Zoning law" § 14–101

20–204. JURISDICTION OVER PERSONNEL.

(A) IN GENERAL.

EACH COUNTY PLANNING BOARD SHALL HAVE ADMINISTRATIVE CONTROL AND JURISDICTION OVER PERSONNEL PERFORMING THE DUTIES AND FUNCTIONS ASSIGNED IN THIS SUBTITLE TO THE RESPECTIVE COUNTY PLANNING BOARD.

(B) MONTGOMERY COUNTY PLANNING BOARD.

IN MONTGOMERY COUNTY, A DIRECTOR SERVES AT THE PLEASURE OF THE MONTGOMERY COUNTY PLANNING BOARD.

(C) PRINCE GEORGE'S COUNTY PLANNING BOARD.

(1) IN THIS SUBSECTION, "DEPUTY DIRECTOR" INCLUDES ANY POSITION COMPARABLE TO THE POSITION OF A DEPUTY DIRECTOR, AS THE PRINCE GEORGE'S COUNTY PLANNING BOARD DETERMINES.

(2) IN PRINCE GEORGE'S COUNTY, A DIRECTOR OR DEPUTY DIRECTOR OF A DEPARTMENT SHALL HAVE EDUCATION OR PROFESSIONAL EXPERIENCE IN A FIELD RELEVANT TO THE RESPONSIBILITIES OF THAT DEPARTMENT.

(3) A DIRECTOR OR DEPUTY DIRECTOR SHALL RECEIVE THE COMPENSATION ESTABLISHED IN THE BUDGET FOR THE PRINCE GEORGE'S COUNTY PLANNING BOARD.

(4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A DIRECTOR OR DEPUTY DIRECTOR SHALL BE APPOINTED BY AND SERVE AT THE PLEASURE OF THE PRINCE GEORGE'S COUNTY PLANNING BOARD.

(II) IN PRINCE GEORGE'S COUNTY, AN INDIVIDUAL MAY ELECT TO REMAIN IN THE MERIT SYSTEM ESTABLISHED UNDER TITLE 16, SUBTITLE 1 OF THIS ARTICLE IF ON JUNE 30, 1991, THE INDIVIDUAL WAS A DIRECTOR OF PLANNING OR A DIRECTOR OF PARKS AND RECREATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–111(c)(1), (2)(i) through (iii) and (iv)1 and 2A, and (3)(i).

Former Art. 28, § 7–111(c)(2)(iv)2B and (3)(ii), which allowed certain individuals employed in certain positions as of certain dates to remain in the merit system, are deleted as obsolete.

Defined terms: "County planning board" § 14–101
"Park" § 14–101

20–205. PARKS AND PARKLANDS.

(A) COMMISSION RETAINS POWERS AND DUTIES.

EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS SECTION, THIS SUBTITLE MAY NOT BE CONSTRUED TO AFFECT THE POWERS AND DUTIES OF THE COMMISSION WITH RESPECT TO PARKS AND PARKLANDS.

(B) AUTHORITY OF COMMISSION TO DELEGATE.

THE COMMISSION MAY DELEGATE TO THE COUNTY PLANNING BOARDS THOSE POWERS AND DUTIES WITH RESPECT TO PARKS AND PARKLANDS THAT THE COMMISSION MAY DETERMINE.

(C) PRINCE GEORGE'S COUNTY PLANNING BOARD.

THE PRINCE GEORGE'S COUNTY PLANNING BOARD SHALL:

(1) PROVIDE A PROGRAM OF RECREATION IN PRINCE GEORGE'S COUNTY; AND

(2) COORDINATE THE PROGRAM WITH THE COMMISSION'S PARK FUNCTIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–111(d).

In subsection (b) of this section, the former reference to the Commission making a determination "from time to time" is deleted as surplusage.

Defined terms: "Commission" § 14–101
"County planning board" § 14–101
"Park" § 14–101

20–206. EXPENSES.

THE EXPENSES OF OPERATING EACH COUNTY PLANNING BOARD SHALL BE PAID FROM THE PROCEEDS OF THE ADMINISTRATIVE TAX COLLECTED FOR THE COMMISSION UNDER § 18–307 OF THIS ARTICLE AND ANY ADDITIONAL FUNDS APPROPRIATED BY THE RESPECTIVE COUNTY GOVERNING BODY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–111(e).

Defined terms: "Commission" § 14–101
"County planning board" § 14–101

20–207. ASSIGNMENT OF OTHER FUNCTIONS.

(A) IN GENERAL.

SUBJECT TO SUBSECTION (B) OF THIS SECTION, FUNCTIONS NOT SPECIFICALLY ALLOCATED IN THIS SUBTITLE SHALL BE ASSIGNED TO THE

COMMISSION OR TO ONE OR BOTH OF THE COUNTY PLANNING BOARDS, AS NEEDED.

(B) REQUIREMENTS.

THE ASSIGNMENTS SHALL:

(1) BE MADE BY RESOLUTION OF THE COMMISSION WITH THE APPROVAL OF THE RESPECTIVE COUNTY COUNCIL; AND

(2) CARRY OUT THE POLICY THAT LOCAL OR INTRACOUNTY PLANNING FUNCTIONS SHOULD BE PERFORMED BY THE COUNTY PLANNING BOARDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–111(f).

In subsection (b)(2) of this section, the reference to "carry[ing] out the policy" is substituted for the former phrase "so as to effectuate the concept" for clarity and brevity.

Also in subsection (b)(2) of this section, the former reference to functions that are "essentially" local or intracounty is deleted as unnecessary.

Defined terms: "Commission" § 14–101
"County planning board" § 14–101

20–208. COMPENSATION OF MEMBERS.

(A) ANNUAL SALARY.

NOTWITHSTANDING OTHER PROVISIONS OF THIS DIVISION, MONEY MAY BE INCLUDED IN THE COMMISSION'S ANNUAL BUDGET AND APPROPRIATED BY THE RESPECTIVE COUNTY COUNCIL TO PROVIDE AN ANNUAL SALARY FOR EACH COUNTY PLANNING BOARD MEMBER, OTHER THAN A FULL–TIME MEMBER, AS COMPENSATION FOR THE MEMBER'S SERVICES.

(B) COMPENSATION BY COUNTY COUNCILS.

AFTER NOTICE AND PUBLIC HEARING, THE MONTGOMERY COUNTY COUNCIL AND THE PRINCE GEORGE'S COUNTY COUNCIL MAY EACH ESTABLISH THE SALARY FOR A COUNTY PLANNING BOARD MEMBER FROM THAT COUNTY, OTHER THAN A FULL–TIME MEMBER, BY LOCAL LAW SEPARATE FROM BUDGET ACTION.

REVISOR'S NOTE: This section formerly was Art. 28, § 7–111(g).

The only changes are in style.

Defined terms: "Commission" § 14–101
"County" § 14–101
"County planning board" § 14–101
"Local law" § 14–101

20–209. AUTHORITY OF MONTGOMERY COUNTY PLANNING BOARD.

IN MONTGOMERY COUNTY, TO THE EXTENT AUTHORIZED BY LOCAL LAW, THE MONTGOMERY COUNTY PLANNING BOARD MAY:

(1) ADMINISTER AND ENFORCE ANY ADOPTED GROWTH POLICY OR FOREST CONSERVATION PROGRAM; AND

(2) PROVIDE STAFFING ASSISTANCE ON MATTERS RELATING TO THE PROMOTION OF HISTORIC PRESERVATION.

REVISOR'S NOTE: This section formerly was Art. 28, § 7–111(h).

The only changes are in style.

Defined term: "Local law" § 14–101

SUBTITLE 3. REVIEW OF PUBLIC PROJECTS.

PART I. MANDATORY REFERRAL REVIEW.

20–301. PRIOR APPROVAL REQUIRED.

SUBJECT TO §§ 20–303 AND 20–304 OF THIS SUBTITLE, A PUBLIC BOARD, PUBLIC BODY, OR PUBLIC OFFICIAL MAY NOT CONDUCT ANY OF THE FOLLOWING ACTIVITIES IN THE REGIONAL DISTRICT UNLESS THE PROPOSED LOCATION, CHARACTER, GRADE, AND EXTENT OF THE ACTIVITY IS REFERRED TO AND APPROVED BY THE COMMISSION:

(1) ACQUIRING OR SELLING LAND;

(2) LOCATING, CONSTRUCTING, OR AUTHORIZING:

(I) A ROAD;

(II) A PARK;

(III) ANY OTHER PUBLIC WAY OR GROUND;

(IV) A PUBLIC BUILDING OR STRUCTURE, INCLUDING A FEDERAL BUILDING OR STRUCTURE; OR

(V) A PUBLICLY OWNED OR PRIVATELY OWNED PUBLIC UTILITY; OR

(3) CHANGING THE USE OF OR WIDENING, NARROWING, EXTENDING, RELOCATING, VACATING, OR ABANDONING ANY FACILITY LISTED IN ITEM (2) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 28, § 7–112, and, as it related to mandatory referrals, the fourth sentence.

In the introductory language to this section, the phrase "[s]ubject to §§ 20–303 and 20–304 of this subtitle," is added for clarity.

Also in the introductory language to this section, the former phrase "[w]hen the Commission has adopted a master plan of highways of the regional district and has certified the plan to the County Council and clerk of the Circuit Court of Montgomery County and to the Board of County Commissioners and clerk of the Circuit Court of Prince George's County," is deleted as obsolete.

Also in the introductory language to this section, the former word "until" is deleted as included in the word "unless".

Defined terms: "Commission" § 14–101
"Park" § 14–101
"Regional district" § 14–101
"Road" § 14–101

20–302. JURISDICTION.

(A) FEDERAL AND STATE REFERRALS.

THE COMMISSION HAS EXCLUSIVE JURISDICTION OVER MANDATORY REFERRALS MADE UNDER THIS PART FROM THE UNITED STATES OR THE STATE, OR ANY UNIT OF THE UNITED STATES OR THE STATE.

(B) COUNTY REFERRALS.

A COUNTY PLANNING BOARD HAS EXCLUSIVE JURISDICTION OVER A MANDATORY REFERRAL UNDER THIS PART BY THE COUNTY PLANNING BOARD'S RESPECTIVE COUNTY GOVERNMENT OR ANY UNIT OF THE COUNTY GOVERNMENT.

(C) ADDITIONAL REFERRALS — MONTGOMERY COUNTY.

THE MONTGOMERY COUNTY PLANNING BOARD HAS EXCLUSIVE JURISDICTION OVER A MANDATORY REFERRAL UNDER THIS PART BY THE COUNTY BOARD OF EDUCATION, A MUNICIPAL CORPORATION OR SPECIAL TAXING DISTRICT, OR A PUBLICLY OWNED OR PRIVATELY OWNED PUBLIC UTILITY.

REVISOR'S NOTE: This section is new language derived without substantive change from the fourth sentence of former Art. 28, § 7–111(a) and the first sentence of (b), as they related to mandatory referrals.

In subsection (a) of this section, the reference to "exclusive" jurisdiction is added for clarity.

In subsection (b) of this section, the reference to any "unit" of county government is substituted for the former reference to any "agency" for consistency with other revised articles of the Code.

Defined terms: "Commission" § 14–101
"County" § 14–101
"County planning board" § 14–101
"State" § 14–101

20–303. COMMISSION DISAPPROVAL.

(A) REQUIRED NOTICE.

IF THE COMMISSION DISAPPROVES A REFERRAL SUBMITTED UNDER § 20–301 OF THIS SUBTITLE, THE COMMISSION SHALL COMMUNICATE THE REASONS FOR THE DISAPPROVAL TO THE ENTITY THAT PROPOSED THE ACTIVITY.

(B) OVERRULING.

NOTWITHSTANDING § 20–301 OF THIS SUBTITLE, THE ENTITY THAT PROPOSED THE ACTIVITY MAY OVERRULE THE DISAPPROVAL OF THE COMMISSION AND PROCEED WITH THE ACTIVITY AS PROPOSED.

REVISOR'S NOTE: This section is new language derived without substantive change from the second and third sentences and, as it related to overruling certain actions, the fourth sentence of former Art. 28, § 7–112.

In subsections (a) and (b) of this section, the references to an "entity" are substituted for the former references to a "board, body, or official" because certain private entities such as utilities, in addition to public entities such as boards and bodies, may be required to refer proposals to the Commission under this part.

Defined term: "Commission" § 14–101

20–304. COMMISSION FAILURE TO ACT.

UNLESS A LONGER PERIOD IS GRANTED BY THE SUBMITTING ENTITY, AN OFFICIAL REFERRAL TO THE COMMISSION UNDER THIS PART IS DEEMED APPROVED IF THE COMMISSION FAILS TO ACT WITHIN 60 DAYS AFTER THE DATE OF SUBMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from the fifth sentence of former Art. 28, § 7–112.

The reference to an "entity" is substituted for the former reference to a "board, body, or official" because certain private entities such as utilities, in addition to public entities such as boards and bodies, may be required to refer proposals to the Commission under this part.

Defined term: "Commission" § 14–101

20–305. UNIFORM STANDARDS OF REVIEW.

(A) ADOPTION.

AFTER APPROPRIATE PUBLIC HEARINGS, THE COMMISSION SHALL ADOPT UNIFORM STANDARDS OF REVIEW TO BE FOLLOWED IN REVIEWING CHANGES TO PROPERTY SUBJECT TO REVIEW.

(B) NOTICE.

(1) THE COMMISSION SHALL PUBLISH A NOTICE OF THE ADOPTION OF THE STANDARDS OF REVIEW IN A NEWSPAPER OF GENERAL CIRCULATION THAT IS PUBLISHED IN EACH COUNTY.

(2) THE NOTICE SHALL:

(I) INCLUDE A SUMMARY OF THE PURPOSE OF THE STANDARDS AND THE REVIEW PROCESS; AND

(II) IDENTIFY A LOCATION AND A PHONE NUMBER TO CONTACT FOR A COMPLETE COPY OF THE STANDARDS OF REVIEW.

REVISOR'S NOTE: This section is new language derived without substantive change from the sixth through ninth sentences of former Art. 28, § 7–112.

In subsection (b)(1) of this section, the reference to "a newspaper of general circulation" is substituted for the former reference to "one newspaper of record" to conform to the terminology used in other revised articles of the Code.

Defined term: "Commission" § 14–101

20–306. RESERVED.

20–307. RESERVED.

PART II. PERMISSIVE REFERRAL REVIEW.

20–308. RECOMMENDATIONS BY COMMISSION TO MONTGOMERY COMMUNITY COLLEGE.

ON THE REQUEST OF THE BOARD OF TRUSTEES OF MONTGOMERY COMMUNITY COLLEGE, AND IN ACCORDANCE WITH § 16–413 OF THE EDUCATION ARTICLE, THE COMMISSION MAY MAKE RECOMMENDATIONS TO THE BOARD CONCERNING REAL PROPERTY SITES APPROPRIATE FOR ACQUISITION BY THE BOARD THAT CONFORM AS FAR AS PRACTICABLE TO DEVELOPMENT PLANS FOR LAND USE IN MONTGOMERY COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–106(g).

Defined term: "Commission" § 14–101

SUBTITLE 4. ROAD GRADES.

20–401. AUTHORITY TO ESTABLISH.

(A) IN GENERAL.

THE COMMISSION MAY ESTABLISH GRADES FOR ALL ROADS IN THE REGIONAL DISTRICT.

(B) MONTGOMERY COUNTY.

IN MONTGOMERY COUNTY, ALL ROAD GRADES SHALL BE ESTABLISHED IN ACCORDANCE WITH LOCAL LAW.

(C) PRINCE GEORGE'S COUNTY.

IN PRINCE GEORGE'S COUNTY, THE DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION SHALL ESTABLISH ROAD GRADES.

(D) RESTRICTIONS ON PERMANENT ROAD GRADING.

PERMANENT ROAD GRADING MAY NOT OCCUR UNTIL A ROAD GRADE HAS BEEN ESTABLISHED BY:

(1) THE COMMISSION IN MONTGOMERY COUNTY; OR

(2) THE DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION IN PRINCE GEORGE'S COUNTY.

(E) PENALTY FOR UNAUTHORIZED PERMANENT ROAD GRADING.

UNAUTHORIZED PERMANENT ROAD GRADING IS A MISDEMEANOR AND IS PUNISHABLE UNDER TITLE 27 OF THIS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–113.

In subsection (b) of this section, the phrase "in accordance with" is substituted for the former phrase "within the tolerances set forth in" for clarity and brevity.

Also in subsection (b) of this section, the reference to "local law" is substituted for the former reference to "the Montgomery County Road Code" for consistency within this division.

In the introductory language to subsection (d) of this section, the references to "road" grading and grade are added for clarity.

In subsection (d)(1) of this section, the reference to "Montgomery County" is added for clarity.

In subsection (d)(2) of this section, the reference to the "Department of Public Works and Transportation in Prince George's County" is substituted for the former reference to the "county department" for clarity.

In subsection (e) of this section, the reference to "road" grading is added for clarity.

Also in subsection (e) of this section, the former phrase "by any State, municipal or county officer or employee or by any private person" is deleted as unnecessary because the phrase covered all possible offenders. By deleting the phrase, no one is excluded; therefore, the statute still covers all possible offenders.

Also in subsection (e) of this section, the former reference to unauthorized grading being "declared to be" a misdemeanor is deleted as unnecessary.

Defined terms: "Commission" § 14–101
"Local law" § 14–101
"Regional district" § 14–101
"Road" § 14–101

SUBTITLE 5. BUILDING CODES AND PERMITS.

PART I. GENERAL PROVISIONS.

20–501. SCOPE OF PART.

THIS PART APPLIES ONLY IN THE REGIONAL DISTRICT.

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

Defined term: "Regional district" § 14–101

20–502. BUILDING PERMIT REQUIRED.

(A) IN GENERAL.

(1) A PERSON MAY NOT CONSTRUCT OR ALTER STRUCTURALLY A BUILDING OR OTHER STRUCTURE IN THE REGIONAL DISTRICT WITHOUT A BUILDING PERMIT.

(2) A BUILDING PERMIT SHALL CONFORM TO THIS DIVISION AND ANY LOCAL LAW ENACTED BY THE APPROPRIATE DISTRICT COUNCIL.

(B) AGRICULTURAL USE EXEMPTION.

A BUILDING PERMIT MAY NOT BE REQUIRED FOR A BUILDING OR STRUCTURE TO BE USED EXCLUSIVELY FOR AGRICULTURE ON LAND USED EXCLUSIVELY FOR AGRICULTURE.

(C) APPROVAL NOT REQUIRED.

A LOCAL LAW ENACTED UNDER THIS DIVISION MAY NOT REQUIRE THE COMMISSION TO APPROVE A BUILDING PERMIT.

REVISOR'S NOTE: This section is new language derived without substantive change from the first, second, and fourth sentences of former Art. 28, § 8–119(a).

In subsection (a)(1) of this section, the former reference to the "issuance of" a building permit is deleted as unnecessary.

In subsection (a)(2) of this section, the requirement that a permit "shall conform" is substituted for the former limitation that a permit "may not be given except in conformity with" for clarity.

Also in subsection (a)(2) of this section, the reference to an enacted "local law" is substituted for the former reference to enacted "regulations" for consistency within this division. No substantive change is intended.

Also in subsection (a)(2) of this section, the reference to the "appropriate district council" is substituted for the former reference to the "respective district councils" for clarity.

In subsection (c) of this section, the former reference to a building permit "in Montgomery County or Prince George's County" is deleted as unnecessary in light of the scope provision in § 20–501 of this subtitle.

Also in subsection (c) of this section, the former reference to "any acts, ordinances, or regulations inconsistent herewith are repealed to the extent of the inconsistency" is deleted as implicit in the prohibition on a local law requiring the Commission to approve a building permit.

The third sentence of former Art. 28, § 8–119(a), which required the appropriate district council to designate an approving official for a part of the regional district not having a local law under this section, is deleted as obsolete.

Defined terms: "Commission" § 14–101
"District council" § 14–101
"Local law" § 14–101
"Person" § 14–101
"Regional district" § 14–101

20–503. ZONING REVIEW.

(A) IN GENERAL.

BY ZONING LAW, A DISTRICT COUNCIL MAY PROVIDE FOR:

(1) THE ISSUANCE OF USE AND OCCUPANCY PERMITS; AND

(2) A PROCESS TO RAISE A ZONING QUESTION BEFORE THE PREPARATION OF ALL STRUCTURAL SPECIFICATIONS OF A BUILDING OR STRUCTURE THAT MAY BE REQUIRED FOR A COMPLETE BUILDING PERMIT.

(B) MONTGOMERY COUNTY.

IN MONTGOMERY COUNTY, ALL BUILDING PERMIT APPLICATIONS SHALL BE REFERRED TO THE COMMISSION FOR REVIEW AND RECOMMENDATION AS TO ZONING REQUIREMENTS.

(C) PRINCE GEORGE'S COUNTY.

IN PRINCE GEORGE'S COUNTY, THE COUNTY COUNCIL, BY LOCAL LAW, MAY PROVIDE FOR THE REFERRAL OF SOME OR ALL BUILDING PERMIT APPLICATIONS TO THE COMMISSION FOR REVIEW AND RECOMMENDATION AS TO ZONING REQUIREMENTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–119(b) and the fifth and sixth sentences of (a).

Defined terms: "Commission" § 14–101
"County" § 14–101
"District council" § 14–101

"Local law" § 14–101
"Zoning law" § 14–101

20–504. ACCESS REQUIREMENTS.

(A) IN GENERAL.

A PERMIT TO CONSTRUCT A BUILDING OR STRUCTURE IN A SUBDIVISION MAY NOT BE ISSUED UNLESS THE ROAD GIVING ACCESS TO THE LOT WHERE THE BUILDING OR STRUCTURE IS PROPOSED TO BE LOCATED:

(1) HAS THE LEGAL STATUS OF A PUBLIC ROAD OR WAS DEDICATED TO PUBLIC USE;

(2) CORRESPONDS IN ITS EXACT LOCATION WITH A ROAD SHOWN ON A SUBDIVISION PLAT APPROVED BY THE COMMISSION OR WITH A MASTER PLAN OF TRANSPORTATION OR PLAT ADOPTED BY THE COMMISSION; OR

(3) IS ON A PRIVATE RIGHT–OF–WAY OR EASEMENT APPROVED AS ADEQUATE BY THE COUNTY COUNCIL IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.

(B) STANDARDS; DELEGATION.

BY LOCAL LAW, THE COUNTY COUNCIL MAY:

(1) ADOPT STANDARDS TO ASSURE THAT A PRIVATE RIGHT–OF–WAY OR EASEMENT IS ADEQUATE TO PROVIDE ACCESS TO A LOT WHERE A BUILDING IS PROPOSED TO BE LOCATED; AND

(2) DELEGATE TO THE EXECUTIVE BRANCH OR COUNTY PLANNING BOARD THE AUTHORITY TO APPROVE A PRIVATE RIGHT–OF–WAY OR EASEMENT THAT IS ADEQUATE UNDER ITEM (1) OF THIS SUBSECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–118.

In the introductory language to subsection (a) of this section, the former phrase "within the regional district" is deleted as unnecessary in light of § 20–501 of this subtitle.

In subsection (a)(1) of this section, the former phrase "on May 24, 1939" is deleted as obsolete.

In subsection (a)(2) of this section, the reference to a master plan of "transportation" is substituted for the former reference to a master plan of "highways" for consistency with § 23–103 of this article.

Defined terms: "Commission" § 14–101
"County" § 14–101
"County planning board" § 14–101
"Local law" § 14–101
"Road" § 14–101
"Subdivision" § 14–101

20–505. RESERVED.

20–506. RESERVED.

PART II. MONTGOMERY COUNTY.

20–507. SCOPE OF PART.

THIS PART APPLIES ONLY IN THE PORTION OF THE REGIONAL DISTRICT LOCATED IN MONTGOMERY COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from the second sentence of former Art. 28, § 8–114.

The reference to the part "apply[ing] only in the portion of the regional district located in Montgomery County" is substituted for the former reference to the section "not apply[ing] to that portion of the regional district in Prince George's County" for clarity and consistency with other similar provisions of this article.

Defined term: "Regional district" § 14–101

20–508. BUILDING PERMITS — WASTE PLANS.

A PERMIT FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE MAY BE ISSUED ONLY IF:

(1) ADEQUATE PLANS ARE MADE FOR THE DISPOSAL OF WASTE, SEWERAGE, AND DRAINAGE FROM THE BUILDING OR STRUCTURE; AND

(2) THE PLANS ARE PRESENTED TO THE BUILDING INSPECTOR THAT HAS JURISDICTION.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 28, § 8–114.

In the introductory language to this section, the former reference to the "erection" of a building is deleted as included in the reference to the "construction" of a building.

Also in the introductory language to this section, the former reference to a building or structure "of any kind" is deleted as unnecessary.

Also in the introductory language to this section, the former reference to a building "in the regional district" is deleted in light of § 20–507 of this subtitle, which establishes that this part only applies in the regional district.

20–509. MUNICIPAL BUILDING REQUIREMENTS; REGULATION OF SIGNS.

(A) IN GENERAL.

SUBJECT TO SUBSECTIONS (B), (C), AND (D) OF THIS SECTION, BY LOCAL LAW, THE LEGISLATIVE BODY OF A MUNICIPAL CORPORATION OR GOVERNED SPECIAL TAXING DISTRICT MAY IMPOSE AN ADDITIONAL OR STRICTER BUILDING REQUIREMENT THAN IS REQUIRED BY A STATE, REGIONAL, OR COUNTY UNIT THAT EXERCISES ZONING OR PLANNING AUTHORITY OVER THE MUNICIPAL CORPORATION OR GOVERNED DISTRICT IF THE AUTHORITY IS EXERCISED IN ADDITION TO THE STATE, REGIONAL, OR COUNTY ZONING OR PLANNING AUTHORITY.

(B) PURPOSES; APPLICABILITY.

A BUILDING REQUIREMENT ADOPTED UNDER THIS SECTION:

(1) SHALL BE IMPOSED FOR:

(I) THE PROTECTION OF THE PUBLIC HEALTH, SAFETY, AND WELFARE; OR

(II) THE PRESERVATION, IMPROVEMENT, OR PROTECTION OF LANDS, WATER, AND IMPROVEMENTS IN THE MUNICIPAL CORPORATION OR GOVERNED SPECIAL TAXING DISTRICT; AND

(2) MAY REGULATE ONLY THE CONSTRUCTION, REPAIR, OR REMODELING OF SINGLE–FAMILY RESIDENTIAL HOUSES OR BUILDINGS ON LAND ZONED FOR SINGLE–FAMILY RESIDENTIAL USE AS IT RELATES TO:

(I) FENCES, WALLS, HEDGES, AND SIMILAR BARRIERS;

(II) SIGNS;

(III) RESIDENTIAL PARKING;

(IV) RESIDENTIAL STORAGE;

(V) THE LOCATION OF STRUCTURES, INCLUDING SETBACK REQUIREMENTS;

(VI) THE DIMENSIONS OF STRUCTURES, INCLUDING HEIGHT, BULK, MASSING, AND DESIGN; AND

(VII) LOT COVERAGE, INCLUDING IMPERVIOUS SURFACES.

(C) PROCEDURES.

BEFORE ADOPTING A LOCAL LAW UNDER THIS SECTION, A MUNICIPAL CORPORATION OR GOVERNED SPECIAL TAXING DISTRICT SHALL:

(1) HOLD A PUBLIC HEARING; AND

(2) AT LEAST 30 DAYS BEFORE THE PUBLIC HEARING, TRANSMIT A COPY OF THE PROPOSED LOCAL LAW TO THE COUNTY COUNCIL.

(D) WAIVER.

A LOCAL LAW THAT A MUNICIPAL CORPORATION OR GOVERNED SPECIAL TAXING DISTRICT ADOPTS UNDER THIS SECTION SHALL PROVIDE A PROCEDURE FOR A WAIVER FROM THE STRICT APPLICATION OF THE BUILDING REQUIREMENTS.

(E) REGULATION OF COMMERCIAL SIGNS.

BY LOCAL LAW, A MUNICIPAL CORPORATION OR GOVERNED SPECIAL TAXING DISTRICT MAY ENACT AN ADDITIONAL OR STRICTER COMMERCIAL SIGN REGULATION THAN IS IMPOSED BY THE STATE, THE COMMISSION, OR THE COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, §§ 8–115.1 and 8–115.2(b).

In subsections (a) and (e) of this section, the former references to a building requirement "otherwise" required are deleted as unnecessary.

In subsection (a) of this section, the former phrase "[n]othwithstanding any other law or section of this article to the contrary" is deleted as unnecessary. Similarly, in subsection (e) of this section, the former phrase "[n]otwithstanding any other law" is deleted.

Also in subsection (a) of this section, the former reference to authority being exercised in addition to "but not in lieu of" State, regional, or county authority is deleted as unnecessary.

In subsection (b)(2) of this section, the former reference to the "erection" of a house or building is deleted as included in the reference to the "construction" of a house or building.

Also in subsection (b)(2) of this section, the former reference to "other structures" is deleted as included in the reference to "buildings".

In subsection (d) of this section, the reference to a local law "adopt[ed] under this section" is substituted for the former reference to an ordinance or regulation "authorized by this section and enacted" for consistency with other similar provisions of the Code.

Former Art. 28, § 8–115.2(a), which limited the scope of that provision to municipal corporations in Montgomery County, is deleted as implicit in the organization of this part.

Defined terms: "Commission" § 14–101
"Governed special taxing district" § 14–101
"Local law" § 14–101
"State" § 14–101

20–510. RESERVED.

20–511. RESERVED.

PART III. PRINCE GEORGE'S COUNTY.

20–512. SCOPE OF PART.

THIS PART APPLIES ONLY IN THE PORTION OF THE REGIONAL DISTRICT IN PRINCE GEORGE'S COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–119(c)(1) and, as it related to the jurisdiction to which it applied, § 8–119.1.

Defined term: "Regional district" § 14–101

20–513. BUILDING PERMITS.

(A) PERMITS; REGULATIONS.

(1) (I) THE COUNTY COUNCIL MAY PROVIDE FOR THE ISSUANCE OF PERMITS FOR THE CONSTRUCTION, REPAIR, OR REMODELING OF BUILDINGS.

(II) A PERSON MAY NOT CONSTRUCT, REPAIR, OR REMODEL A BUILDING WITHOUT OBTAINING A PERMIT AND PAYING A FEE ESTABLISHED BY THE COUNTY COUNCIL.

(2) THE COUNTY COUNCIL SHALL:

(I) REGULATE UNIFORMLY THE CONSTRUCTION, IMPROVEMENT, AND DEMOLITION OF BUILDINGS;

(II) REGULATE THE SIZE OF BRICKS AND THICKNESS OF WALLS THAT ARE USED IN HOUSES TO BE BUILT;

(III) PROVIDE FOR THE ENTRY INTO AND EXAMINATION OF ALL BUILDINGS, LOTS, YARDS, ENCLOSURES, BOATS, AND VEHICLES IN ORDER TO DETERMINE THEIR CONDITION FOR HEALTH, CLEANLINESS, AND SAFETY;

(IV) 1. PROVIDE FOR THE TAKING DOWN AND REMOVAL OF BUILDINGS, WALLS, STRUCTURES, OR SUPERSTRUCTURES THAT ARE OR MAY BECOME DANGEROUS; OR

2. REQUIRE OWNERS TO MOVE THE BUILDINGS, WALLS, STRUCTURES, OR SUPERSTRUCTURES OR PUT THEM IN A SAFE AND SOUND CONDITION AT THEIR OWN EXPENSE;

(V) REGULATE THE BUILDING AND MAINTENANCE OF PARTY WALLS, PARTITIONS, FENCES, PARAPET WALLS, FIRE WALLS, SMOKE FLUES, FIREPLACES, HOT–AIR FLUES, BOILERS, KETTLES, SMOKESTACKS, AND STOVE PIPES;

(VI) REGULATE THE STORAGE OF GASOLINE AND OTHER COMBUSTIBLES OR EXPLOSIVES IN ANY STRUCTURE LISTED IN ITEM (V) OF THIS PARAGRAPH;

(VII) REGULATE THE SAFE CONSTRUCTION, INSPECTION, AND REPAIR OF PRIVATE AND PUBLIC BUILDINGS;

(VIII) REGULATE, LIMIT, OR PROHIBIT THE CONSTRUCTION OF WOODEN OR FRAME BUILDINGS AND REMOVE THE BUILDINGS AT THE OWNER'S EXPENSE, WHEN CONSTRUCTED OR NOT REMOVED;

(IX) REGULATE THE HEIGHT, CONSTRUCTION, AND INSPECTION OF NEW BUILDINGS;

(X) REGULATE THE LIMITS IN WHICH STEPS, PORTICOES, BAY WINDOWS, OR OTHER STRUCTURAL ORNAMENTS MAY BE ADDED TO HOUSES FRONTING ON A HIGHWAY, STREET, AVENUE, LANE, OR ALLEY;

(XI) REGULATE THE MATERIALS USED AND THE MANNER OF INSTALLING ELECTRIC WIRING OR PIPING OR LAYING CONDUIT IN ANY BUILDING;

(XII) REGULATE THE LOCATION, MANNER OF INSTALLATION, SIZE, AND AREA PER LOT OF ALL ADVERTISING STRUCTURES AND RESTRICT THE PROJECTION OF ADVERTISING STRUCTURES OVER PUBLIC PROPERTY;

(XIII) ADOPT AND ENFORCE ALL NECESSARY RULES OR REGULATIONS OVER PUBLIC PROPERTY; AND

(XIV) IMPOSE FINES AND PENALTIES FOR VIOLATIONS OF RULES OR REGULATIONS ADOPTED UNDER THIS PARAGRAPH.

(B) ADOPTION OF LOCAL LAW; NOTICE.

(1) A LOCAL LAW IS NOT VALID OR EFFECTIVE UNTIL IT IS ADOPTED BY THE COUNTY COUNCIL AT A REGULAR MEETING AND RECORDED IN THE RECORDS OF THE COUNTY COUNCIL.

(2) BEFORE ADOPTING ANY LOCAL LAW UNDER THIS SECTION, THE COUNTY COUNCIL SHALL PUBLISH NOTICE OF THE DATE, PLACE, AND TIME, IN A NEWSPAPER OF GENERAL CIRCULATION IN THE PART OF THE REGIONAL DISTRICT AFFECTED BY THE LOCAL LAW, OF THE MEETING OF THE

COUNTY COUNCIL AT WHICH THE LOCAL LAW IS TO BE PRESENTED FOR ADOPTION.

(3) THE NOTICE SHALL:

(I) STATE THAT THE MEETING WILL INCLUDE A HEARING ON THE PROPOSED LOCAL LAW AT WHICH ALL PERSONS WILL BE GIVEN AN OPPORTUNITY TO EXPRESS THE PERSON'S VIEWS ON THE PROPOSED LOCAL LAW;

(II) 1. BRIEFLY INDICATE THE NATURE OF THE LOCAL LAW TO BE ADOPTED, AMENDED, OR REPEALED; OR

2. IF A COMPLETE AND COMPREHENSIVE BUILDING CODE IS TO BE CONSIDERED FOR ADOPTION, PROVIDE A STATEMENT TO THAT EFFECT; AND

(III) BE PUBLISHED AT LEAST ONCE EACH WEEK FOR 2 CONSECUTIVE WEEKS BEFORE THE DATE OF THE MEETING, BUT THE COUNTY COUNCIL MAY PROVIDE FOR MORE EXTENSIVE NOTIFICATION.

(C) RECORDATION AND PRINTED COPIES OF LOCAL LAWS.

(1) (I) AFTER LOCAL LAWS ARE ADOPTED, THE COUNTY COUNCIL SHALL RECORD THE LOCAL LAWS IN A BOOK KEPT FOR THAT PURPOSE IN THE OFFICE OF THE COUNTY COUNCIL.

(II) WHEN THE LOCAL LAWS ARE RECORDED UNDER THIS PARAGRAPH, ALL PERSONS ARE DEEMED TO HAVE NOTICE OF THE LOCAL LAWS AND NO ACTUAL NOTICE NEED BE PROVEN.

(2) (I) THE COUNTY COUNCIL SHALL PRINT A SUFFICIENT NUMBER OF COPIES OF THE ADOPTED AND RECORDED LOCAL LAWS FOR GENERAL DISTRIBUTION.

(II) IF IT IS NECESSARY TO PROVE THE EXISTENCE OF THE LOCAL LAWS IN ANY JUDICIAL PROCEEDING, A PRINTED COPY IS PRIMA FACIE EVIDENCE OF THE EXISTENCE.

(D) AMENDMENT OF REGULATIONS.

(1) THE COUNTY COUNCIL MAY WHOLLY OR PARTLY AMEND ANY LOCAL LAW ADOPTED UNDER THIS SECTION.

(2) AMENDMENTS ARE VALID AND EFFECTIVE WHEN RECORDED AS PROVIDED IN SUBSECTION (C) OF THIS SECTION.

(E) EXEMPTIONS.

THE COUNTY COUNCIL MAY EXEMPT A MUNICIPAL CORPORATION OR SPECIAL TAXING DISTRICT IN THE REGIONAL DISTRICT FROM LOCAL LAWS ADOPTED UNDER THIS SECTION IF THE COUNTY COUNCIL DETERMINES THAT THE BUILDING REGULATIONS AND ENFORCEMENT IN THE MUNICIPAL CORPORATION OR SPECIAL TAXING DISTRICT ARE AS ADEQUATE AND EQUALLY EFFECTIVE AS THE LOCAL LAWS ADOPTED BY THE COUNTY COUNCIL.

(F) REMEDIES.

(1) THE COUNTY COUNCIL, IN ADDITION TO THE REMEDIES PROVIDED FOR BY THIS SUBTITLE AND TITLE 27 OF THIS ARTICLE, MAY PROVIDE FOR THE ENFORCEMENT OF THE LOCAL LAWS ADOPTED UNDER THIS SECTION BY APPLYING TO THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY FOR AN INJUNCTION.

(2) A VIOLATION OF THE LOCAL LAWS IS SUFFICIENT CAUSE IN ITSELF FOR THE ISSUANCE OF AN INJUNCTION WHEN APPLIED FOR, AND NO FURTHER CAUSE NEED BE ALLEGED OR SHOWN.

(G) ENFORCEMENT.

(1) A BUILDING CODE ADOPTED UNDER THIS SECTION SHALL BE ENFORCED BY THE OFFICERS DESIGNATED IN THE COUNTY CHARTER OR COUNTY CODE.

(2) ALL FEES AND PENALTIES ARE GOVERNED BY THE LAW APPLICABLE TO A CHARTER COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, §§ 8–116 and 8–115(a), (b), (d) through (g), and the first and second sentences of (c).

Throughout this section, the references to the "County Council" are substituted for the former obsolete references to the "County Commissioners" and the "board" for accuracy.

Also throughout this section, the defined term "local law" is substituted for the former references to "rules and regulations" for clarity and consistency within this division.

In subsections (a), (c)(1), (d), and (g) of this section, the former references to "within the regional district", "that portion of the regional district", "in the regional district in Prince George's County", "within the limits of that portion of the regional district", "within that portion of the regional district in Prince George's County", "in that portion of the regional district within Prince George's County", and in "thickly populated portion[s]" of the regional district are deleted in light of the scope provision for this part, which establishes that the part applies only in the regional district.

In subsection (a) of this section, the references to "erect[ion]" are deleted as included in the comprehensive references to "construct[ion]".

In subsection (a)(1)(i) of this section, the former references to "houses" and "other structures" are deleted as included in the references to "buildings" for consistency with other similar provisions of this subtitle.

In subsection (a)(1)(ii) of this section, the reference to a "building" is substituted for the former reference to "structures" for consistency with other similar provisions of this subtitle.

Also in subsection (a)(1)(ii) of this section, the former reference to a fee established "in accordance with the authority hereinafter set forth" is deleted as unnecessary.

In subsection (a)(2)(i) of this section, the former reference to "rules and regulations, which shall be uniform throughout that portion of the regional district in Prince George's County" is deleted as unnecessary.

Also in subsection (a)(2)(i) of this section, the former reference to "all types" of buildings is deleted as unnecessary.

Also in subsection (a)(2)(i) of this section, the former reference to constructing, improving, and demolishing buildings "as it deems necessary" is deleted as unnecessary.

In subsection (a)(2)(ii) of this section, the former reference to "establish[ing]" the size of bricks is deleted as implicit in the requirement to "regulate" the size of bricks.

In subsection (a)(2)(iii) of this section, the former reference to vehicles "of every description" is deleted as unnecessary.

In subsection (a)(2)(vii) of this section, the former reference to "provid[ing] for" the safe construction, inspection, and repair of buildings is deleted as included in the reference to "regulat[ing]" the safe construction, inspection, and repair of buildings.

Also in subsection (a)(2)(viii) of this section, the former reference to buildings constructed or not removed "contrary to law or regulations it adopts" is deleted as implicit in the ability to regulate construction or removal.

In subsection (a)(2)(ix) of this section, the former reference to new buildings "hereafter erected" is deleted as unnecessary.

In subsection (a)(2)(xi) of this section, the former reference to "systems" of electrical wiring is deleted as unnecessary.

In subsection (a)(2)(xiii) of this section, the former reference to "[g]enerally" adopting and enforcing rules and regulations is deleted as unnecessary.

In subsection (a)(2)(xiv) of this section, the reference to violations of "rules or regulations adopted under this paragraph" is substituted for the former reference to violations "thereof" for clarity.

In subsection (b)(1) of this section, the reference to recording a local law "in the records of the County Council" is substituted for the former reference to recording rules and regulations "in a book kept at its office for the purpose" for clarity.

Also in subsection (b)(1) of this section, the former reference to rules "formally" adopted is deleted as unnecessary.

In subsection (b)(2) of this section, the former reference to the County Council "caus[ing]" rules and regulations to be published is deleted as unnecessary.

Also in subsection (b)(2) of this section, the former reference to publishing notice in "one or more" newspapers is deleted as implicit in the authority of the County Council to publish notice in newspapers.

In subsection (b)(3)(i) of this section, the reference to expressing the person's views "on the proposed rules and regulations" is substituted for the former reference to expressing views "with respect thereto" for clarity.

Also in subsection (b)(3)(i) of this section, the former reference to persons "having an interest therein" being allowed to express their views is deleted as potentially misleading as it implies that only a person having a legal interest in the proceedings can speak instead of anyone who has a general interest.

In subsection (b)(3)(ii)2 of this section, the former reference to a statement that a building code is to be adopted being "sufficient" is deleted as unnecessary.

In subsection (c)(1)(i) of this section, the former reference to the County Council of Prince George's County "caus[ing]" the local laws to be recorded is deleted as unnecessary. Similarly, in subsection (c)(2)(ii) of this section, the former reference to the County Council "caus[ing]" copies to be printed is deleted.

Also in subsection (c)(1)(i) of this section, the former reference to recording the local laws "adopted by it" is deleted as implicit in the reference to "[a]fter local laws are adopted".

Also in subsection (c)(1)(i) of this section, the former reference to "books" is deleted in light of the reference to "book" and Art. 1, § 8, which provides that the singular generally includes the plural.

In subsection (c)(1)(ii) of this section, the former reference to persons "taken" to have notice is deleted as included in the reference to persons "deemed" to have notice.

In subsection (d) of this section, the former references to a "change" to rules or regulations are deleted as included in the references to "amend[ing]" local law.

In subsection (d)(1) of this section, the former reference to amending regulations "from time to time, as necessary" is deleted as unnecessary.

In subsection (e) of this section, the reference to "local laws adopted under this section" is substituted for the former reference to "the provisions hereof" for clarity.

Also in subsection (e) of this section, the reference to local laws "in the municipal corporation or special taxing district" is substituted for the former reference to regulations "thereof" for clarity.

Also in subsection (e) of this section, the former reference to regulations adopted by the County Council "under the provisions hereof" is deleted as unnecessary.

In subsection (f)(1) of this section, the reference to "local laws adopted under this section" is substituted for the former reference to "regulations and provisions hereof" for clarity.

Also in subsection (f)(1) of this section, the former reference to "prevent[ing] infractions thereof" is deleted as included in the reference to "enforc[ing] the local laws".

Also in subsection (f)(1) of this section, the former reference to applying "in equity" for an injunction is deleted in light of the merger of law and equity.

In subsection (f)(2) of this section, the former reference to a "breach" of a rule or regulation is deleted as included in the reference to a "violation".

Also in subsection (f)(2) of this section, the reference to the "local laws" is substituted for the former reference to "thereof or of any regulations" for clarity.

In subsection (g) of this section, the former reference to the "electrical code" is deleted in light of the fact that there are no provisions in this section or any of the provisions of former Art. 28, Title 8 that govern an electrical code.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in subsection (a)(2)(iii) of this section, the nexus between the issuance of building permits and the right to enter and inspect boats and vehicles may be tenuous, and may in part be preempted by federal and State manufacturing and licensing laws.

Former Art. 28, § 8–115(h), which provided for the continuity of the building code in the Prince George's County portion of the regional district, is deleted as redundant of § 20–512 of this subtitle.

The third sentence of former Art. 28, § 8–115(c), which provided for the continuity of certain rules and regulations in force in Prince George's County before May 7, 1943, is not retained in the Code because it is apparently obsolete. It is transferred to the Session Laws to avoid any inadvertent substantive effect its repeal might have. *See* § 12 of Ch. 426, Acts of 2012; *see also* Ch. 714, Acts of 1939 and § 2HH of Ch. 992, Acts of 1943.

Defined terms: "County" § 14–101
"Local law" § 14–101
"Person" § 14–101
"Regional district" § 14–101

20–514. COUNTY BOARD OF EDUCATION — COMPLIANCE.

(A) COMPLIANCE WITH BUILDING REGULATIONS.

THE COUNTY BOARD OF EDUCATION SHALL COMPLY WITH ALL BUILDING REGULATIONS THE COUNTY COUNCIL ADOPTS FOR THE REGIONAL DISTRICT.

(B) FIRE ESCAPES REQUIRED.

THE COUNTY BOARD OF EDUCATION SHALL PROVIDE:

(1) FIRE ESCAPES FOR ALL SCHOOL BUILDINGS IN USE BEFORE MAY 7, 1943, IF THE BUILDINGS ARE MORE THAN ONE STORY IN HEIGHT; AND

(2) FIRE ESCAPES FOR ALL BUILDINGS CONSTRUCTED ON OR AFTER MAY 7, 1943.

(C) ENFORCEMENT; OFFSET.

IF THE COUNTY BOARD OF EDUCATION DOES NOT COMPLY WITH THIS TITLE, THE COUNTY COUNCIL MAY CONTRACT FOR THE PERFORMANCE OF THE WORK AND DEDUCT COSTS INCURRED FOR THE WORK FROM THE AMOUNT ALLOCATED FOR THE SUPPORT OF SCHOOLS IN THE COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–117.

In subsections (a) and (c) of this section, the references to the "County Council" are substituted for the former obsolete references to the "County Commissioners" for accuracy.

In subsection (a) of this section, the former reference to "that portion" of the regional district "within Prince George's County" is deleted in light of the scope provision of this part.

In subsection (b) of this section, the references to "May 7, 1943" are substituted for the former references to buildings "in use" and "now in course of" construction "or hereafter" erected for accuracy. *See* § 2JJ of Ch. 992, Acts of 1943.

Also in subsection (b) of this section, the former references to "suitable" fire escapes are deleted as implicit in a requirement to provide fire escapes.

In subsection (c) of this section, the reference to costs "incurred for the work" is substituted for the former reference to costs "thereof" for clarity.

Also in subsection (c) of this section, the reference to costs "allocated" is substituted for the former reference to costs "levied" for consistency with other similar provisions of the Code.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that the specific construction standards for fire escapes under subsection (b) of this section may conflict with current provisions of the Life Safety Code and are likely obsolete.

Defined term: "Regional district" § 14–101

20–515. GRADING PERMITS.

THE COUNTY OR A UNIT OF THE COUNTY RESPONSIBLE FOR ISSUING GRADING PERMITS SHALL PLACE CONDITIONS ON A GRADING PERMIT ISSUED UNDER SUBTITLE 4, DIVISION 3 OF THE PRINCE GEORGE'S COUNTY CODE (2007 EDITION) IF:

(1) THE PERMIT INVOLVES AT LEAST 10 ACRES OF LAND IN THE COUNTY PORTION OF THE REGIONAL DISTRICT; AND

(2) THE COUNTY OR THE UNIT FINDS THERE IS OR WOULD BE AN ADVERSE EFFECT, AS A RESULT OF NOISE OR TRAFFIC, ON THE SAFETY, HEALTH, OR WELFARE OF THE RESIDENTS IN THE IMMEDIATE AREA OF THE LAND THAT IS THE SUBJECT OF THE GRADING PERMIT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–119.1.

The references to a "unit" of the county are substituted for the former references to a "department" of the county for consistency with other similar provisions of the Code.

In the introductory language to this section, the former reference to grading permits "to be issued" is deleted as included in the reference to permits "issued".

Defined term: "Regional district" § 14–101

20–516. NOTICE OF ENTERTAINMENT PERMIT.

WHEN AN ADMINISTRATIVE OFFICIAL ISSUES A USE AND OCCUPANCY PERMIT THAT UNDER THE APPLICABLE COUNTY ZONING LAW ALLOWS ENTERTAINMENT TO BE HELD FOR AN ASSOCIATION, A CLUB, A SOCIETY, OR ANOTHER ORGANIZATION OR THE PUBLIC, THE OFFICIAL PROMPTLY SHALL TRANSMIT A COPY OF THE PERMIT OR GIVE OTHER NOTICE OF THE ISSUANCE OF THE PERMIT TO:

(1) THE BOARD OF LICENSE COMMISSIONERS;

(2) THE CHIEF OF POLICE;

(3) THE FIRE CHIEF;

(4) THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL RESOURCES; AND

(5) IF APPLICABLE, THE MUNICIPAL CORPORATION IN WHICH THE ENTERTAINMENT IS TO BE HELD.

REVISOR'S NOTE: This section formerly was Art. 28, § 8–119(c)(2).

The only changes are in style.

Defined terms: "County" § 14–101
"Zoning law" § 14–101

20–517. RESERVED.

20–518. RESERVED.

PART IV. EXPEDITED BUILDING PERMITS IN PRINCE GEORGE'S COUNTY.

20–519. DEFINITIONS.

(A) IN GENERAL.

IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 28, § 8–128(a)(1).

The only change is in style.

(B) COUNTY UNIT.

"COUNTY UNIT" INCLUDES:

(1) THE COMMISSION;

(2) THE COUNTY DEPARTMENT OF ENVIRONMENTAL RESOURCES;

(3) THE COUNTY DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION;

(4) THE COUNTY FIRE/EMS DEPARTMENT;

(5) THE COUNTY HEALTH DEPARTMENT; AND

(6) THE WASHINGTON SUBURBAN SANITARY COMMISSION.

REVISOR'S NOTE: This subsection formerly was Art. 28, § 8–128(a)(3).

The only changes are in style.

Defined term: "County" § 14–101

(C) DEVELOPMENT.

"DEVELOPMENT" HAS THE MEANING STATED IN § 1–101 OF THIS ARTICLE.

REVISOR'S NOTE: This subsection formerly was Art. 28, § 8–128(a)(4).

The only changes are in style.

(D) DEVELOPMENT PERMIT.

"DEVELOPMENT PERMIT" MEANS A BUILDING PERMIT OR OTHER PERMIT ISSUED IN WRITING, AS REQUIRED BY LOCAL LAW, TO AUTHORIZE THE START OF CONSTRUCTION ACTIVITIES TO CONSTRUCT, ALTER, DEMOLISH, OR RELOCATE AN EXISTING STRUCTURE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 28, § 8–128(a)(5).

The comprehensive reference to "construct[ion]" is substituted for the former references to "enlargement, conversion, reconstruction, remodeling, rehabilitation, [and] erection" for clarity and brevity.

Defined terms: "Development" § 20–519
"Local law" § 14–101

(E) QUALIFYING REDEVELOPMENT PROJECT.

"QUALIFYING REDEVELOPMENT PROJECT" MEANS A DEVELOPMENT PROJECT TO REHABILITATE DILAPIDATED REAL PROPERTY THROUGH DEMOLITION, RECONSTRUCTION, OR REUSE THAT QUALIFIES FOR EXPEDITED DEVELOPMENT PERMIT REVIEW UNDER THIS PART.

REVISOR'S NOTE: This subsection formerly was Art. 28, § 8–128(a)(6).

The only changes are in style.

Defined terms: "Development" § 20–519
"Development permit" § 20–519

REVISOR'S NOTE TO SECTION

Former Art. 28, § 8–128(a)(2), which defined "county" to mean Prince George's County, is deleted as unnecessary in light of § 20–520 of this subtitle, which limits the scope of this part to Prince George's County.

20–520. SCOPE OF PART.

THIS PART APPLIES ONLY IN PRINCE GEORGE'S COUNTY.

REVISOR'S NOTE: This section formerly was Art. 28, § 8–128(b).

The only change is in style.

20–521. PURPOSE OF PART.

THE PURPOSE OF THIS PART IS TO ENCOURAGE ENVIRONMENTALLY RESPONSIBLE URBAN RENEWAL AND REVITALIZATION THROUGH EXPEDITED REVIEW OF DEVELOPMENT PERMITS REQUIRED FOR QUALIFYING REDEVELOPMENT PROJECTS.

REVISOR'S NOTE: This section formerly was Art. 28, § 8–128(c).

The only change is in style.

Defined terms: "Development permit" § 20–519
"Qualifying redevelopment project" § 20–519

20–522. PROCEDURE.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS SECTION, WITHIN 90 DAYS AFTER RECEIVING AN APPLICATION FOR A DEVELOPMENT PERMIT FOR A QUALIFYING REDEVELOPMENT PROJECT, THE COUNTY SHALL:

(1) APPROVE OR DISAPPROVE THE APPLICATION; AND

(2) NOTIFY THE APPLICANT OF THE APPROVAL OR DISAPPROVAL IN WRITING.

(B) EXTENSION OF REVIEW.

THE COUNTY SHALL HAVE AN ADDITIONAL 60 DAYS TO COMPLY WITH SUBSECTION (A) OF THIS SECTION IF:

(1) (I) A COUNTY UNIT INVOLVED IN THE REVIEW OF THE APPLICATION DETERMINES THAT THE EXTENSION IS NECESSARY TO COMPLETE THE REVIEW BASED ON:

1. THE NATURE OR COMPLEXITY OF THE APPLICATION; OR

2. UNRESOLVED ISSUES RELATED TO THE APPLICATION; AND

(II) THE COUNTY UNIT NOTIFIES THE APPLICANT ABOUT THE EXTENSION IN WRITING; OR

(2) (I) THE APPLICANT MODIFIES THE APPLICATION FOR ANY REASON, INCLUDING FOR THE PURPOSE OF RESPONDING TO A REQUEST FROM A COUNTY UNIT THAT IS INVOLVED IN THE REVIEW OF THE APPLICATION; AND

(II) THE MODIFICATION IS MADE DURING THE ORIGINAL 90–DAY PERIOD UNDER SUBSECTION (A) OF THIS SECTION.

(C) ADDITIONAL REVIEW.

IN ADDITION TO THE 60–DAY EXTENSION PROVIDED UNDER SUBSECTION (B) OF THIS SECTION, THE COUNTY SHALL HAVE AN ADDITIONAL 30 DAYS TO COMPLY WITH SUBSECTION (A) OF THIS SECTION IF:

(1) THE APPLICANT MODIFIES THE APPLICATION FOR ANY REASON, INCLUDING FOR THE PURPOSE OF RESPONDING TO A REQUEST FROM A COUNTY UNIT THAT IS INVOLVED IN THE REVIEW OF THE APPLICATION; AND

(2) THE MODIFICATION IS MADE DURING THE 60–DAY EXTENSION UNDER SUBSECTION (B) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–128(d).

Defined terms: "County" § 14–101
"County unit" § 20–519
"Development permit" § 20–519
"Qualifying redevelopment project" § 20–519

20–523. REQUIRED ELEMENTS.

A QUALIFYING REDEVELOPMENT PROJECT SHALL INCORPORATE ENVIRONMENTALLY RESPONSIBLE DESIGN ELEMENTS THAT PROMOTE:

(1) WATER CONSERVATION BY USING PRACTICES, TECHNIQUES, AND TECHNOLOGIES THAT:

(I) REDUCE THE CONSUMPTION, LOSS, OR WASTE OF WATER;

(II) IMPROVE EFFICIENCY IN THE USE OF WATER; OR

(III) MAKE MORE EFFICIENT USE OF THE WATER TREATMENT INFRASTRUCTURE;

(2) ENERGY EFFICIENCY BY USING PRACTICES, TECHNIQUES, AND TECHNOLOGIES THAT REDUCE AND MINIMIZE THE CONSUMPTION, LOSS, OR WASTE OF ENERGY; AND

(3) THE USE OF RECYCLED OR RECYCLABLE BUILDING MATERIALS.

REVISOR'S NOTE: This section formerly was Art. 28, § 8–128(e).

No changes are made.

Defined term: "Qualifying redevelopment project" § 20–519

20–524. RESERVED.

20–525. RESERVED.

PART V. ENFORCEMENT.

20–526. CRIMINAL AND CIVIL ENFORCEMENT.

(A) CRIME — MONTGOMERY COUNTY.

(1) IN MONTGOMERY COUNTY, IT IS A MISDEMEANOR TO:

(I) CONSTRUCT, ALTER STRUCTURALLY, OR USE ANY BUILDING, STRUCTURE, OR LAND IN VIOLATION OF THIS TITLE, A LOCAL LAW ADOPTED UNDER THIS TITLE, OR A DECISION MADE UNDER THIS TITLE; OR

(II) WILLFULLY ISSUE A BUILDING, USE, OR OCCUPANCY PERMIT IN VIOLATION OF THIS TITLE, A LOCAL LAW ADOPTED UNDER THIS TITLE, OR A DECISION MADE UNDER THIS TITLE.

(2) THE COUNTY COUNCIL OF MONTGOMERY COUNTY OR THE PROSECUTING OFFICIAL OF THE COUNTY MAY PROSECUTE ANY VIOLATION UNDER THIS SUBSECTION.

(B) CRIME — PRINCE GEORGE'S COUNTY.

(1) IN PRINCE GEORGE'S COUNTY, IT IS A MISDEMEANOR TO:

(I) CONSTRUCT, ALTER STRUCTURALLY, OR USE ANY BUILDING OR OTHER STRUCTURE IN VIOLATION OF THE BUILDING CODE OF PRINCE GEORGE'S COUNTY;

(II) USE LAND IN VIOLATION OF THIS TITLE, A LOCAL LAW ADOPTED UNDER THIS TITLE, A DECISION MADE UNDER THIS TITLE, OR A ZONING TEXT AMENDMENT ADOPTED UNDER THIS TITLE; OR

(III) WILLFULLY ISSUE ANY PERMIT, INCLUDING A BUILDING, USE, OR OCCUPANCY PERMIT, IN VIOLATION OF THE BUILDING CODE OF PRINCE GEORGE'S COUNTY, THIS TITLE, A LOCAL LAW ADOPTED UNDER THIS TITLE, A DECISION MADE UNDER THIS TITLE, OR A ZONING TEXT AMENDMENT ADOPTED UNDER THIS TITLE.

(2) THE COUNTY ATTORNEY OR THE STATE'S ATTORNEY MAY PROSECUTE ANY VIOLATION UNDER THIS SUBSECTION.

(C) CIVIL FINES AND PENALTIES; ENFORCEMENT; PROSECUTION OF VIOLATIONS.

(1) IN ADDITION TO ALL OTHER REMEDIES PROVIDED BY LAW, THE GOVERNING BODY OF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY MAY PROVIDE BY LOCAL LAW FOR THE IMPOSITION OF CIVIL MONETARY FINES OR PENALTIES FOR A VIOLATION OF:

(I) THIS TITLE;

(II) A LOCAL LAW ADOPTED UNDER THIS TITLE;

(III) A DECISION MADE UNDER THIS TITLE; OR

(IV) A ZONING TEXT AMENDMENT ADOPTED UNDER THIS TITLE.

(2) THE GOVERNING BODY MAY PROVIDE FOR THE ENFORCEMENT OF THE LOCAL LAW:

(I) AS PROVIDED IN TITLE 11, SUBTITLE 2 OF THIS ARTICLE, AND NOT SUBJECT TO AN APPEAL TO THE BOARD OF APPEALS; OR

(II) BY A HEARING BY AN OFFICIAL OR UNIT OF THE COUNTY, SUBJECT TO AN APPEAL FROM THE HEARING TO THE BOARD OF APPEALS.

(3) THE GOVERNING BODY MAY PROVIDE FOR THE COUNTY ATTORNEY TO PROSECUTE VIOLATIONS FOR WHICH CIVIL MONETARY FINES OR PENALTIES ARE IMPOSED.

(D) OTHER RELIEF.

(1) IN ADDITION TO ALL OTHER REMEDIES PROVIDED BY LAW, THE GOVERNING BODY OF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY, PUBLIC OFFICIALS OF ANY MUNICIPAL CORPORATION OR POLITICAL SUBDIVISION IN THE REGIONAL DISTRICT, OR ANY NEIGHBORING PROPERTY OWNER OR OCCUPANT MAY INSTITUTE A CIVIL ACTION TO PREVENT UNLAWFUL CONSTRUCTION, ALTERATION, OR USE OF A BUILDING OR LAND.

(2) IN AN ACTION UNDER PARAGRAPH (1) OF THIS SUBSECTION, ANY COURT OF COMPETENT JURISDICTION HAS JURISDICTION TO ISSUE RESTRAINING ORDERS, TEMPORARY OR PERMANENT INJUNCTIONS, MANDAMUS, OR OTHER APPROPRIATE FORMS OF REMEDY OR RELIEF.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–120.

In subsections (a)(1)(i), (b)(1)(i), and (d)(1) of this section, the former references to "erection" of a building are deleted as included in the references to "construct[ion]" of a building. Similarly, the former references to "reconstruction" of a building are deleted.

In subsections (a)(1)(i) and (b)(1)(ii) of this section, the former references to "premises" are deleted as included in the references to "land".

In subsections (a)(2) and (b)(2) of this section, the references to any violation "under this subsection" are added for clarity.

In subsection (b)(1) of this section, the former reference to the building code of Prince George's County "as authorized by this article or by Article 25A of the Code" is deleted as unnecessary.

In subsection (b)(2) of this section, the reference to the county "attorney" is added for clarity.

In subsection (c)(2)(ii) of this section, the reference to appeal "to the board of appeals" is added for clarity.

Also in subsection (c)(2)(ii) of this section, the reference to a county "unit" is substituted for the former reference to a county "board … or agency" for consistency with other revised articles of the Code.

In subsection (d)(1) of this section, the reference to use "of a building or land" is added for clarity.

Also in subsection (d)(1) of this section, the reference to "a civil action" is substituted for the former reference to "injunction, mandamus, or other

appropriate action or proceeding" for clarity and consistency with recently revised articles of the Code.

Defined terms: "Local law" § 14–101
"Regional district" § 14–101

SUBTITLE 6. PRINCE GEORGE'S COUNTY — ANNEXATION.

20–601. SCOPE OF SUBTITLE.

THIS SUBTITLE APPLIES ONLY IN PRINCE GEORGE'S COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–104(a) as it related to the application of this subtitle to Prince George's County.

20–602. AUTHORIZED.

SUBJECT TO THIS SUBTITLE AND ANY LOCAL LAW ADOPTED BY THE COUNTY COUNCIL UNDER THIS SUBTITLE, ANY AREA IN THE COUNTY WITHIN AN ELECTION DISTRICT THAT ABUTS TERRITORY WITHIN THE REGIONAL DISTRICT MAY BE ANNEXED TO THE BOUNDARIES OF THE REGIONAL DISTRICT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–104(a) as it related to the authorization to annex areas in the county to the regional district.

The reference to "this subtitle and any local law adopted by the County Council under this subtitle" is substituted for the former reference to "laws and provisions appertaining thereto by ordinance adopted by the County Council of Prince George's County, and subject to the conditions hereinafter stated" for clarity.

Defined terms: "Local law" § 14–101
"Regional district" § 14–101

20–603. PETITION.

(A) INITIATION.

(1) A PROPOSAL FOR ANNEXATION OF AN AREA TO THE REGIONAL DISTRICT SHALL BE INITIATED BY A WRITTEN PETITION.

(2) THE WRITTEN PETITION SHALL BE SIGNED BY:

(I) AT LEAST 25% OF THE RESIDENTS OF THE AREA TO BE ANNEXED WHO ARE REGISTERED AS VOTERS IN COUNTY ELECTIONS; AND

(II) OWNERS OF AT LEAST 25% OF THE ASSESSED VALUATION OF THE REAL PROPERTY LOCATED IN THE AREA TO BE ANNEXED.

(B) VERIFICATION.

IF A WRITTEN PETITION FOR ANNEXATION IS SUBMITTED TO THE COUNTY COUNCIL, THE CHAIR OF THE COUNTY COUNCIL SHALL VERIFY:

(1) THE SIGNATURES ON THE WRITTEN PETITION; AND

(2) THAT THE PETITION MEETS THE REQUIREMENTS OF SUBSECTION (A)(2) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from the first and second sentences of former Art. 28, § 7–104(b).

In subsection (a)(1) of this section, the reference to "[a] proposal for annexation of an area to the regional district" is substituted for the former reference to "[t]he proposal for such inclusion" for clarity.

In subsection (a)(2)(ii) of this section, the reference to the area to be "annexed" is substituted for the former reference to the area to be "included" for consistency within this subtitle.

In the introductory language to subsection (b) of this section and throughout this subtitle, the references to the Prince George's "County Council" are substituted for the former obsolete references to the "County Commissioners" to accurately reflect the current form of county government in Prince George's County.

In the introductory language to subsection (b) of this section, the reference to the "chair" is substituted for the former reference to the "chairman" because SG § 2–1238 requires the use of terms that are neutral as to gender. *See* General Revisor's Note to article.

Also in the introductory language to subsection (b) of this section, the word "verify" is substituted for the former phrase "cause to be made a verification of" for brevity and clarity.

In subsection (b)(2) of this section, the reference to "the petition meet[ing] the requirements of subsection (a)(2) of this section" is substituted for the

former reference to "persons signing the petition represent at least 25 percent of the persons who reside in the area to be included and who are registered as voters in county elections, and the owners of 25 percent of the assessed valuation of the real property located in the area to be included" for brevity and to avoid unnecessary repetition.

Defined terms: "County" § 14–101
"Regional district" § 14–101

20–604. LOCAL LAW REQUIRED.

(A) REQUIRED INTRODUCTION.

ON VERIFYING THAT THE REQUIREMENTS OF § 20–603 OF THIS SUBTITLE HAVE BEEN COMPLIED WITH, THE CHAIR OF THE COUNTY COUNCIL SHALL PROMPTLY CAUSE A LOCAL LAW TO BE INTRODUCED THAT PROPOSES THE CHANGE OF BOUNDARIES THAT THE PETITION REQUESTS.

(B) REQUIRED CONTENTS.

THE LOCAL LAW SHALL:

(1) DESCRIBE BY CLEARLY ASCERTAINED BOUNDARY LINES, BY LANDMARKS, AND BY OTHER WELL–KNOWN TERMS CONSISTENT WITH THE DESCRIPTION OF OTHER AREAS INCLUDED IN THE REGIONAL DISTRICT, THE EXACT AREA PROPOSED TO BE INCLUDED IN THE CHANGE; AND

(2) INCLUDE A BRIEF AND ACCURATE DESCRIPTION OF THE CONDITIONS AND CIRCUMSTANCES APPLICABLE TO THE CHANGE OF BOUNDARIES THE PETITION REQUESTS.

REVISOR'S NOTE: This section is new language derived without substantive change from the third and fourth sentences of former Art. 28, § 7–104(b).

In subsection (b)(2) of this section, the reference to the circumstances applicable "to the change of boundaries the petition requests" is substituted for the former reference to the circumstances applicable "thereto" for clarity.

Defined terms: "Local law" § 14–101
"Regional district" § 14–101

20–605. REQUIRED NOTICE AND HEARING.

(A) PUBLIC NOTICE.

(1) THE COUNTY COUNCIL SHALL GIVE PUBLIC NOTICE OF A HEARING ON THE LOCAL LAW INTRODUCED UNDER § 20–604 OF THIS SUBTITLE.

(2) THE NOTICE REQUIRED UNDER THIS SUBSECTION SHALL BE PUBLISHED AT LEAST FOUR TIMES AT NOT LESS THAN WEEKLY INTERVALS IN A NEWSPAPER OF GENERAL CIRCULATION IN THE AREA PROPOSED TO BE ANNEXED.

(3) THE NOTICE REQUIRED UNDER THIS SUBSECTION SHALL INCLUDE:

(I) A BRIEF AND ACCURATE DESCRIPTION OF THE CHANGE IN BOUNDARIES PROPOSED IN THE LOCAL LAW AND THE CONDITIONS AND CIRCUMSTANCES APPLICABLE TO THE CHANGE IN BOUNDARIES; AND

(II) THE TIME AND PLACE WHERE THE PUBLIC HEARING ON THE PROPOSED LOCAL LAW WILL BE HELD.

(B) HEARING.

THE HEARING SHALL:

(1) COMMENCE NOT LESS THAN 7 DAYS AFTER THE FOURTH PUBLICATION OF THE REQUIRED NOTICE OF THE HEARING; AND

(2) BE HELD AT THE LOCATION IDENTIFIED IN THE NOTICE.

(C) ADOPTION OF LOCAL LAW.

AFTER THE REQUIRED NOTICE AND HEARING ON THE LOCAL LAW, A MAJORITY OF THE COUNTY COUNCIL MAY ADOPT THE LOCAL LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–104(c).

In subsection (b)(1) of this section, the reference to a hearing being required to "commence" at a certain time is substituted for the former reference to a hearing being required to "be set for" a certain time for clarity.

In subsection (b)(2) of this section, the reference to a hearing being conducted at "the location identified in the notice" is substituted for the

former obsolete reference to conducting the hearing at "the courthouse at Upper Marlboro, Maryland" to reflect current administrative practice.

In subsection (c) of this section, the phrase "[a]fter the required notice and hearing on the local law, a majority of the County Council may adopt the local law" is substituted for the former phrase "[t]he ordinance may be adopted by a majority of the County Council at a hearing, after public notice has been given" for clarity.

Defined term: "Local law" § 14–101

20–606. ENACTMENT AND EFFECTIVE DATE OF LOCAL LAW.

(A) ENACTMENT.

AFTER THE PUBLIC HEARING ON THE LOCAL LAW, THE COUNTY COUNCIL MAY ENACT THE LOCAL LAW IN ACCORDANCE WITH THE USUAL REQUIREMENTS AND PRACTICES APPLICABLE TO LEGISLATIVE ENACTMENTS OF THE COUNTY COUNCIL.

(B) EFFECTIVE DATE.

THE LOCAL LAW MAY NOT BECOME EFFECTIVE UNTIL AT LEAST 45 DAYS FOLLOWING ITS FINAL ENACTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–104(d).

Defined term: "Local law" § 14–101

20–607. PROCEDURES FOR REFERENDUM FOLLOWING ENACTMENT OF LOCAL LAW.

(A) PETITION REQUIRED.

A WRITTEN PETITION FOR A REFERENDUM ON THE LOCAL LAW MAY BE FILED DURING THE 45 DAYS FOLLOWING THE FINAL ENACTMENT OF THE LOCAL LAW.

(B) REQUIRED SIGNATURES.

A PETITION FILED UNDER THIS SECTION MUST BE SIGNED BY:

(1) AT LEAST 20% OF THE RESIDENTS OF THE AREA TO BE ANNEXED UNDER THE LOCAL LAW; AND

(2) OWNERS OF AT LEAST 20% OF THE ASSESSED VALUATION OF THE REAL PROPERTY LOCATED IN THE AREA TO BE ANNEXED.

(C) STATUS OF SIGNERS.

THE SIGNERS OF A PETITION FILED UNDER THIS SECTION MUST BE:

(1) REGISTERED AS VOTERS IN COUNTY ELECTIONS; OR

(2) IF THERE ARE FEWER THAN 20 INDIVIDUALS LIVING IN THE AREA PROPOSED TO BE ANNEXED WHO ARE ELIGIBLE TO SIGN A PETITION UNDER THIS SUBSECTION, ANY PERSON OWNING REAL PROPERTY IN THE AREA PROPOSED TO BE ANNEXED.

(D) VERIFICATION.

WHEN A WRITTEN PETITION FOR REFERENDUM ON A LOCAL LAW IS SUBMITTED TO THE CHAIR OF THE COUNTY COUNCIL, THE CHAIR SHALL VERIFY:

(1) THE SIGNATURES ON THE WRITTEN PETITION; AND

(2) THAT THE PETITION MEETS THE REQUIREMENTS OF THIS SECTION.

(E) EFFECT OF PETITION.

ON VERIFYING THAT THE REQUIREMENTS OF THIS SECTION HAVE BEEN MET, THE CHAIR OF THE COUNTY COUNCIL SHALL SUSPEND THE EFFECTIVENESS OF THE LOCAL LAW CONTINGENT ON THE RESULTS OF THE REFERENDUM.

(F) PROCEDURE.

(1) THE CHAIR OF THE COUNTY COUNCIL SHALL SET A DATE FOR THE REFERENDUM ON THE LOCAL LAW AND PUBLISH NOTICE OF THE REFERENDUM ON THE LOCAL LAW.

(2) THE DATE OF THE REFERENDUM ON THE LOCAL LAW SHALL BE BETWEEN 15 AND 90 DAYS AFTER THE PUBLISHED NOTICE OF THE REFERENDUM.

(3) THE NOTICE OF THE REFERENDUM ON THE LOCAL LAW SHALL:

(I) BE PUBLISHED TWICE AT NOT LESS THAN WEEKLY INTERVALS IN A NEWSPAPER OF GENERAL CIRCULATION IN THE AREA TO BE ANNEXED; AND

(II) SPECIFY THE TIME AND PLACE AT WHICH THE REFERENDUM WILL BE HELD.

(4) THE PLACE WHERE THE REFERENDUM IS HELD SHALL BE WITHIN THE AREA TO BE ANNEXED UNDER THE LOCAL LAW.

(G) ELECTION.

(1) ON THE DATE AND AT THE PLACE SPECIFIED, THE LOCAL LAW PROPOSING TO ANNEX AN AREA TO THE REGIONAL DISTRICT SHALL BE SUBMITTED TO A REFERENDUM ELECTION OF THE QUALIFIED VOTERS WHO RESIDE IN THE AREA TO BE ANNEXED AND WHO ARE REGISTERED AS VOTERS IN COUNTY ELECTIONS.

(2) IF THERE ARE FEWER THAN 20 INDIVIDUALS LIVING IN THE AREA PROPOSED TO BE ANNEXED WHO ARE ELIGIBLE TO PARTICIPATE IN A REFERENDUM ELECTION, ANY PERSON OWNING REAL PROPERTY IN THE AREA PROPOSED TO BE ANNEXED MAY PARTICIPATE IN THE REFERENDUM ELECTION.

(3) THE BALLOTS OR VOTING MACHINES FOR THE REFERENDUM ELECTION SHALL CONTAIN A SUMMARY OF THE LOCAL LAW WITH SUITABLE PROVISIONS FOR THE VOTER TO INDICATE A CHOICE FOR OR AGAINST IT.

(H) EFFECT OF PASSAGE.

IF A MAJORITY OF THE PERSONS VOTING ON THE LOCAL LAW IN THE REFERENDUM VOTE IN FAVOR OF THE LOCAL LAW, THE LOCAL LAW SHALL BECOME EFFECTIVE ON THE 14TH DAY FOLLOWING THE REFERENDUM.

(I) LOCAL LAWS AND REGULATIONS.

THE COUNTY COUNCIL MAY ENACT LOCAL LAWS OR ADOPT REGULATIONS THAT PROVIDE FOR CONDUCTING A REFERENDUM HELD UNDER THIS SECTION AND TABULATING THE RESULTS OF THE REFERENDUM.

(J) COSTS.

THE COUNTY SHALL PAY IN FULL FOR THE EXPENSES OF A REFERENDUM HELD UNDER THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–104(e) through (j).

In the introductory language to subsection (b) of this section, the requirement that a petition be "signed by" specified persons is added for clarity, as the former language implies that the petition must be signed by specified persons by requiring that signatures on the petition be verified.

In subsection (b)(2) of this section, the former word "included" is deleted as being included in the comprehensive reference to "annexed".

In the introductory language to subsections (d), (e), and (f)(1) of this section, the references to the "chair" are substituted for the former references to the "chairman" because SG § 2–1238 requires the use of terms that are neutral as to gender. *See* General Revisor's Note to article.

In the introductory language to subsection (d) of this section, the word "verify" is substituted for the former phrase "cause to be made a verification of" for clarity and brevity.

In subsection (d)(2) of this section, the requirement that the chair of the Prince George's County Council verify "that the petition meets the requirements of this section" is substituted for the former requirement that the chairman ascertain "that the persons signing the petition represent at least 20 percent of the assessed valuation of the real property located in the area to be annexed, and are registered voters in county elections" for brevity and to avoid unnecessary redundancy.

In subsection (f) of this section, the former references to "places" and "newspapers" are deleted in light of Art. 1, § 8, which provides that the singular generally includes the plural.

In subsection (f)(4) of this section, the former reference to the referendum "within that area" is deleted as surplusage.

In subsection (g) of this section, the former clause "(the word "person" here including an association, the two or more joint owners of jointly owned property, a firm or corporation)" is deleted in light of the defined term "person" in § 14–101 of this article.

In subsection (g)(2) of this section, the former reference to a person having "a right equal to that of a natural person" is deleted as unnecessary.

In subsection (g)(3) of this section, the former phrase "as the case may be" is deleted as surplusage.

In subsection (h) of this section, the reference to the "local law [becoming] effective" is substituted for the former reference to the "change [becoming] effective" for clarity and brevity.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in subsections (b)(2) and (g)(2) of this section, the requirement for obtaining signatures based on a percentage of assessed value of real property and voting based on property ownership has been found to be unconstitutional under federal law. *See Muller v. Curran*, 889 F.2d 54 (4th Cir. 1989), *cert. denied*, 493 U.S. 1074 (1990). The General Assembly may wish to seek the advice of the Attorney General on the soundness of this provision and, if necessary, repeal it and the corresponding provision of § 20–603(a)(2)(ii) and (b)(2) of this subtitle.

Defined terms: "County" § 14–101
"Local law" § 14–101
"Person" § 14–101
"Regional district" § 14–101

SUBTITLE 7. MUNICIPAL PLANNING AND ZONING AUTHORITY.

PART I. MONTGOMERY COUNTY.

20–701. "PRIOR ESTABLISHED MUNICIPAL CORPORATION" DEFINED.

IN THIS PART, "PRIOR ESTABLISHED MUNICIPAL CORPORATION":

(1) MEANS A MUNICIPAL CORPORATION SUBJECT TO ARTICLE XI–E OF THE MARYLAND CONSTITUTION THAT INCLUDES LAND ADDED TO THE REGIONAL DISTRICT UNDER CHAPTER 596 OF THE ACTS OF THE GENERAL ASSEMBLY OF 1957; AND

(2) INCLUDES:

(I) BARNESVILLE;

(II) BROOKEVILLE;

(III) GAITHERSBURG;

(IV) LAYTONSVILLE;

(V) ROCKVILLE;

(VI) POOLESVILLE; AND

(VII) WASHINGTON GROVE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–105(a).

Item (2) of this section, the specific list of named municipal corporations that were added to the regional district under Chapter 596 of the Acts of the General Assembly of 1957, is added for clarity.

Defined term: "Regional district" § 14–101

20–702. SCOPE OF PART.

THIS PART APPLIES ONLY IN MONTGOMERY COUNTY.

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

20–703. NO JURISDICTION OVER PRIOR ESTABLISHED MUNICIPAL CORPORATION.

(A) IN GENERAL.

EXCEPT AS PROVIDED BY AGREEMENT UNDER § 20–704 OF THIS SUBTITLE, THE COMMISSION, COUNTY PLANNING BOARD, AND DISTRICT COUNCIL MAY NOT EXERCISE ANY PLANNING OR ZONING POWER IN ANY PRIOR ESTABLISHED MUNICIPAL CORPORATION IN THE COUNTY.

(B) OTHER LAWS AND TAXES NOT APPLICABLE.

EXCEPT AS OTHERWISE PROVIDED IN THIS PART:

(1) THE COUNTY MAY NOT IMPOSE THE ADMINISTRATIVE TAX PROVIDED FOR UNDER § 18–307 OF THIS ARTICLE IN A PRIOR ESTABLISHED MUNICIPAL CORPORATION;

(2) ANY LOCAL LAW ADOPTED BY THE COMMISSION, COUNTY PLANNING BOARD, OR DISTRICT COUNCIL DOES NOT APPLY TO A PRIOR ESTABLISHED MUNICIPAL CORPORATION; AND

(3) §§ 20–401 AND 20–502 THROUGH 20–504 OF THIS TITLE AND TITLE 22, SUBTITLE 1 AND §§ 22–308, 23–102, 23–103, 23–301, AND 23–302 OF THIS ARTICLE DO NOT APPLY TO A PRIOR ESTABLISHED MUNICIPAL CORPORATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–105(c), (d), (e), and the first sentence of (b).

In subsection (a) of this section, the former reference to "jurisdiction" is deleted as included in the reference to "power".

In subsection (b)(1) of this section, the reference to not "impos[ing]" the administrative tax is substituted for the former reference to not "levy[ing] or collect[ing]" the tax for consistency with other similar terminology throughout the Code.

Defined terms: "Commission" § 14–101
"County" § 14–101
"County planning board" § 14–101
"District council" § 14–101
"Local law" § 14–101
"Prior established municipal corporation" § 20–701

20–704. AGREEMENT WITH PRIOR ESTABLISHED MUNICIPAL CORPORATION.

(A) AUTHORIZED.

THE COMMISSION OR THE COUNTY PLANNING BOARD MAY ENTER INTO AN AGREEMENT WITH A PRIOR ESTABLISHED MUNICIPAL CORPORATION THAT ALLOWS THE COMMISSION OR THE COUNTY PLANNING BOARD TO EXERCISE PLANNING AND ZONING POWERS IN THE MUNICIPAL CORPORATION.

(B) APPLICABLE LAWS.

ON EXECUTION OF AN AGREEMENT AUTHORIZED UNDER THIS SECTION, THE FOLLOWING SHALL APPLY TO A PRIOR ESTABLISHED MUNICIPAL CORPORATION THAT ENTERS AN AGREEMENT WITH THE COMMISSION OR THE COUNTY PLANNING BOARD:

(1) ALL LOCAL LAWS AND OFFICIAL ACTS OF THE COMMISSION OR THE COUNTY PLANNING BOARD AND THE DISTRICT COUNCIL THAT ARE IN EFFECT IN THE REGIONAL DISTRICT WITHIN THE COUNTY;

(2) ALL PROVISIONS OF THIS TITLE; AND

(3) THE ADMINISTRATIVE TAX PROVIDED FOR IN § 18–307 OF THIS ARTICLE.

(C) GOVERNING BODY AS DISTRICT COUNCIL.

(1) AN AGREEMENT UNDER THIS SECTION MAY AUTHORIZE THE GOVERNING BODY OF THE PRIOR ESTABLISHED MUNICIPAL CORPORATION TO ACT AS THE DISTRICT COUNCIL FOR THE MUNICIPAL CORPORATION.

(2) IF THE GOVERNING BODY OF THE MUNICIPAL CORPORATION IS AUTHORIZED TO ACT AS THE DISTRICT COUNCIL FOR THE MUNICIPAL CORPORATION, THE GOVERNING BODY SHALL EXERCISE ALL THE POWER GRANTED TO THE DISTRICT COUNCIL BY THIS TITLE WITHIN THE MUNICIPAL CORPORATION.

(D) TERM.

AN AGREEMENT UNDER THIS SECTION BETWEEN A MUNICIPAL CORPORATION AND THE COMMISSION OR COUNTY PLANNING BOARD SHALL REMAIN IN EFFECT AS WRITTEN UNLESS REVOKED OR AMENDED BY MUTUAL ACTION OF THE PARTIES TO THE AGREEMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–105(f), (g), (h), and (j).

In subsection (a) of this section, the former reference to "jurisdiction" is deleted as included in the reference to "powers".

In subsection (b)(1) of this section, the reference to "official acts" of the Commission is added for clarity.

In subsection (b)(3) of this section, the former phrase providing that the administrative tax "shall thenceforth be levied and collected within the

area of the municipal corporation as the tax is levied and collected throughout the remainder of the regional district in Montgomery County" is deleted as implicit in the provisions that the tax is applied to the municipal corporations that enter specified agreements.

In subsection (d) of this section, the reference to the "parties to the agreement" is substituted for the former reference to the "Commission or the Planning Board and the municipal corporation" for brevity and to avoid unnecessary redundancy.

Also in subsection (d) of this section, the former phrase "as the case may be" is deleted as surplusage.

Defined terms: "Commission" § 14–101
"County planning board" § 14–101
"District council" § 14–101
"Local law" § 14–101
"Prior established municipal corporation" § 20–701
"Regional district" § 14–101

20–705. RECOMMENDATIONS.

(A) AUTHORIZED.

THE COMMISSION OR THE COUNTY PLANNING BOARD MAY SUBMIT RECOMMENDATIONS TO ANY PRIOR ESTABLISHED MUNICIPAL CORPORATION REGARDING ANY PLANNING OR ZONING ACTION UNDER CONSIDERATION BY THE MUNICIPAL CORPORATION.

(B) INCORPORATION IN RECORD.

THE PRIOR ESTABLISHED MUNICIPAL CORPORATION SHALL INCORPORATE THE RECOMMENDATION OF THE COMMISSION OR THE COUNTY PLANNING BOARD AS A PART OF THE RECORD OF THE PLANNING OR ZONING ACTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–105(i).

In subsection (a) of this section, the former phrase "whenever it deems proper" is deleted as unnecessary in light of the general authorization of the Commission and the Montgomery County Planning Board to submit recommendations.

Defined terms: "Commission" § 14–101

"County planning board" § 14–101

20–706. OTHER MUNICIPAL CORPORATIONS NOT AUTHORIZED.

A MUNICIPAL CORPORATION IN THE REGIONAL DISTRICT THAT IS NOT A PRIOR ESTABLISHED MUNICIPAL CORPORATION IN THE COUNTY MAY NOT EXERCISE ANY PLANNING, ZONING, OR SUBDIVISION POWER UNLESS EXPRESSLY AUTHORIZED IN THIS DIVISION.

REVISOR'S NOTE: This section is new language derived without substantive change from the second sentence of former Art. 28, § 7–105(b).

The reference to a "municipal corporation in the regional district that is not a prior established municipal corporation in the county" is substituted for the former reference to a "municipality that incorporates after June 1, 1957" for clarity and consistency within this part.

Defined terms: "County" § 14–101
"Prior established municipal corporation" § 20–701
"Regional district" § 14–101
"Subdivision" § 14–101

20–707. RESERVED.

20–708. RESERVED.

PART II. PRINCE GEORGE'S COUNTY.

20–709. PLANNING AND ZONING AUTHORITY OF MUNICIPAL CORPORATIONS IN PRINCE GEORGE'S COUNTY.

A MUNICIPAL CORPORATION IN PRINCE GEORGE'S COUNTY THAT IS IN THE REGIONAL DISTRICT MAY NOT EXERCISE ANY POWERS RELATING TO PLANNING, SUBDIVISION CONTROL, OR ZONING NOT GRANTED TO THE MUNICIPAL CORPORATION BY THE DISTRICT COUNCIL UNDER § 25–303 OF THIS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from the second sentence of former Art. 28, § 7–103(b).

The reference to a municipal corporation "in Prince George's County that is in the regional district" is substituted for the former reference to a municipal corporation "within the areas added by this subsection to the Maryland–Washington Regional District" for clarity.

The reference to powers "not granted to the municipal corporation by the district council under § 25–303 of this article" is substituted for the former reference to powers "granted by the Maryland–National Capital Park and Planning Commission or the County Council of Prince George's County" for clarity.

The former phrase "by means of an amendment to its charter or otherwise" is deleted as superfluous.

The third sentence of former Art. 28, § 7–103(b), which provided for the severability of those provisions, is deleted as unnecessary in light of the general severability provision in Art. 1, § 23.

For the exclusion from the regional district of the City of Laurel as it existed on July 1, 2008, *see* § 20–101 of this title.

Defined terms: "District council" § 14–101
"Regional district" § 14–101
"Subdivision" § 14–101

TITLE 21. REGIONAL DISTRICT PLAN.

SUBTITLE 1. IN GENERAL.

21–101. PURPOSE OF PLAN.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES TO:

(1) THE MAKING OF THE APPROPRIATE GENERAL PLAN;

(2) ANY PART, AMENDMENT, EXTENSION, OR ADDITION TO THE PLAN;

(3) THE PROTECTION OF AND THE CARRYING OUT OF THE PLAN; AND

(4) THE EXERCISE OF ANY:

(I) PLANNING, ZONING, OR SUBDIVISION CONTROL POWERS IN THE REGIONAL DISTRICT; AND

(II) OTHER POWERS GRANTED IN THIS TITLE TO THE COMMISSION OR TO THE MONTGOMERY COUNTY COUNCIL OR THE PRINCE GEORGE'S COUNTY COUNCIL.

(B) IN GENERAL.

THE PURPOSE OF THE PLAN IS TO:

(1) GUIDE AND ACCOMPLISH A COORDINATED, COMPREHENSIVE, ADJUSTED, AND SYSTEMATIC DEVELOPMENT OF THE REGIONAL DISTRICT;

(2) COORDINATE AND ADJUST THE DEVELOPMENT OF THE REGIONAL DISTRICT WITH PUBLIC AND PRIVATE DEVELOPMENT OF OTHER PARTS OF THE STATE AND OF THE DISTRICT OF COLUMBIA; AND

(3) PROTECT AND PROMOTE THE PUBLIC HEALTH, SAFETY, AND WELFARE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–110.

In subsection (a)(1) of this section, the reference to the "appropriate" general plan is added for clarity.

In subsection (a)(4)(i) of this section, the reference to exercising certain powers "in the regional district" is added for clarity.

In subsection (a)(4)(ii) of this section, the reference to the "Prince George's County Council" is substituted for the former obsolete reference to the "County Commissioners" to accurately reflect the current form of county government in Prince George's County.

In subsection (b)(3) of this section, the reference to "the public" is substituted for the former reference to "the inhabitants of the regional district" for consistency with other similar provisions of this article.

Also in subsection (b)(3) of this section, the former reference to "morals [and] comfort" is deleted as included in the comprehensive reference to "welfare".

Defined terms: "Commission" § 14–101
"Regional district" § 14–101
"State" § 14–101
"Subdivision" § 14–101

21–102. STATEMENT OF POLICY.

(A) IN GENERAL.

IT IS THE POLICY OF THE STATE THAT:

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

(2) LOCAL GOVERNMENTS SHALL IMPLEMENT PLANNING AND ZONING CONTROLS.

(B) RECOGNITION OF DISPLACEMENT AND LIMITS ON ECONOMIC COMPETITION.

(1) TO ACHIEVE THE PUBLIC PURPOSES OF THIS REGULATORY SCHEME, THE GENERAL ASSEMBLY RECOGNIZES THAT LOCAL GOVERNMENT ACTION WILL DISPLACE OR LIMIT ECONOMIC COMPETITION BY OWNERS AND USERS OF PROPERTY.

(2) IT IS THE POLICY OF THE GENERAL ASSEMBLY AND OF THE STATE THAT COMPETITION AND ENTERPRISE SHALL BE DISPLACED OR LIMITED FOR THE ATTAINMENT OF THE PURPOSES OF THE STATE POLICY FOR IMPLEMENTING PLANNING AND ZONING CONTROLS AS PROVIDED FOR IN STATE AND LOCAL LAW.

(C) CONSTRUCTION OF SECTION.

THE POWERS GRANTED TO THE COMMISSION AND DISTRICT COUNCILS UNDER THIS SECTION MAY NOT BE CONSTRUED TO:

(1) GRANT TO THE COMMISSION OR DISTRICT COUNCILS POWERS IN ANY SUBSTANTIVE AREA THAT ARE NOT OTHERWISE GRANTED TO THE COMMISSION AND DISTRICT COUNCILS BY STATE OR LOCAL LAW;

(2) RESTRICT THE COMMISSION OR DISTRICT COUNCILS FROM EXERCISING ANY POWER GRANTED TO THE COMMISSION AND DISTRICT COUNCILS BY OTHER LAW;

(3) AUTHORIZE THE COMMISSION OR DISTRICT COUNCILS TO ENGAGE IN ANY ACTIVITY THAT IS BEYOND THEIR POWER UNDER OTHER LAW; OR

(4) PREEMPT OR SUPERSEDE THE REGULATORY AUTHORITY OF ANY STATE UNIT UNDER ANY STATE LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–108.1.

In the introductory language to subsection (a) of this section, the phrase "[i]t is the policy of the State" is substituted for the former phrase "[i]t has been and shall continue to be the policy of this State" for brevity.

In subsection (b)(2) of this section, the reference to "State and local law" is substituted for the former reference to "this article and elsewhere in the public local and public general laws" for brevity.

In subsection (c)(2) and (3) of this section, the references to "other law" are substituted for the former references to "other public general [or] public local law [or] otherwise" for brevity.

In subsection (c)(3) of this section, the former reference to a district council's "officers" is deleted as included in the reference to the "district councils".

In subsection (c)(4) of this section, the reference to a State "unit" is substituted for the former reference to a State "department or agency" for consistency with other revised articles of the Code.

Defined terms: "Commission" § 14–101
"District council" § 14–101
"Local law" § 14–101
"State" § 14–101

21–103. PLAN REQUIRED.

(A) IN GENERAL.

AT THE DIRECTION OF THE APPROPRIATE DISTRICT COUNCIL, THE COMMISSION SHALL INITIATE AND ADOPT:

(1) A GENERAL PLAN FOR THE DEVELOPMENT OF THAT PORTION OF THE REGIONAL DISTRICT LOCATED IN EACH COUNTY; AND

(2) AMENDMENTS TO THE GENERAL PLAN.

(B) REVIEW REQUIRED IN PRINCE GEORGE'S COUNTY.

NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (A) OF THIS SECTION, THE COMMISSION SHALL REVIEW, 2 YEARS AFTER EACH DECENNIAL CENSUS OF THE UNITED STATES, THE GENERAL PLAN FOR THE DEVELOPMENT OF THAT PORTION OF THE REGIONAL DISTRICT LOCATED IN PRINCE GEORGE'S COUNTY.

(C) AUTHORITY TO AMEND.

(1) IN ACCORDANCE WITH SUBTITLE 2 OF THIS TITLE, THE COMMISSION MAY INITIATE AND ADOPT ANY AMENDMENT TO THE GENERAL PLAN.

(2) THE APPROPRIATE DISTRICT COUNCIL MAY DESIGNATE A FUNCTIONAL MASTER PLAN, AN AREA MASTER PLAN, OR AN AMENDMENT TO EITHER PLAN, AS AN AMENDMENT TO THE GENERAL PLAN.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–108(a)(1) and (5).

In subsection (a) of this section, the former phrase "the district council for Prince George's County or the district council for Montgomery County, as the case may be, hereinafter referred to in this section as the" appropriate district council is deleted as surplusage.

In subsections (a)(2) and (c)(1) of this section and throughout this subtitle, the former phrase "from time to time" is deleted as surplusage.

In subsection (c)(1) of this section, the phrase "[i]n accordance with Subtitle 2 of this title," is added for clarity.

Also in subsection (c)(1) of this section, the former references to "exten[sion]", "add[ition]", and "revis[ion]" are deleted as implicit in the authority to "adopt any amendment" to the general plan.

In subsection (c)(2) of this section and throughout this subtitle, the reference to an "area" master plan is substituted for the former reference to a "local area" master plan for clarity and consistency with current Commission practice.

Defined terms: "Commission" § 14–101
"County" § 14–101
"District council" § 14–101
"Regional district" § 14–101

21–104. ELEMENTS.

(A) REQUIRED ELEMENTS.

THE GENERAL PLAN AND ANY AMENDMENT TO THE GENERAL PLAN SHALL CONTAIN:

(1) THE COMMISSION'S RECOMMENDATIONS FOR DEVELOPMENT WITHIN THE REGIONAL DISTRICT;

(2) ANY DESCRIPTIVE OR SUPPORTING MATERIAL THAT:

(I) THE APPROPRIATE DISTRICT COUNCIL REQUIRES; OR

(II) THE COMMISSION DETERMINES TO BE NECESSARY AND FEASIBLE; AND

(3) THE ELEMENTS REQUIRED UNDER TITLE 1, SUBTITLE 4 OF THIS ARTICLE.

(B) PERMISSIBLE ELEMENTS.

(1) IN ACCORDANCE WITH THE PROCEDURE SET FORTH IN THIS SUBTITLE, THE APPROPRIATE DISTRICT COUNCIL MAY REQUIRE THE COMMISSION TO PREPARE THE GENERAL PLAN, OR ANY AMENDMENT TO THE PLAN, CONSIDERING ELEMENTS SUCH AS:

(I) EXISTING AND FORECASTED:

1. POPULATION, INCLUDING POPULATION DISTRIBUTION AND OTHER APPROPRIATE CHARACTERISTICS;

2. AMOUNT, TYPE, INTENSITY, GENERAL LOCATION, AND CHARACTERISTICS OF COMMERCIAL, INDUSTRIAL, AND PUBLIC SECTOR FACILITIES AND RELATED EMPLOYMENT;

3. AMOUNT, TYPE, NEED, AND LOCATION OF MAJOR PUBLIC SERVICES, FACILITIES, AND UTILITIES;

4. TRANSPORTATION NEEDS, FACILITIES, ROUTES, AND SYSTEMS; AND

5. HOUSING DEMAND AND NEEDS, AND THE AMOUNT, TYPE, QUALITY, AND GENERAL LOCATION OF HOUSING;

(II) EXISTING LAND USES, FORECASTS OF LAND ABSORPTION RATES OR MARKETS, AND ANALYSES OF THE AMOUNT, GENERAL LOCATION, AND INTERRELATIONSHIPS AMONG DIFFERENT CATEGORIES OF LAND USE;

(III) STAGING OR SCHEDULING OF DEVELOPMENT AND CAPITAL IMPROVEMENTS, AND THE FISCAL OR ECONOMIC IMPACT OF THOSE IMPROVEMENTS;

(IV) PHYSICAL RESOURCES AND CONDITIONS, INCLUDING TOPOGRAPHY, SOILS, GEOLOGY AND MINERAL DEPOSITS, HYDROLOGY AND WATERWAYS, WETLANDS AND SHORELINES, WATER AND AIR QUALITY, CLIMATE, NOISE, OPEN SPACES, SCENIC AREAS, VEGETATION, FORESTS, AGRICULTURAL LANDS, FISHERIES, WILDLIFE AND WILDLIFE HABITATS, AND OTHER AREAS OF ENVIRONMENTAL OR ECOLOGICAL IMPORTANCE OR SENSITIVITY;

(V) SITES, STRUCTURES, AREAS, OR SETTINGS OF ARCHAEOLOGICAL, HISTORICAL, ARCHITECTURAL, CULTURAL, OR SCENIC VALUE OR SIGNIFICANCE;

(VI) EXTENT AND GENERAL LOCATION OF PHYSICALLY BLIGHTED OR DETERIORATED AREAS AND RELATED FACTORS;

(VII) EVALUATION OF THE PROBABLE CONSEQUENCES OF MAJOR RECOMMENDATIONS OF THE GENERAL PLAN ON THE GENERAL PHYSICAL AND SOCIAL ENVIRONMENT AND POPULATION OF THE REGIONAL DISTRICT;

(VIII) ESTIMATES OF THE PROBABLE CONSEQUENCES ON PUBLIC REVENUES AND EXPENDITURES OF MAJOR RECOMMENDATIONS OF THE GENERAL PLAN; AND

(IX) ANY OTHER MATTER THAT THE APPROPRIATE DISTRICT COUNCIL OR THE COMMISSION DETERMINES TO BE NECESSARY AND FEASIBLE TO THE PREPARATION OR PRESENTATION OF THE GENERAL PLAN.

(2) THE APPROPRIATE DISTRICT COUNCIL MAY PROVIDE, TO THE EXTENT NECESSARY AND FEASIBLE, THAT:

(I) THE COMMISSION SHALL:

1. CONSIDER VARIOUS ALTERNATIVE CONCEPTS OF GROWTH OR DEVELOPMENT IN PREPARING THE GENERAL PLAN; AND

2. APPROPRIATELY DESCRIBE THE ALTERNATIVE CONCEPTS CONSIDERED BY THE COMMISSION; AND

(II) THE GENERAL PLAN SHALL INCLUDE MATERIAL TO CONTAIN AND EXPLAIN THE APPROPRIATE DISTRICT COUNCIL'S RECOMMENDATIONS WITH RESPECT TO ANY MATTER IN THIS SUBSECTION.

(3) THE MATERIALS IN PARAGRAPHS (1) AND (2) OF THIS SUBSECTION ARE GUIDELINES FOR THE BASIS, CONTENT, AND CONSIDERATION OF:

(I) THE GENERAL PLAN;

(II) A FUNCTIONAL MASTER PLAN;

(III) AN AREA MASTER PLAN; OR

(IV) ANY AMENDMENT TO THE PLANS.

(4) SUBJECT TO PARAGRAPH (5) OF THIS SUBSECTION, A GENERAL PLAN, A FUNCTIONAL MASTER PLAN, OR AN AREA MASTER PLAN OR ANY AMENDMENT TO A PLAN MAY NOT BE DEEMED VOID, INAPPLICABLE, OR INOPERATIVE ON THE GROUND THAT THE BASIS, CONTENT, OR CONSIDERATION OF THE PLAN OR AMENDMENT IS INCONSISTENT WITH THIS DIVISION.

(5) WITH RESPECT TO JUDICIAL REVIEW ON THE RECORD OF A GOVERNMENTAL ACTION CONCERNING DEVELOPMENT, THIS SECTION DOES NOT PREVENT THE CONSIDERATION OF THE REASONABLENESS OF A GENERAL PLAN OR THE APPROPRIATENESS AND COMPLETENESS OF A GENERAL PLAN IN RELATION TO THE GOVERNMENTAL ACTION AND REVIEW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–108(a)(2), (3), (4), and (6).

In subsection (a)(1) of this section, the reference to "development within the regional district" is substituted for the former reference to "such development" for clarity.

In subsection (a)(3) of this section, the reference to "the elements required under Title 1, Subtitle 4 of this article", which applies to all charter counties, is added for clarity.

In the introductory language to subsection (b)(1) of this section, the phrase "considering elements such as" is substituted for the former reference to "studies and the consideration of such elements, factors, and conditions as the following" for brevity.

In subsection (b)(1)(iv) of this section, the former phrase "but not limited to" is deleted as unnecessary in light of Art. 1, § 30, which provides that the term "including" is used "by way of illustration and not by way of limitation".

In subsection (b)(1)(ix) and (2)(ii) of this section, the former references to "element", "factor", and "condition" are deleted as included in the references to "matter".

In subsection (b)(2)(ii) of this section, the word "material" is substituted for the former phrase "such chapters or sections" for brevity.

Also in subsection (b)(2)(ii) of this section, the former phrase "as may be necessary" is deleted as surplusage.

In subsection (b)(3)(iii) and (4) of this section, the references to an "area" master plan are substituted for the former reference to a "local area" master plan for clarity and consistency with current Commission practice.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in subsection (b)(1)(i)5 of this section, the reference to considering the "quality" of housing may or may not include aesthetic as well as functional considerations. Similarly, it may be advisable for the development process for the general plan to consider needs, types, quality, and general location of other land uses, such as the commercial, industrial, and public sector facilities listed in subsection (b)(1)(i)2 of this section. The General Assembly may wish to consider the scope of each of these provisions in light of Smart Growth and similar principles.

Defined terms: "Commission" § 14–101
"District council" § 14–101
"Regional district" § 14–101

21–105. LOCAL PLANNING AREA AND AREA MASTER PLAN.

(A) IN GENERAL.

THE APPROPRIATE DISTRICT COUNCIL SHALL CARRY OUT THE REQUIREMENTS OF THIS SECTION:

(1) IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN THIS SUBTITLE; AND

(2) TO THE EXTENT NECESSARY AND FEASIBLE.

(B) LOCAL PLANNING AREA.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE APPROPRIATE DISTRICT COUNCIL SHALL PROVIDE THAT IN ITS COUNTY THE COMMISSION SHALL ADOPT, AND THE DISTRICT COUNCIL SHALL APPROVE, A MAP THAT SHOWS THE ENTIRE AREA OF THAT COUNTY LOCATED WITHIN THE REGIONAL DISTRICT, DIVIDED INTO LOCAL PLANNING AREAS.

(2) (I) BEFORE APPROVING A MAP, THE APPROPRIATE DISTRICT COUNCIL SHALL CONSULT WITH THE COMMISSION WITH RESPECT TO THE BOUNDARIES OF THE LOCAL PLANNING AREAS LOCATED WHOLLY OR PARTIALLY WITHIN THAT COUNTY.

(II) IF THERE IS A DISAGREEMENT AS TO THE BOUNDARIES OF A LOCAL PLANNING AREA, THE DECISION OF THE DISTRICT COUNCIL SHALL PREVAIL WITHIN THE AREA OF ITS JURISDICTION.

(C) AREA MASTER PLAN.

THE APPROPRIATE DISTRICT COUNCIL SHALL PROVIDE THAT IN ITS COUNTY:

(1) (I) NOTWITHSTANDING SUBSECTION (B) OF THIS SECTION, THE PRINCE GEORGE'S COUNTY DISTRICT COUNCIL SHALL CONSIDER, EVERY 6 YEARS, WHETHER TO AMEND THE AREA MASTER PLAN IN THAT PORTION OF THE REGIONAL DISTRICT LOCATED IN PRINCE GEORGE'S COUNTY; AND

(II) THE DECISION OF THE PRINCE GEORGE'S COUNTY DISTRICT COUNCIL REGARDING WHETHER TO AMEND THE AREA MASTER PLAN SHALL:

1. BE IN WRITING; AND

2. INCLUDE THE REASONS FOR THE DECISION;

(2) IN ACCORDANCE WITH THE WORK PROGRAM AND BUDGET ADOPTED BY THE COUNTY COUNCIL OF THAT COUNTY, THE COMMISSION:

(I) SHALL INITIATE AND ADOPT AN AREA MASTER PLAN FOR EACH PLANNING AREA, ANY PART OF A PLANNING AREA, OR ANY COMBINATION OF CONTIGUOUS PLANNING AREAS; AND

(II) MAY AMEND AN AREA MASTER PLAN FOR EACH PLANNING AREA, ANY PART OF A PLANNING AREA, OR ANY COMBINATION OF CONTIGUOUS PLANNING AREAS;

(3) AN AREA MASTER PLAN MAY INCLUDE RECOMMENDATIONS FOR ZONING, STAGING OF DEVELOPMENT AND PUBLIC IMPROVEMENTS, AND PUBLIC SERVICES TO IMPLEMENT THE AREA MASTER PLAN;

(4) (I) SUBJECT TO ITEM (II) OF THIS ITEM, AN AREA MASTER PLAN SHALL BE BASED ON THE SAME MATTERS AS CONTAINED IN THE GENERAL PLAN AND ANY AMENDMENT TO THE GENERAL PLAN;

(II) AN AREA MASTER PLAN:

1. SHALL INCLUDE GREATER DETAIL THAN THE GENERAL PLAN; AND

2. IS NOT LIMITED TO THE CONTENTS OF THE GENERAL PLAN; AND

(5) AN AREA MASTER PLAN, OR ANY AMENDMENT TO AN AREA MASTER PLAN, SHALL SHOW ON A MAP CONTAINED IN THE AREA MASTER PLAN THE BOUNDARY OF THE AREA WITHIN WHICH THE AREA MASTER PLAN APPLIES.

(D) DESIGNATION AS AMENDMENT TO GENERAL PLAN.

THE APPROPRIATE DISTRICT COUNCIL MAY DESIGNATE AN AREA MASTER PLAN, OR ANY AMENDMENT TO AN AREA MASTER PLAN, WHEN ADOPTED BY THE COMMISSION AND APPROVED BY THE APPROPRIATE DISTRICT COUNCIL, AS AN AMENDMENT TO THE GENERAL PLAN.

(E) PLAN ADOPTED BEFORE PLANNING AREA MAP.

A PLAN THAT IS ADOPTED BEFORE THE APPROVAL OF, OR ANY AMENDMENT TO, THE PLANNING AREA MAP SHALL CONTINUE IN FORCE AND MAY NOT BE INVALIDATED BY THE FACT THAT ITS BOUNDARIES DO NOT CORRESPOND TO THE BOUNDARIES SHOWN ON THE PLANNING AREA MAP.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–108(b).

In subsection (b)(1) of this section, the reference to "amend[ing]" a map is deleted as included in the comprehensive reference to "adopt[ing]" a map.

In subsection (b)(2)(ii) of this section, the reference to boundaries "of a local planning area" is added for clarity.

In subsections (c) and (d) of this section, the references to an "area" master plan are substituted for the former references to a "local" master plan for clarity and consistency with current Commission practice.

In subsection (c)(2)(ii) of this section, the former reference to "revis[ing]" a local master plan is deleted as included in the reference to "amend[ing]" an area master plan.

In subsection (c)(4)(i) of this section, the reference to "matter" is substituted for the former reference to "factors, elements, and conditions" for brevity and consistency within this subtitle.

Defined terms: "Commission" § 14–101
"Regional district" § 14–101

21–106. FUNCTIONAL MASTER PLAN.

(A) IN GENERAL.

SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE COMMISSION MAY ADOPT, AND THE APPROPRIATE DISTRICT COUNCIL MAY APPROVE, A FUNCTIONAL MASTER PLAN FOR THE VARIOUS ELEMENTS OF THE GENERAL PLAN, INCLUDING:

(1) TRANSPORTATION ROUTES AND FACILITIES;

(2) HOSPITALS AND HEALTH CENTERS;

(3) PARKS AND OTHER OPEN SPACES;

(4) POLICE STATIONS;

(5) FIRE STATIONS; AND

(6) UTILITIES.

(B) TRANSPORTATION ROUTES AND FACILITIES IN PRINCE GEORGE'S COUNTY.

(1) BEFORE ADOPTING OR AMENDING A FUNCTIONAL MASTER PLAN OF TRANSPORTATION ROUTES AND FACILITIES IN PRINCE GEORGE'S COUNTY, THE COMMISSION SHALL SUBMIT ITS PROPOSED PLAN OR AMENDMENT TO THE DISTRICT COUNCIL AND THE COUNTY EXECUTIVE FOR REVIEW AND COMMENT.

(2) THE DISTRICT COUNCIL AND THE COUNTY EXECUTIVE HAVE 60 DAYS TO REVIEW AND PROVIDE WRITTEN COMMENTS.

(3) THE ADOPTED PLAN MAY NOT INCLUDE A TRANSPORTATION ROUTE OR FACILITY UNLESS THE DISTRICT COUNCIL, AFTER CONSULTING WITH THE COUNTY EXECUTIVE, BY RESOLUTION APPROVES THE INCLUSION OF THE TRANSPORTATION ROUTE OR FACILITY FOR PLANNING PURPOSES.

(C) DESIGNATION AS AMENDMENT TO GENERAL PLAN.

THE APPROPRIATE DISTRICT COUNCIL MAY DESIGNATE A FUNCTIONAL MASTER PLAN, OR ANY AMENDMENT TO A FUNCTIONAL MASTER PLAN, AS AN AMENDMENT TO THE GENERAL PLAN.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–108(c).

In the introductory language to subsection (a) of this section, the former references to "mak[ing]" and "amend[ing]" a functional master plan are deleted as included in the references to "adopt[ing]" and "approv[ing]" a functional master plan.

Also in the introductory language to subsection (a) of this section, the former phrase "but not limited to" is deleted as unnecessary in light of Art. 1, § 30, which provides that the term "including" is used "by way of illustration and not by way of limitation".

In subsection (a)(1) of this section, the comprehensive reference to "transportation routes and facilities" is substituted for the former reference to "master plans of highways, mass transit that includes light

rail and busways" for clarity and consistency within this article. Similarly, in subsection (b)(1) and (3) of this section, the references to "transportation routes and facilities" and a "transportation route or facility" are substituted for the former references to "highway[s] or transportation line[s]". The Land Use Article Review Committee brings these substitutions to the attention of the General Assembly. No substantive change is intended.

Defined terms: "Commission" § 14–101
"District council" § 14–101
"Park" § 14–101

21–107. PLAN IDENTIFYING AND DESIGNATING SIGNIFICANT SITES AND STRUCTURES.

(A) IN GENERAL.

SUBJECT TO SUBSECTION (B) OF THIS SECTION AND SUBTITLE 2 OF THIS TITLE, THE COMMISSION MAY ADOPT A PLAN THAT IDENTIFIES AND DESIGNATES SITES, STRUCTURES AND THEIR APPURTENANCES AND ENVIRONMENTAL SETTINGS, OR DISTRICTS THAT HAVE HISTORICAL, ARCHAEOLOGICAL, ARCHITECTURAL, OR CULTURAL VALUE.

(B) CRITERIA.

THE CRITERIA USED FOR MAKING AN IDENTIFICATION OR DESIGNATION UNDER SUBSECTION (A) OF THIS SECTION MAY NOT BE INCONSISTENT WITH THE CRITERIA APPLICABLE TO THE MARYLAND HISTORICAL TRUST UNDER § 5A–323 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(C) ADVISORY COMMITTEE AUTHORIZED.

THE COMMISSION MAY ESTABLISH AN ADVISORY COMMITTEE TO ASSIST THE COMMISSION IN THE PERFORMANCE OF ITS DUTIES WITH RESPECT TO ADOPTING A PLAN IN ACCORDANCE WITH THIS SECTION.

(D) AMENDMENT TO GENERAL PLAN.

EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, A PLAN ADOPTED UNDER THIS SECTION IS AN AMENDMENT TO THE GENERAL PLAN.

(E) MUNICIPAL PROPERTY.

(1) A PLAN ADOPTED UNDER THIS SECTION MAY INCLUDE SITES, STRUCTURES AND THEIR APPURTENANCES AND ENVIRONMENTAL SETTINGS, OR DISTRICTS LOCATED IN A MUNICIPAL CORPORATION IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY THAT IS NOT SUBJECT TO THE JURISDICTION OF THE COMMISSION, WITH THE CONSENT OF THE GOVERNING BODY OF THAT MUNICIPAL CORPORATION.

(2) THE CONSENT OF THE GOVERNING BODY SHALL CONSTITUTE THE AGREEMENT OF THE MUNICIPAL CORPORATION TO BE BOUND BY ALL RULES AND REGULATIONS GOVERNING THE SITES, STRUCTURES AND THEIR APPURTENANCES AND ENVIRONMENTAL SETTINGS, OR DISTRICTS AS THE APPROPRIATE DISTRICT COUNCIL MAY ENACT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–108(e).

In subsection (a) of this section, the former reference to "mak[ing]" or "amend[ing]" a plan is deleted as included in the reference to "adopt[ing]" a plan. Correspondingly, in subsection (c) of this section, the reference to "adopting" a plan is substituted for the former reference to "making or amending" a plan for consistency within this section.

Defined terms: "Commission" § 14–101
"District council" § 14–101

SUBTITLE 2. DEVELOPMENT AND ADOPTION.

PART I. GENERAL PROVISIONS.

21–201. INTENT OF SUBTITLE.

(A) AUTHORITY OF DISTRICT COUNCILS.

THIS SUBTITLE IS INTENDED TO VEST CONTROL OVER PLANNING PROCEDURES IN THE DISTRICT COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY, TO THE EXTENT THAT CONTROL IS NOT INCONSISTENT WITH THIS DIVISION.

(B) EXISTING AUTHORITY UNAFFECTED.

NOTHING CONTAINED IN THIS SUBTITLE AUTHORIZES A TRANSFER OR DILUTION OF PLANNING AUTHORITY OR RESPONSIBILITY VESTED IN THE

COMMISSION, COUNTY PLANNING BOARDS, OR DISTRICT COUNCILS AS OF OCTOBER 1, 1959.

REVISOR'S NOTE: This section is new language derived without substantive change from the seventh sentence of former Art. 28, § 7–108(d)(2)(i) and the tenth sentence of (3).

In subsection (a) of this section, the reference to the "district councils of Montgomery County and Prince George's County" is substituted for the former reference to the "respective district councils" for clarity.

In subsection (b) of this section, the phrase "vested … as of October 1, 1959" is substituted for the former phrase "now vested" to indicate that the intent referred to the situation in existence as of the effective date of the original legislation.

The fifth and sixth sentences of former Art. 28, § 7–108(d)(2)(i) and the eighth and ninth sentences of (3), which provided for the continuity of certain plans and laws in effect on October 1, 1959, are not retained in the Code because they are apparently obsolete. They are transferred to the Session Laws to avoid any inadvertent substantive effect their repeal might have. *See* § 13 of Ch. 426, Acts of 2012.

Defined terms: "Commission" § 14–101
"County planning board" § 14–101
"District council" § 14–101

21–202. INITIATION OF PLAN.

(A) IN GENERAL.

(1) THE COMMISSION MAY INITIATE A PLAN OR PART OF A PLAN WITH THE CONCURRENCE OF THE DISTRICT COUNCIL OF THE COUNTY OR COUNTIES IN WHICH THE AREA OF THE PROPOSED PLAN IS LOCATED.

(2) THE REVIEW BY THE DISTRICT COUNCIL OF THE PROPOSED BUDGET OF THE COMMISSION AND THE APPROVAL BY THE DISTRICT COUNCIL OF THE PLANNING SCHEDULE THAT IS CONTAINED IN THE BUDGET CONSTITUTES CONCURRENCE IN THE INITIATION OF PLANS PROPOSED IN THE BUDGET FOR ANY SINGLE FISCAL YEAR.

(B) MODIFICATION OF SCHEDULE.

THE DISTRICT COUNCIL MAY MODIFY THE PLANNING SCHEDULE CONTAINED IN THE PROPOSED BUDGET.

(C) DIRECTION TO INITIATE PLAN.

THE DISTRICT COUNCIL MAY DIRECT THE COMMISSION TO INITIATE A PLAN OR PART OF A PLAN.

(D) REQUIRED ACTION.

THE COMMISSION SHALL INITIATE THE PLAN OR PART OF THE PLAN UNDER SUBSECTION (C) OF THIS SECTION WITH REASONABLE PROMPTNESS TO THE EXTENT FUNDS ARE AVAILABLE FOR THAT PURPOSE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–108(d)(1).

In subsection (d) of this section, the reference to the plan "or part of the plan under subsection (c) of this section" is added for clarity.

Defined terms: "Commission" § 14–101
"County" § 14–101
"District council" § 14–101

21–203. ADOPTION OF PLAN.

(A) BY RESOLUTION OF COMMISSION.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE COMMISSION SHALL ADOPT A PLAN BY RESOLUTION WITH THE AFFIRMATIVE VOTES OF AT LEAST SIX COMMISSIONERS, OF WHOM AT LEAST THREE SHALL BE FROM MONTGOMERY COUNTY AND AT LEAST THREE SHALL BE FROM PRINCE GEORGE'S COUNTY.

(2) TO ADOPT AN AREA MASTER PLAN OR A FUNCTIONAL MASTER PLAN THAT LIES ENTIRELY WITHIN ONE COUNTY, THE AFFIRMATIVE VOTES OF THREE COMMISSIONERS FROM THAT COUNTY SHALL SUFFICE TO ADOPT THE PLAN.

(B) USE OF MAPS AND DESCRIPTIVE MATTER.

(1) THE RESOLUTION TO ADOPT A PLAN SHALL REFER EXPRESSLY TO THE MAPS AND THE DESCRIPTIVE AND OTHER MATTER THAT THE COMMISSION INTENDS TO FORM THE WHOLE OR PART OF THE PLAN.

(2) ANY ACTION TAKEN SHALL BE RECORDED ON THE MAP, PLAN, OR DESCRIPTIVE MATTER BY THE IDENTIFYING SIGNATURE OF THE CHAIR AND SECRETARY–TREASURER OF THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–108(d)(4).

In subsections (a) and (b)(1) of this section, the former references to "amendment" of a plan are deleted as included in the comprehensive reference to "adopt[ing]" a plan.

In subsection (a)(2) of this section, the reference to "an area" master plan is substituted for the former reference to "a local" master plan for consistency within this title.

Also in subsection (a)(2) of this section, the phrase "shall suffice" is substituted for the former phrase "shall prevail and be sufficient" for brevity.

In subsection (b)(2) of this section, the reference to the "chair" is substituted for the former reference to the "chairman" because SG § 2–1238 requires the use of terms that are neutral as to gender. *See* General Revisor's Note to article.

Defined terms: "Commission" § 14–101
"Commissioner" § 14–101

21–204. INTERGOVERNMENTAL COOPERATION.

(A) WITH NATIONAL CAPITAL PLANNING COMMISSION.

IN PREPARING AND MAKING A PLAN AND IN EXERCISING THE ZONING, PLANNING, SUBDIVISION CONTROL, AND OTHER POWERS GRANTED TO THE COMMISSION UNDER THIS DIVISION, THE COMMISSION MAY ACT IN CONJUNCTION AND COOPERATION WITH THE NATIONAL CAPITAL PLANNING COMMISSION.

(B) COMMISSION REPRESENTS STATE.

THE COMMISSION IS THE REPRESENTATIVE OF THE STATE TO THE NATIONAL CAPITAL PLANNING COMMISSION.

(C) AUTHORITY TO ENTER INTO AGREEMENTS.

FOR THE PURPOSES DESCRIBED IN SUBSECTION (A) OF THIS SECTION, THE COMMISSION MAY ENTER INTO COMMITMENTS AND AGREEMENTS WITH THE NATIONAL CAPITAL PLANNING COMMISSION AS THE COMMISSION CONSIDERS NECESSARY.

(D) COOPERATION WITH OTHER GOVERNMENTS.

THE COMMISSION MAY ACT IN CONJUNCTION AND COOPERATION WITH OTHER REPRESENTATIVES OR OFFICERS OF THE UNITED STATES GOVERNMENT OR OF THE DISTRICT OF COLUMBIA OR OF THIS STATE, INCLUDING THE DEPARTMENT OF PLANNING AND THE WASHINGTON SUBURBAN SANITARY COMMISSION, OR OF THE COMMONWEALTH OF VIRGINIA OR OF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY OR OF ANY DISTRICT, MUNICIPAL CORPORATION, OR OTHER POLITICAL SUBDIVISION IN THESE STATES OR COUNTIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–109.

In subsection (a) of this section, the former phrase "created by act of Congress approved April 30, 1926, as amended" is deleted as surplusage.

In subsection (b) of this section, the phrase "to the National Capital Planning Commission" is added for clarity.

In subsection (d) of this section, the reference to the "Department of Planning" is substituted for the obsolete reference to the "Maryland State Planning Commission" for clarity.

Also in subsection (d) of this section, the reference to the "Commonwealth of Virginia" is substituted for the former reference to the "State of Virginia" because this is how the Commonwealth of Virginia officially refers to itself.

Defined terms: "Commission" § 14–101
"State" § 14–101
"Subdivision" § 14–101

21–205. RESERVED.

21–206. RESERVED.

PART II. MONTGOMERY COUNTY.

21–207. SCOPE OF PART.

THIS PART APPLIES IN MONTGOMERY COUNTY.

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

21–208. PROCEDURES.

(A) DISTRICT COUNCIL TO ESTABLISH PROCEDURES.

(1) AFTER A PUBLIC HEARING, THE DISTRICT COUNCIL SHALL ESTABLISH BY LOCAL LAW OR SUBSEQUENT AMENDMENT TO THE LOCAL LAW PROCEDURES FOR THE COMMISSION TO SUBMIT, ADOPT, AND APPROVE A PLAN OR PART OF A PLAN.

(2) THE DISTRICT COUNCIL SHALL PUBLISH NOTICE OF THE TIME AND PLACE OF THE PUBLIC HEARING IN AT LEAST ONE NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY AT LEAST 30 DAYS BEFORE THE HEARING.

(B) PROCEDURAL REQUIREMENTS.

THE PROCEDURES ESTABLISHED IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION:

(1) MAY INCLUDE REQUIREMENTS FOR SUBMISSION TO AND APPROVAL BY THE DISTRICT COUNCIL OF PRELIMINARY CONCEPTS, GUIDELINES, GOALS, OR PLANS;

(2) SHALL INCLUDE ADOPTION OF A PLAN BY THE COMMISSION AFTER AT LEAST ONE PUBLIC HEARING, NOTICE OF THE TIME AND PLACE OF WHICH SHALL BE PUBLISHED IN AT LEAST ONE NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY AT LEAST 30 DAYS BEFORE THE HEARING;

(3) MAY INCLUDE PROCEDURES FOR THE APPROVAL OF A PLAN BY THE DISTRICT COUNCIL;

(4) SHALL INCLUDE A METHOD FOR THE COMMISSION TO CERTIFY AND FILE A PLAN IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF MONTGOMERY COUNTY; AND

(5) SHALL INCLUDE PROVISIONS FOR THE COMMISSION TO PUBLISH AN ADOPTED AND APPROVED PLAN.

REVISOR'S NOTE: This section is new language derived without substantive change from the first through fourth sentences of former Art. 28, § 7–108(d)(2)(i).

Throughout this section, the former references to "amendment" of a plan are deleted as included in the comprehensive references to "adopt[ion]" and "approv[al]" of a plan.

Defined terms: "Commission" § 14–101
"District council" § 14–101
"Local law" § 14–101

21–209. PLAN INFORMATION.

(A) NOTIFICATION OF COUNTY EXECUTIVE.

NOTWITHSTANDING § 21–208 OF THIS SUBTITLE, WHEN THE COMMISSION INITIATES A MASTER PLAN OR AN AMENDMENT TO A MASTER PLAN, THE COMMISSION SHALL NOTIFY THE COUNTY EXECUTIVE OF THE WORK SCHEDULE OF THE COMMISSION.

(B) INFORMATION PROVIDED BY COUNTY EXECUTIVE.

(1) THE COUNTY EXECUTIVE SHALL PROVIDE TO THE COMMISSION, AS EARLY AS POSSIBLE, INFORMATION ON MATTERS INCLUDING TRANSPORTATION, WATER AND SEWER, AND OTHER PUBLIC FACILITY AND PUBLIC SERVICES AND FISCAL PORTIONS OF THE PLAN OR AMENDMENT.

(2) THE COUNTY EXECUTIVE MAY PROVIDE TO THE COMMISSION OTHER STUDIES AND INFORMATION THE COUNTY EXECUTIVE CONSIDERS PERTINENT TO THE PREPARATION OF THE PLAN OR AMENDMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from the first through third sentences of former Art. 28, § 7–108(d)(2)(ii).

In subsection (b) of this section, the phrases "to the Commission" are added for clarity.

In subsection (b)(2) of this section, the former word "data" is deleted as included in the comprehensive word "information".

Defined term: "Commission" § 14–101

21–210. TRANSMISSION OF PLAN OR AMENDMENT.

ON COMPLETION OF A MASTER PLAN OR MASTER PLAN AMENDMENT, THE COUNTY PLANNING BOARD SHALL TRANSMIT:

(1) THE PLAN OR AMENDMENT TO THE DISTRICT COUNCIL; AND

(2) COPIES OF THE PLAN OR AMENDMENT TO THE COUNTY EXECUTIVE.

REVISOR'S NOTE: This section is new language derived without substantive change from the fourth sentence of former Art. 28, § 7–108(d)(2)(ii).

Defined terms: "County planning board" § 14–101
"District council" § 14–101

21–211. FISCAL IMPACT ANALYSIS.

WITHIN 60 DAYS AFTER THE TRANSMISSION OF A COPY OF A MASTER PLAN OR MASTER PLAN AMENDMENT TO THE COUNTY EXECUTIVE UNDER § 21–210 OF THIS SUBTITLE, THE COUNTY EXECUTIVE SHALL TRANSMIT A FISCAL IMPACT ANALYSIS TO THE DISTRICT COUNCIL WITH OTHER COMMENTS AND RECOMMENDATIONS THE COUNTY EXECUTIVE CONSIDERS APPROPRIATE.

REVISOR'S NOTE: This section is new language derived without substantive change from the fifth sentence of former Art. 28, § 7–108(d)(2)(ii).

The phrase "after the transmission of a copy of a master plan or master plan amendment to the County Executive under § 21–210 of this subtitle" is added for clarity.

Defined term: "District council" § 14–101

21–212. APPROVAL, MODIFICATION, DISAPPROVAL, AND EXTENSIONS BY DISTRICT COUNCIL.

(A) APPROVAL, MODIFICATION, OR DISAPPROVAL.

WITHIN 180 DAYS AFTER THE RECEIPT OF THE COUNTY EXECUTIVE'S COMMENTS, RECOMMENDATIONS, AND FISCAL IMPACT ANALYSIS AS PROVIDED IN § 21–211 OF THIS SUBTITLE, THE DISTRICT COUNCIL SHALL APPROVE, MODIFY, OR DISAPPROVE THE MASTER PLAN OR MASTER PLAN AMENDMENT.

(B) EXTENSIONS.

ON A VOTE OF TWO–THIRDS OF THOSE PRESENT AND VOTING, THE DISTRICT COUNCIL MAY EXTEND, BY SEQUENTIAL 60–DAY INTERVALS, THE 180–DAY PERIOD FOR REVIEW AND ACTION ON THE MASTER PLAN OR MASTER PLAN AMENDMENT PROVIDED IN SUBSECTION (A) OF THIS SECTION.

(C) FAILURE TO ACT CONSTITUTES APPROVAL.

FAILURE OF THE DISTRICT COUNCIL TO ACT WITHIN THE TIME LIMITS IMPOSED UNDER THIS SECTION CONSTITUTES APPROVAL OF A MASTER PLAN OR MASTER PLAN AMENDMENT AS SUBMITTED BY THE COUNTY PLANNING BOARD.

REVISOR'S NOTE: This section is new language derived without substantive change from the sixth through ninth sentences of former Art. 28, § 7–108(d)(2)(ii).

In subsection (a) of this section, the phrase "as provided in § 21–211 of this subtitle" is added for clarity.

In subsection (b) of this section, the reference to the requirement "provided in subsection (a) of this section" is substituted for the former reference to the "previous" requirement for clarity.

Also in subsection (b) of this section, the former reference to the authority of the district council to "extend further its time limit" is deleted as surplusage.

In subsection (c) of this section, the phrase "under this section" is added for clarity.

Defined terms: "County planning board" § 14–101
"District council" § 14–101

21–213. RESERVED.

21–214. RESERVED.

PART III. PRINCE GEORGE'S COUNTY.

21–215. SCOPE OF PART.

THIS PART APPLIES IN PRINCE GEORGE'S COUNTY.

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

21–216. PROCEDURES.

(A) DISTRICT COUNCIL TO ESTABLISH PROCEDURES.

(1) AFTER A PUBLIC HEARING, THE DISTRICT COUNCIL SHALL ESTABLISH BY LOCAL LAW OR SUBSEQUENT AMENDMENT TO THE LOCAL LAW PROCEDURES FOR THE COMMISSION TO INITIATE, SUBMIT, ADOPT, AND AMEND A PLAN OR PART OF A PLAN, AND FOR THE DISTRICT COUNCIL TO APPROVE OR AMEND A PLAN OR PART OF A PLAN.

(2) THE DISTRICT COUNCIL SHALL PUBLISH NOTICE OF THE TIME AND PLACE OF THE PUBLIC HEARING IN AT LEAST ONE NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY AT LEAST 30 DAYS BEFORE THE HEARING.

(B) PROCEDURAL REQUIREMENTS.

THE PROCEDURES ESTABLISHED IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION SHALL:

(1) INCLUDE REQUIREMENTS FOR THE DISTRICT COUNCIL TO APPROVE PRELIMINARY CONCEPTS, GUIDELINES, AND GOALS;

(2) PROVIDE FOR ONE OR MORE PUBLIC HEARINGS ON THE PLAN TO BE HELD JOINTLY BY THE COMMISSION AND THE DISTRICT COUNCIL, AT THE DIRECTION OF THE DISTRICT COUNCIL, AFTER 30 DAYS' NOTICE BY PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY;

(3) INCLUDE PROVISION FOR THE COMMISSION TO ADOPT A PLAN AFTER THE PUBLIC HEARING, AND FOR THE DISTRICT COUNCIL TO APPROVE THE PLAN;

(4) INCLUDE A METHOD TO CERTIFY AND FILE AN APPROVED PLAN IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY; AND

(5) INCLUDE PROVISIONS FOR THE COMMISSION TO PUBLISH AN ADOPTED AND APPROVED PLAN.

REVISOR'S NOTE: This section is new language derived without substantive change from the first, second, and fifth through seventh sentences of former Art. 28, § 7–108(d)(3).

In subsection (b)(3) and (4) of this section, the former references to "amendment" of a plan are deleted as included in the comprehensive references to "adopt[ion]" and "approv[al]" of a plan.

Defined terms: "Commission" § 14–101
"District council" § 14–101
"Local law" § 14–101

21–217. INCONSISTENCIES.

(A) REVIEW.

THE PROCEDURES ESTABLISHED IN § 21–216 OF THIS SUBTITLE SHALL INCLUDE REVIEW OF PRELIMINARY PLANS BY THE DISTRICT COUNCIL AND THE COUNTY EXECUTIVE TO IDENTIFY INCONSISTENCIES BETWEEN THE PLAN AND EXISTING OR PROPOSED STATE OR COUNTY FACILITIES, INCLUDING ROADS, HIGHWAYS, OR OTHER PUBLIC FACILITIES.

(B) ELIMINATION.

THE DISTRICT COUNCIL SHALL DIRECT THE COMMISSION HOW TO ELIMINATE OR ACCOMMODATE IN THE PLAN ANY INCONSISTENCY IDENTIFIED UNDER SUBSECTION (A) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from the third and fourth sentences of former Art. 28, § 7–108(d)(3).

In subsection (a) of this section, the reference to the procedures "established in § 21–216 of this subtitle" is added for clarity.

In subsection (b) of this section, the reference to an inconsistency "identified under subsection (a) of this section" is added for clarity.

Also in subsection (b) of this section, the former phrase "[i]n the event any inconsistencies are revealed" is deleted as surplusage.

Defined terms: "Commission" § 14–101
"District council" § 14–101
"Road" § 14–101
"State" § 14–101

TITLE 22. ZONING.

SUBTITLE 1. GENERAL PROVISIONS.

PART I. DISTRICT COUNCILS.

22–101. DESIGNATION OF DISTRICT COUNCILS.

(A) MONTGOMERY COUNTY.

THE COUNTY COUNCIL OF MONTGOMERY COUNTY IS THE DISTRICT COUNCIL FOR THAT PORTION OF THE REGIONAL DISTRICT LOCATED IN MONTGOMERY COUNTY.

(B) PRINCE GEORGE'S COUNTY.

THE COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY IS THE DISTRICT COUNCIL FOR THAT PORTION OF THE REGIONAL DISTRICT LOCATED IN PRINCE GEORGE'S COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 28, § 8–101(a).

The former phrase "for the purposes of this article" is deleted as surplusage.

Defined terms: "District council" § 14–101
"Regional district" § 14–101

22–102. BI–COUNTY DISTRICT COUNCIL.

SITTING TOGETHER AS A JOINT BODY, THE DISTRICT COUNCIL FOR MONTGOMERY COUNTY AND THE DISTRICT COUNCIL FOR PRINCE GEORGE'S COUNTY ARE THE BI–COUNTY DISTRICT COUNCIL FOR THE REGIONAL DISTRICT AS A WHOLE.

REVISOR'S NOTE: This section is new language derived without substantive change from the second sentence of former Art. 28, § 8–101(a).

The former phrase "for the special purposes delineated in this article" is deleted as surplusage.

Defined terms: "District council" § 14–101
"Regional district" § 14–101

22–103. ADOPTION OF LOCAL LAW BY BI–COUNTY DISTRICT COUNCIL — MAJORITY VOTE BY EACH DISTRICT COUNCIL REQUIRED.

THE BI–COUNTY DISTRICT COUNCIL MAY NOT ADOPT A LOCAL LAW EXCEPT BY AFFIRMATIVE VOTE OF:

(1) A MAJORITY OF THE MEMBERSHIP OF THE MONTGOMERY COUNTY DISTRICT COUNCIL; AND

(2) A MAJORITY OF THE MEMBERSHIP OF THE PRINCE GEORGE'S COUNTY DISTRICT COUNCIL.

REVISOR'S NOTE: This section is new language derived without substantive change from the third sentence of former Art. 28, § 8–101(a).

The former reference to the "total" membership of each district council is deleted as surplusage.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in practice the bi–county district council never meets as such other than to consider the budgets.

Defined terms: "District council" § 14–101
"Local law" § 14–101

22–104. AUTHORITY TO ADOPT AND AMEND ZONING LAW.

(A) IN GENERAL.

THE MONTGOMERY COUNTY DISTRICT COUNCIL OR THE PRINCE GEORGE'S COUNTY DISTRICT COUNCIL, IN ACCORDANCE WITH THE REQUIREMENTS OF THIS DIVISION AS TO THE PORTION OF THE REGIONAL DISTRICT LOCATED IN THE RESPECTIVE COUNTY, MAY:

(1) BY LOCAL LAW ADOPT AND AMEND THE TEXT OF THE ZONING LAW FOR THAT COUNTY; AND

(2) BY LOCAL LAW ADOPT AND AMEND ANY MAP ACCOMPANYING THE TEXT OF THE ZONING LAW FOR THAT COUNTY.

(B) PURPOSES.

THE LOCAL LAW MAY REGULATE:

(1) (I) THE LOCATION, HEIGHT, BULK, AND SIZE OF EACH BUILDING OR OTHER STRUCTURE, AND ANY UNIT IN THE BUILDING OR STRUCTURE;

(II) BUILDING LINES;

(III) MINIMUM FRONTAGE;

(IV) THE DEPTH AND AREA OF EACH LOT; AND

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

(2) THE SIZE OF LOTS, YARDS, COURTS, AND OTHER OPEN SPACES;

(3) THE CONSTRUCTION OF TEMPORARY STANDS AND STRUCTURES;

(4) THE DENSITY AND DISTRIBUTION OF POPULATION;

(5) THE LOCATION AND USES OF BUILDINGS AND STRUCTURES AND ANY UNITS IN THOSE BUILDINGS AND STRUCTURES FOR:

(I) TRADE;

(II) INDUSTRY;

(III) RESIDENTIAL PURPOSES;

(IV) RECREATION;

(V) AGRICULTURE;

(VI) PUBLIC ACTIVITIES; AND

(VII) OTHER PURPOSES; AND

(6) THE USES OF LAND, INCLUDING SURFACE, SUBSURFACE, AND AIR RIGHTS FOR THE LAND, FOR BUILDING OR FOR ANY OF THE PURPOSES DESCRIBED IN ITEM (5) OF THIS SUBSECTION.

(C) LIMITATION.

THE EXERCISE OF AUTHORITY BY A DISTRICT COUNCIL UNDER THIS SECTION IS LIMITED BY §§ 17–402 AND 25–211 OF THIS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–101(b)(2).

In subsection (a)(2) of this section, the former reference to "maps" is deleted in light of the reference to a "map" and Art. 1, § 8, which provides that the singular generally includes the plural.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in subsection (b) of this section the land use attributes that a district council may regulate do not include explicit authority to regulate design elements and aesthetics, unlike the attributes that may be regulated in a commissioner county or a municipal corporation under Division I of this article, specifically, §§ 4–102 and 4–103 of this article. Although charter counties generally have plenary land use authority under the Express Powers Act, Art. 23A, § 5(X), it is unclear whether the failure to provide this authority to the district councils under this division presumes that they have this authority implicitly, or that they do not have the authority to regulate design elements and aesthetics. The General Assembly may wish to clarify the authority over design elements and aesthetics that the district councils are intended to have, or to state explicitly that the district councils have the same authority to regulate as have charter counties.

Defined terms: "County" § 14–101
"District council" § 14–101
"Local law" § 14–101
"Regional district" § 14–101
"Zoning law" § 14–101

22–105. DEVELOPMENT RIGHTS.

(A) IN GENERAL.

A DISTRICT COUNCIL MAY ESTABLISH A PROGRAM FOR THE TRANSFER OF DEVELOPMENT RIGHTS.

(B) PRINCE GEORGE'S COUNTY — PURCHASE OF DEVELOPMENT RIGHTS.

THE DISTRICT COUNCIL FOR PRINCE GEORGE'S COUNTY MAY BY LOCAL LAW CREATE A PROGRAM FOR THE PURCHASE OF DEVELOPMENT RIGHTS UNDER TITLE 25, SUBTITLE 6 OF THIS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–101(b)(3).

Defined terms: "District council" § 14–101
"Local law" § 14–101

22–106. PROHIBITED LAND USES — LIMITATIONS.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES TO PROPERTY OF:

(1) A LANDOWNER;

(2) THE HOLDER OF AN EASEMENT OR RIGHT IN THE LAND OF THE LANDOWNER; AND

(3) THE TENANT OF THE LANDOWNER OR OF THE HOLDER OF THE EASEMENT OR RIGHT IN THE LAND.

(B) IN GENERAL.

A DISTRICT COUNCIL MAY NOT PROHIBIT THE USE OF LAND SUBJECT TO THIS SECTION FOR:

(1) FARMING OR OTHER AGRICULTURAL USES; OR

(2) IN PRINCE GEORGE'S COUNTY, STORAGE OF NATURAL OR ARTIFICIAL GAS AT MORE THAN 500 FEET BELOW GROUND LEVEL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–101(b)(4).

In the introductory language to subsection (b) of this section, the phrase "[a] district council may not prohibit" is substituted for the former phrase "[n]o regulation may prohibit" for clarity and accuracy.

In subsection (b)(1) of this section, the former word "exclusively" is deleted as surplusage.

Defined term: "District council" § 14–101

22–107. APPLICATION FOR ZONING MAP AMENDMENT — MONTGOMERY COUNTY.

(A) SCOPE AND APPLICATION OF SECTION.

(1) THIS SECTION APPLIES ONLY IN MONTGOMERY COUNTY.

(2) THE REQUIREMENTS OF THIS SECTION DO NOT APPLY TO AN APPLICATION FOR A ZONING MAP AMENDMENT FILED BY THE DISTRICT COUNCIL OR BY THE COMMISSION.

(B) LAND SUBJECT TO A PREVIOUS APPLICATION.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE DISTRICT COUNCIL FOR MONTGOMERY COUNTY MAY NOT RECEIVE AN APPLICATION FOR A ZONING MAP AMENDMENT ON LAND THAT WAS:

(I) THE SUBJECT OF A PRIOR APPLICATION FOR A ZONING MAP AMENDMENT FILED AFTER JUNE 1, 1965; AND

(II) FOR THE SAME ZONING CLASSIFICATION ON WHICH THERE WAS A DECISION ON THE MERITS.

(2) AN APPLICATION MAY BE REFILED AFTER 36 MONTHS HAVE ELAPSED SINCE THE FILING OF THE APPLICATION FOR THE PRIOR ZONING MAP AMENDMENT THAT WAS DECIDED ON THE MERITS.

(C) REQUIRED INFORMATION.

(1) IN THIS SUBSECTION, "SUBSTANTIAL INTEREST" INCLUDES AN INDIVIDUAL OR CORPORATE INTEREST OF 5% OR MORE OF THE FULL CASH VALUE OF PROPERTY THAT IS SUBJECT TO AN APPLICATION FOR A ZONING MAP AMENDMENT UNDER THIS SECTION, EXCLUDING ALL MORTGAGES, DEEDS OF TRUST, LIENS, AND ENCUMBRANCES ON THE PROPERTY.

(2) AN APPLICATION FOR A ZONING MAP AMENDMENT SHALL INCLUDE THE NAME OF:

(I) EACH PERSON THAT HAS A SUBSTANTIAL INTEREST IN THE PROPERTY THAT IS THE SUBJECT OF THE APPLICATION;

(II) EACH CONTRACT PURCHASER; AND

(III) EACH PERSON HOLDING A MORTGAGE, DEED OF TRUST, OR OPTION TO PURCHASE THE PROPERTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–101(b)(5).

In subsection (a)(2) of this section, the reference to an application "for a zoning map amendment" is added for clarity.

Also in subsection (a)(2) of this section, the former reference to the "time limitation and name" requirements is deleted as unnecessary since those are the only types of requirements contained in this section.

Defined terms: "Commission" § 14–101
"District council" § 14–101
"Person" § 14–101

22–108. PROTECTION OF HISTORICAL, ARCHAEOLOGICAL, ARCHITECTURAL, OR CULTURAL HERITAGE AREAS.

(A) PURPOSES.

THE PURPOSES OF THIS SECTION ARE TO:

(1) PROTECT THE HISTORICAL, ARCHAEOLOGICAL, ARCHITECTURAL, OR CULTURAL HERITAGE AREAS IN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY THAT COMPRISE THE REGIONAL DISTRICT; AND

(2) PRESERVE AND ENHANCE THE QUALITY OF LIFE IN THE COMMUNITY.

(B) IN GENERAL.

IN ADDITION TO THE POWER TO REGULATE PLANNING, ZONING, OR SUBDIVISION, A DISTRICT COUNCIL MAY ADOPT LOCAL LAWS TO PROTECT, PRESERVE, AND ENHANCE, AS DESIGNATED ON THE ADOPTED AND APPROVED GENERAL PLAN:

(1) SITES;

(2) STRUCTURES AND THEIR APPURTENANCES AND ENVIRONMENTAL SETTINGS; AND

(3) DISTRICTS OF HISTORICAL, ARCHAEOLOGICAL, ARCHITECTURAL, OR CULTURAL VALUE.

(C) REQUIREMENTS; LIMITATION.

(1) THE ENACTMENT AND APPLICATION OF A LOCAL LAW UNDER THIS SECTION SHALL BE:

(I) REASONABLE AND APPROPRIATE TO THE PURPOSE OF THIS SUBTITLE; AND

(II) LIMITED TO THE PROTECTION, PRESERVATION, AND ENHANCEMENT OF THE EXTERIOR OF THE SITE, STRUCTURE, OR DISTRICT.

(2) IF THE ENACTMENT OR APPLICATION OF A LOCAL LAW BY THE DISTRICT COUNCIL EFFECTS A TAKING OF PRIVATE PROPERTY, THE DISTRICT COUNCIL SHALL MAKE PROVISION FOR JUST COMPENSATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–101(c).

In the introductory language to subsection (a) of this section, the reference to "[t]he purposes of this section" is added for clarity.

In the introductory language to subsection (b) of this section, the former reference to the "authority" of a district council to regulate certain property is deleted as included in the reference to the "power" of the district council to regulate the property.

In the introductory language to subsection (c)(1) of this section, the defined term "local law" is substituted for the former word "regulation" for clarity and consistency within this division.

In subsection (c)(1)(i) of this section, the reference to the purpose of this "subtitle" is substituted for the former reference to the purpose of this "section" for clarity.

In subsection (c)(2) of this section, the reference to "the district council" making provision for compensation is added for clarity.

Also in subsection (c)(2) of this section, the reference to "the enactment or application of a local law by the district council" is substituted for the former reference to "such action" for clarity.

Defined terms: "District council" § 14–101
"Local law" § 14–101
"Regional district" § 14–101
"Subdivision" § 14–101

22–109. RESERVED.

22–110. RESERVED.

PART II. NONCONFORMING USES.

22–111. GRANT OF POWER TO BOARD OF APPEALS OF PRINCE GEORGE'S COUNTY.

(A) CONSTRUCTION OF SECTION.

THIS SECTION DOES NOT AUTHORIZE THE VALIDATION, RATIFICATION, OR LEGALIZATION OF ANY VIOLATION OF LAW OR REGULATION IN EFFECT AT THE TIME OF THE ACTION BY THE DISTRICT COUNCIL UNDER THIS SECTION.

(B) IN GENERAL.

IN ACCORDANCE WITH ITS ZONING LAWS, THE DISTRICT COUNCIL MAY PROVIDE FOR THE GRANT OF POWER TO THE BOARD OF APPEALS OF PRINCE GEORGE'S COUNTY ON APPEAL TO ALLOW:

(1) AN EXTENSION OF A LAWFUL NONCONFORMING USE THROUGHOUT ALL OR A PART OF A BUILDING IN WHICH THE NONCONFORMING USE LAWFULLY EXISTS;

(2) THE RESTORATION OR RECONSTRUCTION OF AN EXISTING LAWFUL NONCONFORMING USE IF BY FIRE OR OTHER CALAMITY THE USE HAS BEEN DESTROYED TO THE EXTENT OF NOT MORE THAN 75% OF THE RECONSTRUCTION VALUE OF THE BUILDING IN WHICH THE LAWFUL NONCONFORMING USE WAS CARRIED ON; OR

(3) AN EXTENSION OF AN EXISTING LAWFUL NONCONFORMING USE ON THE SAME LOT AS THE LOT EXISTED AS A SINGLE LOT UNDER SINGLE OWNERSHIP WHEN ENACTMENT OF THE ZONING LAW MADE THE THEN EXISTING USE ON THE LOT NONCONFORMING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–108.

In the introductory language to subsection (b) of this section, the phrase "[i]n accordance with" is substituted for the former phrase "to the degree and upon the terms and conditions as may be set forth in" for brevity.

In subsection (b)(3) of this section, the defined term "zoning law" is substituted for the former word "regulation" for clarity and consistency within this division.

Defined terms: "District council" § 14–101
"Zoning law" § 14–101

22–112. COMMERCIAL AND INDUSTRIAL LICENSES IN RESIDENTIAL ZONES PROHIBITED.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES TO ANY OFFICIAL OR BODY AUTHORIZED TO ISSUE A LICENSE OR PERMIT.

(B) ISSUANCE OF LICENSE OR PERMIT IN RESIDENTIAL ZONE — PROHIBITED.

(1) IN THIS SUBSECTION, "RESIDENTIAL ZONE" MEANS ANY AREA IN THE REGIONAL DISTRICT THAT IS DESIGNATED ON A ZONING MAP AS RESIDENTIAL.

(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, AN OFFICIAL OR BODY MAY NOT ISSUE A LICENSE OR PERMIT FOR A COMMERCIAL OR INDUSTRIAL PURPOSE OR TO CONDUCT ANY COMMERCIAL OR INDUSTRIAL ENTERPRISE OR BUSINESS IN A RESIDENTIAL ZONE.

(3) PARAGRAPH (2) OF THIS SUBSECTION DOES NOT APPLY IF THE PURPOSE, ENTERPRISE, OR BUSINESS IS ALLOWED BY AN APPLICABLE ZONING LAW UNDER ALLOWED USES OR SPECIAL EXCEPTIONS GRANTED BY A BOARD OF APPEALS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–109(a).

In subsection (a) of this section, the comprehensive reference to "any official or body authorized to issue a license or permit" is substituted for

the former reference to "[n]o clerk of the Circuit Court of Montgomery County or of Prince George's County, no administrative official, no licensing body or board, and no person whatever" for brevity.

Defined terms: "Regional district" § 14–101
"Zoning law" § 14–101

22–113. LAWFUL NONCONFORMING USES ALLOWED TO CONTINUE — IN GENERAL.

A PERSON MAY CONTINUE, AND APPROPRIATE LICENSES MAY BE ISSUED TO THE PERSON FOR, A LAWFUL NONCONFORMING USE EXISTING ON THE EFFECTIVE DATE OF THE RESPECTIVE ZONING LAWS IN THE METROPOLITAN DISTRICT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–109(b).

The term "effective date" is substituted for the former word "enactment" for clarity and consistency within this division.

The former phrase "limited, however, to the particular use already existing in each case" is deleted as unnecessary.

Defined terms: "Metropolitan district" § 14–101
"Person" § 14–101
"Zoning law" § 14–101

22–114. LAWFUL NONCONFORMING USES ALLOWED TO CONTINUE — OUTSIDE METROPOLITAN DISTRICT.

A LAWFUL NONCONFORMING USE THAT EXISTED ON THE EFFECTIVE DATE OF A ZONING LAW ENACTED BY MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY UNDER THIS TITLE IN THAT PORTION OF THE REGIONAL DISTRICT IN THE APPLICABLE COUNTY THAT IS OUTSIDE THE METROPOLITAN DISTRICT MAY BE CONTINUED AND APPROPRIATE LICENSES MAY BE ISSUED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–109(d).

The former phrase "limited, however, to the particular use in each case" is deleted as unnecessary.

Defined terms: "Metropolitan district" § 14–101
"Regional district" § 14–101

"Zoning law" § 14–101

22–115. MAPS.

TO CARRY OUT §§ 22–112 THROUGH 22–114 OF THIS SUBTITLE, THE COMMISSION SHALL SUPPLY A COPY OF ANY MAP THAT SHOWS THE RESIDENTIAL, COMMERCIAL, INDUSTRIAL, AND OTHER ZONES OR DISTRICTS IN THE REGIONAL DISTRICT TO EACH:

(1) CLERK;

(2) ADMINISTRATIVE OFFICIAL;

(3) LICENSING BODY; AND

(4) ANY OTHER OFFICIAL OR BODY AUTHORIZED TO ISSUE A LICENSE OR PERMIT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–109(e).

In the introductory language to this section, the former reference to "maps" is deleted in light of the reference to "map" and Art. 1, § 8, which provides that the singular generally includes the plural.

In item (3) of this section, the former reference to a licensing "board" is deleted as included in the reference to a "licensing body".

Defined terms: "Commission" § 14–101
"Regional district" § 14–101

22–116. INVALID LICENSES OR PERMITS.

(A) IN GENERAL.

A LICENSE OR PERMIT ISSUED IN VIOLATION OF ANY PROVISION OF §§ 22–112 THROUGH 22–115 OF THIS SUBTITLE IS INVALID.

(B) PENALTY.

AN OFFICIAL OR PERSON WHO ISSUES A LICENSE OR PERMIT IN VIOLATION OF ANY PROVISION OF §§ 22–112 THROUGH 22–115 OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND SUBJECT TO THE PENALTY PROVIDED IN TITLE 27 OF THIS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–109(f).

Defined term: "Person" § 14–101

22–117. RESERVED.

22–118. RESERVED.

PART III. STATEWIDE ZONING LAWS.

22–119. EFFECT OF STATEWIDE ZONING — IN MUNICIPAL CORPORATIONS.

(A) IN GENERAL.

(1) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, WITHIN THE REGIONAL DISTRICT, THE ZONING POWERS VESTED BY DIVISION I OF THIS ARTICLE IN A MUNICIPAL CORPORATION OR THE COUNCIL OF A MUNICIPAL CORPORATION WITHIN THE REGIONAL DISTRICT SHALL BE CONSTRUED TO BE VESTED EXCLUSIVELY IN THE APPROPRIATE DISTRICT COUNCIL.

(2) A MUNICIPAL CORPORATION IN PRINCE GEORGE'S COUNTY HAS CONCURRENT JURISDICTION WITH PRINCE GEORGE'S COUNTY TO ENFORCE ZONING LAWS IN THE BOUNDARIES OF THE MUNICIPAL CORPORATION.

(3) THE POWER TO ENFORCE ZONING LAWS FOR THE CITY OF TAKOMA PARK AND THE TOWN OF KENSINGTON IS AS PROVIDED IN §§ 24–201 AND 24–202 OF THIS ARTICLE, RESPECTIVELY.

(B) PRINCE GEORGE'S COUNTY — AGREEMENT REQUIRED.

BEFORE EXERCISING THE AUTHORITY GRANTED BY THIS SECTION, A MUNICIPAL CORPORATION IN PRINCE GEORGE'S COUNTY SHALL ENTER INTO A WRITTEN AGREEMENT WITH THE DISTRICT COUNCIL CONCERNING:

(1) THE METHOD BY WHICH THE COUNTY WILL BE ADVISED OF CITATIONS ISSUED BY A MUNICIPAL INSPECTOR;

(2) THE RESPONSIBILITY OF THE MUNICIPAL CORPORATION OR THE COUNTY TO PROSECUTE VIOLATIONS CITED BY THE MUNICIPAL CORPORATION;

(3) THE DISPOSITION OF FINES IMPOSED FOR VIOLATIONS CITED BY THE MUNICIPAL CORPORATION;

(4) THE RESOLUTION OF DISAGREEMENTS BETWEEN THE MUNICIPAL CORPORATION AND THE COUNTY ABOUT THE INTERPRETATION OF ZONING LAWS; AND

(5) ANY OTHER MATTER THAT THE DISTRICT COUNCIL CONSIDERS NECESSARY FOR THE PROPER EXERCISE OF THE AUTHORITY GRANTED BY THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–112(a).

In subsection (a)(1) of this section, the former phrase "may be exercised within their discretion only" is deleted as surplusage.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in subsection (a)(2) of this section, the power to "enforce" laws is an executive power, not a legislative power, and should properly vest in the chief executive of the municipal corporation rather than in the governing body. The General Assembly may wish to clarify this provision.

Defined terms: "District council" § 14–101
"Regional district" § 14–101
"Zoning law" § 14–101

22–120. EFFECT OF STATEWIDE ZONING — IN PLANNING COMMISSIONS OR BOARD OF APPEALS.

WITHIN THE REGIONAL DISTRICT, ANY POWER GRANTED TO A PLANNING COMMISSION OR BOARD OF APPEALS UNDER DIVISION I OF THIS ARTICLE SHALL BE CONSTRUED AS VESTED EXCLUSIVELY IN AND MAY BE EXERCISED ONLY BY:

(1) THE COMMISSION; OR

(2) THE BOARD OF APPEALS CREATED OR AUTHORIZED BY THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–112(b).

Defined terms: "Commission" § 14–101
"Regional district" § 14–101

22–121. RESERVED.

22–122. RESERVED.

PART IV. MISCELLANEOUS.

22–123. INCONSISTENT OR CONTRARY PROVISIONS.

OTHER THAN A PROVISION APPLICABLE TO MONTGOMERY COUNTY, PRINCE GEORGE'S COUNTY, OR ALL CHARTER COUNTIES UNDER TITLE 1, SUBTITLE 4 OF THIS ARTICLE, ANY PROVISION OF DIVISION I OF THIS ARTICLE THAT IS IN CONFLICT WITH THIS TITLE DOES NOT APPLY IN THE REGIONAL DISTRICT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–112(c).

The phrase "[o]ther than a provision applicable to Montgomery County, Prince George's County, or all charter counties under Title 1, Subtitle 4 of this article," is added for clarity.

The former reference to a "contrary" provision is deleted as included in the reference to a provision that is "in conflict".

Defined term: "Regional district" § 14–101

GENERAL REVISOR'S NOTE TO SUBTITLE

Former Art. 28, § 8–101(b)(1), which defined "zoning classification of agricultural open space", is deleted because that term was not used in the former law or in this revision.

Former Art. 28, § 8–109(c), which authorized the Montgomery County Board of License Commissioners to issue and renew certain alcoholic beverages licenses on certain premises, is transferred to Art. 2B, § 9–216(g). *See* § 5 of Ch. 426, Acts of 2012.

Former Art. 28, § 8–113, which provided for the continuation of certain zoning regulations and maps in force on May 24, 1939, is not retained in the Code because it is obsolete. It is transferred to the Session Laws to avoid any inadvertent substantive effect its repeal might have. *See* § 14 of Ch. 426, Acts of 2012.

SUBTITLE 2. DESIGNATION AND ADOPTION.

PART I. DESIGNATION.

22–201. DISTRICTS AND ZONES.

(A) IN GENERAL.

A DISTRICT COUNCIL MAY DIVIDE THE PORTION OF THE REGIONAL DISTRICT LOCATED WITHIN ITS COUNTY INTO DISTRICTS AND ZONES OF ANY NUMBER, SHAPE, OR AREA IT MAY DETERMINE.

(B) ZONING LAWS.

(1) WITHIN THE DISTRICTS AND ZONES, THE DISTRICT COUNCIL MAY REGULATE THE CONSTRUCTION, ALTERATION, AND USES OF BUILDINGS AND STRUCTURES AND THE USES OF LAND, INCLUDING SURFACE, SUBSURFACE, AND AIR RIGHTS.

(2) (I) ZONING LAWS SHALL BE UNIFORM FOR EACH CLASS OR KIND OF DEVELOPMENT THROUGHOUT A DISTRICT OR ZONE.

(II) THE ZONING LAWS IN ONE DISTRICT OR ZONE MAY DIFFER FROM THOSE IN OTHER DISTRICTS OR ZONES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–102.

In subsection (a) of this section, the former phrase "[f]or the purposes of such exercise of power" is deleted as surplusage.

In subsection (b)(1) of this section, the former references to "erection" and "reconstruction" are deleted as included in the comprehensive reference to "construction".

In subsection (b)(2) of this section and throughout this subtitle, the references to "zoning" laws are added for clarity and consistency with similar provisions in Division I of this article.

In subsection (b)(2)(i) of this section, the reference to "development" is substituted for the former reference to "building" for clarity.

Also in subsection (b)(2)(i) of this section, the former phrase "[b]oth districts and zones may be created" is deleted as implicit in the language of subsection (a) of this section.

Defined terms: "District council" § 14–101
"Regional district" § 14–101
"Zoning law" § 14–101

22–202. EFFECT OF ZONING LAWS.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES TO ANY ZONING LAW THAT IMPOSES A MORE RESTRICTIVE HEIGHT LIMITATION, LESSER PERCENTAGE OF LOT OCCUPANCY, WIDER OR LARGER COURTS, DEEPER YARDS, OR OTHER MORE RESTRICTIVE LIMITATIONS THAN THOSE PROVIDED BY STATE, COUNTY, MUNICIPAL, OR OTHER LOCAL REGULATIONS.

(B) PRIORITY OF REGULATIONS.

A ZONING LAW DESCRIBED IN SUBSECTION (A) OF THIS SECTION SHALL PREVAIL IN THE AREA WHERE IT IS IMPOSED OVER THE LIMITATIONS PROVIDED BY STATE, COUNTY, MUNICIPAL, OR OTHER LOCAL REGULATIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–103.

In subsection (a) of this section, the reference to a "more restrictive" height limitation is substituted for the former reference to a "lower" height limitation for clarity and consistency with similar provisions of Division I of this article.

Defined terms: "County" § 14–101
"State" § 14–101
"Zoning law" § 14–101

22–203. MUNICIPAL REGULATION — PRINCE GEORGE'S COUNTY.

(A) CONCURRENT REGULATION OF SIGNS.

A MUNICIPAL CORPORATION IN PRINCE GEORGE'S COUNTY SHALL HAVE CONCURRENT AUTHORITY IN ITS BOUNDARIES WITH THE COUNTY DEPARTMENT OF ENVIRONMENTAL RESOURCES, LICENSES AND INSPECTIONS GROUP, TO SEEK COMPLIANCE WITH ZONING REQUIREMENTS TO THE EXTENT THAT THE REQUIREMENTS PERTAIN TO SIGNS.

(B) REGULATION OF FENCES.

A MUNICIPAL CORPORATION IN PRINCE GEORGE'S COUNTY MAY ENACT LOCAL LAWS REGULATING FENCES ERECTED IN FRONT OF THE BUILDING SETBACK LINES ON ALL RESIDENTIAL PROPERTY LOCATED IN THE MUNICIPAL CORPORATION.

(C) LIMITATION.

ANY LOCAL LAW ENACTED UNDER THIS SECTION MAY NOT BE LESS RESTRICTIVE THAN ANY LOCAL LAW IN EFFECT OR SUBSEQUENTLY ENACTED BY THE COUNTY COUNCIL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–104(f).

In subsection (a) of this section, the reference to the "Department of Environmental Resources, Licenses and Inspections Group," is substituted for the former obsolete reference to the "Department of Inspections and Permits of Prince George's County" for clarity and accuracy.

Also in subsection (a) of this section, the former reference to municipal corporations "as defined in Article 23A, § 9(a)" is deleted as surplusage.

In subsection (c) of this section, the reference to "[a]ny local law enacted under this section" is substituted for the former reference to "[e]nacted ordinances" for clarity.

Defined terms: "County" § 14–101
"Local law" § 14–101

22–204. RESERVED.

22–205. RESERVED.

PART II. AMENDMENTS.

22–206. PROCEDURES.

(A) IN GENERAL.

A DISTRICT COUNCIL MAY AMEND ITS ZONING LAWS, INCLUDING ANY MAPS:

(1) IN ACCORDANCE WITH PROCEDURES ESTABLISHED IN ITS ZONING LAWS; AND

(2) AFTER HOLDING AN ADVERTISED PUBLIC HEARING.

(B) PERMISSIBLE ELEMENTS.

THE PROCEDURES AND ZONING LAWS MAY INCLUDE:

(1) PROCEDURES LIMITING THE TIMES WHEN AMENDMENTS MAY BE ADOPTED;

(2) PROVISIONS FOR HEARINGS AND PRELIMINARY DETERMINATIONS BY AN EXAMINER, A BOARD, OR ANY OTHER UNIT;

(3) PROCEDURES FOR QUORUMS, NUMBER OF VOTES REQUIRED TO ENACT AMENDMENTS, AND VARIATIONS OR INCREASES BASED ON FACTORS SUCH AS MASTER PLANS, RECOMMENDATIONS OF THE HEARING EXAMINER, COUNTY PLANNING BOARD, MUNICIPAL CORPORATION, GOVERNED SPECIAL TAXING DISTRICT, OR OTHER BODY, AND PETITIONS OF ABUTTING PROPERTY OWNERS, AND THE EVIDENTIARY VALUE THAT MAY BE ACCORDED TO ANY OF THESE FACTORS; AND

(4) PROCEDURES FOR HEARINGS, NOTICE, COSTS, FEES, AMENDMENT OF APPLICATIONS, RECORDINGS, REVERTER, LAPSE, AND RECONSIDERATION DE NOVO OF UNDEVELOPED ZONING AMENDMENTS.

(C) NOTICE TO NEARBY PROPERTY OWNERS — PRINCE GEORGE'S COUNTY.

(1) IN PRINCE GEORGE'S COUNTY, THE DISTRICT COUNCIL MAY PROVIDE FOR NOTICE OF THE PUBLIC HEARING ON A PROPOSED AMENDMENT TO ITS ZONING PLAN OR ZONING LAWS TO BE GIVEN TO THE OWNERS OF PROPERTIES, AS THEY APPEAR ON THE ASSESSMENT ROLLS OF THE COUNTY, ADJOINING, ACROSS THE ROAD FROM, ON THE SAME BLOCK AS, OR IN THE

GENERAL VICINITY OF THE PROPERTY THAT IS THE SUBJECT OF THE PROPOSED AMENDMENT.

(2) A ZONING LAW ADOPTED UNDER THIS SUBSECTION MAY REQUIRE NOTICE TO BE GIVEN BY MAIL OR BY POSTING THE NOTICE ON OR IN THE VICINITY OF THE PROPERTY INVOLVED IN THE PROPOSED AMENDMENT OR BOTH.

(D) LIMITATION.

IN A YEAR IN WHICH A DISTRICT COUNCIL IS ELECTED, THE DISTRICT COUNCIL MAY NOT AMEND A ZONING LAW FROM NOVEMBER 1 AND UNTIL THE NEWLY ELECTED DISTRICT COUNCIL HAS TAKEN OFFICE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, §§ 8–106(c) and (k) and 8–104(a)(1).

In subsection (a) of this section, the reference to "holding" a hearing is added for clarity.

Also in subsection (a) of this section, the former phrase "from time to time" is deleted as surplusage.

Also in subsection (a) of this section, the former reference to "any regulation" is deleted as surplusage.

In the introductory language to subsection (b) of this section, the former phrase "but not be limited to" is deleted as unnecessary in light of Art. 1, § 30, which provides that the word "include[s]" is used "by way of illustration and not by way of limitation".

In subsection (b)(4) of this section, the reference to "recordings" are substituted for the former reference to "stenographic records" for clarity.

In subsection (d) of this section, the reference to the "district" council is added for clarity.

Also in subsection (d) of this section, the phrase "from November 1" is substituted for the former phrase "after the 31st day of October" for clarity.

Also in subsection (d) of this section, the former phrase "[t]he existing provisions of the Regional District Law and of the ordinances enacted by the respective district councils relating to the aforegoing matters shall remain in full force and effect unless or until specifically superseded or

amended in accordance with the power and authority granted herein," is deleted as obsolete.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that the meaning of the phrase "undeveloped zoning amendments", and their review de novo, are unclear. It is possible that they refer to proposed but unadopted zoning amendments, or to map amendments approved in anticipation of actions that subsequently fail to occur such as in conditional zoning under § 22–215 of this subtitle, or to some other concept. The General Assembly may wish to clarify the meaning of the phrase "undeveloped zoning amendments" and its relationship to other matters in that subsection.

Defined terms: "County planning board" § 14–101
"District council" § 14–101
"Governed special taxing district" § 14–101
"Zoning law" § 14–101

22–207. REQUIRED REFERRAL — CLASSIFICATION CHANGE.

(A) TO MUNICIPAL CORPORATION OR GOVERNED SPECIAL TAXING DISTRICT.

BEFORE A DISTRICT COUNCIL MAY AMEND THE ZONING LAW BY CHANGING THE ZONING CLASSIFICATION OF PROPERTY IN A MUNICIPAL CORPORATION OR GOVERNED SPECIAL TAXING DISTRICT, THE DISTRICT COUNCIL SHALL REFER THE APPLICATION FOR THE CHANGE TO THE GOVERNING BODY OF THE MUNICIPAL CORPORATION OR GOVERNED DISTRICT FOR ITS RECOMMENDATION.

(B) REVIEW PERIOD.

THE GOVERNING BODY OF THE MUNICIPAL CORPORATION OR GOVERNED SPECIAL TAXING DISTRICT HAS 60 DAYS TO MAKE ITS RECOMMENDATION.

(C) SUPERMAJORITY REQUIRED.

A TWO–THIRDS MAJORITY OF ALL THE MEMBERS OF THE DISTRICT COUNCIL IS REQUIRED BEFORE THE DISTRICT COUNCIL MAY CHANGE THE ZONING CLASSIFICATION OF PROPERTY IN A MUNICIPAL CORPORATION OR GOVERNED SPECIAL TAXING DISTRICT CONTRARY TO THE RECOMMENDATION OF THE MUNICIPAL CORPORATION OR GOVERNED DISTRICT.

REVISOR'S NOTE: This section is new language derived without substantive change from the first and second sentences of former Art. 28, § 8–104(c).

In subsection (c) of this section, the reference to the "district" council is added for clarity.

Defined terms: "District council" § 14–101
"Governed special taxing district" § 14–101
"Zoning law" § 14–101

22–208. REQUIRED REFERRAL — MAP AMENDMENT.

(A) TO COUNTY PLANNING BOARD AND MUNICIPAL CORPORATION OR GOVERNED SPECIAL TAXING DISTRICT.

BEFORE A MAP AMENDMENT IS APPROVED, IT SHALL BE SUBMITTED TO THE APPROPRIATE COUNTY PLANNING BOARD AND TO THE GOVERNING BODY OF THE MUNICIPAL CORPORATION OR GOVERNED SPECIAL TAXING DISTRICT WHERE THE LAND IS LOCATED FOR A RECOMMENDATION AS TO APPROVAL, DISAPPROVAL, OR APPROVAL WITH CONDITIONS.

(B) PROCEDURES.

A DISTRICT COUNCIL MAY PROVIDE BY LOCAL LAW PROCEDURES FOR THE COUNTY PLANNING BOARD AND A MUNICIPAL CORPORATION OR GOVERNED SPECIAL TAXING DISTRICT TO FOLLOW IN CONSIDERING ZONING MAP AMENDMENTS TO THE EXTENT THAT THESE PROVISIONS DO NOT CONFLICT WITH THIS DIVISION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–104(b).

In subsection (a) of this section, the phrase "for a recommendation as to approval, disapproval, or approval with conditions" is substituted for the former phrase "for approval, disapproval, or suggestions" for clarity and accuracy.

Defined terms: "County planning board" § 14–101
"District council" § 14–101
"Governed special taxing district" § 14–101
"Local law" § 14–101

22–209. APPROVAL — MONTGOMERY COUNTY — CLASSIFICATION CHANGE.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES TO APPLICATIONS FILED FOR AMENDMENTS TO ZONING CLASSIFICATIONS IN MONTGOMERY COUNTY.

(B) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN APPLICATION SHALL BE GRANTED ONLY BY THE AFFIRMATIVE VOTE OF AT LEAST FIVE MEMBERS OF THE DISTRICT COUNCIL.

(C) CLASSIFICATION NOT ON APPROVED PLAN.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN APPLICATION THAT SEEKS A ZONING CLASSIFICATION NOT SHOWN AS APPROPRIATE OR SUITABLE IN THE TEXT OR ON THE LAND USE MAP OF A MASTER PLAN THAT THE DISTRICT COUNCIL HAS APPROVED UNDER § 21–107 OF THIS ARTICLE MAY BE GRANTED ONLY BY THE AFFIRMATIVE VOTE OF SIX MEMBERS OF THE DISTRICT COUNCIL.

(2) IF THE COMMISSION RECOMMENDS APPROVAL OF THE APPLICATION FOR RECLASSIFICATION OR IF THE APPLICATION IS FOR A ZONING CLASSIFICATION CREATED AFTER THE DISTRICT COUNCIL APPROVES THE MASTER PLAN, THE AFFIRMATIVE VOTE OF FIVE MEMBERS OF THE DISTRICT COUNCIL IS REQUIRED TO GRANT THE APPLICATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–104(a)(2).

In subsection (a) of this section, the reference to the section apply[ing] "to applications filed for amendments to zoning classifications" in Montgomery County is added for clarity.

In subsection (c)(1) of this section, the phrase "[e]xcept as provided in paragraph (2) of this subsection," is added for clarity.

Also in subsection (c)(1) of this section, the reference to a zoning classification "either euclidean or floating" is deleted as surplusage.

In subsection (c)(2) of this section, the former reference to "applications" is deleted in light of the reference to an "application" and Art. 1, § 8, which provides that the singular generally includes the plural.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that the requirement for a supermajority vote to approve a zoning classification "not shown as appropriate or suitable in the text or on the land use map of [an approved] master plan" under subsection (c)(1) of this section may inadvertently penalize a beneficial application that does not conform to an outdated master plan that itself may not be legally current. In part, this may be overcome with the express support of the Commission under subsection (c)(2) of this section. The General Assembly may wish to consider how this provision relates to a stale master plan in an evolving area.

Defined terms: "Commission" § 14–101
"District council" § 14–101

22–210. APPROVAL — PRINCE GEORGE'S COUNTY — SUPERMAJORITY REQUIRED.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY IN PRINCE GEORGE'S COUNTY.

(B) AMENDMENT CONTRARY TO PLAN.

THE DISTRICT COUNCIL SHALL REQUIRE A TWO–THIRDS VOTE OF ALL MEMBERS OF THE DISTRICT COUNCIL TO APPROVE A ZONING MAP AMENDMENT IF THE ZONING MAP AMENDMENT IS CONTRARY TO AN APPROVED MASTER PLAN.

(C) MAP AMENDMENT OR SPECIAL EXCEPTION IN MUNICIPAL CORPORATION.

THE DISTRICT COUNCIL SHALL REQUIRE A TWO–THIRDS VOTE OF ALL MEMBERS OF THE DISTRICT COUNCIL TO APPROVE A ZONING MAP AMENDMENT OR A SPECIAL EXCEPTION IF THE ZONING MAP AMENDMENT OR SPECIAL EXCEPTION IS CONTRARY TO THE RECOMMENDATION OF A MUNICIPAL CORPORATION THAT HAS ANY PORTION OF THE LAND SUBJECT TO THE ZONING MAP AMENDMENT OR SPECIAL EXCEPTION IN ITS BOUNDARIES.

(D) PARKING PLAN IN MUNICIPAL CORPORATION.

THE DISTRICT COUNCIL SHALL REQUIRE A TWO–THIRDS VOTE OF ALL MEMBERS OF THE DISTRICT COUNCIL AND A FOUR–FIFTHS VOTE OF ALL MEMBERS OF THE COUNTY PLANNING BOARD TO APPROVE AN OPTIONAL

PARKING PLAN IF THE OPTIONAL PARKING PLAN IS CONTRARY TO THE RECOMMENDATION OF A MUNICIPAL CORPORATION THAT HAS ANY PORTION OF THE LAND SUBJECT TO THE OPTIONAL PARKING PLAN IN ITS BOUNDARIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–104(a)(3).

Defined terms: "County planning board" § 14–101
"District council" § 14–101

22–211. RESERVED.

22–212. RESERVED.

PART III. MISCELLANEOUS PROVISIONS — PRINCE GEORGE'S COUNTY.

22–213. SCOPE OF PART.

THIS PART APPLIES ONLY IN PRINCE GEORGE'S COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 28, § 8–104(e)(1), as it limited the application of that subsection to Prince George's County.

22–214. CONDITIONAL ZONING.

(A) IN GENERAL.

IN APPROVING ANY ZONING MAP AMENDMENT, THE DISTRICT COUNCIL MAY CONSIDER AND ADOPT ANY REASONABLE REQUIREMENTS, SAFEGUARDS, AND CONDITIONS THAT:

(1) MAY BE NECESSARY TO PROTECT SURROUNDING PROPERTIES FROM ADVERSE EFFECTS THAT MIGHT ACCRUE FROM THE ZONING MAP AMENDMENT; OR

(2) WOULD FURTHER ENHANCE THE COORDINATED, HARMONIOUS, AND SYSTEMATIC DEVELOPMENT OF THE REGIONAL DISTRICT.

(B) CONDITIONS — RESOLUTION; EFFECT.

(1) A STATEMENT OF ANY CONDITION PROVIDED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE INCLUDED IN THE RESOLUTION GRANTING THE AMENDMENT.

(2) THE CONDITIONS SHALL REMAIN IN EFFECT FOR SO LONG AS THE PROPERTY REMAINS ZONED IN ACCORDANCE WITH THE RESOLUTION AND THE APPLICABLE ZONING CLASSIFICATION REQUESTED.

(3) A BUILDING PERMIT, USE PERMIT, OR SUBDIVISION PLAT MAY NOT BE ISSUED OR APPROVED FOR THE PROPERTY EXCEPT IN ACCORDANCE WITH CONDITIONS SET FORTH IN THE RESOLUTION.

(C) ACCEPTANCE OR REJECTION.

(1) AN APPLICANT HAS 90 DAYS FROM THE DATE OF APPROVAL TO ACCEPT OR REJECT THE LAND USE CLASSIFICATION CONDITIONALLY APPROVED.

(2) IF THE APPLICANT EXPRESSLY REJECTS THE AMENDMENT AS CONDITIONALLY APPROVED WITHIN THE 90–DAY PERIOD, THE ZONING CLASSIFICATION SHALL REVERT TO ITS PRIOR STATUS.

(D) LIMITATION.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE DISTRICT COUNCIL MAY NOT IMPOSE ANY REQUIREMENT, SAFEGUARD, OR CONDITION THAT WOULD REQUIRE THE DEDICATION OF LAND FOR PUBLIC USE EXCEPT FOR ROADS AND EASEMENTS.

(E) LOCAL LAWS.

THE DISTRICT COUNCIL MAY ADOPT LOCAL LAWS NECESSARY TO PROVIDE ADEQUATE NOTICE, PUBLIC HEARINGS, AND ENFORCEMENT PROCEDURES FOR THE IMPLEMENTATION OF THIS SECTION.

(F) EFFECT OF INVALIDITY.

IF ANY RESOLUTION, OR ANY PART OR CONDITION OF ANY RESOLUTION, PASSED BY THE DISTRICT COUNCIL IN ACCORDANCE WITH THIS SECTION IS DECLARED INVALID BY ANY COURT OF COMPETENT JURISDICTION:

(1) THE ZONING CATEGORY APPLICABLE TO THE PROPERTY REZONED BY THE RESOLUTION SHALL REVERT TO THE CATEGORY APPLICABLE BEFORE THE PASSAGE OF THE RESOLUTION; AND

(2) THE RESOLUTION SHALL BE NULL AND VOID AND OF NO EFFECT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–104(e)(2) through (4) and the second, third, and fourth sentences and, as it related to consideration of conditions, the first sentence of (1).

In the introductory language to subsection (a) of this section, the reference to a "zoning" map amendment is substituted for the former reference to a "local" map amendment for clarity and accuracy.

Also in the introductory language to subsection (a) of this section, the former obsolete reference to approval of a map amendment "after July 1, 1968" is deleted.

In subsection (a)(1) of this section, the former phrase "in its opinion" is deleted as surplusage.

In subsection (b)(1) of this section, the former phrase "and shall become a part thereof" is deleted as redundant of the phrase "shall be included in".

In subsection (d) of this section, the former references to "streets" and "alleys" are deleted as included in the defined term "road".

Also in subsection (d) of this section, the word "section" is substituted for the former word "article" to provide the correct provision of law to be referenced.

In the introductory language to subsection (f) of this section, the comprehensive reference to being declared "invalid" is substituted for the former reference to being declared "illegal, unconstitutional or in any way invalid" for brevity.

Defined terms: "District council" § 14–101
"Local law" § 14–101
"Regional district" § 14–101
"Road" § 14–101
"Subdivision" § 14–101

22–215. MAP AMENDMENT — RECORDS — FEES; TRANSCRIPT.

(A) RECORDING.

(1) AN AUTHORIZED REPORTER SHALL MAKE A RECORD OF ALL HEARINGS ON PETITIONS FOR ZONING MAP AMENDMENTS.

(2) THE RECORD MAY NOT BE DESTROYED UNTIL THE TIME FOR APPEAL OR REHEARING ON ANY PETITION FOR ZONING MAP AMENDMENTS HAS EXPIRED.

(B) FILING FEES; TRANSCRIPT.

(1) A PERSON MAKING AN APPLICATION FOR A ZONING MAP AMENDMENT SHALL PAY AN ADDITIONAL FILING FEE OF $5 AT THE TIME OF PAYING THE ADVERTISING COSTS.

(2) A PERSON APPEALING A DECISION OF THE DISTRICT COUNCIL OR REQUESTING THAT A TRANSCRIPT BE TRANSCRIBED SHALL PAY TO THE COUNTY THE ESTIMATED COST OF TRANSCRIPTION OF THE RECORD.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–106(a) and (b).

Throughout this section, the former references to a "stenographer" and a "stenographic" record are deleted as included in the comprehensive references to a "reporter" and a "record", respectively, for clarity.

In subsection (b) of this section, the former references to "corporation, or party" are deleted as included in the defined term "person".

In subsection (b)(2) of this section, the former phrase "for any reason" is deleted as surplusage.

Defined terms: "County" § 14–101
"District council" § 14–101
"Person" § 14–101

22–216. MAP AMENDMENT — RECORDS — CUSTODY AND AVAILABILITY.

(A) "CUSTODIAN" DEFINED.

IN THIS SECTION, "CUSTODIAN" MEANS THE CUSTODIAN OF THE RECORDS OF A ZONING MAP AMENDMENT CASE IN THE COUNTY.

(B) IN GENERAL.

(1) BEFORE THE COMMISSION SENDS A ZONING MAP AMENDMENT CASE TO THE DISTRICT COUNCIL, THE COMMISSION IS THE CUSTODIAN.

(2) AFTER THE COMMISSION SENDS A ZONING MAP AMENDMENT CASE TO THE DISTRICT COUNCIL, THE DISTRICT COUNCIL IS THE CUSTODIAN.

(C) RECEIPT OF MATERIALS.

CORRESPONDENCE OR DOCUMENTS SUBMITTED TO A CUSTODIAN SHALL BE RECEIVED IN A RECORD ONLY IN ACCORDANCE WITH ANY APPLICABLE STATUTE, LOCAL LAW, RULE OF EVIDENCE, OR CASE LAW.

(D) AVAILABILITY.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, EACH APPLICATION FOR A ZONING MAP AMENDMENT AND ALL OFFICIAL CORRESPONDENCE AND RECORDS RELATING TO THE APPLICATION, PREPARED OR RECEIVED IN A RECORD BY THE CUSTODIAN, SHALL BE MADE AVAILABLE TO THE PUBLIC DURING THE CUSTODIAN'S REGULAR BUSINESS HOURS.

(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE CUSTODIAN MAY PUBLISH RULES TO PREVENT ANY ACCESS PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION FROM UNREASONABLY DISRUPTING THE CUSTODIAN'S OFFICIAL BUSINESS.

(II) COPIES OF TECHNICAL STAFF REPORTS SHALL BE AVAILABLE FOR THE PUBLIC AT THE OFFICE OF THE CUSTODIAN UNDER ALL CIRCUMSTANCES.

(E) COPIES.

AN INDIVIDUAL WHO PERSONALLY APPEARS AT THE OFFICE OF THE CUSTODIAN MAY OBTAIN, WITHOUT CHARGE, A COPY OF A PUBLIC DOCUMENT IF THE DOCUMENT:

(1) IS OF LETTER OR LEGAL SIZE; AND

(2) PERTAINS TO A SPECIFIC ZONING CASE, INCLUDING ZONING APPLICATIONS AND JUSTIFICATION STATEMENTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–104(d)(1) through (3) and (4)(i).

In subsections (c) and (d)(1) of this section, the references to receipt of material "in a record" are added for clarity.

Former Art. 28, § 8–104(d)(4)(ii), which provided for the supplementary purpose of subsection (e) of this section, is deleted as surplusage.

Defined terms: "Commission" § 14–101
"County" § 14–101
"District council" § 14–101
"Local law" § 14–101

SUBTITLE 3. BOARD OF APPEALS.

PART I. GENERAL PROVISIONS.

22–301. SPECIAL EXCEPTIONS AND VARIANCES.

(A) AUTHORIZED.

(1) A DISTRICT COUNCIL MAY ADOPT ZONING LAWS THAT AUTHORIZE THE BOARD OF APPEALS, THE DISTRICT COUNCIL, OR AN ADMINISTRATIVE OFFICE OR AGENCY DESIGNATED BY THE DISTRICT COUNCIL TO GRANT SPECIAL EXCEPTIONS AND VARIANCES TO THE ZONING LAWS ON CONDITIONS THAT ARE NECESSARY TO CARRY OUT THE PURPOSES OF THIS DIVISION.

(2) ANY ZONING LAW ADOPTED UNDER THIS SUBSECTION SHALL CONTAIN APPROPRIATE STANDARDS AND SAFEGUARDS TO ENSURE THAT ANY SPECIAL EXCEPTION OR VARIANCE THAT IS GRANTED IS CONSISTENT WITH THE GENERAL PURPOSES AND INTENT OF THE ZONING LAWS.

(B) APPEALS.

SUBJECT TO § 22–309 OF THIS SUBTITLE, AN APPEAL FROM A DECISION OF AN ADMINISTRATIVE OFFICE OR AGENCY DESIGNATED UNDER THIS SUBTITLE SHALL FOLLOW THE PROCEDURE DETERMINED BY THE DISTRICT COUNCIL.

(C) AUTHORIZATION TO DECIDE CERTAIN QUESTIONS.

THE DISTRICT COUNCIL MAY AUTHORIZE THE BOARD OF APPEALS TO INTERPRET ZONING MAPS OR DECIDE QUESTIONS, SUCH AS THE LOCATION OF

LOT LINES OR DISTRICT BOUNDARY LINES, AS THE QUESTIONS ARISE IN THE ADMINISTRATION OF ZONING LAWS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–110(a)(1), (5), and the second sentence of (4).

In subsection (a)(1) of this section, the former reference to the authority to "deny" special exceptions and variances is deleted as implicit in the reference to the authority to "grant" them.

Also in subsection (a)(1) of this section, the former phrase "in appropriate cases" is deleted as implicit.

In subsection (a)(2) of this section, the former references to "principles", "rules", and "conditions" are deleted as included in the references to "standards" and "safeguards".

In subsection (b) of this section, the phrase "[s]ubject to § 22–309 of this subtitle" is added for clarity.

Also in subsection (b) of this section, the former phrase "from time to time" is deleted as surplusage.

In subsection (c) of this section, the reference to "zoning laws" is substituted for the former reference to the "regulations" for clarity.

Defined terms: "District council" § 14–101
"Zoning law" § 14–101

22–302. RESERVED.

22–303. RESERVED.

PART II. MONTGOMERY COUNTY.

22–304. SCOPE OF PART.

THIS PART APPLIES ONLY IN MONTGOMERY COUNTY.

REVISOR'S NOTE: This section is new language added to avoid repeated references to "Montgomery County" in provisions that apply exclusively to that county.

22–305. SPECIAL EXCEPTIONS AND VARIANCES.

(A) VOTING REQUIREMENTS.

(1) THE DISTRICT COUNCIL MAY ADOPT ZONING LAWS THAT PROVIDE THAT THE AFFIRMATIVE VOTE OF:

(I) AT LEAST FOUR MEMBERS OF THE BOARD OF APPEALS ARE REQUIRED TO ADOPT A RESOLUTION THAT GRANTS, REVOKES, SUSPENDS, OR AMENDS A SPECIAL EXCEPTION OR EXTENDS THE TIME IN WHICH TO IMPLEMENT A SPECIAL EXCEPTION; AND

(II) A MAJORITY OF THE BOARD OF APPEALS IS REQUIRED TO ADOPT A PROCEDURAL MOTION REGARDING A SPECIAL EXCEPTION APPLICATION.

(2) IN EXERCISING ITS AUTHORITY UNDER THIS SUBSECTION, THE DISTRICT COUNCIL MAY ENACT, FOR ANY ZONE, DIFFERENT VOTING REQUIREMENTS FOR DIFFERENT USES.

(B) APPEALS FROM ADMINISTRATIVE OFFICE OR AGENCY.

THE DECISIONS OF THE ADMINISTRATIVE OFFICE OR AGENCY MAY BE APPEALED TO THE BOARD OF APPEALS OR OTHER ADMINISTRATIVE BODY THE DISTRICT COUNCIL DESIGNATES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–110(a)(2) and the first sentence of (4).

In subsection (a)(1)(i) of this section, the former reference to "modify[ing]" a special exception is deleted as included in the reference to "amend[ing]" a special exception.

Defined terms: "District council" § 14–101
"Zoning law" § 14–101

22–306. RESERVED.

22–307. RESERVED.

PART III. PRINCE GEORGE'S COUNTY.

22–308. SCOPE OF PART.

THIS PART APPLIES ONLY IN PRINCE GEORGE'S COUNTY.

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

22–309. BOARD OF APPEALS.

(A) ESTABLISHED.

THERE IS A BOARD OF APPEALS IN PRINCE GEORGE'S COUNTY.

(B) MEMBERSHIP.

(1) THE COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY SHALL APPOINT THREE MEMBERS TO THE BOARD.

(2) EACH MEMBER OF THE BOARD SHALL BE A RESIDENT OF THE REGIONAL DISTRICT IN PRINCE GEORGE'S COUNTY.

(3) THE TERM OF A MEMBER IS 4 YEARS.

(4) A MEMBER WHO IS APPOINTED TO FILL A VACANCY SHALL SERVE FOR THE REST OF THE TERM.

(C) OFFICERS.

THE BOARD EACH YEAR SHALL ELECT A CHAIR AND VICE–CHAIR.

(D) MEETINGS; PROCEDURES.

(1) ALL MEETINGS OF THE BOARD SHALL BE PUBLIC.

(2) THE BOARD SHALL KEEP MINUTES OF ITS PROCEEDINGS.

(3) (I) THE BOARD SHALL ACT BY RESOLUTION.

(II) AT LEAST TWO MEMBERS OF THE BOARD MUST CONCUR IN ANY RESOLUTION.

(4) THE BOARD OR ANY OFFICER OF THE BOARD MAY ADMINISTER OATHS AND COMPEL THE ATTENDANCE OF WITNESSES.

(5) THE DISTRICT COUNCIL MAY ADOPT REGULATIONS CONSISTENT WITH THIS SUBTITLE TO GOVERN THE ORGANIZATION AND PROCEDURE OF THE BOARD.

(6) THE BOARD MAY ADOPT SUPPLEMENTAL RULES OF PROCEDURE CONSISTENT WITH THIS SUBTITLE AND THE REGULATIONS OF THE DISTRICT COUNCIL.

(E) COMPENSATION; STAFF.

(1) THE COUNTY COUNCIL SHALL DETERMINE THE COMPENSATION OF THE MEMBERS OF THE BOARD.

(2) THE COUNTY COUNCIL MAY PROVIDE STAFF FOR THE BOARD.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–107.

In subsection (a) of this section, the former statement that the board "is continued" is deleted as unnecessary.

In subsection (b)(3) of this section, the former reference to 4–year terms "dating originally from their first appointment in 1939" is deleted as obsolete.

In subsection (c) of this section, the references to a "chair" and a "vice–chair" are substituted for the former references to a "chairman" and a "vice–chairman" because SG § 2–1238 requires the use of words that are neutral as to gender to the extent practicable.

Also in subsection (c) of this section, the former reference to the members annually "organiz[ing]" and electing officers is deleted as unnecessary.

In subsection (d)(3)(ii) of this section, the reference to "[a]t least" two members of the board concurring in a resolution is added for clarity.

In subsection (d)(5) of this section, the former reference to "adopting general rules" is deleted as surplusage.

In subsection (d)(6) of this section, the reference to "the regulations of the district council" is substituted for the former reference to "such general rules" for consistency within this subsection.

In subsection (d)(6) of this section, the former phrase "from time to time" is deleted as surplusage.

In subsection (e) of this section, the references to the "County Council" are substituted for the former obsolete references to the "County Commissioners" to accurately reflect the current form of county government in Prince George's County.

In subsection (e)(2) of this section, the reference to "staff" is substituted for the former reference to "executive and clerical assistance" for consistency with other similar provisions of the Code.

Also in subsection (e)(2) of this section, the former reference to providing staff "as necessary" is deleted as surplusage.

Defined terms: "District council" § 14–101
"Regional district" § 14–101

22–310. APPEAL OF SPECIAL EXCEPTIONS.

(A) TO DISTRICT COUNCIL.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE DISTRICT COUNCIL SHALL PROVIDE FOR THE APPEAL OF DECISIONS OF THE ZONING HEARING EXAMINER IN SPECIAL EXCEPTION CASES TO THE DISTRICT COUNCIL.

(B) MUNICIPAL CORPORATION — VOTING.

IF A SPECIAL EXCEPTION IS CONTRARY TO THE RECOMMENDATION OF A MUNICIPAL CORPORATION THAT HAS ANY PORTION OF THE PROPERTY SUBJECT TO THE SPECIAL EXCEPTION IN THE MUNICIPAL BOUNDARIES, THE DISTRICT COUNCIL SHALL REQUIRE A TWO–THIRDS VOTE OF ALL DISTRICT COUNCIL MEMBERS TO APPROVE THE SPECIAL EXCEPTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–110(a)(3).

In subsection (a) of this section, the former reference to "variance" cases is deleted for clarity because in Prince George's County hearing examiners only hear variances in the context of a special exception case.

Defined term: "District council" § 14–101

22–311. APPEALS TO BOARD OF APPEALS.

(A) BY WHOM TAKEN.

APPEALS TO THE BOARD OF APPEALS MAY BE TAKEN BY ANY PERSON AGGRIEVED BY:

(1) THE GRANT OR DENIAL OF A BUILDING PERMIT;

(2) THE GRANT OR DENIAL OF AN OCCUPANCY OR USE PERMIT; OR

(3) ANY OTHER ADMINISTRATIVE DECISION BASED WHOLLY OR PARTLY ON A ZONING LAW ENACTED BY THE DISTRICT COUNCIL.

(B) POWERS OF BOARD.

THE BOARD MAY:

(1) HEAR AND DECIDE APPEALS ALLEGING AN ERROR:

(I) IN A GRANT OR DENIAL OF A BUILDING, USE, OR OCCUPANCY PERMIT;

(II) IN AN ORDER OR A DECISION MADE BY A BUILDING OFFICIAL OR BY THE COMMISSION ON AN APPLICATION FOR A BUILDING OR OTHER PERMIT; OR

(III) BY AN ADMINISTRATIVE OFFICER OR BODY IN THE ADMINISTRATION OF ANY ZONING LAW ADOPTED UNDER THIS TITLE;

(2) IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE DISTRICT COUNCIL, HEAR AND DECIDE REQUESTS FOR:

(I) SPECIAL EXCEPTIONS OR MAP INTERPRETATIONS;

(II) DECISIONS ON PERMITS FOR EXTENSIONS, SUBSTITUTIONS, RESTORATIONS, REINSTATEMENTS, OR RECONSTRUCTIONS OF LAWFUL NONCONFORMING USES; OR

(III) DECISIONS ON SPECIAL QUESTIONS THAT THE BOARD OF APPEALS IS REQUIRED OR AUTHORIZED BY THE ZONING LAWS TO DECIDE; AND

(3) ON AN APPEAL RELATING TO A SPECIFIC PIECE OF PROPERTY, AUTHORIZE A VARIANCE FROM STRICT APPLICATION OF A ZONING LAW OR AMENDMENT IN ORDER TO RELIEVE DIFFICULTY OR HARDSHIP IF:

(I) STRICT APPLICATION OF THE ZONING LAW OR AMENDMENT WOULD RESULT IN EXCEPTIONAL PRACTICAL DIFFICULTY FOR, OR EXCEPTIONAL OR UNDUE HARDSHIP ON, THE OWNER OF THE PROPERTY BECAUSE OF THE EXCEPTIONAL SHAPE OF THE PROPERTY AT THE TIME OF THE ENACTMENT OF THE ZONING LAW OR AMENDMENT OR BECAUSE OF THE EXCEPTIONAL SITUATION OR TOPOGRAPHICAL CONDITIONS OF THE PROPERTY; AND

(II) AUTHORIZATION OF THE VARIANCE WILL NOT CAUSE A SUBSTANTIAL IMPAIRMENT OF THE INTENT, PURPOSE, AND INTEGRITY OF THE ZONE AS EMBODIED IN THE ZONING LAWS.

(C) LIMITATION ON POWERS.

(1) NOTHING IN SUBSECTION (B)(1) OF THIS SECTION AUTHORIZES THE BOARD TO REVERSE OR MODIFY A DENIAL OF A PERMIT OR ANY OTHER ORDER OR DECISION THAT CONFORMS TO THIS TITLE AND THE ZONING LAWS ADOPTED UNDER THIS TITLE.

(2) THE BOARD MAY NOT MAKE OR AMEND ANY ZONING LAW.

(D) HEARING AND NOTICE.

(1) BEFORE MAKING A DECISION ON AN APPEAL, THE BOARD SHALL HOLD A HEARING.

(2) NOTICE OF THE TIME AND PLACE OF THE HEARING SHALL BE MAILED AT LEAST 7 DAYS BEFORE THE HEARING TO THE APPELLANT AND TO THE OWNERS OF ALL PROPERTIES CONTIGUOUS TO OR OPPOSITE THE SUBJECT PROPERTY, MEASURED AT RIGHT ANGLES TO THE INTERVENING STREET OR STREETS FROM THE PROPERTY.

(E) DECISION BY BOARD.

(1) THE BOARD MAY REVERSE OR AFFIRM, WHOLLY OR PARTLY, OR MODIFY THE DECISION APPEALED FROM.

(2) THE DECISION OF THE BOARD SHALL BE BY RESOLUTION AND SHALL INCLUDE A STATEMENT OF THE FINDINGS OF FACT AND CONCLUSIONS THAT SUPPORT THE DECISION.

(3) THE RESOLUTION, OR A COPY OF IT, SHALL FORM PART OF THE MINUTES OR OTHER RECORDS OF THE BOARD.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–111.

In the introductory language to subsection (a) of this section, the former reference to a "board, association, corporation, or official" is deleted as included in the defined term "person".

In subsection (a)(1) of this section, the reference to "a grant" of a building, use, or occupancy permit is added for clarity.

In subsection (a)(2) of this section, the word "denial" is substituted for the former word "withholding" for consistency within this section.

In subsections (a)(3), (b)(3)(ii), and (c)(2) of this section, the former references to "map[s]" are deleted as included in the references to "zoning law[s]".

In subsection (a)(3) of this section, the former reference to a decision "claimed to be based" on a zoning regulation is deleted as implicit in the reference to a "decision based" on a zoning law.

In the introductory language to subsection (b)(1) of this section, the former reference to an error being alleged "by the appellant" is deleted as unnecessary.

In subsections (b)(1)(ii) and (c)(1) of this section, the former references to a "requirement" or "determination" are deleted as implicit in the references to an "order" or "decision".

In subsection (b)(2)(iii) and (3)(iii) of this section, the defined term "zoning law[s]" is substituted for the former term "zoning regulations" for clarity and consistency within this division. Similarly, in the introductory language to subsection (b)(3) and (3)(i), the defined term "zoning law" is substituted for the former word "regulation".

In subsection (b)(3)(i) of this section, the former reference to "peculiar" difficulties is deleted as included in the reference to "exceptional" difficulties. Similarly, the former reference to an "extraordinary"

situation is deleted as included in the reference to an "exceptional" situation.

Also in subsection (b)(3)(i) of this section, the former references to the "narrowness" and "shallowness" of a piece of property are deleted as included in the reference to the "shape" of a piece of property.

In subsection (b)(3)(ii) of this section, the reference to the "authorization of the variance" is substituted for the former reference to "relief [being] granted" for clarity.

In subsection (c)(1) of this section, the former reference to an order or decision "which, therefore, was not erroneous" is deleted as surplusage.

In subsection (d)(2) of this section, the former reference to "the time fixed for" the hearing is deleted as unnecessary.

Also in subsection (d)(2) of this section, the former reference to the property "of the appellant" is deleted as surplusage.

In subsection (e)(1) of this section, the former phrase "[i]n exercising its powers" is deleted as surplusage.

Also in subsection (e)(1) of this section, the former reference to the board acting "in conformity with the provisions of this title and the zoning regulations" is deleted as implicit in the authority of the board to act.

In subsection (e)(2) of this section, the reference to the "findings of fact and conclusions that support the decision" is substituted for the former reference to the "grounds of its actions or decisions" for clarity and accuracy.

Also in subsection (e)(2) of this section, the former references to the "action" of the board are deleted as included in the references to the "decision" of the board.

Defined terms: "Commission" § 14–101
"District council" § 14–101
"Person" § 14–101
"Zoning law" § 14–101

SUBTITLE 4. JUDICIAL REVIEW.

PART I. MONTGOMERY COUNTY.

22–401. SCOPE OF PART.

THIS PART APPLIES ONLY IN MONTGOMERY COUNTY.

REVISOR'S NOTE: This section is new language added to avoid repeated references to "Montgomery County" in sections that apply exclusively to that county.

22–402. MAP AMENDMENTS.

(A) JUDICIAL REVIEW AUTHORIZED.

(1) JUDICIAL REVIEW OF A FINAL ACTION OF THE DISTRICT COUNCIL ON AN APPLICATION FOR A MAP AMENDMENT MAY BE REQUESTED BY:

(I) A PERSON AGGRIEVED BY THE ACTION; OR

(II) A PERSON OR MUNICIPAL CORPORATION THAT APPEARED AT THE HEARING IN PERSON, BY ATTORNEY, OR IN WRITING.

(2) A PETITION FOR JUDICIAL REVIEW SHALL BE FILED IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY WITHIN 30 DAYS AFTER THE DISTRICT COUNCIL TAKES THE FINAL ACTION.

(3) THE COURT MAY:

(I) AFFIRM OR REVERSE THE ACTION;

(II) FOR ANY REASON, REMAND THE ACTION TO THE DISTRICT COUNCIL FOR FURTHER CONSIDERATION; OR

(III) DISMISS THE PETITION.

(B) PROCEDURE.

(1) WHEN A PETITION FOR JUDICIAL REVIEW IS FILED, A COPY OF THE PETITION SHALL BE SERVED ON THE DISTRICT COUNCIL IN ACCORDANCE WITH MARYLAND RULE 7–202(D).

(2) ON RECEIVING A COPY OF THE PETITION, THE DISTRICT COUNCIL SHALL:

(I) PROMPTLY GIVE NOTICE OF THE PETITION TO ALL PARTIES TO THE PROCEEDING BEFORE IT; AND

(II) WITHIN 30 DAYS AFTER THE FILING OF THE PETITION, FILE WITH THE CIRCUIT COURT:

1. THE ORIGINALS OR CERTIFIED COPIES OF ALL PAPERS AND EVIDENCE PRESENTED TO THE DISTRICT COUNCIL IN THE PROCEEDING BEFORE IT; AND

2. A COPY OF ITS OPINION AND RESOLUTION DECIDING THE APPLICATION.

(3) ANY PARTY TO THE PROCEEDING IN THE CIRCUIT COURT AGGRIEVED BY THE JUDGMENT OF THE COURT MAY APPEAL FROM THE JUDGMENT TO THE COURT OF SPECIAL APPEALS.

(4) THE REVIEW PROCEEDINGS PROVIDED BY THIS SECTION ARE EXCLUSIVE.

(C) FINALITY OF ACTION; RECONSIDERATION.

(1) THE ACTION OF THE DISTRICT COUNCIL SHALL BE CONSIDERED FINAL UNLESS, WITHIN 30 DAYS AFTER THE ACTION, THE DISTRICT COUNCIL, ON ITS OWN MOTION FOR ANY REASON, RECONSIDERS THE ACTION.

(2) THE TIME FOR APPEAL PROVIDED IN THIS SECTION SHALL BE STAYED UNTIL ANY RECONSIDERATION IS CONCLUDED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–105.

In the introductory language to subsection (a)(1) of this section and throughout this subtitle, the reference to "judicial review" is substituted for the former reference to an "appeal" for clarity and consistency with language used in the Maryland Rules.

In subsection (a)(1)(ii) of this section, the former reference to a "corporation, or association, whether or not incorporated" is deleted as included in the defined term "person".

In subsection (a)(3)(iii) of this section, the former phrase "as now or hereafter provided by law" is deleted as surplusage.

In subsection (c)(2) of this section, the former reference to a reconsideration being "determined" is deleted as implicit in the reference to a reconsideration being "concluded".

The Land Use Article Review Committee notes, for consideration by the General Assembly, that under subsection (a)(1)(ii) of this section, a person may obtain judicial review of an action without showing aggrievement, so long as the person appeared at the hearing. The General Assembly may wish to consider whether a different standard involving some form of aggrievement or impact should be required of one obtaining judicial review under this section. *See also* § 23–401 of this article.

The Land Use Article Review Committee also notes, for consideration by the General Assembly, that it is unclear whether judicial review may be available under subsection (a) of this section only for an individual map amendment, or also for a sectional map amendment. The General Assembly may wish to clarify the type of map amendment for which judicial review is available under this section.

Defined terms: "District council" § 14–101
"Person" § 14–101

22–403. SPECIAL EXCEPTIONS AND VARIANCES.

(A) FROM BOARD OF APPEALS.

(1) NOTWITHSTANDING ARTICLE 25A, § 5(U) OF THE CODE, JUDICIAL REVIEW OF A DECISION BY THE BOARD OF APPEALS ON AN APPLICATION FOR A ZONING VARIANCE OR SPECIAL EXCEPTION MAY BE REQUESTED BY ANY PERSON OR MUNICIPAL CORPORATION THAT APPEARED AT THE HEARING IN PERSON, BY ATTORNEY, OR IN WRITING.

(2) A PETITION FOR JUDICIAL REVIEW SHALL BE FILED IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY WITHIN 30 DAYS AFTER THE DECISION BY THE BOARD.

(3) THE COURT MAY:

(I) AFFIRM OR REVERSE THE ACTION;

(II) FOR ANY REASON, REMAND THE ACTION TO THE BOARD FOR FURTHER CONSIDERATION; OR

(III) DISMISS THE PETITION.

(4) ANY PARTY TO THE PROCEEDING IN THE CIRCUIT COURT MAY APPEAL FROM THE JUDGMENT OF THE COURT TO THE COURT OF SPECIAL APPEALS.

(B) EXCLUSIVITY OF REVIEW PROCEEDINGS.

THE REVIEW PROCEEDINGS PROVIDED BY THIS SECTION ARE EXCLUSIVE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–110(b).

In subsection (a)(1) of this section, the former reference to the "county" board of appeals is deleted as surplusage.

Also in subsection (a)(1) of this section, the former reference to a "corporation, or association, whether or not incorporated" is deleted as included in the defined term "person".

In subsection (a)(3)(iii) of this section, the former phrase "as provided by law" is deleted as surplusage.

Defined term: "Person" § 14–101

22–404. RESERVED.

22–405. RESERVED.

PART II. PRINCE GEORGE'S COUNTY.

22–406. SCOPE OF PART.

THIS PART APPLIES ONLY IN PRINCE GEORGE'S COUNTY.

REVISOR'S NOTE: This section is new language added to avoid repeated references to "Prince George's County" in sections that apply exclusively to that county.

22–407. JUDICIAL REVIEW.

(A) AUTHORIZED.

(1) JUDICIAL REVIEW OF A FINAL DECISION OF THE DISTRICT COUNCIL AMENDMENT MAY BE REQUESTED BY:

(I) ANY MUNICIPAL CORPORATION, GOVERNED SPECIAL TAXING DISTRICT, OR PERSON IN THE COUNTY;

(II) ANY CIVIC OR HOMEOWNERS ASSOCIATION REPRESENTING PROPERTY OWNERS AFFECTED BY THE FINAL DECISION; OR

(III) IF AGGRIEVED, THE APPLICANT FOR THE ZONING MAP AMENDMENT.

(2) A PETITION FOR JUDICIAL REVIEW UNDER THIS SUBSECTION SHALL BE FILED IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY WITHIN 30 DAYS AFTER SERVICE OF THE FINAL DECISION BY THE DISTRICT COUNCIL.

(3) COPIES OF THE PETITION SHALL BE SERVED ON THE DISTRICT COUNCIL AND ALL OTHER PERSONS OF RECORD IN ACCORDANCE WITH THE MARYLAND RULES.

(4) THE FILING OF THE PETITION DOES NOT STAY ENFORCEMENT OF THE FINAL DECISION OF THE DISTRICT COUNCIL, BUT THE DISTRICT COUNCIL MAY STAY ENFORCEMENT OF ITS FINAL DECISION OR THE REVIEWING COURT MAY ORDER A STAY ON TERMS IT CONSIDERS PROPER.

(B) PROCEDURE FOR JUDICIAL REVIEW.

(1) WITHIN 30 DAYS AFTER SERVICE OF A PETITION UNDER SUBSECTION (A) OF THIS SECTION, OR WITHIN AN ADDITIONAL PERIOD OF TIME AUTHORIZED BY THE COURT, THE DISTRICT COUNCIL SHALL TRANSMIT TO THE REVIEWING COURT THE ORIGINAL OR A CERTIFIED COPY OF THE ENTIRE RECORD OF THE PROCEEDING UNDER REVIEW.

(2) THE COURT MAY:

(I) SHORTEN THE RECORD BY STIPULATION OF ALL PARTIES TO THE REVIEW PROCEEDING;

(II) CHARGE ANY PARTY UNREASONABLY REFUSING TO STIPULATE TO LIMIT THE RECORD FOR THE ADDITIONAL COST; AND

(III) REQUIRE OR ALLOW SUBSEQUENT CORRECTIONS TO THE RECORD THAT THE COURT CONSIDERS ADVISABLE.

(C) TAKING ADDITIONAL EVIDENCE.

(1) THE COURT SHALL ORDER THAT ADDITIONAL EVIDENCE BE TAKEN BEFORE THE DISTRICT COUNCIL ON CONDITIONS THE COURT CONSIDERS PROPER IF:

(I) BEFORE THE DATE SET FOR THE HEARING ON THE PETITION FOR JUDICIAL REVIEW, THE PETITIONER OR ANY PARTY IN INTEREST MAKES A WRITTEN APPLICATION TO SHOW CAUSE TO THE COURT FOR LEAVE TO PRESENT ADDITIONAL EVIDENCE ON THE ISSUES IN THE CASE; AND

(II) IT IS SHOWN TO THE SATISFACTION OF THE COURT AFTER A HEARING THAT THE ADDITIONAL EVIDENCE IS MATERIAL AND THAT THERE WERE GOOD REASONS FOR THE FAILURE TO PRESENT THE ADDITIONAL EVIDENCE IN THE PROCEEDINGS BEFORE THE DISTRICT COUNCIL.

(2) IF THE COURT ORDERS THAT ADDITIONAL EVIDENCE BE TAKEN BEFORE THE DISTRICT COUNCIL, IT SHALL IMMEDIATELY REMAND THE CASE TO THE DISTRICT COUNCIL TO RECEIVE THAT ADDITIONAL EVIDENCE.

(3) IF THE DISTRICT COUNCIL RECEIVES ADDITIONAL EVIDENCE, THE DISTRICT COUNCIL:

(I) MAY MODIFY OR REVERSE ITS PREVIOUS FINDINGS AND DECISION BECAUSE OF THE ADDITIONAL EVIDENCE; AND

(II) SHALL FILE WITH THE REVIEWING COURT, TO BECOME PART OF THE RECORD, THE ADDITIONAL EVIDENCE TOGETHER WITH ANY MODIFICATIONS OR NEW FINDINGS OR DECISION.

(D) COURT PROCEDURE.

(1) THE COURT SHALL CONDUCT THE JUDICIAL REVIEW WITHOUT A JURY.

(2) IN CASES WHERE THERE ARE ALLEGED IRREGULARITIES IN PROCEDURE BEFORE THE DISTRICT COUNCIL NOT SHOWN IN THE RECORD, TESTIMONY RELATING TO THE ALLEGED IRREGULARITIES MAY BE TAKEN IN THE COURT.

(3) THE COURT SHALL HEAR ORAL ARGUMENT AND RECEIVE WRITTEN BRIEFS ON REQUEST.

(E) COURT'S ACTION.

THE COURT MAY:

(1) AFFIRM THE DECISION OF THE DISTRICT COUNCIL;

(2) REMAND THE CASE FOR FURTHER PROCEEDINGS; OR

(3) REVERSE OR MODIFY THE DECISION IF THE SUBSTANTIAL RIGHTS OF THE PETITIONER HAVE BEEN PREJUDICED BECAUSE THE DISTRICT COUNCIL'S ACTION IS:

(I) UNCONSTITUTIONAL;

(II) IN EXCESS OF THE STATUTORY AUTHORITY OR JURISDICTION OF THE DISTRICT COUNCIL;

(III) MADE ON UNLAWFUL PROCEDURE;

(IV) AFFECTED BY OTHER ERROR OF LAW;

(V) UNSUPPORTED BY COMPETENT, MATERIAL, AND SUBSTANTIAL EVIDENCE IN VIEW OF THE ENTIRE RECORD AS SUBMITTED; OR

(VI) ARBITRARY OR CAPRICIOUS.

(F) FURTHER RIGHT OF APPEAL.

(1) A FINAL JUDGMENT OF THE CIRCUIT COURT MAY BE APPEALED TO THE COURT OF SPECIAL APPEALS BY:

(I) THE DISTRICT COUNCIL;

(II) THE APPLICANT; OR

(III) ANY AGGRIEVED PARTY TO THE CIRCUIT COURT PROCEEDINGS.

(2) EACH MEMBER OF THE DISTRICT COUNCIL IS ENTITLED TO VOTE ON WHETHER THE DISTRICT COUNCIL SHALL APPEAL TO THE COURT OF

SPECIAL APPEALS, REGARDLESS OF WHETHER THE MEMBER PARTICIPATED IN THE HEARING ON THE MATTER OR IN THE DECISION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–106(e) through (j).

In subsection (a)(1)(i) of this section, the former reference to a "taxpayer" is deleted as included in the reference to "any … person".

In subsection (a)(2) of this section, the reference to a petition "for judicial review" is added for clarity and consistency with language used in the Maryland Rules.

Also in subsection (a)(2) of this section, the former phrase "which may be served upon all persons of record at the district council's hearing" is deleted as surplusage.

In subsection (b)(2)(ii) of this section, the reference to "charg[ing]" a party for the additional cost is substituted for the former reference to "tax[ing]" a party for clarity.

In subsection (c)(1)(i) of this section, the reference to written application "by petition" is deleted as surplusage.

In the introductory language to subsection (e)(3) of this section, the reference to the "district council's action" is substituted for the former reference to the "administrative findings, inferences, conclusions, or decisions" for brevity and clarity.

In subsection (e)(3)(ii) of this section, the reference to the "district council" is substituted for the former reference to the "agency" for clarity.

In subsection (f) of this section, the former reference to the "appeal [being] taken in the manner provided by law for appeals from law courts in other civil cases" is deleted as unnecessary.

In the introductory language to subsection (f)(1) of this section, the former reference to "secur[ing] a review" is deleted as unnecessary.

Also in the introductory language to subsection (f)(1) of this section, the former reference to a final judgment "under this title" is deleted as unnecessary in light of the context of this subsection and section.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that under subsection (c)(3)(i) of this section, the possibility that the district council might modify or reverse a decision

based on additional evidence may open up unforeseen consequences if one or more parties changes its position in the proceedings, and the rights of those persons also change accordingly. The General Assembly may wish to explore further, with caution, the possibilities that an open remand to the district council might bring to the process.

The Land Use Article Review Committee also notes, for consideration by the General Assembly, that subsection (f)(2) of this section appears to allow a member of the district council who previously was recused to participate in the decision to appeal to the Court of Special Appeals, raising certain ethical concerns. The General Assembly may wish to examine more closely the language of subsection (f)(2) of this section and consider the effect of recusal on qualification to vote on the decision to appeal an action.

Former Art. 28, § 8–106(d), which defined various forms of the words "amend" and "regulate", is deleted as unnecessary. The synonyms and explanations provided for the terms do not add to the understanding of them.

Defined terms: "District council" § 14–101
"Governed special taxing district" § 14–101
"Person" § 14–101

22–408. JUDICIAL REVIEW FROM BOARD OF APPEALS; FINAL AND BINDING DECISIONS.

(A) JUDICIAL REVIEW IN CIRCUIT COURT AND COURT OF SPECIAL APPEALS.

(1) ANY PARTY TO A PROCEEDING BEFORE THE BOARD OF APPEALS AGGRIEVED BY THE DECISION OF THE BOARD MAY REQUEST JUDICIAL REVIEW OF THE DECISION BY THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY.

(2) THE CIRCUIT COURT MAY AFFIRM THE DECISION OF THE BOARD, OR, IF THE DECISION IS NOT IN ACCORDANCE WITH LAW, MODIFY OR REVERSE THE DECISION, WITH OR WITHOUT REMANDING THE CASE FOR REHEARING.

(3) ANY PARTY TO THE PROCEEDING IN THE CIRCUIT COURT AGGRIEVED BY THE JUDGMENT OF THE COURT MAY APPEAL THE DECISION TO THE COURT OF SPECIAL APPEALS.

(B) FINAL AND BINDING DECISIONS OF THE BOARD OF APPEALS.

(1) THE BOARD OF APPEALS SHALL TAKE ANY ACTION NECESSARY TO ENFORCE ANY FINAL DECISION OF THE BOARD.

(2) ANY REQUEST OR APPLICATION FOR A STAY FROM A FINAL DECISION OF THE BOARD SHALL BE FILED IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY.

(3) UNLESS MODIFIED OR REVERSED BY THE CIRCUIT COURT, A DECISION OF THE BOARD CONCERNING ANY NONCONFORMING OCCUPANCY OR USE IS BINDING ON THE PARTIES AND CONTINUES IN FORCE AND EFFECT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–111.1.

In subsection (a)(2) of this section, the former reference to remanding a case "as justice may require" is deleted as surplusage.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that subsection (b) of this section, which requires the board of appeals to take certain actions to enforce a final decision of the board, may be obsolete in light of the district council's assumption of that authority. The General Assembly may wish to consider substantively altering this provision or repealing it.

TITLE 23. SUBDIVISION.

SUBTITLE 1. POWERS.

23–101. SCOPE OF TITLE.

THIS TITLE DOES NOT APPLY TO A GOOD–FAITH DIVISION OR PARTITION OF EXCLUSIVELY AGRICULTURAL LAND THAT IS NOT MADE FOR DEVELOPMENT PURPOSES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the second sentence of former Art. 28, § 7–101(d). It is revised as an application provision rather than as an exclusion to a definition for clarity.

The reference to a "good–faith" division or partition is substituted for the former reference to a "bona fide" division or partition for clarity.

23–102. IN GENERAL.

(A) SUBDIVISION PLAT APPROVAL REQUIRED BY COUNTY PLANNING BOARD.

(1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A SUBDIVISION PLAT OF LAND IN THE REGIONAL DISTRICT MAY NOT BE ADMITTED TO THE LAND RECORDS OF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY, OR RECEIVED OR RECORDED BY THE CLERKS OF THE COURTS OF THE RESPECTIVE COUNTY, UNLESS:

(I) THE PLAT HAS BEEN SUBMITTED TO AND APPROVED BY THE APPLICABLE COUNTY PLANNING BOARD; AND

(II) THE CHAIR OF THE COUNTY PLANNING BOARD AND THE SECRETARY–TREASURER OF THE COMMISSION ENDORSE AN APPROVAL IN WRITING ON THE PLAT.

(2) THE RECORDATION OF A SUBDIVISION PLAT WITHOUT THE APPROVAL OF THE COUNTY PLANNING BOARD IS VOID.

(B) MINOR SUBDIVISION PLAT APPROVAL.

(1) IN PRINCE GEORGE'S COUNTY, IF THE SUBDIVISION REGULATIONS DISTINGUISH BETWEEN A MAJOR SUBDIVISION AND A MINOR SUBDIVISION, THE COMMISSION MAY PROVIDE FOR THE APPROVAL OF A MINOR SUBDIVISION PLAT BY THE PLANNING DIRECTOR.

(2) THE PLANNING DIRECTOR'S ENDORSEMENT IN WRITING ON THE MINOR SUBDIVISION PLAT IS SUFFICIENT EVIDENCE OF APPROVAL FOR THE PURPOSE OF FILING OR RECORDING THE PLAT.

(C) MUNICIPAL SUBDIVISION PLAT APPROVAL.

A SUBDIVISION IN A MUNICIPAL CORPORATION WITH SUBDIVISION AUTHORITY UNDER ARTICLE 23A OF THE CODE THAT IS IN THE REGIONAL DISTRICT MAY BE RECORDED IN THE LAND RECORDS OF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY IF:

(1) THE SUBDIVISION PLAT HAS BEEN SUBMITTED TO AND APPROVED BY THE MUNICIPAL CORPORATION; AND

(2) THE APPROPRIATE OFFICIAL OF THE MUNICIPAL CORPORATION ENDORSES AN APPROVAL IN WRITING ON THE PLAT.

(D) SUBDIVISION FEES.

(1) THE COUNTY PLANNING BOARD MAY SET A SCHEDULE OF FEES TO BE PAID TO THE COMMISSION FOR PERFORMANCE OF THE COUNTY PLANNING BOARD'S SUBDIVISION FUNCTIONS.

(2) THE FEES SHALL BE:

(I) BASED ON THE ESTIMATED COSTS OF SERVICES TO BE PERFORMED BY THE COUNTY PLANNING BOARD IN CONNECTION WITH THE CONSIDERATION OF SUBDIVISION PLATS AND INCIDENTAL WORK; AND

(II) PAID INTO THE COMMISSION'S ADMINISTRATIVE FUND ESTABLISHED UNDER § 18–307 OF THIS ARTICLE BEFORE A SUBDIVISION PLAT IS APPROVED OR DISAPPROVED.

(E) SUBDIVISION PLAT RECORDATION; CLERK'S FEE.

(1) AFTER A SUBDIVISION PLAT HAS BEEN RECORDED BY THE CLERK OF THE APPROPRIATE CIRCUIT COURT, THE PLAT SHALL BE FIRMLY FIXED IN A WELL–BOUND BOOK KEPT BY THE CLERK OF THE COURT FOR RECORDING PLATS.

(2) THE CLERK MAY COLLECT A FEE THAT THE CLERK DETERMINES IS REASONABLE FOR RECORDING A SUBDIVISION PLAT.

(F) PREPARATION OF PLATS.

(1) A SUBDIVISION PLAT SHALL BE PREPARED IN A MANNER REQUIRED BY THE COMMISSION BY REGULATION.

(2) AN APPROVED SUBDIVISION SHALL HAVE PERMANENT MARKERS, BOUND STONES, OR STATIONS:

(I) AS REQUIRED BY THE COMMISSION; AND

(II) THAT ARE SHOWN ON THE SUBDIVISION PLAT.

(3) A COPY OF AN APPROVED SUBDIVISION PLAT SHALL BE PROVIDED TO THE COMMISSION AND TO THE DISTRICT COUNCIL OF THE COUNTY WHERE THE LAND IS LOCATED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–115(a) through (d).

In subsections (a) and (d) of this section and throughout this title, several references to the "county planning board" are substituted for the former references to the "Commission" to conform to current subdivision practice. The Land Use Article Review Committee brings this substitution to the attention of the General Assembly. No substantive change is intended.

In subsection (a)(1)(ii) of this section, the reference to the "chair" is substituted for the former reference to the "chairman" because SG § 2–1238 requires the use of terms that are neutral as to gender to the extent practicable.

In subsection (b)(2) of this section, the reference to a "minor subdivision" plat is added for clarity.

In subsections (c) and (f) of this section and throughout this title, the former references to a subdivision "of land" are deleted as implicit in the references to a "subdivision".

In the introductory language to subsection (c) of this section, the reference to a subdivision "in a municipal corporation with subdivision authority" is substituted for the former reference to a subdivision "of land within the regional district that has been annexed by a municipality having planning, zoning, and subdivision authority" for brevity and clarity.

Also in the introductory language to subsection (c) of this section, the reference to the land records of "Montgomery County or Prince George's County" is substituted for the former reference to "the county" for clarity.

In subsection (c)(2) of this section, the reference to the "appropriate" official of the municipal corporation is substituted for the former reference to the official of the municipal corporation "charged with that responsibility" for brevity.

In subsection (d)(1) of this section, the reference to the "performance of the county planning board's subdivision functions" is substituted for the former reference to the Commission's "subdivision work" for clarity.

Also in subsection (d)(1) of this section, the reference to "amend[ing] the scale" is deleted as implicit in the reference to "set[ting] a schedule" of fees.

Also in subsection (d)(1) of this section, the former phrase "from time to time" is deleted as unnecessary.

In subsection (d)(2) of this section, the former phrase "[i]n the case of each subdivision plat submitted to the Commission" is deleted as surplusage.

In subsection (e)(1) of this section, the phrase "[a]fter a subdivision plat has been recorded" is substituted for the former phrase "[a]fter the approval and upon receipt of the plat" for brevity and clarity.

In subsection (e)(2) of this section, the former reference to a "fair" fee is deleted as included in the reference to a "reasonable" fee.

In subsection (f)(1) of this section, the reference to the plat being prepared "in a manner required by the Commission by regulation" is substituted for the former reference to a plat being prepared "upon paper or cloth of a size and character, with notations, information, and markings the Commission prescribes by regulation" for brevity and clarity.

In subsection (f)(2)(ii) of this section, the former word "designated" is deleted as included in the word "shown".

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in subsection (c) of this section, the authority of a municipal corporation to approve subdivisions applies not only to land not previously subdivided in the municipal corporation, but also to land that the municipal corporation annexes.

The Land Use Article Review Committee also notes, for consideration by the General Assembly, that in subsection (e)(1) of this section, the statutory requirement that a plat "shall be firmly fixed in a well–bound book" may be unnecessarily restrictive in light of current and evolving technology for preparing and submitting maps and materials and integrating them into public and private geographic information systems. The General Assembly may wish to authorize the Commission, the circuit court, or some other unit to specify the required or permissible means and media for submitting and preserving plats in land records.

Defined terms: "Commission" § 14–101
"County planning board" § 14–101
"District council" § 14–101

"Regional district" § 14–101
"Subdivision" § 14–101

23–103. DEDICATION OF LAND FOR ROADS.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IN CONNECTION WITH THE APPROVAL OF A SUBDIVISION PLAT, THE APPROPRIATE COUNTY PLANNING BOARD MAY REQUIRE A DEDICATION OF LAND FOR:

(1) AN INTERIOR SUBDIVISION ROAD;

(2) A ROAD THAT ABUTS THE SUBDIVISION FOR THE PURPOSE OF CREATING A NEW ROAD AS PART OF THE PLAN OF SUBDIVISION TO PROVIDE FOR TRAFFIC ACCESS TO ANOTHER SUBDIVISION ROAD; AND

(3) THE WIDENING OF AN EXISTING OR PUBLIC ROAD THAT ABUTS THE SUBDIVISION FOR THE PURPOSE OF PROVIDING ADDITIONAL RIGHT–OF–WAY ADEQUATE TO SERVE ADDITIONAL TRAFFIC THAT WILL BE GENERATED BY THE SUBDIVISION.

(B) EXCEPTIONS.

THE COUNTY PLANNING BOARD MAY NOT REQUIRE A DEDICATION OF LAND UNDER SUBSECTION (A) OF THIS SECTION THAT:

(1) EXCEEDS THE AREA REQUIRED TO PRODUCE A TOTAL RIGHT–OF–WAY FOR:

(I) A SECONDARY ROAD, AS DEFINED BY LOCAL LAW; OR

(II) A PRIMARY ROAD IF THE APPLICABLE MASTER PLAN DESIGNATES THE ROAD AS A PRIMARY OR ARTERIAL ROAD;

(2) HAS A WIDTH THAT EXCEEDS THE AREA THAT IS REQUIRED FOR A PRIMARY ROAD; AND

(3) HAS A WIDTH THAT EXCEEDS THE AREA THAT IS REQUIRED FOR A SECONDARY ROAD, UNLESS THE APPLICABLE MASTER PLAN DESIGNATES THE ROAD AS A PRIMARY OR ARTERIAL ROAD.

(C) MONTGOMERY COUNTY.

(1) NOTWITHSTANDING SUBSECTIONS (A) AND (B) OF THIS SECTION, IN MONTGOMERY COUNTY, IN CONNECTION WITH THE APPROVAL OF A SUBDIVISION PLAT, THE COMMISSION MAY REQUIRE A DEDICATION OF LAND IN ACCORDANCE WITH THE STANDARDS AND LIMITATIONS SET FORTH IN THE SUBDIVISION REGULATIONS.

(2) THE STANDARDS ESTABLISHED BY THE SUBDIVISION REGULATIONS SHALL RELATE THE AREA OF DEDICATION TO:

(I) THE TOTAL SIZE OF THE SUBDIVISION;

(II) THE MAXIMUM ROAD RIGHT–OF–WAY OR IMPROVEMENT REQUIRED FOR THAT CATEGORY OF LAND USE AS ESTABLISHED BY LOCAL LAW OF THE APPLICABLE JURISDICTION; AND

(III) THE INCREASED TRAFFIC, LANE, AND RIGHT–OF–WAY REQUIREMENTS THAT WOULD BE CREATED BY THE MAXIMUM UTILIZATION AND DEVELOPMENT OF THE SUBJECT PROPERTY:

1. IN THE PROPERTY'S PRESENT ZONE CLASSIFICATION; OR

2. IN THE PROPERTY'S HIGHER USE ZONE CLASSIFICATION, AS SHOWN ON AN ADOPTED AND APPROVED MASTER PLAN OF THE APPLICABLE JURISDICTION.

(3) (I) IN ACCORDANCE WITH THE STANDARDS ESTABLISHED BY THE SUBDIVISION REGULATIONS AND EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE SUBDIVISION REGULATIONS MAY REQUIRE DEDICATION OF A ROAD TO PUBLIC USE TO THE FULL EXTENT OF THE REQUIRED RIGHT–OF–WAY.

(II) IF A ROAD IS CLASSIFIED IN THE SUBDIVISION REGULATIONS AS A LIMITED ACCESS OR CONTROLLED HIGHWAY, A DEDICATION OF A ROAD TO PUBLIC USE MAY BE REQUIRED ONLY FOR ADEQUATE TRAFFIC ACCESS TO THOSE SUBDIVISIONS TO WHICH ACCESS IS ALLOWED.

(D) PRINCE GEORGE'S COUNTY.

IN PRINCE GEORGE'S COUNTY, A MASTER PLAN OF TRANSPORTATION SHALL BE APPROVED BY THE DISTRICT COUNCIL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–115(e).

In the introductory language to subsection (a) and in subsection (c)(1) of this section, the references to the Commission's authority to require a "dedication of land" for roads are substituted for the former references to the Commission's authority to require a "dedication[s] of streets and roads" for brevity and clarity.

In subsection (b) of this section, the former references to an "existing and duly adopted" master plan are deleted as surplusage.

In subsection (b)(1)(i) of this section, the defined term "local law" is substituted for the former reference to the "duly adopted Road Code or by the appropriate county ordinance or regulation" for clarity. Similarly, in subsection (c)(2)(ii) of this section, the phrase "by local law" is substituted for the former phrase "in the Road Code".

In subsection (b)(1)(ii) of this section, the reference to the "applicable master plan" is substituted for the former reference to the "master plan of highways of the Commission" for brevity and accuracy.

In subsection (c)(2)(ii) of this section, the defined term "road" is substituted for the former word "street" to conform to the terminology used throughout this division.

In subsection (c)(3) of this section, the references to dedication "of a road" to public use are added for clarity.

In subsection (c)(3)(i) of this section, the former phrase "in each case" is deleted as surplusage.

In subsection (c)(3)(ii) of this section, the former reference to the "local" subdivision regulations is deleted as unnecessary.

In subsection (d) of this section, the reference to a master plan of "transportation" is substituted for the former reference to a master plan of "highways" for clarity.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that subsection (d) of this section, which requires the district council to approve a master plan of transportation in Prince George's County, appears to be redundant of the general provisions required of the master plan under Title 1, Subtitle 4 and § 20–504 of this article.

Defined terms: "Commission" § 14–101
"County planning board" § 14–101
"District council" § 14–101
"Local law" § 14–101
"Road" § 14–101
"Subdivision" § 14–101

23–104. SUBDIVISION REGULATIONS — IN GENERAL.

(A) AUTHORIZED.

(1) IN EXERCISING THE SUBDIVISION POWERS UNDER §§ 23–102 AND 23–103 OF THIS SUBTITLE, THE COMMISSION OR THE GOVERNING BODY OF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY MAY ADOPT SUBDIVISION REGULATIONS AND AMENDMENTS GOVERNING A SUBDIVISION IN:

(I) THE REGIONAL DISTRICT; OR

(II) THE RESPECTIVE PORTION OF THE REGIONAL DISTRICT IN THE COUNTY.

(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE REGULATIONS AND AMENDMENTS ADOPTED UNDER THIS SECTION:

(I) SHALL BE ADOPTED BY THE RESPECTIVE GOVERNING BODY OF THE COUNTY;

(II) MAY BE AMENDED BY THE RESPECTIVE GOVERNING BODY OF THE COUNTY; AND

(III) SHALL BE EFFECTIVE FROM:

1. THE DATE OF ADOPTION; OR

2. THE DATE DESIGNATED BY THE RESPECTIVE GOVERNING BODY OF THE COUNTY.

(3) IF THE GOVERNING BODY OF THE COUNTY DESIGNATES AN EFFECTIVE DATE FOR THE SUBDIVISION REGULATIONS, THE EFFECTIVE DATE MAY NOT AFFECT:

(I) THE COUNTY PLANNING BOARD'S ADMINISTRATION OF THE REGULATIONS; OR

(II) THE COUNTY PLANNING BOARD'S FUNCTIONS UNDER §§ 23–102 AND 23–103 OF THIS SUBTITLE.

(B) MONTGOMERY COUNTY PROCEDURES.

(1) IN MONTGOMERY COUNTY:

(I) WITHIN 3 DAYS AFTER ADOPTING A SUBDIVISION REGULATION OR AMENDMENT, THE DISTRICT COUNCIL SHALL SUBMIT THE REGULATION OR AMENDMENT TO THE COUNTY EXECUTIVE; AND

(II) WITHIN 10 DAYS AFTER THE SUBDIVISION REGULATION OR AMENDMENT IS SUBMITTED, THE COUNTY EXECUTIVE SHALL APPROVE OR DISAPPROVE THE REGULATION OR AMENDMENT.

(2) IF THE COUNTY EXECUTIVE DISAPPROVES THE SUBDIVISION REGULATION OR AMENDMENT, THE COUNTY EXECUTIVE SHALL RETURN THE REGULATION OR AMENDMENT TO THE DISTRICT COUNCIL WITH THE REASONS FOR THE DISAPPROVAL STATED IN WRITING.

(3) BY THE AFFIRMATIVE VOTE OF SIX OF ITS MEMBERS, THE DISTRICT COUNCIL MAY ENACT THE SUBDIVISION REGULATION OR AMENDMENT OVER THE DISAPPROVAL OF THE COUNTY EXECUTIVE.

(4) A SUBDIVISION REGULATION OR AMENDMENT THAT HAS NOT BEEN DISAPPROVED BY THE COUNTY EXECUTIVE IN ACCORDANCE WITH THIS SUBSECTION IS CONSIDERED TO BE APPROVED.

(C) CONTENTS.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION AND SUBSECTION (D) OF THIS SECTION, THE SUBDIVISION REGULATIONS MAY INCLUDE PROVISIONS FOR:

(I) THE HARMONIOUS DEVELOPMENT OF THE REGIONAL DISTRICT;

(II) THE COORDINATION OF ROADS WITHIN THE SUBDIVISION WITH:

1. EXISTING PLANNED OR PLATTED ROADS;

2. FEATURES OF THE REGIONAL DISTRICT;

3. THAT COUNTY'S GENERAL PLAN; OR

4. A TRANSPORTATION PLAN ADOPTED BY THE COMMISSION AS PART OF THAT COUNTY'S GENERAL PLAN;

(III) 1. ADEQUATE OPEN SPACES FOR TRANSPORTATION, RECREATION, LIGHT, AND AIR, BY DEDICATION OR OTHERWISE;

2. THE DEDICATION TO PUBLIC USE OR CONVEYANCE OF AREAS DESIGNATED FOR DEDICATION UNDER THE ZONING AND SUBDIVISION REGULATIONS; AND

3. IN LIEU OF DEDICATION, THE PAYMENT OF A MONETARY FEE THAT MEETS THE REQUIREMENTS OF SUBSECTION (D) OF THIS SECTION;

(IV) THE RESERVATION OF LAND FOR:

1. PUBLIC BUILDINGS, INCLUDING SCHOOLS;

2. PARKS AND PLAYGROUNDS;

3. ROADS;

4. MASS TRANSIT FACILITIES, INCLUDING BUSWAYS OR LIGHT RAIL FACILITIES; AND

5. ANY OTHER PUBLIC PURPOSE;

(V) THE CONSERVATION OR PRODUCTION OF ADEQUATE TRANSPORTATION, WATER DRAINAGE, AND SANITARY FACILITIES;

(VI) THE PRESERVATION OF THE LOCATION OF, THE VOLUME AND FLOW OF WATER IN, AND OTHER CHARACTERISTICS OF NATURAL STREAMS AND OTHER WATERWAYS, INCLUDING THE ESTABLISHMENT OF A STORMWATER MANAGEMENT PROGRAM IN MONTGOMERY COUNTY FOR THE PURPOSE OF:

1. ALLOWING THE COUNTY TO ACCEPT MONETARY CONTRIBUTIONS;

2. GRANTING AN EASEMENT; OR

3. DEDICATING LAND;

(VII) THE AVOIDANCE OF UNDUE POPULATION CONGESTION;

(VIII) THE AVOIDANCE OF A SCATTERED OR PREMATURE SUBDIVISION THAT OTHERWISE MAY:

1. RESULT IN DANGER OR INJURY TO HEALTH, SAFETY, OR WELFARE DUE TO THE LACK OF WATER SUPPLY, DRAINAGE, TRANSPORTATION, OR OTHER PUBLIC SERVICES; OR

2. NECESSITATE AN EXCESSIVE EXPENDITURE OF PUBLIC FUNDS FOR THE SUPPLY OF SERVICES;

(IX) THE CONFORMITY OF RESUBDIVIDED LOTS TO THE CHARACTER OF LOTS WITHIN THE EXISTING SUBDIVISION WITH RESPECT TO AREA, FRONTAGE, AND ALIGNMENT TO EXISTING LOTS AND ROADS;

(X) EXCEPT FOR AGRICULTURAL OR RECREATIONAL PURPOSES, THE CONTROL OF SUBDIVISION OR BUILDING IN FLOODPLAIN AREAS AND IN STREAMS AND DRAINAGE COURSES, AND ON UNSAFE LAND AREAS;

(XI) THE PRESERVATION OF OUTSTANDING NATURAL OR CULTURAL FEATURES AND HISTORIC SITES OR STRUCTURES;

(XII) ANY BENEFIT TO THE HEALTH, COMFORT, SAFETY, OR WELFARE OF THE PRESENT AND FUTURE POPULATION OF THE REGIONAL DISTRICT;

(XIII) THE EXTENT AND MANNER TO WHICH THE FOLLOWING ACTIONS SHALL BE TAKEN BEFORE THE APPROVAL OF A PLAT:

1. THE GRADING AND IMPROVEMENT OF ROADS;

2. THE BUILDING OF CURBS, GUTTERS, AND SIDEWALKS;

3. THE INSTALLATION OF WATER, SEWER, AND OTHER UTILITY MAINS, PIPING, CONNECTIONS, AND FACILITIES; AND

4. THE PLANTING OR CONSERVATION OF TREES; OR

(XIV) IN MONTGOMERY COUNTY:

1. ADEQUATE RECREATIONAL FACILITIES; OR

2. IN LIEU OF PROVIDING RECREATIONAL FACILITIES, THE PAYMENT OF A FEE THAT DOES NOT EXCEED THE COST OF PROVIDING ADEQUATE RECREATIONAL FACILITIES TO SERVE THE SUBDIVISION.

(2) (I) UNLESS EACH PERSON THAT OWNS A LEGAL OR EQUITABLE INTEREST IN THE PROPERTY HAS PROVIDED WRITTEN APPROVAL, THE SUBDIVISION REGULATIONS MAY NOT PROVIDE FOR A RESERVATION OF LAND FOR TRAFFIC, RECREATION, OR ANY OTHER PUBLIC PURPOSE FOR A PERIOD LONGER THAN 3 YEARS.

(II) A PROPERTY THAT IS RESERVED FOR PUBLIC USE UNDER THE SUBDIVISION REGULATIONS SHALL BE EXEMPT FROM ALL STATE, COUNTY, AND LOCAL TAXES DURING THE PERIOD OF RESERVATION.

(D) FEE IN LIEU OF DEDICATION OF LAND.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A MONETARY FEE THAT IS PAID IN LIEU OF A DEDICATION OF LAND FOR THE USE AND BENEFIT OF THE SUBDIVISION IN CASES WHERE DEDICATION WOULD BE IMPRACTICAL UNDER SUBSECTION (C)(1)(III) OF THIS SECTION SHALL:

(I) BE BASED ON THE CURRENT MARKET VALUE OF THE LAND AFTER THE LAND IS APPROVED FOR DEVELOPMENT; AND

(II) 1. BE USED BY THE COMMISSION TO PURCHASE OPEN SPACES; OR

2. BE USED BY THE COMMISSION TO DEVELOP OR OTHERWISE IMPROVE LAND OR RECREATIONAL FACILITIES THAT WILL ASSIST IN SUPPLYING THE OVERALL RECREATIONAL NEEDS OF THE SUBDIVISION IF:

A. THE COMMISSION DETERMINES THAT SUITABLE LAND IS NOT AVAILABLE FOR ACQUISITION TO SERVE THE SUBDIVISION FROM WHICH A FEE HAS BEEN EXACTED; OR

B. ADEQUATE OPEN SPACE HAS PREVIOUSLY BEEN ACQUIRED AND IS AVAILABLE TO SERVE THE SUBDIVISION.

(2) IF THE SUBDIVISION IS IN A MUNICIPAL CORPORATION IN PRINCE GEORGE'S COUNTY THAT IS NOT IN THE METROPOLITAN DISTRICT BUT IS IN THE REGIONAL DISTRICT, ON REQUEST BY THE MUNICIPAL CORPORATION, THE MANDATORY FEE IN LIEU OF DEDICATION RECEIVED BY THE COMMISSION SHALL BE PAID TO AND USED BY THE MUNICIPAL CORPORATION TO:

(I) PURCHASE OPEN SPACE FOR THE USE AND BENEFIT OF THE SUBDIVISION; OR

(II) DEVELOP OR OTHERWISE IMPROVE LAND OR RECREATIONAL FACILITIES THAT WILL ASSIST IN SUPPLYING THE OVERALL RECREATIONAL AND OPEN SPACE NEEDS OF THE SUBDIVISION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–116(a) and the first sentence of (b).

In the introductory language to subsection (a)(1) of this section, the reference to "adopt[ing]" regulations is substituted for the former reference to "prepar[ing]" regulations for clarity.

In subsection (a)(2)(ii) of this section, the former reference to amendments that the governing body "consider[s] appropriate" is deleted as unnecessary.

In the introductory language to subsection (a)(3) of this section, the former reference to affecting "in any manner" is deleted as surplusage.

In subsection (b)(4) of this section, the reference to a regulation or amendment "that has not been disapproved by the County Executive in accordance with this subsection" is substituted for the former reference to "[f]ailure of the County Executive to act within 10 days" for clarity.

In the introductory language to subsection (c)(1) of this section, the phrase "[s]ubject to paragraph (2) of this subsection and subsection (d) of this section" is added for clarity.

In subsection (c)(1)(iv)3 of this section, the former word "highways" is deleted as included in the defined term "road[s]".

In subsection (c)(1)(ix) of this section, the defined term "road[s]" is substituted for the former word "streets" to conform to the terminology used throughout this division.

In subsection (c)(1)(ii)4 of this section, the reference to a "transportation" plan is substituted for the former reference to a "road" plan for consistency within this division.

The Land Use Article Review Committee also notes, for consideration by the General Assembly, that in subsection (c)(1)(vii) of this section, the concept of the former reference to simple "avoidance of undue population congestion" may be considered obsolete in relation to more modern, legislatively endorsed policies such as smart growth, preservation of open space, use of cluster development, and priority funding areas. The General Assembly may wish to clarify the relationship of this item in relation to other policies for managing growth while balancing legislatively endorsed policies.

Defined terms: "Commission" § 14–101
"County planning board" § 14–101
"District council" § 14–101
"Metropolitan district" § 14–101
"Park" § 14–101
"Person" § 14–101
"Regional district" § 14–101
"Road" § 14–101
"State" § 14–101
"Subdivision" § 14–101

23–105. NOTICE AND HEARING FOR SUBDIVISION REGULATIONS.

(A) PUBLIC HEARING REQUIREMENT.

BEFORE THE COMMISSION OR THE GOVERNING BODY OF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY MAY ADOPT A SUBDIVISION REGULATION OR AN AMENDMENT TO A SUBDIVISION REGULATION OR AMENDMENT, THE RESPECTIVE COUNTY COUNCIL SHALL HOLD A PUBLIC HEARING ON THE REGULATION OR AMENDMENT.

(B) NOTICE OF PUBLIC HEARING.

THE COUNTY COUNCIL SHALL PUBLISH NOTICE OF THE TIME AND PLACE OF THE PUBLIC HEARING IN AT LEAST ONE NEWSPAPER OF GENERAL CIRCULATION IN THE REGIONAL DISTRICT IN THE RESPECTIVE COUNTY AT LEAST 30 DAYS BEFORE THE HEARING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–116(d).

In subsection (a) of this section, the former reference to a "substantial" amendment is deleted as unnecessary.

Defined terms: "Commission" § 14–101
"Regional district" § 14–101
"Subdivision" § 14–101

23–106. ADEQUATE PUBLIC FACILITIES REQUIREMENTS.

(A) IN GENERAL.

IN ADDITION TO ANY OTHER AUTHORITY GRANTED BY THIS DIVISION, THE COUNTY COUNCIL OF MONTGOMERY COUNTY AND THE COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, BY LOCAL LAW, MAY IMPOSE IN THEIR RESPECTIVE COUNTIES STANDARDS AND REQUIREMENTS FOR THE PURPOSE OF AVOIDING SCATTERED OR PREMATURE SUBDIVISION OR DEVELOPMENT OF LAND BECAUSE OF THE INADEQUACY OF TRANSPORTATION, WATER, SEWERAGE, DRAINAGE, SCHOOL, OR OTHER PUBLIC FACILITIES.

(B) PRINCE GEORGE'S COUNTY.

(1) THIS SUBSECTION DOES NOT APPLY TO ANY PROPERTY LOCATED IN AN INFRASTRUCTURE FINANCE DISTRICT APPROVED BEFORE JANUARY 1, 2000.

(2) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, THE COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY SHALL IMPOSE ADEQUATE PUBLIC FACILITIES STANDARDS AND REQUIREMENTS UNDER SUBSECTION (A) OF THIS SECTION WITH RESPECT TO SCHOOLS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–120.

Defined terms: "Local law" § 14–101
"Subdivision" § 14–101

23–107. RESERVATION OF LAND FOR PUBLIC USE.

(A) REQUIREMENTS.

THE APPLICABLE COUNTY PLANNING BOARD SHALL REQUIRE A PLAT OF ANY LAND RESERVED FOR PUBLIC USE UNDER THIS SUBTITLE THAT SHOWS:

(1) THE SURVEY LOCATION OF THE LAND;

(2) THE NAMES AND ADDRESSES OF THE LANDOWNERS; AND

(3) ANY OTHER INFORMATION REQUIRED FOR:

(I) FILING THE PLAT AMONG THE LAND RECORDS OF THE COUNTY IN WHICH THE LAND IS LOCATED; AND

(II) THE PROPER INDEXING OF THE PLAT.

(B) RECORDATION.

THE PLAT SHALL:

(1) COMPLY WITH ALL REQUIREMENTS FOR RECORDING OF PLATS AMONG THE LAND RECORDS; AND

(2) BE RECORDED BY THE CLERK OF THE COURT OF THE COUNTY IN WHICH THE LAND IS LOCATED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–116(e).

In the introductory language to subsection (a) of this section, the reference to "requir[ing]" a plat is substituted for the former reference to "prepar[ing]" a plat for accuracy.

Defined terms: "County" § 14–101
"County planning board" § 14–101

23–108. EXISTING SUBDIVISION REGULATIONS.

THE SUBDIVISION REGULATIONS IN FORCE BEFORE APRIL 28, 1959, WITHIN THE RESPECTIVE PORTIONS OF THE REGIONAL DISTRICT IN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY ARE CONSIDERED TO HAVE BEEN ADOPTED IN THE MANNER REQUIRED UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–116(f).

The reference to the subdivision regulations "in force before April 28, 1959" is substituted for the former reference to the subdivision regulations "heretofore adopted by the Commission and now in effect" for brevity and accuracy.

Also the former statement that "[t]hese regulations apply respectively within the portions of the regional district within each county until modified in accordance with this section" is deleted as surplusage.

Defined terms: "County" § 14–101
"Regional district" § 14–101
"Subdivision" § 14–101

SUBTITLE 2. PLAT APPROVAL.

23–201. PROCESS — IN GENERAL.

(A) TIME PERIOD FOR APPROVAL.

(1) THE APPROPRIATE COUNTY PLANNING BOARD SHALL APPROVE OR DISAPPROVE A SUBDIVISION PLAT WITHIN 30 DAYS AFTER THE PLAT IS SUBMITTED TO THE COUNTY PLANNING BOARD.

(2) IF THE COUNTY PLANNING BOARD DOES NOT TAKE ACTION IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION:

(I) THE PLAT SHALL BE CONSIDERED APPROVED; AND

(II) THE COUNTY PLANNING BOARD SHALL ISSUE A CERTIFICATE OF APPROVAL ON DEMAND.

(3) AN APPLICANT MAY CONSENT TO AN EXTENSION.

(B) REQUIRED INFORMATION.

A PLAT SUBMITTED TO THE COUNTY PLANNING BOARD SHALL CONTAIN THE NAME AND ADDRESS OF A PERSON THAT MAY BE SENT NOTICE OF A HEARING.

(C) HEARING AND NOTICE REQUIREMENTS.

(1) THE COUNTY PLANNING BOARD SHALL HOLD A HEARING BEFORE TAKING ACTION ON A SUBDIVISION PLAT, UNLESS:

(I) THE COUNTY PLANNING BOARD APPROVES THE PLAT EXACTLY AS THE PLAT WAS SUBMITTED BY THE APPLICANT TO THE COUNTY PLANNING BOARD; OR

(II) THE APPLICANT WAIVES THE HEARING REQUIREMENT IN THE APPLICATION.

(2) AT LEAST 5 DAYS BEFORE A HEARING, THE COUNTY PLANNING BOARD SHALL SEND NOTICE OF THE HEARING TO THE ADDRESS INCLUDED WITH THE PLAT IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.

(3) SUBDIVISION REGULATIONS MAY INCLUDE PROVISIONS FOR:

(I) NOTICE TO OWNERS OF PROPERTIES THAT WOULD BE SUBSTANTIALLY AFFECTED BY APPROVAL OF A SUBDIVISION PLAT;

(II) PUBLIC HEARINGS ON THE APPLICATIONS; AND

(III) AN APPEAL TO THE DISTRICT COUNCIL FROM A DECISION APPROVING OR DISAPPROVING A SUBDIVISION PLAT.

(D) GROUNDS FOR DISAPPROVAL.

THE GROUNDS FOR DISAPPROVAL OF A PLAT SHALL BE STATED ON THE RECORDS OF THE COUNTY PLANNING BOARD.

REVISOR'S NOTE: This section is new language derived without substantive change from the first, second, seventh, and ninth through thirteenth sentences of former Art. 28, § 7–117.

In the introductory language to subsection (a)(2) of this section, the phrase "[i]f the county planning board does not take action in accordance with paragraph (1) of this subsection" is substituted for the former ambiguous word "[o]therwise" for clarity.

In subsection (a)(2)(ii) of this section, the reference to a certificate "of approval" is substituted for the former reference to a certificate "to that effect" for clarity.

In subsection (a)(3) of this section, the former reference to an applicant "for the Commission's approval" is deleted as surplusage.

Also in subsection (a)(3) of this section, the former reference to an applicant "waiv[ing] either or both of these requirements" is deleted as implicit in the authority of an applicant to consent to an extension.

Defined terms: "County planning board" § 14–101
"District council" § 14–101
"Person" § 14–101
"Subdivision" § 14–101

23–202. REQUIRED REFERRALS — MONTGOMERY COUNTY.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY IN MONTGOMERY COUNTY.

(B) TO COUNTY EXECUTIVE.

(1) THE SUBDIVISION REGULATIONS SHALL PROVIDE THAT BEFORE THE COUNTY PLANNING BOARD TAKES ACTION ON A PRELIMINARY SUBDIVISION PLAN, THE PLAN SHALL BE REFERRED TO THE COUNTY EXECUTIVE FOR A RECOMMENDATION AS TO WHETHER PUBLIC FACILITIES ARE ADEQUATE TO SUPPORT AND SERVICE THE AREA OF THE PROPOSED SUBDIVISION.

(2) THE COUNTY EXECUTIVE SHALL RETURN THE PRELIMINARY SUBDIVISION PLAN TO THE COUNTY PLANNING BOARD WITH A RECOMMENDATION OF APPROVAL OR DISAPPROVAL BASED ON:

(I) CRITERIA DEVELOPED BY THE COUNTY EXECUTIVE AND APPROVED BY THE DISTRICT COUNCIL; AND

(II) STANDARDS SET FORTH IN THE COUNTY SUBDIVISION REGULATIONS.

(C) TO MUNICIPAL CORPORATION OR GOVERNED SPECIAL TAXING DISTRICT — IN GENERAL.

(1) THIS SUBSECTION APPLIES TO PROPERTY THAT:

(I) IS LOCATED IN A MUNICIPAL CORPORATION OR GOVERNED SPECIAL TAXING DISTRICT; OR

(II) SHARES A COMMON BOUNDARY LINE, OR A PART OF A COMMON BOUNDARY LINE, WITH PROPERTY LOCATED ENTIRELY IN A MUNICIPAL CORPORATION OR GOVERNED DISTRICT.

(2) THIS SUBSECTION DOES NOT APPLY TO A MUNICIPAL CORPORATION THAT EXERCISES ZONING, PLANNING, AND SUBDIVISION AUTHORITY UNDER DIVISION I OF THIS ARTICLE.

(3) THE SUBDIVISION REGULATIONS AND ZONING LAW SHALL PROVIDE THAT, BEFORE ANY ACTION IS TAKEN BY THE COUNTY PLANNING BOARD ON AN APPLICATION FOR A PRELIMINARY SUBDIVISION PLAN, PROJECT PLAN, OR SITE PLAN REVIEW FOR PROPERTY DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, A COPY OF THE APPLICATION SHALL BE REFERRED PROMPTLY TO THE MUNICIPAL CORPORATION OR GOVERNED DISTRICT FOR REVIEW AND COMMENT.

(4) IF THE MUNICIPAL CORPORATION OR GOVERNED DISTRICT CHOOSES TO COMMENT, THE MUNICIPAL CORPORATION OR GOVERNED DISTRICT PROMPTLY SHALL FORWARD ITS WRITTEN COMMENTS TO THE COUNTY PLANNING BOARD.

(D) TO MUNICIPAL CORPORATION OR GOVERNED SPECIAL TAXING DISTRICT — RESIDENTIAL ZONE.

(1) ON REFERRAL OF A PRELIMINARY PLAN PROPOSING THE RESUBDIVISION OF RESIDENTIALLY ZONED PROPERTY LOCATED IN A MUNICIPAL CORPORATION OR GOVERNED SPECIAL TAXING DISTRICT, THE MUNICIPAL CORPORATION OR GOVERNED DISTRICT SHALL MAKE AN INITIAL DETERMINATION WHETHER TO TRANSMIT A RECOMMENDATION CONCERNING THE PLAN TO THE COUNTY PLANNING BOARD.

(2) IF THE MUNICIPAL CORPORATION OR GOVERNED DISTRICT CHOOSES TO TRANSMIT A RECOMMENDATION, THE MUNICIPAL CORPORATION OR GOVERNED DISTRICT SHALL:

(I) HOLD A HEARING BEFORE IT TRANSMITS THE RECOMMENDATION TO THE COUNTY PLANNING BOARD; AND

(II) PROVIDE REASONABLE PUBLIC NOTICE OF THE HEARING.

(3) A RECOMMENDATION TRANSMITTED UNDER THIS SUBSECTION SHALL:

(I) BE IN WRITING; AND

(II) BASED ON THE RECORD OF THE HEARING, INCLUDE ALL PERTINENT FINDINGS OF FACT AND CONCLUSIONS OF LAW SUPPORTING THE RECOMMENDATION.

(4) A MUNICIPAL CORPORATION OR GOVERNED DISTRICT MAY RECOMMEND DENIAL OF A PLAN UNDER THIS SUBSECTION ONLY IF THE MUNICIPAL CORPORATION OR GOVERNED DISTRICT DETERMINES THAT THE PLAN DOES NOT COMPLY WITH A PARTICULAR PROVISION OF THE SUBDIVISION REGULATIONS.

(5) IF A MUNICIPAL CORPORATION OR GOVERNED DISTRICT RECOMMENDS DENIAL OF A PLAN, IT SHALL TRANSMIT A WRITTEN RECORD OF THE HEARING TO THE COUNTY PLANNING BOARD FOR INCLUSION IN THE RECORD COMPILED BY THE COUNTY PLANNING BOARD.

(6) A MUNICIPAL CORPORATION OR GOVERNED DISTRICT SHALL BE CONSIDERED TO HAVE WAIVED ITS RIGHT TO MAKE A RECOMMENDATION UNDER THIS SUBSECTION UNLESS IT TRANSMITS ITS WRITTEN RECOMMENDATION AND COMPLETE RECORD, IF REQUIRED, TO THE COUNTY PLANNING BOARD WITHIN 45 DAYS AFTER THE DELIVERY OF THE PLAN AND APPLICATION BY THE COUNTY PLANNING BOARD.

(7) A TWO–THIRDS MAJORITY VOTE OF THE MEMBERS OF THE COUNTY PLANNING BOARD THEN PRESENT AND PARTICIPATING IS REQUIRED TO OVERRIDE A RECOMMENDATION OF A MUNICIPAL CORPORATION OR GOVERNED DISTRICT TO DENY A RESIDENTIAL RESUBDIVISION APPLICATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, §§ 7–117.1(a) and 7–117.2.

Subsection (c)(2) of this section is new language added to state that which was only implied by the former law, *i.e.*, that municipal corporations that exercise subdivision authority under Division I of this article are not subject to the subdivision procedures of this Division II.

Former Art. 28, § 7–117.1(b), which applied that section only to subdivisions without preliminary plans of subdivision approval before December 1, 1986, is deleted as obsolete.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that the specific procedures for commenting on a

resubdivision plan for residential property under subsection (d) of this section seem to be redundant of the general commenting procedures for any subdivision, which includes resubdivision, under subsection (c)(3) of this section.

Defined terms: "County" § 14–101
"County planning board" § 14–101
"District council" § 14–101
"Governed special taxing district" § 14–101
"Subdivision" § 14–101

23–203. PREAPPLICATION AND PRELIMINARY SUBMISSIONS — IN GENERAL.

THE COUNTY PLANNING BOARD MAY PROVIDE IN THE SUBDIVISION REGULATIONS FOR:

(1) A PREAPPLICATION PROCEDURE;

(2) SUBDIVISION APPROVAL; AND

(3) TENTATIVE OR CONDITIONAL APPROVAL OR DISAPPROVAL OF PRELIMINARY PLANS.

REVISOR'S NOTE: This section is new language derived without substantive change from the fifth sentence of former Art. 28, § 7–116(b).

In the introductory language to this section, the reference to the "subdivision regulations" is substituted for the former reference to the "regulations of practice of the Commission" for clarity and accuracy.

Defined terms: "County planning board" § 14–101
"Subdivision" § 14–101

23–204. PREAPPLICATION AND PRELIMINARY SUBMISSIONS — MONTGOMERY COUNTY.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY IN MONTGOMERY COUNTY.

(B) TIME LIMITS.

THE SUBDIVISION REGULATIONS MAY:

(1) ESTABLISH A TIME PERIOD WITHIN WHICH THE COUNTY PLANNING BOARD SHALL APPROVE OR DISAPPROVE A PREAPPLICATION OR PRELIMINARY PLAN SUBMISSION; AND

(2) PROVIDE THAT AN APPLICANT MAY:

(I) WAIVE THE TIME PERIOD WITHIN WHICH THE COUNTY PLANNING BOARD SHALL TAKE ACTION IN ACCORDANCE WITH ITEM (1) OF THIS SUBSECTION; AND

(II) CONSENT TO AN EXTENSION OF THE TIME PERIOD.

(C) EFFECT OF FAILURE TO ACT.

(1) A PREAPPLICATION OR PRELIMINARY PLAN SUBMISSION THAT HAS NOT BEEN APPROVED OR DISAPPROVED IN ACCORDANCE WITH THIS SECTION IS CONSIDERED APPROVED.

(2) IF A PREAPPLICATION OR PRELIMINARY PLAN SUBMISSION IS CONSIDERED TO HAVE BEEN APPROVED UNDER THIS SUBSECTION, ON DEMAND, THE COUNTY PLANNING BOARD SHALL ISSUE A CERTIFICATE OF APPROVAL.

(D) DISAPPROVAL.

IF THE COUNTY PLANNING BOARD DISAPPROVES A PREAPPLICATION OR PRELIMINARY PLAN SUBMISSION, THE COUNTY PLANNING BOARD SHALL:

(1) STATE THE GROUNDS FOR DISAPPROVAL IN THE RECORDS OF THE COUNTY PLANNING BOARD; AND

(2) MAIL, POSTAGE PREPAID, A COPY OF THE RECORD STATING THE GROUNDS FOR DISAPPROVAL TO ALL PARTIES OF RECORD AT THEIR LAST ADDRESS.

REVISOR'S NOTE: This section is new language derived without substantive change from the seventh through ninth sentences of former Art. 28, § 7–116(b).

In subsection (b) of this section, the former reference to an applicant "for the Commission's approval" is deleted as surplusage.

In subsection (b)(1) of this section, the phrase "the county planning board shall approve or disapprove a preapplication" is substituted for the

former phrase "action must be taken with regard to preapplication submissions" for clarity.

In subsection (b)(2)(i) of this section, the reference to "the time period within which the county planning board shall take action in accordance with item (1) of this subsection" is substituted for the former reference to "this requirement" for clarity.

In subsection (c)(2) of this section, the reference to a certificate "of approval" is substituted for the former reference to a certificate "to that effect" for clarity.

In subsection (d)(2) of this section, the requirement to send a copy of the record to "all parties of record at their last address" is substituted for the former requirement to send the copy to "the last address of record of the applicant" for clarity.

Defined terms: "County planning board" § 14–101
"Subdivision" § 14–101

23–205. PRELIMINARY SUBDIVISION PLAN — PRINCE GEORGE'S COUNTY.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY IN PRINCE GEORGE'S COUNTY.

(B) TIME PERIOD FOR APPROVAL PROCESS.

(1) THE COUNTY PLANNING BOARD SHALL APPROVE OR DISAPPROVE A PRELIMINARY SUBDIVISION PLAN WITHIN 70 DAYS AFTER THE PLAN IS SUBMITTED TO THE COUNTY PLANNING BOARD.

(2) IF THE COUNTY PLANNING BOARD DOES NOT TAKE ACTION IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION:

(I) THE PLAN SHALL BE CONSIDERED APPROVED; AND

(II) THE COUNTY PLANNING BOARD SHALL ISSUE A CERTIFICATE OF APPROVAL ON DEMAND.

(3) THE 70–DAY TIME PERIOD UNDER PARAGRAPH (1) OF THIS SUBSECTION DOES NOT INCLUDE:

(I) THE MONTH OF AUGUST; OR

(II) DECEMBER 20 THROUGH JANUARY 3.

(C) TIME PERIOD FOR OFFICE APPROVAL PROCESS.

(1) EACH OFFICE TO WHICH THE COUNTY PLANNING BOARD REFERS A PRELIMINARY SUBDIVISION PLAN SHALL RETURN TO THE COUNTY PLANNING BOARD ONE COPY OF THE PLAN AND ANY COMMENTS NOTED ON IT WITHIN 30 DAYS AFTER THE REFERRAL.

(2) IF AN OFFICE DOES NOT REPLY IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION, THE PLAN SHALL BE CONSIDERED TO BE APPROVED BY THE OFFICE.

(D) WAIVER.

AN APPLICANT MAY CONSENT TO AN EXTENSION NOT GREATER THAN 70 DAYS.

REVISOR'S NOTE: This section is new language derived without substantive change from the third through eighth sentences of former Art. 28, § 7–117.

In the introductory language to subsection (b)(2) of this section, the phrase "[i]f the county planning board does not take action in accordance with paragraph (1) of this subsection" is substituted for the former ambiguous phrase "[o]therwise" for clarity.

In subsection (b)(2)(ii) of this section, the reference to a certificate "of approval" is substituted for the former reference to a certificate "to that effect" for clarity.

In subsection (d) of this section, the former reference to an applicant "waiv[ing] either or both of these requirements" is deleted as implicit in the authority of an applicant to consent to an extension.

Also in subsection (d) of this section, the former reference to an applicant "for the Commission's approval" is deleted as surplusage.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in subsection (b) of this section, the 70–day limitation period within which the county planning board may disapprove a preliminary subdivision plan is intended to begin only with the submission and acceptance of a complete application. Although the provision is unambiguous as drafted, and is so interpreted by the

Commission, the General Assembly may wish to consider making it even more explicit by adding the word "complete" to modify "the plan" in subsection (b)(1) of this section.

Defined terms: "County planning board" § 14–101
"Subdivision" § 14–101

23–206. MAJOR AND MINOR SUBDIVISIONS — PRINCE GEORGE'S COUNTY.

IN PRINCE GEORGE'S COUNTY, THE SUBDIVISION REGULATIONS MAY PROVIDE FOR:

(1) THE CLASSIFICATION OF A SUBDIVISION AS A MAJOR OR MINOR SUBDIVISION; AND

(2) A SKETCH PLAN THAT:

(I) IN THE CASE OF A MINOR SUBDIVISION, MAY BE APPROVED BY THE PLANNING DIRECTOR AND FILED AS THE RECORD PLAT; AND

(II) IN THE CASE OF A MAJOR SUBDIVISION, MAY BE REQUIRED BEFORE THE SUBMISSION OF A PRELIMINARY PLAN OF SUBDIVISION.

REVISOR'S NOTE: This section is new language derived without substantive change from the sixth sentence of former Art. 28, § 7–116(b).

Defined term: "Subdivision" § 14–101

23–207. PLAT APPROVAL — TENTATIVE.

(A) IN GENERAL.

SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE SUBDIVISION REGULATIONS MAY PROVIDE FOR TENTATIVE APPROVAL OF A PLAT BEFORE IMPROVEMENTS AND INSTALLATIONS.

(B) LIMITATIONS.

TENTATIVE APPROVAL OF A PLAT MAY NOT:

(1) BE ENTERED ON THE PLAT; OR

(2) ENTITLE THE PLAT TO BE FILED OR RECORDED.

(C) BOND AS SECURITY ACCEPTABLE.

(1) INSTEAD OF REQUIRING THE COMPLETION OF IMPROVEMENTS OR INSTALLATION OF UTILITIES BEFORE THE APPROVAL OF A PLAT, THE COUNTY PLANNING BOARD OR COUNTY MAY ACCEPT SECURITY TO SECURE THE CONSTRUCTION OF IMPROVEMENTS AND INSTALLATION OF UTILITIES AT A TIME AND ACCORDING TO SPECIFICATIONS SET BY OR IN ACCORDANCE WITH THE SUBDIVISION REGULATIONS.

(2) THE COUNTY PLANNING BOARD OR COUNTY MAY ENFORCE THE SECURITY BY ANY APPROPRIATE LEGAL OR EQUITABLE REMEDY.

REVISOR'S NOTE: This section is new language derived without substantive change from the second through fourth sentences of former Art. 28, § 7–116(b).

In subsection (a) of this section, the reference to the "subdivision regulations" is substituted for the former reference to the "rules or practice of the Commission for clarity and consistency with § 23–203 of this subtitle.

In subsection (c)(1) of this section, the reference to the completion of "improvements or installation of utilities" is substituted for the former reference to the completion of "installation" for clarity and consistency with the corresponding provision of § 5–204 of this article.

In subsection (c)(2) of this section, the word "security" is substituted for the former word "bond" for clarity.

Defined terms: "County planning board" § 14–101
"Subdivision" § 14–101

SUBTITLE 3. UNAPPROVED PLATS AND SUBDIVISIONS.

23–301. SALE OR TRANSFER OF LOTS IN UNAPPROVED SUBDIVISIONS.

(A) PENALTY FOR USE OF UNAPPROVED PLAT.

(1) AN OWNER OR AGENT OF AN OWNER OF LAND LOCATED IN A SUBDIVISION MAY NOT TRANSFER OR SELL LAND BY REFERENCE TO, EXHIBITION OF, OR OTHER USE OF A PLAT OF A SUBDIVISION BEFORE THE PLAT HAS BEEN:

(I) APPROVED BY THE COUNTY PLANNING BOARD; AND

(II) RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED.

(2) A PERSON WHO VIOLATES THIS SUBSECTION IS SUBJECT TO A PENALTY OF $100 FOR EACH LOT OR PARCEL TRANSFERRED OR SOLD IN VIOLATION TO BE PAID TO THE DISTRICT COUNCIL.

(B) METES AND BOUNDS DESCRIPTION.

THE DESCRIPTION OF A LOT OR PARCEL BY METES AND BOUNDS IN THE INSTRUMENT OF TRANSFER OR OTHER DOCUMENT USED IN THE PROCESS OF TRANSFERRING OR SELLING DOES NOT EXEMPT THE TRANSACTION FROM THE PENALTIES OR REMEDIES PROVIDED IN THIS SECTION.

(C) REMEDIES.

THE DISTRICT COUNCIL MAY:

(1) ENJOIN THE TRANSFER, SALE, OR AGREEMENT IN ANY CIRCUIT COURT; OR

(2) RECOVER THE PENALTY BY CIVIL ACTION IN ANY COURT OF COMPETENT JURISDICTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–118.

In subsection (a)(1)(ii) of this section, the reference to a "filed" plat is deleted for accuracy.

In subsection (a)(2) of this section, the reference to a "transferred" lot or parcel is added for clarity and consistency within this section.

In subsection (c)(1) of this section, the reference to a "circuit court" is substituted for the former reference to a "court of equity jurisdiction" to reflect the merger of law and equity effected by Md. Rule 2–301, which mandates "one form of action known as the 'civil action'".

Defined terms: "County" § 14–101
"County planning board" § 14–101
"District council" § 14–101
"Person" § 14–101
"Subdivision" § 14–101

23–302. RECORDING UNAPPROVED SUBDIVISION PLAT.

(A) CIRCUIT COURT CLERK RECORDING PROHIBITION.

(1) THE CLERK OF THE CIRCUIT COURT OF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY MAY NOT RECORD A SUBDIVISION PLAT IN THE REGIONAL DISTRICT UNLESS THE PLAT HAS BEEN ENDORSED IN WRITING BY THE COUNTY PLANNING BOARD.

(2) A PLAT IS INVALID IF IT IS RECORDED WITHOUT BEING ENDORSED BY THE COUNTY PLANNING BOARD.

(B) POWER TO COMPEL.

THE COMMISSION MAY INSTITUTE PROCEEDINGS AGAINST THE CLERK OF THE CIRCUIT COURT OF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY TO COMPEL THE CLERK TO STRIKE FROM THE COUNTY LAND RECORDS A SUBDIVISION PLAT THAT IS RECORDED BUT NOT APPROVED IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION.

(C) JURISDICTION.

A COURT OF COMPETENT JURISDICTION MAY ISSUE APPROPRIATE ORDERS FOR PURPOSES OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–119.

In subsection (a)(1) of this section, the former reference to "receiv[ing]" a plat for recording is deleted as surplusage.

In subsection (a)(2) of this section, the former reference to a plat being recorded "after May 24, 1939" is deleted as obsolete.

Defined terms: "Commission" § 14–101
"County planning board" § 14–101
"Regional district" § 14–101
"Subdivision" § 14–101

SUBTITLE 4. JUDICIAL REVIEW.

23–401. AUTHORIZED.

(A) BY CIRCUIT COURT.

(1) WITHIN 30 DAYS AFTER THE COUNTY PLANNING BOARD TAKES FINAL ACTION ON AN APPLICATION FOR SUBDIVISION APPROVAL, JUDICIAL REVIEW MAY BE REQUESTED BY:

(I) A PERSON AGGRIEVED BY THE ACTION; OR

(II) A PERSON OR MUNICIPAL CORPORATION THAT APPEARED AT THE HEARING IN PERSON, BY ATTORNEY, OR IN WRITING.

(2) A PETITION FOR JUDICIAL REVIEW FILED UNDER THIS SECTION MAY BE MADE TO THE CIRCUIT COURT FOR THE APPROPRIATE COUNTY.

(3) THE COURT MAY:

(I) AFFIRM OR REVERSE THE ACTION; OR

(II) REMAND THE ACTION TO THE COUNTY PLANNING BOARD FOR FURTHER CONSIDERATION.

(B) PROCEDURES.

IF A PETITION FOR JUDICIAL REVIEW IS FILED UNDER THIS SECTION, THE PROCEDURES UNDER § 22–402(B) OF THIS ARTICLE APPLY TO THE COUNTY PLANNING BOARD AND OTHER PARTIES AS APPROPRIATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–116(g).

In the introductory language to subsection (a)(1) of this section, the phrase "judicial review may be requested" is substituted for the former phrase "may be appealed" for accuracy. Similarly, in subsection (b) of this section, the reference to a "petition for judicial review" is substituted for the former reference to "an appeal".

In subsection (a)(1)(ii) of this section, the former reference to a "corporation or association, whether or not incorporated" is deleted as included in the defined term "person".

The Land Use Article Review Committee notes, for consideration by the General Assembly, that under subsection (a)(1)(ii) of this section, a person may obtain judicial review of an action without showing

aggrievement, so long as the person appeared at the hearing. The General Assembly may wish to consider whether a different standard involving some form of aggrievement or impact should be required of one obtaining judicial review under this section. *See also* § 22–402 of this article.

The Land Use Article Review Committee also notes, for consideration by the General Assembly, that while this section appears to apply equally to both Montgomery and Prince George's counties, subsection (b) of this section requires the use of "procedures under § 20–402(b) of this article", which on their face apply only in Montgomery County.

Defined terms: "County planning board" § 14–101
"Person" § 14–101
"Subdivision" § 14–101

SUBTITLE 5. ENFORCEMENT.

PART I. GENERAL PROVISIONS.

23–501. ENFORCEMENT OF CONDITIONS.

(A) AUTHORIZED.

THE COUNTY PLANNING BOARD OR THE GOVERNING BODY OF THE APPROPRIATE COUNTY MAY INSTITUTE INJUNCTION, MANDAMUS, OR OTHER APPROPRIATE ACTION OR PROCEEDINGS TO COMPEL THE CONSTRUCTION AND INSTALLATION OF IMPROVEMENTS OR CONSERVATION OF RESOURCES AT A TIME AND ACCORDING TO SPECIFICATIONS SET BY OR IN ACCORDANCE WITH THIS DIVISION.

(B) JURISDICTION.

ANY COURT OF COMPETENT JURISDICTION HAS JURISDICTION TO ISSUE RESTRAINING ORDERS, TEMPORARY OR PERMANENT INJUNCTIONS, MANDAMUS, OR OTHER APPROPRIATE FORMS OF REMEDY OR RELIEF.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–116(c)(2).

In subsection (a) of this section, the reference to "the governing body of the appropriate county" is substituted for the former reference to "either county" for clarity.

In subsection (b) of this section, the former phrase "[f]or this purpose" is deleted as surplusage.

Defined term: "County planning board" § 14–101

23–502. RESERVED.

23–503. RESERVED.

PART II. MONTGOMERY COUNTY.

23–504. SCOPE OF PART.

THIS PART APPLIES ONLY IN MONTGOMERY COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–116(h)(1)(i), as it limited the scope of that provision to Montgomery County.

23–505. CIVIL FINES AND PENALTIES.

(A) SCOPE OF VIOLATIONS.

IN ADDITION TO ALL OTHER REMEDIES PROVIDED BY LAW, THE DISTRICT COUNCIL MAY AUTHORIZE THE COUNTY PLANNING BOARD TO IMPOSE CIVIL MONETARY FINES OR PENALTIES AND, IF THE PUBLIC HEALTH, SAFETY, OR WELFARE IS THREATENED, ISSUE STOP WORK ORDERS FOR A VIOLATION OF:

(1) THIS DIVISION;

(2) COUNTY SUBDIVISION REGULATIONS AND ZONING LAWS;

(3) ANY LAW OR REGULATION THAT THE COMMISSION OR THE COUNTY PLANNING BOARD IS EXCLUSIVELY AUTHORIZED TO ADMINISTER; OR

(4) ANY DECISION MADE BY THE COMMISSION OR THE COUNTY PLANNING BOARD UNDER ITS RESPECTIVE AUTHORITY.

(B) PENALTY; FINE SCHEDULE.

(1) A FINE NOT TO EXCEED $500 MAY BE IMPOSED FOR EACH VIOLATION UNDER THIS PART.

(2) THE DISTRICT COUNCIL MAY ESTABLISH A SCHEDULE OF FINES FOR EACH VIOLATION AND MAY ADOPT PROCEDURES, CONSISTENT WITH THIS PART, FOR IMPOSING AND COLLECTING THE FINES.

(3) EACH DAY A VIOLATION OCCURS IS A SEPARATE VIOLATION UNDER THIS PART.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–116(h)(2) and (1)(ii) and, except as it limited the scope of the provision to Montgomery County, (i).

In subsection (a)(1) of this section, the reference to "this division" is substituted for the former reference to "Titles 7 and 8 of this article". No substantive change is intended.

Defined terms: "Commission" § 14–101
"County planning board" § 14–101
"District council" § 14–101
"Subdivision" § 14–101
"Zoning law" § 14–101

23–506. ENFORCEMENT; PROSECUTION OF VIOLATIONS.

(A) ENFORCEMENT.

(1) THE DISTRICT COUNCIL MAY PROVIDE THAT THE COUNTY PLANNING BOARD MAY ENFORCE THE IMPOSITION OF FINES AND PENALTIES IN A MANNER CONSISTENT WITH THE PROCESS REQUIRING NOTIFICATION AND HEARING UNDER TITLE 11, SUBTITLE 2 OF THIS ARTICLE.

(2) THE IMPOSITION OF FINES AND PENALTIES UNDER THIS PART IS NOT SUBJECT TO AN APPEAL TO THE BOARD OF APPEALS.

(B) PROSECUTION.

THE DISTRICT COUNCIL MAY PROVIDE FOR THE COUNTY PLANNING BOARD, THROUGH COUNSEL, TO PROSECUTE VIOLATIONS FOR WHICH CIVIL MONETARY FINES OR PENALTIES ARE IMPOSED.

(C) FOREST CONSERVATION LAW.

A VIOLATION OF A LOCAL LAW IMPLEMENTING THE STATE FOREST CONSERVATION LAW SHALL BE ENFORCED IN ACCORDANCE WITH TITLE 5,

SUBTITLE 16 OF THE NATURAL RESOURCES ARTICLE AND NOT IN ACCORDANCE WITH THIS PART.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–116(h)(3) through (5).

Defined terms: "County planning board" § 14–101
"District council" § 14–101
"Local law" § 14–101

GENERAL REVISOR'S NOTE TO SUBTITLE

Former Art. 28, § 7–116(c)(1), which authorized certain regulatory enforcement agreements in Montgomery County, has never been used and is apparently obsolete. To avoid any unforeseen consequences its repeal might cause, it is transferred to the Session Laws. *See* § 15 of Ch. 426 of the Acts of 2012.

TITLE 24. MONTGOMERY COUNTY PROVISIONS.

SUBTITLE 1. GENERAL PROVISIONS.

24–101. SCOPE OF TITLE.

THIS TITLE APPLIES ONLY IN MONTGOMERY COUNTY.

REVISOR'S NOTE: This section formerly was Art. 28, § 7–121(b).

The reference to this "title" is substituted for the former reference to this "section" for clarity because the former law applied only to the development rights and responsibilities agreements in Montgomery County and, as revised, now applies to several other provisions that also apply only in the county. No substantive change is intended.

No other changes are made.

SUBTITLE 2. MUNICIPAL ZONING — SPECIFIC MUNICIPALITIES.

24–201. TOWN OF KENSINGTON.

(A) CONCURRENT JURISDICTION TO ENFORCE ZONING LAWS.

THE TOWN OF KENSINGTON HAS CONCURRENT JURISDICTION TO ENFORCE THE COUNTY ZONING LAWS WITHIN ITS BOUNDARIES.

(B) VOTE TO OVERTURN ZONING RESOLUTION.

A TWO–THIRDS MAJORITY VOTE OF BOTH THE DISTRICT COUNCIL AND THE COUNTY PLANNING BOARD IS REQUIRED TO TAKE ANY ACTION RELATING TO ZONING WITHIN THE TOWN OF KENSINGTON THAT IS CONTRARY TO A RESOLUTION OF THE MAYOR AND TOWN COUNCIL.

(C) VOTE TO OVERTURN LAND USE RESOLUTION.

A TWO–THIRDS MAJORITY VOTE OF THE COUNTY PLANNING BOARD IS REQUIRED TO TAKE ANY ACTION RELATING TO LAND USE PLANNING WITHIN THE TOWN OF KENSINGTON THAT IS CONTRARY TO A RESOLUTION OF THE MAYOR AND TOWN COUNCIL.

REVISOR'S NOTE: This section formerly was Art. 28, § 8–112.2, as it related to zoning in the Town of Kensington.

The only changes are in style.

Defined terms: "County" § 14–101
"County planning board" § 14–101
"District council" § 14–101
"Zoning law" § 14–101

24–202. CITY OF TAKOMA PARK.

(A) CONCURRENT JURISDICTION TO ENFORCE ZONING LAWS.

THE CITY OF TAKOMA PARK HAS CONCURRENT JURISDICTION TO ENFORCE THE COUNTY ZONING LAWS WITHIN ITS BOUNDARIES.

(B) VOTE TO OVERTURN ZONING RESOLUTION.

A TWO–THIRDS MAJORITY VOTE OF BOTH THE DISTRICT COUNCIL AND THE COUNTY PLANNING BOARD IS REQUIRED TO TAKE ANY ACTION RELATING TO ZONING WITHIN THE CITY OF TAKOMA PARK THAT IS CONTRARY TO A RESOLUTION OF THE MAYOR AND CITY COUNCIL.

(C) VOTE TO OVERTURN LAND USE RESOLUTION.

A TWO–THIRDS MAJORITY VOTE OF THE COUNTY PLANNING BOARD IS REQUIRED TO TAKE ANY ACTION RELATING TO LAND USE PLANNING WITHIN THE CITY OF TAKOMA PARK THAT IS CONTRARY TO A RESOLUTION OF THE MAYOR AND CITY COUNCIL.

REVISOR'S NOTE: This section formerly was Art. 28, § 8–112.2, as it related to zoning in the City of Takoma Park.

The only changes are in style.

Defined terms: "County" § 14–101
"County planning board" § 14–101
"District council" § 14–101
"Zoning law" § 14–101

SUBTITLE 3. DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENTS.

24–301. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was the introductory language to Art. 28, § 7–121(a).

The only other changes are in style.

(B) AGREEMENT.

"AGREEMENT" MEANS A DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENT TO ESTABLISH THE CONDITIONS UNDER WHICH DEVELOPMENT OF REAL PROPERTY MAY PROCEED THAT IS:

(1) OF A SPECIFIED DURATION;

(2) MADE BETWEEN:

(I) THE COUNTY PLANNING BOARD OR ITS DESIGNEE;

(II) A REVIEWING ENTITY; AND

(III) A PERSON HAVING A LEGAL OR EQUITABLE INTEREST IN THE PROPERTY; AND

(3) APPROVED BY THE DISTRICT COUNCIL OR THE COUNTY EXECUTIVE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 28, § 7–121(a)(2).

In item (1) of this subsection, the word "duration" is substituted for the former reference to "time" for accuracy and consistency within this subtitle.

In item (3) of this subsection, the former phrase "as appropriate" is deleted as surplusage.

Defined terms: "County planning board" § 14–101
"Development" § 24–301
"District council" § 14–101
"Person" § 14–101
"Reviewing entity" § 24–301

(C) DEVELOPMENT.

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

(2) "DEVELOPMENT" DOES NOT INCLUDE NORMAL AGRICULTURAL ACTIVITY.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 28, § 7–121(a)(1).

(D) REGULATORY PLAN.

"REGULATORY PLAN" MEANS AN APPLICATION PROPOSING DEVELOPMENT ON PRIVATELY OWNED LAND THAT MUST BE SUBMITTED TO THE COUNTY PLANNING BOARD FOR REVIEW AND FINAL APPROVAL UNDER THIS DIVISION OR COUNTY LAW OR REGULATION.

REVISOR'S NOTE: This subsection formerly was Art. 28, § 7–121(a)(3).

The only changes are in style.

Defined terms: "County" § 14–101
"County planning board" § 14–101
"Development" § 24–301

(E) REVIEWING ENTITY.

"REVIEWING ENTITY" MEANS THE COUNTY EXECUTIVE OR OTHER LOCAL, STATE, OR FEDERAL GOVERNMENT OR UNIT THAT AGREES TO EXECUTE AN AGREEMENT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 28, § 7–121(a)(4).

The former phrase "unless otherwise indicated" is deleted as unnecessary.

Defined terms: "Agreement" § 24–301
"State" § 14–101

24–302. CONSTRUCTION OF SUBTITLE.

THIS SUBTITLE DOES NOT:

(1) REQUIRE THE DISTRICT COUNCIL TO ADOPT A LOCAL LAW; OR

(2) AUTHORIZE THE DISTRICT COUNCIL, THE COMMISSION, OR A DESIGNEE OF EITHER UNIT TO REQUIRE A PARTY TO ENTER INTO AN AGREEMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–121(c)(4).

Defined terms: "Agreement" § 24–301
"Commission" § 14–101
"District council" § 14–101
"Local law" § 14–101

24–303. IMPLEMENTING LOCAL LAWS.

(A) AUTHORITY TO ADOPT.

IN ACCORDANCE WITH THIS SECTION, THE DISTRICT COUNCIL MAY ADOPT LOCAL LAWS THAT ESTABLISH PROCEDURES AND REQUIREMENTS FOR THE EXECUTION OF AGREEMENTS.

(B) REQUIRED CONTENT.

A LOCAL LAW ADOPTED UNDER THIS SECTION BY THE DISTRICT COUNCIL SHALL AUTHORIZE THE COUNTY PLANNING BOARD TO:

(1) IF APPROVED BY THE DISTRICT COUNCIL OR COUNTY EXECUTIVE, EXECUTE AGREEMENTS AFFECTING REAL PROPERTY IN THE PORTION OF THE REGIONAL DISTRICT IN MONTGOMERY COUNTY WITH A PERSON HAVING A LEGAL OR EQUITABLE INTEREST IN THE PROPERTY; AND

(2) IF REQUESTED BY ANY PARTY, INCLUDE A REVIEWING ENTITY AS AN ADDITIONAL PARTY TO THE AGREEMENT.

(C) AUTHORIZED CONTENT.

A LOCAL LAW ADOPTED UNDER THIS SECTION MAY SPECIFY THE CIRCUMSTANCES UNDER WHICH A PERSON MAY REQUEST THE NEGOTIATION AND EXECUTION OF AN AGREEMENT, INCLUDING:

(1) THE SIZE, USE, ZONING, OR STAGING PLAN OF THE PROPOSED DEVELOPMENT; OR

(2) OTHER RELEVANT FACTORS, INCLUDING:

(I) THE PROVISION OF PUBLIC BENEFITS OR AMENITIES; OR

(II) GROWTH MANAGEMENT POLICIES ADOPTED BY THE COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–121(c)(1), (2), and (3).

In the introductory language to subsection (b) of this section, the former reference to a local law adopted "by a district council" is deleted as unnecessary.

In subsection (b)(1) of this section, the reference to the "portion of the regional district in Montgomery County" is substituted for the former reference to the "boundaries of the planning board's jurisdiction" for clarity.

Also in subsection (b)(1) of this section, the former phrase "as appropriate" is deleted as surplusage.

Defined terms: "Agreement" § 24–301
"County planning board" § 14–101
"Development" § 24–301

"District council" § 14–101
"Local law" § 14–101
"Person" § 14–101
"Regional district" § 14–101
"Reviewing entity" § 24–301

24–304. REQUEST TO NEGOTIATE AND EXECUTE.

(A) REQUIRED.

(1) BEFORE ENTERING INTO AN AGREEMENT, A PERSON HAVING A LEGAL OR EQUITABLE INTEREST IN REAL PROPERTY, OR THE PERSON'S REPRESENTATIVE, SHALL REQUEST THAT THE COUNTY PLANNING BOARD CONSIDER NEGOTIATING AND EXECUTING AN AGREEMENT.

(2) A REQUEST UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE MADE AS PART OF A REGULATORY PLAN AUTHORIZED BY THIS DIVISION.

(B) ACTION BY COUNTY PLANNING BOARD.

EXCEPT AS PROVIDED UNDER SUBSECTION (C) OF THIS SECTION, THE COUNTY PLANNING BOARD MAY AGREE TO NEGOTIATE AND ENTER INTO AN AGREEMENT.

(C) LIMITATION.

THE COUNTY PLANNING BOARD MAY NOT ENTER INTO AN AGREEMENT UNLESS THE COUNTY PLANNING BOARD HAS:

(1) HELD A PUBLIC HEARING ON THE PROPOSED AGREEMENT; AND

(2) DETERMINED THAT THE PROPOSED AGREEMENT IS CONSISTENT WITH THE COMMISSION'S GENERAL PLAN.

(D) SATISFACTION OF HEARING REQUIREMENT.

A PUBLIC HEARING FOR A REGULATORY PLAN SATISFIES THE REQUIREMENT FOR A PUBLIC HEARING IN SUBSECTION (C) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–121(d), (e), and (f).

In subsection (a)(1) of this section, the former reference to a county planning board "in the jurisdiction in which the property is located" is deleted as surplusage.

In subsection (a)(2) of this section, the former reference to "an application submitted to a planning board" is deleted as included in the reference to a "regulatory plan".

Also in subsection (a)(2) of this section, the former reference to a regulatory plan "review on matters" authorized is deleted as surplusage.

In subsection (b) of this section, the former phrase "but need not" is deleted as implicit in the word "may".

In subsection (c)(1) of this section, the reference to holding a public hearing "on the proposed agreement" is added to state expressly that which was only implied in the former law.

In subsection (c)(2) of this section, the former reference to an "affirmative" determination is deleted as surplusage.

In subsection (d) of this section, the phrase "satisfies the requirement" is substituted for the former phrase "may satisfy the requirement" for clarity.

Also in subsection (d) of this section, the former reference to "review" is deleted as unnecessary in light of the reference to a "regulatory plan".

Defined terms: "Agreement" § 24–301
"Commission" § 14–101
"County planning board" § 14–101
"Person" § 14–101
"Regulatory plan" § 24–301

24–305. CONTENT.

(A) REQUIRED.

AN AGREEMENT SHALL INCLUDE:

(1) A LEGAL DESCRIPTION OF THE REAL PROPERTY SUBJECT TO THE AGREEMENT;

(2) THE NAMES OF ALL PERSONS HAVING A LEGAL OR EQUITABLE INTEREST IN THE PROPERTY;

(3) THE DURATION OF THE AGREEMENT;

(4) THE PERMISSIBLE USES OF THE REAL PROPERTY;

(5) THE PERMISSIBLE DENSITY OR INTENSITY OF USE OF THE REAL PROPERTY;

(6) THE MAXIMUM HEIGHT AND SIZE OF STRUCTURES;

(7) THE GENERAL LOCATION OF ALL STRUCTURES AND SUPPORTING FACILITIES AND FEATURES;

(8) A DESCRIPTION OF ALL ANTICIPATED PERMITS REQUIRED OR ALREADY APPROVED FOR THE DEVELOPMENT OF THE REAL PROPERTY;

(9) A STATEMENT THAT THE PROPOSED DEVELOPMENT IS CONSISTENT WITH:

(I) THE COMMISSION'S GENERAL PLAN; AND

(II) ALL APPLICABLE DEVELOPMENT LAWS AND REGULATIONS ADMINISTERED BY THE COUNTY PLANNING BOARD;

(10) A DESCRIPTION OF THE REQUIREMENTS DETERMINED BY A COUNTY PLANNING BOARD TO BE NECESSARY TO ENSURE THE PUBLIC HEALTH, SAFETY, AND WELFARE; AND

(11) TO THE EXTENT APPLICABLE, PROVISIONS FOR THE:

(I) DEDICATION OF A PORTION OF THE REAL PROPERTY FOR IMMEDIATE OR FUTURE PUBLIC USE;

(II) PROTECTION OF SENSITIVE AREAS;

(III) PRESERVATION AND RESTORATION OF HISTORIC STRUCTURES; AND

(IV) CONSTRUCTION OR FINANCING OF PUBLIC FACILITIES.

(B) AUTHORIZED.

AN AGREEMENT MAY:

(1) ESTABLISH THE TERMS BY WHICH, AND ANY PERIOD OF TIME WHEN, DEVELOPMENT OR INDIVIDUAL PHASES SHALL BEGIN AND BE COMPLETED;

(2) INCORPORATE THE TERMS AND CONDITIONS THAT WOULD BE INCLUDED IN OTHER ENFORCEABLE AGREEMENTS AND INSTRUMENTS BETWEEN THE PARTIES REQUIRED AS PART OF A REGULATORY PLAN; AND

(3) PROVIDE FOR OTHER MATTERS IN ACCORDANCE WITH THIS DIVISION.

(C) LIMITATION.

AN AGREEMENT MAY NOT PREVENT A COUNTY PLANNING BOARD, DISTRICT COUNCIL, COUNTY EXECUTIVE, OR OTHER LOCAL, STATE, OR FEDERAL GOVERNMENT FROM REQUIRING A PERSON TO COMPLY WITH LAWS, RULES, REGULATIONS, AND POLICIES ENACTED AFTER THE PARTIES EXECUTED THE AGREEMENT IF THE DISTRICT COUNCIL OR THE COUNTY EXECUTIVE DETERMINES THAT COMPLIANCE WITH THE LAWS, RULES, REGULATIONS, AND POLICIES IS ESSENTIAL TO ENSURE THE PUBLIC HEALTH, SAFETY, OR WELFARE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–121(g) and (l).

In subsection (a)(5) of this section, the references to the "permissible" density or intensity of use "of the real property" are added for clarity.

In subsection (a)(7) of this section, the former reference to "buildings" is deleted as included in the reference to "structures".

In subsection (a)(10) of this section, the former reference to "conditions, terms, restrictions, or other" requirements is deleted as included in the reference to "requirements".

Also in subsection (a)(10) of this section, the former reference to "its citizens" is deleted as included in the word "public".

In subsection (b)(1) of this section, the former reference to "an approved" development is deleted as implicit.

In subsection (b)(2) of this section, the former reference to "review" is deleted as unnecessary in light of the reference to a "regulatory plan".

In subsection (c) of this section, the reference to when "the parties executed" the agreement is substituted for the former reference to "the date of" the agreement for clarity and accuracy.

Also in subsection (c) of this section, the former words "adopted" and "promulgated" are deleted as included in the word "enacted".

Also in subsection (c) of this section, the former phrase "as appropriate" is deleted as surplusage.

Also in subsection (c) of this section, the former reference to the welfare "of residents of all or part of the jurisdiction" is deleted as surplusage.

Also in subsection (c) of this section, the former reference to the "imposition" of laws and regulations is deleted as implicit in the reference to "compliance".

Defined terms: "Agreement" § 24–301
"Commission" § 14–101
"County planning board" § 14–101
"Development" § 24–301
"District council" § 14–101
"Person" § 14–101
"Regulatory plan" § 24–301
"Sensitive area" § 14–101
"State" § 14–101

24–306. TERM.

(A) IN GENERAL.

EXCEPT AS OTHERWISE PROVIDED IN THE AGREEMENT UNDER § 24–305(A)(3) OF THIS SUBTITLE OR EXTENDED BY AMENDMENT UNDER SUBSECTION (B) OF THIS SECTION AND § 24–308 OF THIS SUBTITLE, AN AGREEMENT IS VOID 5 YEARS AFTER EXECUTION BY THE PARTIES.

(B) EXTENSION.

IF APPROVED BY THE DISTRICT COUNCIL OR COUNTY EXECUTIVE, AS APPROPRIATE, THE TERM OF AN AGREEMENT MAY BE EXTENDED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–121(h).

In subsection (a) of this section, the phrase "execution by the parties" is substituted for the former phrase "the date on which the parties execute the agreement" for brevity.

In subsection (b) of this section, the reference to "the term of" an agreement is added for clarity.

Defined terms: "Agreement" § 24–301
"District council" § 14–101

24–307. ACTIONS AUTHORIZED DURING TERM.

DURING THE TERM OF AN AGREEMENT:

(1) DEVELOPMENT MAY OCCUR IN ACCORDANCE WITH THE LAW AND REGULATIONS GOVERNING THE USE, DENSITY, OR INTENSITY OF THE REAL PROPERTY:

(I) ENACTED BY THE DISTRICT COUNCIL AND ADMINISTERED BY THE COUNTY PLANNING BOARD OR COUNTY; AND

(II) IF APPLICABLE, ENACTED BY A REVIEWING ENTITY AND IN EFFECT WHEN THE PROJECT WAS REVIEWED AND APPROVED BY THE COUNTY PLANNING BOARD AND REVIEWING ENTITY; AND

(2) EXCEPT AS PROVIDED IN § 24–305(C) OF THIS SUBTITLE, CHANGES TO THE LAW AND REGULATIONS DESCRIBED IN PARAGRAPH (1) OF THIS SECTION ENACTED AFTER THE PARTIES EXECUTE AN AGREEMENT DO NOT APPLY TO DEVELOPMENT UNDER THE AGREEMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–121(i).

In the introductory language to this section, the former reference to the "established" term is deleted as surplusage.

In item (1)(i) of this section, the reference to "enacted" is substituted for the former reference to "adopted" for consistency within this subtitle.

In item (1)(ii) of this section, the former references to "adopted" and "promulgated" are deleted as included in the reference to "enacted".

In item (2) of this section, the reference to "development under the agreement" is substituted for the former reference to "[t]he project" for clarity.

Also in item (2) of this section, the reference to "changes … enacted after the parties execute an agreement" is substituted for the former reference to "modifications that may subsequently occur" for clarity.

Also in item (2) of this section, the reference to "§ 24–305(c) of this subtitle [former Art. 28, § 7–121(l)]" is substituted for the former erroneous reference to "subsection (k) of this section", revised as § 24–309 of this subtitle, for clarity.

Defined terms: "Agreement" § 24–301
"County" § 14–101
"County planning board" § 14–101
"Development" § 24–301
"District council" § 14–101
"Reviewing entity" § 24–301

24–308. AMENDMENT.

(A) AUTHORIZED.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE PARTIES TO AN AGREEMENT MAY AMEND THE AGREEMENT BY MUTUAL CONSENT.

(B) LIMITATIONS.

(1) THE PARTIES TO AN AGREEMENT MAY NOT AMEND THE AGREEMENT UNLESS:

(I) THERE HAS BEEN A PUBLIC HEARING ON THE PROPOSED AMENDMENT; AND

(II) THE DISTRICT COUNCIL OR COUNTY EXECUTIVE, AS APPROPRIATE, APPROVES ANY SUBSTANTIAL AMENDMENT.

(2) A COUNTY PLANNING BOARD MAY NOT AMEND AN AGREEMENT UNLESS THE COUNTY PLANNING BOARD DETERMINES THAT THE PROPOSED AMENDMENT IS CONSISTENT WITH THE COMMISSION'S GENERAL PLAN.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–121(j).

In subsection (b)(1)(ii) of this section, the word "amendment" is substituted for the former reference to "modification" for clarity and consistency within this subsection.

Defined terms: "Agreement" § 24–301
"Commission" § 14–101
"County planning board" § 14–101
"District council" § 14–101

24–309. TERMINATION.

(A) BY MUTUAL CONSENT.

THE PARTIES TO AN AGREEMENT MAY TERMINATE THE AGREEMENT BY MUTUAL CONSENT.

(B) BY COUNTY PLANNING BOARD.

(1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2) OF THIS SUBSECTION, IF THE COUNTY PLANNING BOARD DETERMINES THAT SUSPENSION OR TERMINATION OF AN AGREEMENT IS ESSENTIAL TO ENSURE THE PUBLIC HEALTH, SAFETY, OR WELFARE, THE COUNTY PLANNING BOARD MAY SUSPEND OR TERMINATE THE AGREEMENT.

(2) THE COUNTY PLANNING BOARD MAY NOT SUSPEND OR TERMINATE AN AGREEMENT UNLESS:

(I) THERE HAS BEEN A PUBLIC HEARING ON THE SUSPENSION OR TERMINATION; AND

(II) THE DISTRICT COUNCIL OR COUNTY EXECUTIVE, AS APPROPRIATE, APPROVES THE SUSPENSION OR TERMINATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–121(k).

Defined terms: "Agreement" § 24–301
"County planning board" § 14–101
"District council" § 14–101

24–310. RECORDATION.

(A) REQUIRED.

(1) AN AGREEMENT SHALL BE RECORDED IN THE LAND RECORDS OF MONTGOMERY COUNTY.

(2) IF AN AGREEMENT IS NOT RECORDED AS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION WITHIN 20 DAYS AFTER ITS EXECUTION BY ALL PARTIES, THE AGREEMENT IS VOID.

(B) EFFECT.

WHEN AN AGREEMENT IS RECORDED UNDER SUBSECTION (A) OF THIS SECTION, THE PARTIES TO THE AGREEMENT AND THEIR SUCCESSORS IN INTEREST ARE BOUND TO THE AGREEMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–121(m).

Subsection (a) of this section is revised to state expressly that which was only implied in the former law, *i.e.*, an agreement is required to be recorded in the Montgomery County land records to be effective.

In subsection (a)(1) of this section, the reference to "Montgomery County" is substituted for the former reference to "the jurisdiction" for clarity.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that under subsection (a)(2) of this section, the time limit for recording an executed agreement, 20 days, is quite short, considering that an unrecorded agreement becomes void after that. The corresponding provision applicable in Prince George's County has a limit of 30 days. The General Assembly may wish to consider whether another period would be more appropriate in light of the complicated nature of the transactions that would be subject to an agreement. *See also* Revisor's Notes to §§ 7–305 and 25–511 of this article.

Defined term: "Agreement" § 24–301

24–311. ENFORCEMENT.

(A) AUTHORIZED.

UNLESS TERMINATED UNDER § 24–309 OF THIS SUBTITLE, AN AGREEMENT MAY BE ENFORCED BY THE PARTIES TO THE AGREEMENT OR THEIR SUCCESSORS IN INTEREST USING ALL REMEDIES AVAILABLE BY LAW.

(B) NO RIGHT TO ADMINISTRATIVE APPEAL.

NO RIGHT TO AN ADMINISTRATIVE APPEAL ARISES FROM THE NEGOTIATION OR ENFORCEMENT OF AN AGREEMENT.

REVISOR'S NOTE: This section formerly was Art. 28, § 7–121(n).

The only changes are in style.

Defined term: "Agreement" § 24–301

TITLE 25. PRINCE GEORGE'S COUNTY PROVISIONS.

SUBTITLE 1. GENERAL PROVISIONS.

25–101. SCOPE OF TITLE.

THIS TITLE APPLIES ONLY IN PRINCE GEORGE'S COUNTY.

REVISOR'S NOTE: This section formerly was Art. 28, §§ 5–502 and 7–121.1(b).

The reference to this "title" is substituted for the former references to this "subtitle" and this "section" for clarity because the former law applied only to the Prince George's County Agricultural Land Preservation Easement Program and development rights and responsibilities agreements in the county, and as revised now applies to several other provisions that also apply only in Prince George's County. No substantive change is intended.

No other changes are made.

SUBTITLE 2. LAND USE CONTROLS — IN GENERAL.

25–201. ASSOCIATION REPRESENTED BY NONATTORNEY.

NOTWITHSTANDING ANY OTHER STATE LAW, IN ITS RULES AND PROCEDURES THE DISTRICT COUNCIL MAY ALLOW A DULY ELECTED OFFICER OF A BONA FIDE CIVIC ASSOCIATION OR HOMEOWNERS ASSOCIATION TO REPRESENT THE ASSOCIATION BEFORE THE COUNTY PLANNING BOARD,

DISTRICT COUNCIL, ZONING HEARING EXAMINER, OR BOARD OF APPEALS REGARDLESS OF WHETHER THAT INDIVIDUAL IS AN ATTORNEY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–122.1(a).

Defined terms: "County" § 14–101
"County planning board" § 14–101
"District council" § 14–101
"State" § 14–101

25–202. CONTINUANCE OF ZONING HEARING.

(A) REQUEST OF CONTINUANCE.

THE PEOPLE'S ZONING COUNSEL OR ANY PARTY OF RECORD MAY REQUEST THE CONTINUANCE OF A HEARING IN ACCORDANCE WITH THIS SECTION.

(B) GRANTING OF CONTINUANCE.

THE ZONING HEARING EXAMINER SHALL GRANT A CONTINUANCE IF A REQUIRED TECHNICAL STAFF REPORT HAS NOT BEEN FILED AT LEAST 30 DAYS BEFORE THE SCHEDULED HEARING.

(C) STAY OF HEARING.

IF A CONTINUANCE IS GRANTED UNDER THIS SECTION, THE ZONING HEARING EXAMINER MAY NOT HEAR THE CASE FOR AT LEAST 30 DAYS AFTER THE TECHNICAL STAFF REPORT IS FILED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–108.1.

In subsection (c) of this section, the phrase "under this section" is substituted for the former phrase "for this reason" for clarity.

25–203. EXAMINATION OF WITNESSES.

(A) CROSS–EXAMINATION ALLOWED.

ALL WITNESSES APPEARING IN A HEARING BEFORE THE DISTRICT COUNCIL ARE SUBJECT TO CROSS–EXAMINATION.

(B) RULES FOR OATHS AND CROSS–EXAMINATION.

(1) THE DISTRICT COUNCIL MAY ESTABLISH RULES FOR THE ADMINISTERING OF OATHS TO AND THE CROSS–EXAMINATION OF WITNESSES APPEARING TO TESTIFY AT DISTRICT COUNCIL HEARINGS.

(2) BEFORE ESTABLISHING RULES UNDER THIS SUBSECTION, THE DISTRICT COUNCIL SHALL CONDUCT A PUBLIC HEARING ON THE PROPOSED RULES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–122.

In subsection (b) of this section, the former references to "procedures" are deleted as included in the references to "rules".

In subsection (b)(1) of this section, the former reference to "reasonable" rules is deleted as implicit.

In subsection (b)(2) of this section, the reference to the "proposed" rules is added for clarity.

Defined term: "District council" § 14–101

25–204. WRITTEN FINDINGS AND CONCLUSIONS REQUIRED.

A CONTESTED APPLICATION FOR A MAP AMENDMENT OR SPECIAL EXCEPTION MAY NOT BE GRANTED OR DENIED WITHOUT WRITTEN FINDINGS OF MATERIAL FACTS AND CONCLUSIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–123.

The reference to "material" facts and conclusions is substituted for the former reference to "basic facts and written conclusions" for clarity.

25–205. RECORD OF HEARING.

THE RECORD OF EVERY DISTRICT COUNCIL HEARING ON A MAP AMENDMENT OR SPECIAL EXCEPTION SHALL INCLUDE:

(1) THE VOTE OF EACH MEMBER;

(2) WHETHER THE MEMBER ABSTAINED FROM VOTING; OR

(3) WHETHER THE MEMBER WAS ABSENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–121.

In the introductory language to this section, the word "include" is substituted for the former word "recite" for clarity.

In item (2) of this section, the former phrase "stated separately" is deleted as implicit.

Defined term: "District council" § 14–101

25–206. PETITION FOR JUDICIAL REVIEW — PEOPLE'S ZONING COUNSEL.

IF THE PEOPLE'S ZONING COUNSEL HAS A REASONABLE BELIEF THAT A FINAL ACTION ON AN APPLICATION FOR A SUBDIVISION, SPECIAL EXCEPTION, VARIANCE, OR SITE PLAN IS ARBITRARY AND CAPRICIOUS, THE PEOPLE'S ZONING COUNSEL MAY PETITION FOR JUDICIAL REVIEW OF THE FINAL ACTION ON BEHALF OF A BONA FIDE CITIZENS ASSOCIATION THAT IS ENTITLED TO JUDICIAL REVIEW UNDER THIS DIVISION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–122.1(b).

In this section, the references to "judicial review" are substituted for the former references to "appeal" for accuracy.

Also in this section, the former reference to subdivision "of land" is deleted as included in the definition of "subdivision". *See* § 14–101 of this article.

Defined term: "Subdivision" § 14–101

25–207. HEARINGS FOR SUBSEQUENT APPLICATIONS FOR SAME PARCEL.

(A) DATE OF DISAPPROVAL.

IN THIS SECTION, "DATE OF DISAPPROVAL" MEANS:

(1) THE DATE OF THE DECISION OF THE DISTRICT COUNCIL; OR

(2) IN CASE OF JUDICIAL REVIEW, THE DATE OF THE FINAL JUDGMENT OF THE CIRCUIT COURT.

(B) HEARING FOR SUBSEQUENT APPLICATIONS.

IF THE DISTRICT COUNCIL WHOLLY OR PARTLY DISAPPROVES AN APPLICATION FOR A MAP AMENDMENT, IT MAY NOT ACT ON A SUBSEQUENT APPLICATION FOR ANY PORTION OF THE SAME LAND:

(1) WITHIN 18 MONTHS AFTER THE DATE OF THE FIRST DISAPPROVAL; AND

(2) WITHIN 24 MONTHS AFTER THE DATE OF ANY SUBSEQUENT DISAPPROVAL.

(C) BASIS OF FINDINGS ON SUBSEQUENT APPLICATIONS.

IN ANY SUBSEQUENT APPLICATION FOR ANY PORTION OF THE SAME LAND AND FOR THE SAME ZONING CLASSIFICATION OR THE SAME PURPOSE FOR SPECIAL EXCEPTION, BY THE SAME APPLICANT, THE DISTRICT COUNCIL MAY NOT BASE ITS FINDINGS SOLELY ON ANY FACT OR CIRCUMSTANCE THAT WAS PRESENTED AT THE HEARING ON THE PRIOR APPLICATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–124.

In subsection (a)(2) of this section, the reference to "judicial review" is substituted for the former reference to "appellate review" for accuracy.

Also in subsection (a)(2) of this section, the reference to the date of the "final judgment" is substituted for the former reference to the date the Circuit Court "announces its decision" for accuracy.

In the introductory language to subsection (b) and in subsection (c) of this section, the references to "any portion of the same land" are substituted for the former references to "the same land or any portion thereof" for brevity.

In the introductory language to subsection (b) of this section, the phrase "act on" is substituted for the former word "entertain" for clarity.

In subsection (b)(2) of this section, the reference to "any subsequent" disapproval is substituted for the former reference to "the second or further" disapproval for brevity.

In subsection (c) of this section, the reference to the hearing "on the prior application" is substituted for the former reference to the "earlier" hearing for clarity.

Also in subsection (c) of this section, the former reference to "applicants" is deleted in light of the reference to "applicant" and Art. 1, § 8, which provides that the singular generally includes the plural.

Defined term: "District council" § 14–101

25–208. SPECIAL EXCEPTION — RUBBLE LANDFILL.

THE DISTRICT COUNCIL MAY NOT APPROVE A SPECIAL EXCEPTION TO CONSTRUCT OR OPERATE A RUBBLE LANDFILL:

(1) AT A SITE WITHOUT A THREE–FOURTHS MAJORITY VOTE OF THE DISTRICT COUNCIL; OR

(2) IF AN APPLICATION FOR A SPECIAL EXCEPTION TO CONSTRUCT OR OPERATE A RUBBLE LANDFILL AT THE SITE WAS PREVIOUSLY DENIED ON OR AFTER OCTOBER 1, 1981.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, §§ 8–110.1 and 8–110.2.

Defined term: "District council" § 14–101

25–209. SPECIAL EXCEPTION — SAND AND GRAVEL MINING.

(A) REQUIRED REPORT.

THE COMMISSION SHALL PREPARE A REPORT IN ACCORDANCE WITH THIS SECTION BEFORE A ZONING HEARING EXAMINER OR THE DISTRICT COUNCIL MAY CONDUCT A HEARING ON A REQUEST FOR A SPECIAL EXCEPTION TO MINE SAND OR GRAVEL.

(B) CONTENTS.

THE REPORT SHALL COMPREHENSIVELY EVALUATE THE REQUEST BY ANALYZING THE IMPACT OF THE PROPOSED MINING ACTIVITIES ON THE SURROUNDING AREA, CONSIDERING ONLY:

(1) NOISE;

(2) WATERSHED AND WATER QUALITY;

(3) AIRSHED AND AIR QUALITY;

(4) TRAFFIC AND TRAFFIC SAFETY; AND

(5) OTHER ENVIRONMENTAL FACTORS RELATING TO THE HEALTH, SAFETY, AND WELFARE OF THE RESIDENTS IN THE AFFECTED AREA.

(C) COST.

IN ADDITION TO THE INITIAL FILING FEE, THE APPLICANT SHALL PAY A FEE NOT TO EXCEED $8,000 FOR THE SERVICES OF THE COMMISSION TO PREPARE THE REPORT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–110(c).

Defined terms: "Commission" § 14–101
"District council" § 14–101

25–210. SITE PLAN REVIEW — DISTRICT COUNCIL.

(A) AUTHORIZED; APPEAL.

(1) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE DISTRICT COUNCIL MAY REVIEW A FINAL DECISION OF THE COUNTY PLANNING BOARD TO APPROVE OR DISAPPROVE A DETAILED SITE PLAN.

(2) A PARTY OF RECORD MAY APPEAL TO THE DISTRICT COUNCIL A FINAL DECISION BY THE COUNTY PLANNING BOARD TO APPROVE OR DISAPPROVE A SITE PLAN.

(B) INITIAL CONSIDERATION.

THE DISTRICT COUNCIL MAY ONLY DECIDE WHETHER TO REVIEW THE FINAL APPROVAL OR DISAPPROVAL OF A DETAILED SITE PLAN UNDER THIS SECTION WITHIN 30 DAYS AFTER THE DATE THE FINAL APPROVAL OR DISAPPROVAL WAS ISSUED.

(C) HEARING.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF THE DISTRICT COUNCIL DECIDES TO REVIEW AN APPROVAL OR A DISAPPROVAL UNDER THIS SECTION, THE DISTRICT COUNCIL SHALL HOLD A HEARING WITHIN 70 DAYS AFTER THE DISTRICT COUNCIL ISSUES THE DECISION TO CONDUCT A REVIEW.

(2) THE DISTRICT COUNCIL MAY DECIDE TO EXTEND THE TIME TO HOLD A HEARING UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR UP TO 45 ADDITIONAL DAYS ON ITS OWN MOTION OR ON REQUEST OF THE APPLICANT.

(D) FINAL DECISION.

THE DISTRICT COUNCIL SHALL ISSUE A FINAL DECISION WITHIN 60 DAYS AFTER THE DATE OF THE HEARING.

(E) REVOCATION OF DELEGATION.

THE DISTRICT COUNCIL MAY REVOKE A DELEGATION OF SITE PLAN APPROVAL AUTHORITY TO THE COUNTY PLANNING BOARD ONLY FOR THE PURPOSE OF DELEGATING APPROVAL AUTHORITY OVER DETAILED SITE PLANS TO THE GOVERNING BODY OF A MUNICIPAL CORPORATION IN THE REGIONAL DISTRICT UNDER § 25–301(C)(2)(IX) OF THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–129.

Defined terms: "County" § 14–101
"County planning board" § 14–101
"District council" § 14–101
"Regional district" § 14–101

25–211. ZONING CLASSIFICATION OF BELTSVILLE AGRICULTURAL RESEARCH CENTER ON SALE.

IF THE UNITED STATES DEPARTMENT OF AGRICULTURE SELLS ANY PORTION OF THE PROPERTY KNOWN AS THE BELTSVILLE AGRICULTURAL RESEARCH CENTER, THE DISTRICT COUNCIL SHALL PLACE AND PERMANENTLY MAINTAIN THE LAND IN A ZONING CLASSIFICATION OF AGRICULTURAL OPEN SPACE IMMEDIATELY AFTER THE TRANSFER OF THE LAND TO THE BUYER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–126.

The reference to "any portion of the property" is substituted for the former reference to "the entire parcel of property or a portion of the parcel of property" for brevity.

The former reference to the transfer of the land "from the United States Department of Agriculture" is deleted as unnecessary.

Defined term: "District council" § 14–101

SUBTITLE 3. MUNICIPAL DELEGATION.

25–301. AUTHORIZED.

(A) IN GENERAL.

EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE DISTRICT COUNCIL MAY PROVIDE THAT THE GOVERNING BODY OF A MUNICIPAL CORPORATION MAY EXERCISE THE POWERS OF THE DISTRICT COUNCIL AS SPECIFIED IN THIS SUBTITLE.

(B) SUBSTANTIVE AND PROCEDURAL REQUIREMENTS.

WHEN EXERCISING AUTHORITY DELEGATED UNDER SUBSECTION (C) OR (D) OF THIS SECTION, THE GOVERNING BODY OF A MUNICIPAL CORPORATION:

(1) SHALL BE SUBJECT TO THE SUBSTANTIVE AND PROCEDURAL REQUIREMENTS AND STANDARDS ESTABLISHED BY THE DISTRICT COUNCIL; AND

(2) MAY NOT IMPOSE:

(I) WITH RESPECT TO GENERAL DELEGATION UNDER SUBSECTION (C) OF THIS SECTION, A DIFFERENT REQUIREMENT OR STANDARD THAN THE REQUIREMENTS OR STANDARDS THAT WOULD APPLY IF THE DISTRICT COUNCIL HAD NOT DELEGATED ITS AUTHORITY TO THE MUNICIPAL CORPORATION; OR

(II) WITH RESPECT TO DELEGATION IN A REVITALIZATION OVERLAY ZONE UNDER SUBSECTION (D) OF THIS SECTION, A STRICTER REQUIREMENT OR STANDARD THAN THE REQUIREMENTS OR STANDARDS THAT WOULD APPLY IF THE DISTRICT COUNCIL HAD NOT DELEGATED ITS AUTHORITY TO THE MUNICIPAL CORPORATION.

(C) GENERAL DELEGATION TO MUNICIPAL CORPORATION.

(1) THIS SUBSECTION APPLIES TO LAND IN A MUNICIPAL CORPORATION IN THE REGIONAL DISTRICT.

(2) THE DISTRICT COUNCIL MAY DELEGATE TO THE GOVERNING BODY OF A MUNICIPAL CORPORATION THE POWERS OF THE DISTRICT COUNCIL REGARDING:

(I) DESIGN STANDARDS;

(II) PARKING AND LOADING STANDARDS;

(III) SIGN DESIGN STANDARDS;

(IV) LOT SIZE VARIANCES AND SETBACK AND SIMILAR REQUIREMENTS;

(V) LANDSCAPING REQUIREMENTS;

(VI) CERTIFICATION, REVOCATION, AND REVISION OF NONCONFORMING USES;

(VII) MINOR CHANGES TO APPROVED SPECIAL EXCEPTIONS;

(VIII) VACATION OF MUNICIPAL RIGHTS–OF–WAY; AND

(IX) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, ALL DETAILED SITE PLANS.

(3) THE AUTHORITY TO DELEGATE WITH REGARD TO DETAILED SITE PLANS DOES NOT APPLY TO DETAILED SITE PLANS:

(I) FOR A ZONE THAT REQUIRES DETAILED SITE PLAN APPROVAL BY THE DISTRICT COUNCIL;

(II) THAT ARE REQUIRED AS A CONDITION OF APPROVAL OF A ZONING MAP AMENDMENT OR A PRELIMINARY PLAN OF SUBDIVISION;

(III) FOR WHICH THE APPROVAL OF A CONCEPTUAL SITE PLAN OR A PRELIMINARY PLAN OF CLUSTER SUBDIVISION IS REQUIRED; OR

(IV) THAT ARE REQUIRED FOR DESIGNATED PARCELS AS A SPECIFIC CONDITION OF A SECTIONAL MAP AMENDMENT.

(D) DELEGATION IN REVITALIZATION OVERLAY ZONE; AUTHORITY OF COUNTY PLANNING BOARD.

(1) THIS SUBSECTION APPLIES TO A REVITALIZATION OVERLAY ZONE CREATED BY THE DISTRICT COUNCIL.

(2) FOR ANY PORTION OF A REVITALIZATION OVERLAY ZONE IN A MUNICIPAL CORPORATION, THE DISTRICT COUNCIL MAY DELEGATE TO THE GOVERNING BODY OF A MUNICIPAL CORPORATION THE POWERS OF THE DISTRICT COUNCIL REGARDING:

(I) DESIGN STANDARDS;

(II) PARKING AND LOADING STANDARDS;

(III) SIGN DESIGN STANDARDS;

(IV) LOT SIZE VARIANCES AND SETBACK AND SIMILAR REQUIREMENTS; AND

(V) LANDSCAPING REQUIREMENTS.

(3) THE DELEGATION OF POWERS UNDER PARAGRAPH (2) OF THIS SUBSECTION MAY NOT IMPEDE A DEVELOPMENT THAT MEETS THE REQUIREMENTS THE DISTRICT COUNCIL SETS FOR THE REVITALIZATION OVERLAY ZONE.

(4) FOR ANY PORTION OF A REVITALIZATION OVERLAY ZONE NOT WITHIN A MUNICIPAL CORPORATION, THE DISTRICT COUNCIL MAY AUTHORIZE THE COUNTY PLANNING BOARD TO APPROVE:

(I) DEPARTURES FROM PARKING AND LOADING STANDARDS;

(II) DEPARTURES FROM DESIGN STANDARDS; AND

(III) ANY VARIANCE FROM THE ZONING LAWS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, §§ 8–112.3(a) through (c) and 8–112.4(a) and (b).

In subsection (a) of this section, the phrase "as specified in this subtitle" is added for clarity.

In subsection (b)(1) of this section, the former reference to "a revitalization overlay zone" is deleted as unnecessary.

Defined terms:"County planning board" § 14–101
"District council" § 14–101
"Regional district" § 14–101
"Subdivision" § 14–101
"Zoning law" § 14–101

25–302. JUDICIAL REVIEW.

(A) BY CIRCUIT COURT.

(1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, ANY PARTY OF RECORD TO AN ACTION OF THE GOVERNING BODY OF A MUNICIPAL CORPORATION EXERCISED UNDER § 25–301(C) OF THIS SUBTITLE SHALL HAVE THE SAME RIGHT TO JUDICIAL REVIEW BY THE CIRCUIT COURT AS THE PARTY WOULD HAVE IF THE DISTRICT COUNCIL HAD TAKEN THE ACTION.

(2) ANY PARTY TO AN ACTION OF THE GOVERNING BODY OF A MUNICIPAL CORPORATION OR THE COUNTY PLANNING BOARD EXERCISED UNDER § 25–301(D) OF THIS SUBTITLE SHALL HAVE THE SAME RIGHT TO JUDICIAL REVIEW BY THE CIRCUIT COURT AS THE PARTY WOULD HAVE IF THE DISTRICT COUNCIL HAD TAKEN THE ACTION.

(B) ACTIONS REQUIRED BEFORE JUDICIAL REVIEW.

(1) WITH RESPECT TO AN ACTION TAKEN UNDER THE GENERAL DELEGATION AUTHORIZED UNDER § 25–301(C) OF THIS SUBTITLE, BEFORE EXERCISING THE RIGHT TO JUDICIAL REVIEW UNDER SUBSECTION (A)(1) OF THIS SECTION, A PARTY OF RECORD SHALL APPEAL THE ACTION OF THE GOVERNING BODY OF THE MUNICIPAL CORPORATION TO THE DISTRICT COUNCIL FOR REVIEW ON THE RECORD IF THE ACTION CONCERNS:

(I) CERTIFICATION, REVOCATION, OR REVISION OF NONCONFORMING USES; OR

(II) DETAILED SITE PLANS.

(2) ON APPEAL, THE DISTRICT COUNCIL MAY:

(I) APPROVE THE ACTION OF THE MUNICIPAL CORPORATION BY A MAJORITY VOTE OF ITS MEMBERS; OR

(II) APPROVE THE ACTION OF THE MUNICIPAL CORPORATION WITH CONDITIONS OR OVERRULE THE ACTION BY A VOTE OF AT LEAST SIX MEMBERS.

(3) (I) A PERSON AGGRIEVED BY THE ACTION OF THE DISTRICT COUNCIL UNDER THIS SUBSECTION MAY REQUEST JUDICIAL REVIEW OF THE ACTION BY THE CIRCUIT COURT.

(II) THE MUNICIPAL CORPORATION WHOSE ACTION IS AFFECTED BY THE ACTION OF THE DISTRICT COUNCIL SHALL BE CONSIDERED AN AGGRIEVED PERSON.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, §§ 8–112.3(d) and 8–112.4(c).

Throughout this section, the references to "judicial review" are substituted for the former references to "appeal" for accuracy.

In subsection (b) of this section, the phrase "with respect to an action taken under the general delegation authorized under § 25–301(c) of this subtitle" is added for clarity.

Defined terms: "County planning board" § 14–101
"District council" § 14–101
"Person" § 14–101

25–303. STRICTER STANDARDS AUTHORIZED IN METROPOLITAN DISTRICT.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES TO LAND IN A MUNICIPAL CORPORATION THAT IS IN THE METROPOLITAN DISTRICT AND IS:

(1) ZONED FOR RESIDENTIAL OR COMMERCIAL USE; OR

(2) ADJACENT TO RESIDENTIAL OR COMMERCIAL ZONES.

(B) STRICTER STANDARDS AUTHORIZED.

(1) NOTWITHSTANDING ANY OTHER LAW, AND FOR THE PURPOSE OF PRESERVING, IMPROVING, OR PROTECTING THE GENERAL CHARACTER AND DESIGN OF LANDS AND IMPROVEMENTS IN A MUNICIPAL CORPORATION, THE LEGISLATIVE BODY OF THE MUNICIPAL CORPORATION, BY LOCAL LAW, MAY IMPOSE STRICTER OR ADDITIONAL CONDITIONS, RESTRICTIONS, OR LIMITATIONS THAN ARE OTHERWISE REQUIRED BY STATE, REGIONAL, OR COUNTY ZONING LAWS OR AGENCIES EXERCISING ZONING AND PLANNING JURISDICTION OVER THE MUNICIPAL CORPORATION.

(2) THE STRICTER OR ADDITIONAL CONDITIONS, RESTRICTIONS, OR LIMITATIONS MAY APPLY ONLY TO:

(I) FENCES;

(II) RESIDENTIAL PARKING; AND

(III) RESIDENTIAL STORAGE.

(C) PUBLIC HEARING REQUIRED.

THE LEGISLATIVE BODY OF A MUNICIPAL CORPORATION MAY NOT ENACT A LOCAL LAW UNDER THIS SECTION WITHOUT HOLDING A PUBLIC HEARING ON ALL ISSUES.

(D) DELIVERY OF LOCAL LAW TO COUNTY.

A MUNICIPAL CORPORATION THAT ENACTS A ZONING LAW IN ACCORDANCE WITH THIS SECTION SHALL DELIVER A CERTIFIED COPY OF THE LOCAL LAW TO THE DISTRICT COUNCIL WITHIN 5 DAYS AFTER THE ENACTMENT AND AT LEAST 30 DAYS BEFORE THE EFFECTIVE DATE OF THE LOCAL LAW.

(E) APPROVAL REQUIRED.

(1) IF THE DISTRICT COUNCIL DOES NOT APPROVE THE LOCAL LAW BEFORE THE EFFECTIVE DATE OF THE LOCAL LAW, THE LOCAL LAW SHALL BE CONSIDERED DISAPPROVED AND MAY NOT TAKE EFFECT.

(2) THE LOCAL LAW MAY NOT TAKE EFFECT UNLESS APPROVED BY THE DISTRICT COUNCIL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–112.1.

In subsection (b)(1) of this section, the former reference to "any other section of this article" is deleted as included in the reference to "any other law".

Also in subsection (b)(1) of this section, the former reference to "authorities" is deleted as included in the reference to "agencies".

In subsection (e)(1) of this section, the phrase "does not approve" is substituted for the former phrase "upon which no decision is rendered" for clarity.

Also in subsection (e)(1) of this section, the former phrase "enacted in accordance with the authority of this section" is deleted as surplusage.

In subsection (e)(2) of this section, the reference to the "district council" is substituted for the former reference to the "Prince George's County Council" for accuracy.

Defined terms: "District council" § 14–101
"Local law" § 14–101
"Metropolitan district" § 14–101
"State" § 14–101
"Zoning law" § 14–101

SUBTITLE 4. REVITALIZATION AND REDEVELOPMENT.

25–401. LOCAL LAWS AUTHORIZED.

THE COUNTY, BY LOCAL LAW, MAY PROVIDE FOR:

(1) THE REVITALIZATION AND REDEVELOPMENT ACTIVITIES OF THE COMMISSION IN THE COUNTY, INCLUDING:

(I) THE ORGANIZATION OR MANAGEMENT OF ANY REVITALIZATION OR REDEVELOPMENT ACTIVITIES OF THE COMMISSION; AND

(II) CONSOLIDATION OF COMMISSION ACTIVITIES WITH THE REDEVELOPMENT AUTHORITY OF THE COUNTY; AND

(2) THE MANAGEMENT AND MARKETING OF ENTERPRISE OPERATIONS BY THE COMMISSION IN THE COUNTY, INCLUDING

CONSOLIDATION OF COMMISSION ACTIVITIES WITH THE REVENUE AUTHORITY OF THE COUNTY.

REVISOR'S NOTE: This section formerly was Art. 28, § 5–401(a).

The only changes are in style.

Defined terms: "Commission" § 14–101
"County" § 14–101
"Local law" § 14–101

25–402. LIMITATIONS.

A LOCAL LAW ENACTED UNDER THIS SUBTITLE MAY NOT IMPAIR OR ABROGATE:

(1) ANY RIGHT, INCLUDING MERIT SYSTEM AND PENSION SYSTEM RIGHTS, OR BENEFIT OF ANY EMPLOYEE OF THE COMMISSION; OR

(2) ANY PENSION OBLIGATION OF THE COMMISSION FOR ANY COMMISSION EMPLOYEE.

REVISOR'S NOTE: This section formerly was Art. 28, § 5–401(b).

The only changes are in style.

Defined terms: "Commission" § 14–101
"Local law" § 14–101

SUBTITLE 5. DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENTS.

25–501. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was the introductory language to Art. 28, § 7–121.1(a).

In this subsection and throughout this subtitle the word "subtitle" is substituted for the former word "section" to reflect the reorganization of material derived from former Art. 28, § 7–121.1 in this subtitle.

No other changes are made.

(B) AGREEMENT.

"AGREEMENT" MEANS A DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENT NEGOTIATED AND EXECUTED BY THE COUNTY EXECUTIVE OR THE COUNTY EXECUTIVE'S DESIGNEE, WITH THE APPROVAL OF THE DISTRICT COUNCIL, TO ESTABLISH CONDITIONS FOR ADVANCING SCHOOL CAPACITY.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 28, § 7–121.1(a)(3).

Defined term: "District council" § 14–101

(C) DEVELOPER.

"DEVELOPER" MEANS A PERSON WITH A LEGAL OR EQUITABLE INTEREST IN REAL PROPERTY LOCATED IN PRINCE GEORGE'S COUNTY.

REVISOR'S NOTE: This subsection formerly was Art. 28, § 7–121.1(a)(1).

The only changes are in style.

Defined term: "Person" § 14–101

(D) DEVELOPMENT.

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

(2) "DEVELOPMENT" DOES NOT INCLUDE NORMAL AGRICULTURAL ACTIVITY.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 28, § 7–121.1(a)(2).

25–502. PETITION TO REQUEST EXECUTION.

A DEVELOPER OR DEVELOPER'S REPRESENTATIVE MAY PETITION THE COUNTY EXECUTIVE TO REQUEST THAT AN AGREEMENT BE EXECUTED.

REVISOR'S NOTE: This section formerly was Art. 28, § 7–121.1(c).

The only changes are in style.

Defined terms: "Agreement" § 25–501
"Developer" § 25–501

25–503. POWERS OF COUNTY EXECUTIVE.

(A) IN GENERAL.

EXCEPT AS PROVIDED UNDER SUBSECTION (B) OF THIS SECTION, THE COUNTY EXECUTIVE MAY:

(1) NEGOTIATE AGREEMENTS WITH A DEVELOPER FOR REAL PROPERTY LOCATED IN THE COUNTY;

(2) INCLUDE A FEDERAL, STATE, OR LOCAL GOVERNMENT OR UNIT AS AN ADDITIONAL PARTY TO THE AGREEMENT; AND

(3) EXECUTE AN AGREEMENT.

(B) LIMITATION.

THE COUNTY EXECUTIVE MAY NOT ENTER INTO AN AGREEMENT UNLESS:

(1) THE AGREEMENT IS APPROVED BY THE DISTRICT COUNCIL; AND

(2) THE COUNTY PLANNING BOARD DETERMINES THAT THE PROPOSED AGREEMENT IS CONSISTENT WITH THE COMMISSION'S GENERAL PLAN.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–121.1(d) and (g).

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in subsection (b)(2) of this section, the county executive may not enter into an agreement unless the county planning board, an unelected body not a party to the agreement, determines "that" the agreement is consistent with the Commission's general plan. This places the county planning board in an unusual position with respect to the prerogative of the county executive. In the corresponding provision in Montgomery County, § 24–304(c) of this article, the county planning board is an executing party to the agreement, and so there is no such problem in that jurisdiction. *Cf.* Revisor's Note to § 7–305 of this article.

Defined terms: "Agreement" § 25–501
"Commission" § 14–101
"County planning board" § 14–101
"Developer" § 25–501
"District council" § 14–101
"State" § 14–101

25–504. POWERS OF DISTRICT COUNCIL.

(A) IN GENERAL.

THE DISTRICT COUNCIL MAY:

(1) ESTABLISH PROCEDURES AND REQUIREMENTS FOR THE CONSIDERATION AND EXECUTION OF AGREEMENTS, INCLUDING PROVISIONS FOR NEGOTIATION AND APPROVAL IN ACCORDANCE WITH THIS SUBTITLE; AND

(2) APPROVE AGREEMENTS NEGOTIATED BY THE COUNTY EXECUTIVE.

(B) LIMITATION.

THE DISTRICT COUNCIL SHALL REQUIRE A PUBLIC HEARING BEFORE APPROVING AN AGREEMENT.

REVISOR'S NOTE: This section formerly was Art. 28, § 7–121.1(e).

The only changes are in style.

Defined terms: "Agreement" § 25–501
"District council" § 14–101

25–505. EFFECTIVE.

AN AGREEMENT EXECUTED BY THE COUNTY EXECUTIVE TAKES EFFECT WITHOUT ANY FURTHER ACTION BY THE DISTRICT COUNCIL.

REVISOR'S NOTE: This section formerly was Art. 28, § 7–121.1(f).

No changes are made.

Defined terms: "Agreement" § 25–501
"District council" § 14–101

25–506. CONTENT.

(A) REQUIRED.

AN AGREEMENT SHALL INCLUDE:

(1) A DESCRIPTION OF THE REAL PROPERTY SUBJECT TO THE AGREEMENT;

(2) THE PARTIES INVOLVED;

(3) THE SPECIFIC PURPOSES OF THE AGREEMENT;

(4) THE DURATION OF THE AGREEMENT;

(5) A PHYSICAL DESCRIPTION AND LOCATION OF THE STRUCTURES AND SUPPORTING FACILITIES AND FEATURES ON THE REAL PROPERTY;

(6) A DESCRIPTION OF ALL ANTICIPATED PERMITS REQUIRED OR ALREADY APPROVED FOR THE DEVELOPMENT OF THE REAL PROPERTY;

(7) PROVISIONS FOR THE CONSTRUCTION OR FINANCING OF ADEQUATE PUBLIC FACILITIES FOR SCHOOLS;

(8) A STATEMENT THAT THE PROPOSED DEVELOPMENT IS CONSISTENT WITH:

(I) THE COMMISSION'S GENERAL PLAN; AND

(II) ALL APPLICABLE DEVELOPMENT LAWS AND REGULATIONS; AND

(9) A DESCRIPTION OF THE REQUIREMENTS DETERMINED BY THE COUNTY PLANNING BOARD TO BE NECESSARY TO ENSURE THE PUBLIC HEALTH, SAFETY, AND WELFARE.

(B) AUTHORIZED.

AN AGREEMENT MAY:

(1) ESTABLISH THE TERMS BY WHICH AND A PERIOD OF TIME WHEN DEVELOPMENT, OR INDIVIDUAL PHASES, SHALL BEGIN AND BE COMPLETED; AND

(2) PROVIDE FOR OTHER MATTERS IN ACCORDANCE WITH THIS DIVISION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–121.1(h).

In subsection (a)(5) of this section, the former reference to "buildings" is deleted as included in the reference to "structures".

In subsection (a)(9) of this section, the former reference to "conditions, terms, restrictions, or other" requirements is deleted as included in the reference to "requirements".

In subsection (b)(1) of this section, the former reference to "an approved" development is deleted as implicit.

Defined terms: "Agreement" § 25–501
"Commission" § 14–101
"County planning board" § 14–101
"Development" § 25–501

25–507. TERM.

(A) IN GENERAL.

EXCEPT AS OTHERWISE PROVIDED IN THE AGREEMENT OR EXTENDED BY AMENDMENT UNDER § 25–509 OF THIS SUBTITLE, AN AGREEMENT IS VOID 15 YEARS AFTER EXECUTION BY THE PARTIES.

(B) EXTENSION.

ANY EXTENSION TO AN AGREEMENT IS SUBJECT TO APPROVAL BY THE DISTRICT COUNCIL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–121.1(i).

In subsection (a) of this section, the phrase "is void 15 years after execution by the parties" is substituted for the former phrase "shall contain a definite period of duration … not exceeding 15 years" for clarity and brevity. The Land Use Article Review Committee brings this

substitution to the attention of the General Assembly. No substantive change is intended.

Also in subsection (a) of this section, the former phrase "that is determined by the parties" is deleted as unnecessary.

Defined terms: "Agreement" § 25–501
"District council" § 14–101

25–508. LAW GOVERNING AGREEMENT.

THE LAWS, RULES, REGULATIONS, AND POLICIES IN FORCE AT THE TIME THE PARTIES EXECUTE AN AGREEMENT SHALL GOVERN THE USE, DENSITY, OR INTENSITY OF DEVELOPMENT OF THE REAL PROPERTY SUBJECT TO THE AGREEMENT UNLESS THE DISTRICT COUNCIL OR STATE OR FEDERAL GOVERNMENT DETERMINES THAT COMPLIANCE WITH LAWS, RULES, REGULATIONS, AND POLICIES ENACTED AFTER THE PARTIES EXECUTED THE AGREEMENT IS ESSENTIAL TO ENSURE PUBLIC HEALTH, SAFETY, OR WELFARE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–121.1(j).

The reference to intensity "of development" is added for clarity.

The reference to "public health, safety, or welfare" is substituted for the former reference to "the health, safety, or welfare of the residents of all or part of the jurisdiction" for brevity and consistency within this article.

The former word "adopted" is deleted as included in the word "enacted".

Defined terms: "Agreement" § 25–501
"Development" § 25–501
"District council" § 14–101
"State" § 14–101

25–509. AMENDMENT.

THE PARTIES TO AN AGREEMENT MAY AMEND THE AGREEMENT BY MUTUAL CONSENT IF THE DISTRICT COUNCIL:

(1) APPROVES ANY SUBSTANTIVE AMENDMENT; AND

(2) DETERMINES THAT THE PROPOSED AMENDMENT TO THE AGREEMENT IS CONSISTENT WITH THE COMMISSION'S GENERAL PLAN.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–121.1(k).

In item (1) of this section, the word "substantive" is substituted for the former word "substantial" for clarity. The Land Use Article Review Committee brings this substitution to the attention of the General Assembly. No substantive change is intended.

Also in item (1) of this section, the word "amendment" is substituted for the former reference to "modification" for clarity and consistency within this section.

Defined terms: "Agreement" § 25–501
"Commission" § 14–101
"District council" § 14–101

25–510. TERMINATION.

(A) BY MUTUAL CONSENT.

THE PARTIES TO AN AGREEMENT MAY TERMINATE THE AGREEMENT BY MUTUAL CONSENT.

(B) BY COUNTY EXECUTIVE.

IF THE COUNTY EXECUTIVE DETERMINES THAT SUSPENSION OR TERMINATION OF AN AGREEMENT IS ESSENTIAL TO ENSURE THE PUBLIC HEALTH, SAFETY, OR WELFARE, THE COUNTY EXECUTIVE MAY SUSPEND OR TERMINATE THE AGREEMENT.

REVISOR'S NOTE: This section formerly was Art. 28, § 7–121.1(l).

The only changes are in style.

Defined term: "Agreement" § 25–501

25–511. RECORDATION.

(A) REQUIRED.

(1) AN AGREEMENT SHALL BE RECORDED IN THE LAND RECORDS OF PRINCE GEORGE'S COUNTY.

(2) IF AN AGREEMENT IS NOT RECORDED AS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION WITHIN 30 DAYS AFTER ITS EXECUTION BY ALL PARTIES, THE AGREEMENT IS VOID.

(B) EFFECT.

WHEN AN AGREEMENT IS RECORDED UNDER SUBSECTION (A) OF THIS SECTION, THE PARTIES TO THE AGREEMENT AND THEIR SUCCESSORS IN INTEREST ARE BOUND TO THE AGREEMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–121.1(m).

Subsection (a) of this section is revised to state expressly that which was only implied in the former law, *i.e.*, that an agreement is required to be recorded in the Prince George's County land records office to be effective.

Defined term: "Agreement" § 25–501

25–512. ENFORCEMENT.

(A) AUTHORIZED.

UNLESS TERMINATED UNDER § 25–510 OF THIS SUBTITLE, AN AGREEMENT MAY BE ENFORCED BY THE PARTIES TO THE AGREEMENT OR THEIR SUCCESSORS IN INTEREST USING ALL REMEDIES AVAILABLE AT LAW OR IN EQUITY.

(B) NO RIGHT TO ADMINISTRATIVE APPEAL.

NO RIGHT TO AN ADMINISTRATIVE APPEAL ARISES FROM THE NEGOTIATION OR ENFORCEMENT OF AN AGREEMENT.

REVISOR'S NOTE: This section formerly was Art. 28, § 7–121.1(n).

The only changes are in style.

Defined term: "Agreement" § 25–501

SUBTITLE 6. AGRICULTURAL PRESERVATION EASEMENT PROGRAM.

25–601. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 28, § 5–501(a).

No changes are made.

(B) AGRICULTURAL PROPERTY.

"AGRICULTURAL PROPERTY" MEANS PROPERTY THAT IS USED FOR:

(1) AGRICULTURE, VITICULTURE, AQUACULTURE, SILVICULTURE, HORTICULTURE, OR LIVESTOCK AND EQUINE ACTIVITIES;

(2) TEMPORARY OR SEASONAL OUTDOOR ACTIVITIES THAT DO NOT PERMANENTLY ALTER THE PROPERTY'S PHYSICAL APPEARANCE AND THAT DO NOT DIMINISH THE PROPERTY'S RURAL CHARACTER; OR

(3) ACTIVITIES THAT ARE INTRINSICALLY RELATED TO THE ONGOING AGRICULTURAL ENTERPRISE ON THE PROPERTY.

REVISOR'S NOTE: This subsection formerly was Art. 28, § 5–501(b).

The only changes are in style.

(C) DISTRICT.

"DISTRICT" MEANS THE PRINCE GEORGE'S COUNTY SOIL CONSERVATION DISTRICT.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full title "Prince George's County Soil Conservation District".

(D) FUND.

"FUND" MEANS THE PRINCE GEORGE'S COUNTY AGRICULTURAL PRESERVATION EASEMENT FUND.

REVISOR'S NOTE: This subsection formerly was Art. 28, § 5–501(d).

No changes are made.

(E) PRESERVATION.

"PRESERVATION" MEANS THE LIMITATION OF THE USE OF AGRICULTURAL PROPERTY TO THOSE USES CONSISTENT WITH, AND NOT ADVERSELY AFFECTING:

(1) THE AGRICULTURAL CHARACTER OF THE PROPERTY;

(2) THE SCENIC VALUES ENJOYED BY THE PUBLIC; OR

(3) THE GOVERNMENTAL PRESERVATION POLICIES FURTHERED BY THE EASEMENT ACQUISITION.

REVISOR'S NOTE: This subsection formerly was Art. 28, § 5–501(e).

The only changes are in style.

(F) PROGRAM.

"PROGRAM" MEANS THE PRINCE GEORGE'S COUNTY AGRICULTURAL PRESERVATION EASEMENT PROGRAM.

REVISOR'S NOTE: This subsection formerly was Art. 28, § 5–501(f).

No changes are made.

REVISOR'S NOTE TO SECTION:

Former Art. 28, § 5–501(c), which defined "Board" to mean the Prince George's County Planning Board, is deleted because it is not used in this revision. The defined term "county planning board" is used wherever the former term "Board" was used.

25–602. ESTABLISHED.

(A) IN GENERAL.

THERE IS A PRINCE GEORGE'S COUNTY AGRICULTURAL PRESERVATION EASEMENT PROGRAM.

(B) PURPOSES.

THE PURPOSES OF THE PROGRAM ARE TO:

(1) IMPLEMENT THE POLICIES OF THE COUNTY'S GENERAL PLAN AND THE GREEN INFRASTRUCTURE PLAN TO PRESERVE, PROTECT, AND ENHANCE AGRICULTURAL PROPERTIES, PARTICULARLY THOSE IN THE RURAL TIER;

(2) PRESERVE ECOLOGICALLY FRAGILE AND AESTHETICALLY VALUABLE ENVIRONMENTS OF THE COUNTY, INCLUDING STREAMS, STREAM VALLEYS, FLOODPLAINS, WETLANDS, GROUNDWATER, STEEP SLOPES, WOODLANDS, HABITATS, SCENIC VISTAS, AND SCENIC CORRIDORS;

(3) RETAIN AGRICULTURAL LAND AND AUGMENT OTHER LOCAL AND STATE PROGRAMS CERTIFIED IN ACCORDANCE WITH THE CODE OF MARYLAND REGULATIONS FOR THE PRESERVATION OF AGRICULTURAL LAND;

(4) RECOGNIZE THE PUBLIC VALUE IN PROTECTING AGRICULTURE AND AGRICULTURAL VIEWSHEDS, VISTAS, RURAL CULTURE AND CHARACTER, AND LONGSTANDING AGRICULTURAL ENTERPRISES;

(5) LIMIT NONAGRICULTURAL USES;

(6) CONSERVE AND PROTECT BIODIVERSITY AND WILDLIFE AND AQUATIC HABITATS;

(7) PROMOTE INTEREST IN AND THE STUDY OF AGRICULTURE AND AGRICULTURAL PRESERVATION; AND

(8) PROMOTE TOURISM THROUGH THE PRESERVATION OF SCENIC RESOURCES.

REVISOR'S NOTE: This section formerly was Art. 28, § 5–503.

The only changes are in style.

Defined terms: "Agricultural property" § 25–601
"Preservation" § 25–601
"Program" § 25–601
"State" § 14–101

25–603. ADMINISTRATION.

THE DISTRICT SHALL ADMINISTER THE PROGRAM IN ACCORDANCE WITH REGULATIONS THAT THE COUNTY PLANNING BOARD AND THE DISTRICT ADOPT UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–504(a).

Defined terms: "County planning board" § 14–101
"District" § 25–601
"Program" § 25–601

25–604. LOCAL LAWS.

(A) AUTHORIZED.

THE COUNTY COUNCIL MAY ENACT LOCAL LAWS TO PROVIDE FOR:

(1) AGRICULTURAL PRESERVATION, OUTREACH, AND MARKETING;

(2) MAINTENANCE OF ACTIVITIES ON AGRICULTURAL PROPERTIES OF THE COMMISSION; AND

(3) THE PRESERVATION OF THE AGRICULTURAL INDUSTRY.

(B) CONSISTENCY.

A LOCAL LAW ENACTED UNDER SUBSECTION (A) OF THIS SECTION MAY NOT BE INCONSISTENT WITH THIS DIVISION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–504(b).

Defined terms: "Agricultural property" § 25–601
"Commission" § 14–101
"Local law" § 14–101
"Preservation" § 25–601

25–605. REGULATIONS.

(A) IN GENERAL.

THE COUNTY PLANNING BOARD AND THE DISTRICT SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

(B) REQUIRED CONTENTS.

THE REGULATIONS SHALL:

(1) ESTABLISH AN APPLICATION PROCESS FOR THE PROGRAM;

(2) ESTABLISH CRITERIA FOR ASSIGNING PRIORITIES TO APPLICATIONS FOR EASEMENTS TO PURCHASE;

(3) ESTABLISH A PROCESS FOR NEGOTIATING THE PURCHASE OF EASEMENTS;

(4) ALLOW THE DISTRICT TO PROCURE ANY APPRAISALS NECESSARY FOR VALUATION OF EACH EASEMENT; AND

(5) SPECIFY A METHOD FOR APPRAISING AND VALUING EASEMENTS TO ENCOURAGE LANDOWNERS TO PARTICIPATE IN THE PROGRAM AND MAXIMIZE THE ACREAGE FOR EASEMENTS TO BE PURCHASED.

(C) PERMISSIBLE CONTENTS.

THE REGULATIONS MAY PROVIDE FOR THE ADJUDICATION AND APPEAL OF ANY DISPUTED EASEMENT VALUATION BY THE COUNTY PROPERTY TAX ASSESSMENT APPEAL BOARD IN ACCORDANCE WITH § 2–511 OF THE AGRICULTURE ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–505.

Defined terms: "County planning board" § 14–101
"District" § 25–601
"Program" § 25–601

25–606. PRINCE GEORGE'S COUNTY AGRICULTURAL PRESERVATION EASEMENT FUND.

(A) ESTABLISHED.

THERE IS A PRINCE GEORGE'S COUNTY AGRICULTURAL PRESERVATION EASEMENT FUND.

(B) ADMINISTRATION.

THE COUNTY PLANNING BOARD SHALL ADMINISTER THE FUND.

(C) CONTENTS.

THE FUND CONSISTS OF REVENUES FROM COUNTY METROPOLITAN DISTRICT TAXES OR COUNTY REGIONAL DISTRICT TAXES.

(D) PURPOSES.

THE PURPOSES OF THE FUND ARE TO:

(1) PRESERVE, PROTECT, AND ENHANCE AGRICULTURAL PROPERTIES; AND

(2) IMPLEMENT THE PURPOSES OF THE PROGRAM.

(E) AUTHORIZED USES.

(1) THE FUND SHALL BE USED TO PURCHASE EASEMENTS TO IMPLEMENT THE PROGRAM.

(2) IN DECIDING WHICH EASEMENTS TO PURCHASE USING THE FUND, THE COUNTY PLANNING BOARD SHALL:

(I) EXERCISE PRUDENCE AND DUE DILIGENCE; AND

(II) CONSIDER THE RECOMMENDATIONS OF THE DISTRICT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–506(a) through (d).

In subsection (c) of this section, the phrase "[t]he Fund consists of revenues" is substituted for the former phrase "[t]he Board shall deposit in the Fund revenues" for clarity and consistency with standard language establishing a fund.

Also in subsection (c) of this section, the former reference to taxes "authorized in accordance with § 2–118 of this article" is deleted as implicit.

Defined terms: "Agricultural property" § 25–601
"County planning board" § 14–101
"District" § 25–601
"Fund" § 25–601
"Metropolitan district" § 14–101
"Program" § 25–601

"Regional district" § 14–101

25–607. EASEMENT PURCHASE IN REGIONAL DISTRICT.

(A) AUTHORIZED.

THE COUNTY PLANNING BOARD MAY PURCHASE AN EASEMENT ON AGRICULTURAL PROPERTY IN THE COUNTY THAT IS OUTSIDE THE METROPOLITAN DISTRICT BUT IS IN THE REGIONAL DISTRICT.

(B) AVAILABLE FUNDS.

TO FURTHER THE PURPOSES OF THE PROGRAM, THE COUNTY PLANNING BOARD MAY EXPEND ANY CURRENT MONEY THAT IS AUTHORIZED UNDER THIS DIVISION TO BE USED TO PURCHASE EASEMENTS IN THE COUNTY IN THE METROPOLITAN DISTRICT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–506(e).

Defined terms: "Agricultural property" § 25–601
"County planning board" § 14–101
"Metropolitan district" § 14–101
"Program" § 25–601
"Regional district" § 14–101

25–608. CONVEYANCE AND RECORDATION.

(A) CONVEYANCE.

WHEN AN AGRICULTURAL PRESERVATION EASEMENT IS PURCHASED IN ACCORDANCE WITH THIS SUBTITLE, THE PROPERTY OWNER SHALL CONVEY A PERPETUAL PRESERVATION EASEMENT TO THE COUNTY PLANNING BOARD AT THE TIME OF SETTLEMENT.

(B) RECORDATION.

THE EASEMENT SHALL BE RECORDED IN THE COUNTY LAND RECORDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–506(f).

Defined terms: "County planning board" § 14–101
"Preservation" § 25–601

25–609. CONTESTED CASES.

TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE DOES NOT APPLY TO THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was Art. 28, § 5–507.

The only change is in style.

SUBTITLE 7. ANACOSTIA RIVER FLOOD CONTROL.

25–701. IN GENERAL.

THE COUNTY SHALL COOPERATE OR CONTRACT WITH THE UNITED STATES IN ANY MATTER RELATING TO ANY PROJECT FOR FLOOD CONTROL OR NAVIGATION IN THE VALLEYS OF THE ANACOSTIA RIVER AND ITS TRIBUTARIES IN THE COUNTY.

REVISOR'S NOTE: This section formerly was Art. 28, § 9–101(a)(1).

The only changes are in style.

Defined term: "County" § 14–101

25–702. APPROVAL.

(A) REQUIRED SUBMISSIONS.

BEFORE THE COUNTY ENTERS INTO ANY CONTRACT OR AGREEMENT WITH THE UNITED STATES AND BEFORE ANY PLAN RELATING TO A FLOOD CONTROL OR NAVIGATION PROJECT OR THE MAINTENANCE OR OPERATION OF A FLOOD CONTROL OR NAVIGATION PROJECT IS APPROVED, THE COUNTY SHALL SUBMIT FOR CONSIDERATION EACH CONTRACT, AGREEMENT, OR PLAN AFFECTING A STATE ROAD OR LAND IN A PARK OR PARKWAY UNDER THE JURISDICTION OF THE COMMISSION TO:

(1) THE STATE HIGHWAY ADMINISTRATION; AND

(2) THE COMMISSION.

(B) LIMITATION.

THE COUNTY MAY NOT APPROVE A PLAN OR ENTER INTO A CONTRACT OR AN AGREEMENT THAT IS INCONSISTENT WITH:

(1) THE PURPOSES OF THE CAPPER–CRAMTON ACT, PUBLIC LAW 71–284, 46 STAT. 482; OR

(2) ANY AGREEMENT BETWEEN THE COMMISSION AND THE NATIONAL CAPITAL PLANNING COMMISSION RELATED TO THE PARK AND PARKWAY SYSTEM AUTHORIZED BY THAT ACT.

REVISOR'S NOTE: This section formerly was Art. 28, § 9–101(b) and (a)(2).

In the introductory language to subsection (a) of this section and throughout this subtitle, the references to a flood control "or navigation" project are added for clarity and consistency throughout this subtitle.

The only other changes are in style.

Defined terms: "Commission" § 14–101
"Park" § 14–101
"Road" § 14–101
"State" § 14–101

25–703. COSTS.

(A) IN GENERAL.

EXCEPT FOR COSTS BORNE BY THE UNITED STATES OR THE STATE HIGHWAY ADMINISTRATION, THE COUNTY SHALL PAY ALL COSTS OF A FLOOD CONTROL OR NAVIGATION PROJECT FROM THE STORMWATER MANAGEMENT FUND.

(B) COVERED EXPENSES.

THE COUNTY SHALL APPLY THE FUND TO THE COST OF:

(1) CONSTRUCTING AND RELOCATING ALL COUNTY ROADS AND BRIDGES RELATED TO THE FLOOD CONTROL OR NAVIGATION PROJECT;

(2) CONSTRUCTING NECESSARY INTERNAL DRAINAGE FACILITIES;

(3) RELOCATING UTILITY STRUCTURES; AND

(4) ACQUIRING LAND AND BUILDINGS NECESSARY FOR THE FLOOD CONTROL OR NAVIGATION PROJECTS.

(C) CONTRIBUTIONS.

THE COUNTY MAY ACCEPT CONTRIBUTIONS FROM THE UNITED STATES, THE DISTRICT OF COLUMBIA, THE STATE, MONTGOMERY COUNTY, ANY MUNICIPAL CORPORATION OR SPECIAL TAXING DISTRICT, OR ANY OTHER PERSON IF THE COUNTY DETERMINES THAT THE CONTRIBUTION MAY ASSIST IN THE CONSTRUCTION OF ANY PROJECT UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was Art. 28, § 9–101(c) and (d).

In subsection (c) of this section, the reference to a special taxing "district" is substituted for the former reference to a special taxing "area" for clarity.

The only other changes are in style.

Defined terms: "County" § 14–101
"Person" § 14–101
"Road" § 14–101
"State" § 14–101

25–704. RECREATIONAL FACILITIES; USE OF ACQUIRED LANDS.

THE COMMISSION:

(1) MAY USE THE LANDS ACQUIRED FOR FLOOD CONTROL OR NAVIGATION PROJECTS FOR PARK PURPOSES IF THE USE DOES NOT INTERFERE WITH THE CONSTRUCTION, MAINTENANCE, AND OPERATION OF THE PROJECTS; AND

(2) SHALL CONTROL AND OPERATE RECREATIONAL FACILITIES WITHIN THE PROJECTS.

REVISOR'S NOTE: This section formerly was Art. 28, § 9–102.

The only changes are in style.

Defined terms: "Commission" § 14–101
"Park" § 14–101

GENERAL REVISOR'S NOTE TO SUBTITLE

Former Art. 28, § 9–101(e), which provided for the continuity of a certain obligation of the City of Bowie to pay certain outstanding bonds and interest, applies only to a limited and diminishing class of obligations. It is transferred to the Session Laws to avoid any inadvertent substantive effect its repeal might have. *See* § 16 of Ch. 426, Acts of 2012.

SUBTITLE 8. PRINCE GEORGE'S COUNTY RECREATION PROGRAM.

25–801. POWERS AND DUTIES OF COUNTY PLANNING BOARD.

(A) RECREATION PROGRAM IN GENERAL.

THE COUNTY PLANNING BOARD SHALL:

(1) PROVIDE AN ADEQUATE AND BALANCED PROGRAM OF RECREATION TO SERVE THE NEEDS AND INTERESTS OF VARIOUS AGE GROUPS AMONG THE RESIDENTS OF THE COUNTY; AND

(2) COORDINATE THE PROGRAM WITH THE COMMISSION'S PARK FUNCTIONS.

(B) PROGRAM FACILITIES.

THE COUNTY PLANNING BOARD MAY DEVELOP A PROGRAM OF RECREATION THAT MAY INCLUDE PHYSICAL, SOCIAL, MENTAL, AND CREATIVE OPPORTUNITIES THAT THE COUNTY PLANNING BOARD CONSIDERS APPROPRIATE TO OFFER IN:

(1) MAJOR RECREATION CENTERS, PLAYFIELDS, ATHLETIC FIELDS, PLAYGROUNDS, TENNIS COURTS, BASEBALL DIAMONDS, SWIMMING POOLS, GOLF COURSES, COMMUNITY CENTERS, AND SOCIAL CENTERS ON PUBLICLY OR PRIVATELY OWNED LAND OR BUILDINGS MADE AVAILABLE FOR THESE PURPOSES OR OVER WHICH THE COUNTY PLANNING BOARD HAS SOLE OR JOINT JURISDICTION; OR

(2) LAND OR BUILDINGS OF A MUNICIPAL CORPORATION OR POLITICAL SUBDIVISION IN THE COUNTY, IF THE MUNICIPAL CORPORATION OR POLITICAL SUBDIVISION REQUESTS THE SERVICES OF THE COUNTY PLANNING BOARD.

(C) INCORPORATION OF ACTIVITIES OF SPORTS GROUPS.

THE COUNTY PLANNING BOARD MAY CONTRACT WITH RECREATION OR SPORTS GROUPS OR ASSOCIATIONS TO INCORPORATE THE ACTIVITIES OF THE GROUPS OR ASSOCIATIONS INTO THE PROGRAM ESTABLISHED BY THE COUNTY PLANNING BOARD UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, §§ 5–201 and 5–202.

In the introductory language to subsection (b) of this section, the word "develop" is substituted for the former phrase "initiate, adopt, conduct, direct, or cause to be conducted or directed under its supervision" for brevity.

Also in the introductory language to subsection (b) of this section, the former reference to a "comprehensive" program is deleted as surplusage.

Also in the introductory language to subsection (b) of this section, the former reference to "the operation and direction of games, sports, arts and crafts, hobby shops, music, drama, dancing, [and] nursery play" is deleted as included in the reference to "physical, social, mental, and creative opportunities".

Also in the introductory language to subsection (b) of this section, the former reference to "leisure–time participation" is deleted as unnecessary in light of the reference to "recreation".

In subsection (b)(1) of this section, the reference to "land or buildings" is substituted for the former reference to "lands and buildings or other facilities" for brevity. Similarly, in subsection (b)(2) of this section, the former reference to "other facilities" is deleted.

In subsection (c) of this section, the former reference to "negotiat[ing] by" contract is deleted as implicit in the reference to "contract[ing]".

For provisions relating to park employees, *see* Title 16, Subtitle 5 of this article.

Defined terms: "Commission" § 14–101
"County planning board" § 14–101
"Park" § 14–101

25–802. COOPERATION WITH OTHER AGENCIES AND ORGANIZATIONS.

THE COUNTY PLANNING BOARD, IN THE DEVELOPMENT AND CONDUCT OF ITS RECREATION PROGRAM AND IN SCHEDULING THE USE OF PUBLICLY OWNED

LAND OR BUILDINGS FOR THE CONDUCT OF THE PROGRAM, SHALL COOPERATE WITH RECOGNIZED AND GENERALLY ACCEPTED AGENCIES, GROUPS, AND ORGANIZATIONS THAT MAY REQUEST TO USE THE LAND OR BUILDINGS.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 28, § 5–204.

The former reference to "planning" the program of recreation is deleted as unnecessary in light of the reference to "development" of the program.

The former phrase "to the fullest extent possible" is deleted as surplusage.

The former reference to "duly" recognized organizations is deleted as unnecessary.

Defined term: "County planning board" § 14–101

25–803. GRANTS AND GIFTS.

THE COUNTY PLANNING BOARD MAY ACCEPT GRANTS AND GIFTS FROM ANY SOURCE TO CARRY OUT THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from the second sentence of former Art. 28, § 5–204.

The phrase "any source" is substituted for the former phrase "governmental or private sources" for brevity and clarity.

The phrase "carry[ing] out this subtitle" is substituted for the former phrase "us[ing] [funds] in furtherance of the functions and programs provided herein" for clarity and brevity.

Defined term: "County planning board" § 14–101

25–804. REGULATIONS.

THE COUNTY PLANNING BOARD MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–205.

The reference to the county planning board adopting "regulations to carry out this subtitle" is substituted for the former reference to the board

adopting "whatever rules and regulations as it may deem necessary for the conduct of the programs as authorized and prescribed for it under this article" for clarity and brevity.

Defined term: "County planning board" § 14–101

25–805. ADVISORY COMMITTEES ON RECREATION.

(A) STANDING ADVISORY COMMITTEE.

SUBJECT TO CONFIRMATION BY THE COUNTY COUNCIL, THE COUNTY EXECUTIVE:

(1) SHALL APPOINT A STANDING ADVISORY COMMITTEE ON RECREATION, WHICH SHALL BE REPRESENTATIVE OF THE RESIDENTS OF THE COUNTY; AND

(2) MAY APPOINT ADDITIONAL ADVISORY COMMITTEES ON RECREATION AS NECESSARY.

(B) COUNTY PLANNING BOARD RECOMMENDATIONS.

THE COUNTY PLANNING BOARD MAY MAKE RECOMMENDATIONS REGARDING THE FUNCTIONS AND MEMBERSHIP OF THE ADVISORY COMMITTEES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–206.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in subsection (a)(1) of this section, the word "residents" is substituted for the former word "citizens" because the relationship between recreation programs and the status of citizenship is unclear.

In subsections (a)(2) and (b) of this section, the former phrase "from time to time" is deleted as surplusage.

Defined terms: "County" § 14–101
"County planning board" § 14–101

25–806. ANNUAL BUDGET; RECREATION SCHEDULE.

(A) ANNUAL BUDGET.

THE COUNTY PLANNING BOARD SHALL PREPARE AND SUBMIT TO THE COUNTY COUNCIL AN ANNUAL BUDGET, INCLUDING A SCHEDULE OF RECREATION ACTIVITIES AND PROGRAMS.

(B) APPROVAL OF RECREATION SCHEDULE.

THE COUNTY COUNCIL'S APPROVAL OF THE RECREATION SCHEDULE IS CONCURRENCE IN THE RECREATION ACTIVITIES AND PROGRAMS PROPOSED FOR ANY FISCAL YEAR.

(C) MODIFICATION OF SCHEDULE.

THE COUNTY COUNCIL MAY:

(1) MODIFY THE RECREATION SCHEDULE; AND

(2) DIRECT THE COUNTY PLANNING BOARD TO INITIATE ANY RECREATION ACTIVITY OR PROGRAM.

(D) INITIATION OF ACTIVITY OR PROGRAM.

THE COUNTY PLANNING BOARD SHALL INITIATE ANY ACTIVITY OR PROGRAM DIRECTED BY THE COUNTY COUNCIL WITH REASONABLE PROMPTNESS TO THE EXTENT FUNDS ARE AVAILABLE FOR THAT PURPOSE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–207.

Throughout this section, the references to the "County Council" are substituted for the former obsolete references to the "County Commissioners" to accurately reflect the current form of government in Prince George's County.

In subsection (b) of this section, the former reference to "[r]eview of the Board's proposed budget" is deleted as implicit in the approval of the recreation schedule, which is included in the budget.

In subsection (c)(1) of this section, the reference to "recreation schedule" is substituted for the former reference to the "schedule contained in the proposed budget" for clarity and consistency with the terminology used in subsection (b).

Also in subsection (c)(1) of this section, the former reference to a "change" in the schedule is deleted as included in a "modif[ication]" of the schedule.

In subsection (d) of this section, the reference to "any activity or program directed by the County Council" is substituted for the former reference to "such activity or program" for clarity.

Defined term: "County planning board" § 14–101

25–807. BLADENSBURG MARINA AND BOAT BASIN.

(A) DEFINITIONS.

(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "ENTERPRISE FUND" MEANS THE MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION ENTERPRISE FUND.

(3) "MARINA" MEANS THE BLADENSBURG MARINA AND BOAT BASIN ESTABLISHED BY CHAPTER 618 OF THE ACTS OF 1959, AND ALL IMPROVEMENTS, FACILITIES, AND APPURTENANCES OF THE BLADENSBURG MARINA AND BOAT BASIN.

(B) ADMINISTRATION, MAINTENANCE, AND OPERATION.

THE COMMISSION SHALL ADMINISTER, MAINTAIN, AND OPERATE THE MARINA.

(C) POWERS AND DUTIES OF COMMISSION.

THE COMMISSION:

(1) SHALL ADOPT REGULATIONS FOR THE USE AND ENJOYMENT OF THE MARINA TO ASSURE THAT THE IMPROVEMENTS AND FACILITIES ARE OPEN TO ALL RESIDENTS ON EQUAL TERMS;

(2) SHALL SET THE FEES FOR THE USE OF THE PUBLIC AND COMMERCIAL NAVIGATION FACILITIES; AND

(3) MAY CONTRACT WITH THE WASHINGTON SUBURBAN SANITARY COMMISSION FOR DREDGING ACTIVITIES RELATING TO THE MAINTENANCE AND OPERATION OF THE MARINA.

(D) MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION ENTERPRISE FUND.

(1) THERE IS A MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION ENTERPRISE FUND.

(2) THE ENTERPRISE FUND SHALL FINANCE AND ACCOUNT FOR THE MAINTENANCE AND OPERATION OF THE MARINA.

(3) THE COMMISSION SHALL RECORD REVENUES FROM THE MAINTENANCE AND OPERATION OF THE MARINA IN THE ENTERPRISE FUND.

(4) THE COMMISSION SHALL USE THE REVENUES OF THE ENTERPRISE FUND:

(I) TO OFFSET EXPENDITURES RELATING TO THE MARINA; OR

(II) FOR OTHER ENTERPRISE FUNDS OF THE COMMISSION'S PARK AND RECREATIONAL FACILITIES LOCATED IN THE REGIONAL DISTRICT IN THE COUNTY.

(E) PRINCE GEORGE'S COUNTY TAX.

(1) EACH YEAR THE COUNTY COUNCIL SHALL IMPOSE ON ALL PROPERTY ASSESSED FOR COUNTY TAX PURPOSES IN THE COUNTY AN AD VALOREM TAX AT A RATE THAT THE COMMISSION CERTIFIES AS NECESSARY TO PRODUCE THE AMOUNT REQUIRED TO PAY THE ANNUAL COST OF THE MARINA, LESS THE PROCEEDS OF THE ENTERPRISE FUND.

(2) THE ANNUAL COST INCLUDES THE COST OF DREDGING OPERATIONS RELATING TO THE MAINTENANCE AND OPERATION OF THE MARINA.

(F) MONTGOMERY COUNTY NOT LIABLE.

(1) MONTGOMERY COUNTY IS NOT LIABLE FOR ANY COST, DEBT, EXPENSE, OR OBLIGATION RELATING TO THE ADMINISTRATION, OPERATION, OR MAINTENANCE OF THE MARINA.

(2) FUNDS FOR THE ADMINISTRATION, OPERATION, OR MAINTENANCE OF THE MARINA MAY NOT BE OBTAINED FROM:

(I) MONTGOMERY COUNTY'S PORTION OF THE BUDGET; OR

(II) MONTGOMERY COUNTY'S PORTION OF UNBUDGETED FUNDS OF THE COMMISSION.

REVISOR'S NOTE: Subsections (b) through (f) and (a)(3) of this section are new language derived without substantive change from former Art. 28, § 5–208.

Subsection (a)(1) of this section is new language added as the standard introduction to a definition subsection.

Subsection (a)(2) of this section is new language added to avoid repetition of the full title "Maryland–National Capital Park and Planning Commission Enterprise Fund".

In subsection (c)(1) of this section, the former reference to "rules" is deleted for consistency within this article. *See* General Revisor's Note to article.

In subsection (e)(1) of this section, the reference to "impos[ing]" a tax is substituted for the former reference to "levy[ing] and collect[ing]" a tax for consistency with other similar terminology throughout the Code.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that in subsection (c)(1) of this section, the word "residents" is substituted for the former word "citizens" because the relationship between open access to the Marina and the status of citizenship is unclear.

Defined terms: "Commission" § 14–101
"Park" § 14–101
"Regional district" § 14–101

TITLE 26. MISCELLANEOUS PROVISIONS.

SUBTITLE 1. HISTORIC GRANT PROGRAMS.

26–101. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 28, § 5–301(a).

No changes are made.

(B) FUND.

"FUND" MEANS:

(1) IN MONTGOMERY COUNTY, THE MONTGOMERY COUNTY HISTORIC PRESERVATION GRANT FUND; AND

(2) IN PRINCE GEORGE'S COUNTY, THE PRINCE GEORGE'S COUNTY HISTORIC PROPERTY GRANT FUND.

REVISOR'S NOTE: This subsection formerly was Art. 28, § 5–301(c).

The only change is in style.

Defined terms: "Historic property" § 26–101
"Preservation" § 26–101

(C) HISTORIC PROPERTY.

(1) "HISTORIC PROPERTY" MEANS A DISTRICT, SITE, BUILDING, STRUCTURE, OR OBJECT SIGNIFICANT IN THE HISTORY, UPLAND OR UNDERWATER ARCHAEOLOGY, ARCHITECTURE, ENGINEERING, OR CULTURE OF THE STATE.

(2) "HISTORIC PROPERTY" INCLUDES REMAINS RELATED TO A DISTRICT, SITE, BUILDING, STRUCTURE, OR OBJECT DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

REVISOR'S NOTE: This subsection formerly was Art. 28, § 5–301(d).

In paragraph (2) of this subsection, the phrase "described in paragraph (1) of this subsection" is added for clarity.

The only other changes are in style.

Defined term: "State" § 14–101

(D) PRESERVATION.

"PRESERVATION" MEANS THE IDENTIFICATION, EVALUATION, RECORDATION, DOCUMENTATION, ACQUISITION, PROTECTION, MANAGEMENT, REHABILITATION, RESTORATION, STABILIZATION, MAINTENANCE, OR RECONSTRUCTION OF A HISTORIC PROPERTY.

REVISOR'S NOTE: This subsection formerly was Art. 28, § 5–301(e).

The only change is in style.

Defined term: "Historic property" § 26–101

(E) PROGRAM.

"PROGRAM" MEANS:

(1) IN MONTGOMERY COUNTY, THE MONTGOMERY COUNTY HISTORIC PRESERVATION GRANT PROGRAM; AND

(2) IN PRINCE GEORGE'S COUNTY, THE PRINCE GEORGE'S COUNTY HISTORIC PROPERTY GRANT PROGRAM.

REVISOR'S NOTE: This subsection formerly was Art. 28, § 5–301(f).

The only change is in style.

Defined terms: "Historic property" § 26–101
"Preservation" § 26–101

REVISOR'S NOTE TO SECTION:

Former Art. 28, § 5–301(b), which defined "Board" to mean the Montgomery County Planning Board or the Prince George's County Planning Board, is deleted because the term is not used in this revision.

26–102. ESTABLISHED; PURPOSE.

(A) ESTABLISHED.

(1) THERE IS A MONTGOMERY COUNTY HISTORIC PRESERVATION GRANT PROGRAM.

(2) THERE IS A PRINCE GEORGE'S COUNTY HISTORIC PROPERTY GRANT PROGRAM.

(B) PURPOSES.

THE PURPOSES OF EACH PROGRAM ARE TO:

(1) PRESERVE, PROTECT, AND ENHANCE HISTORIC PROPERTIES;

(2) ENCOURAGE OTHERS TO PRESERVE, PROTECT, AND ENHANCE HISTORIC PROPERTIES; AND

(3) PROMOTE INTEREST IN AND THE STUDY OF HISTORIC PROPERTIES.

REVISOR'S NOTE: This section formerly was Art. 28, § 5–302.

In the introductory language to subsection (b) of this section, the reference to the "purposes of each Program" is substituted for the former reference to the "purpose of the Program" for clarity and accuracy.

The only other changes are in style.

Defined terms: "Historic property" § 26–101
"Preservation" § 26–101
"Program" § 26–101

26–103. NATURE OF PROGRAMS.

EACH PROGRAM IS OF GENERAL BENEFIT TO THE RESIDENTS OF THE STATE AND IS CHARITABLE IN NATURE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–303.

The Land Use Article Review Committee notes, for consideration by the General Assembly, that the reference to "residents" is substituted for the former reference to "citizens" because the relationship between the Program benefits and the proximity of residents is clear, whereas the relationship between the benefits and citizenship, including its attendant rights and duties such as voting and jury service, is unclear. No substantive change is intended.

The former phrase "declared to be" is deleted as unnecessary.

Defined terms: "Program" § 26–101
"State" § 14–101

26–104. POWERS AND DUTIES.

(A) IN GENERAL.

THE POWERS AND DUTIES OF EACH PROGRAM ARE VESTED IN AND EXERCISED BY:

(1) IN MONTGOMERY COUNTY, THE COUNTY PLANNING BOARD IN CONSULTATION WITH THE MONTGOMERY COUNTY HISTORIC PRESERVATION COMMISSION; AND

(2) SUBJECT TO SUBSECTION (B) OF THIS SECTION, IN PRINCE GEORGE'S COUNTY, THE COUNTY PLANNING BOARD.

(B) PRINCE GEORGE'S COUNTY.

(1) IN PRINCE GEORGE'S COUNTY, THE COUNTY, BY LOCAL LAW, MAY PROVIDE FOR THE HISTORIC PRESERVATION, OUTREACH AND MARKETING, AND MAINTENANCE OF HISTORIC PROPERTIES ACTIVITIES OF THE COMMISSION.

(2) A LOCAL LAW ENACTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE CONSISTENT WITH THE PROVISIONS OF THIS DIVISION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–304.

Defined terms: "Commission" § 14–101
"County planning board" § 14–101
"Historic property" § 26–101
"Local law" § 14–101
"Preservation" § 26–101
"Program" § 26–101

26–105. FUNDING.

(A) FUNDS ESTABLISHED.

(1) THERE IS A MONTGOMERY COUNTY HISTORIC PRESERVATION GRANT FUND.

(2) THERE IS A PRINCE GEORGE'S COUNTY HISTORIC PROPERTY GRANT FUND.

(B) ADMINISTRATION.

EACH COUNTY PLANNING BOARD ADMINISTERS ITS FUND.

(C) DEPOSITS.

EACH COUNTY PLANNING BOARD SHALL DEPOSIT IN ITS FUND THOSE AMOUNTS AUTHORIZED IN ACCORDANCE WITH TITLE 18, SUBTITLE 1 OF THIS ARTICLE TO:

(1) IMPLEMENT AND ENCOURAGE RESTORATION AND PRESERVATION OF HISTORIC PROPERTIES; AND

(2) IMPLEMENT THE PURPOSES OF ITS PROGRAM.

(D) EXPENDITURES.

(1) EACH COUNTY PLANNING BOARD SHALL EXPEND THE AMOUNTS IN ITS FUND TO MAKE GRANTS TO NONPROFIT ORGANIZATIONS OR FOUNDATIONS.

(2) IN MONTGOMERY COUNTY:

(I) GRANTS MAY ALSO BE MADE FOR RESEARCH, DEVELOPING EDUCATIONAL MATERIALS, AND GENERALLY PROMOTING HISTORIC PRESERVATION; AND

(II) IN MAKING GRANTS, THE COUNTY PLANNING BOARD, IF PRACTICAL TO DO SO, SHALL OBTAIN AND IMPLEMENT THE RECOMMENDATIONS OF THE MONTGOMERY COUNTY HISTORIC PRESERVATION COMMISSION.

(3) IN PRINCE GEORGE'S COUNTY:

(I) GRANTS MAY ALSO BE MADE TO POLITICAL SUBDIVISIONS OR INDIVIDUALS TO ACQUIRE, PRESERVE, RESTORE, OR REHABILITATE HISTORIC PROPERTIES; AND

(II) IN MAKING GRANTS, THE COUNTY PLANNING BOARD SHALL SOLICIT AND CONSIDER THE RECOMMENDATIONS OF THE PRINCE GEORGE'S COUNTY HISTORIC PRESERVATION COMMISSION.

(E) GRANT OF PERPETUAL EASEMENT.

WHEN A COUNTY PLANNING BOARD AWARDS A GRANT, THE GRANT RECIPIENT SHALL CONVEY A PERPETUAL PRESERVATION EASEMENT TO THE COUNTY PLANNING BOARD.

(F) MATCHING FUNDS.

(1) DECISIONS BY A COUNTY PLANNING BOARD CONCERNING GRANTS SHALL BE MADE WITHOUT REGARD TO THE FINANCIAL STATUS OR ANNUAL INCOME OF THE APPLICANT.

(2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, A COUNTY PLANNING BOARD MAY REQUIRE MATCHING FUNDS IN WHATEVER PROPORTION THE COUNTY PLANNING BOARD CONSIDERS APPROPRIATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–306.

Defined terms: "County planning board" § 14–101
"Fund" § 26–101
"Historic property" § 26–101
"Preservation" § 26–101
"Program" § 26–101

26–106. ADOPTION OF REGULATIONS.

EACH COUNTY PLANNING BOARD SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–305.

Defined term: "County planning board" § 14–101

26–107. APPLICABILITY OF ADMINISTRATIVE PROCEDURE ACT.

TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE DOES NOT APPLY TO THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was Art. 28, § 5–307.

The only change is in style.

TITLE 27. ENFORCEMENT.

27–101. VIOLATION; PENALTY.

(A) CHARGE OF VIOLATION.

A CHARGE ALLEGING A VIOLATION OF THIS DIVISION MAY BE BROUGHT BY WARRANT OR INDICTMENT ON THE OATH OR INFORMATION OF A MEMBER OR EMPLOYEE OF THE COMMISSION OR ANY OTHER PERSON.

(B) JURISDICTION.

EXCEPT AS OTHERWISE PROVIDED, A MISDEMEANOR UNDER THIS DIVISION MAY BE ADJUDICATED BEFORE THE DISTRICT COURT OR THE CIRCUIT COURT OF THE COUNTY IN WHICH THE VIOLATION IS COMMITTED.

(C) PENALTY.

(1) EXCEPT AS OTHERWISE PROVIDED IN THIS DIVISION, A PERSON WHO VIOLATES THIS DIVISION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 90 DAYS OR A FINE NOT EXCEEDING $500 OR BOTH.

(2) EACH DAY THAT A VIOLATION OF THIS DIVISION CONTINUES IS A SEPARATE VIOLATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–120.

In subsection (a) of this section, the reference to "[a] charge alleging a violation of this division" is substituted for the former reference to "[i]t" for clarity.

In subsection (b) of this section, the reference to "a misdemeanor under this division" is substituted for the former reference to "[e]very act or omission designated as a misdemeanor in this article" for brevity.

Also in subsection (b) of this section, the phrase "may be adjudicated" is substituted for the former phrase "shall be punished" for accuracy.

Also in subsection (b) of this section, the reference to a "violation" is substituted for the former reference to an "offense" for consistency with the Criminal Law Article and other recently revised articles.

In subsection (c)(1) of this section, the former phrase "in the county jail" is deleted for consistency with the Criminal Law Article. Currently, inmates are sentenced to the custody of a unit such as the Division of Correction and then are placed in a particular facility. *See* CS § 9–103.

Also in subsection (c)(1) of this section, the former reference to a fine or imprisonment or both "in the discretion of the court" is deleted as implicit in the court's authority.

In subsection (c)(2) of this section, the reference to "a violation of this division" is substituted for the former reference to "the act or omission … in violation of the provisions of this article, or of any regulation enacted or decision made under the powers granted in this article" for brevity.

Defined terms: "Commission" § 14–101
"County" § 14–101
"Person" § 14–101

27–102. INTERFERENCE WITH ENTRY INTO BUILDINGS AND PRIVATE PREMISES.

(A) PROHIBITED.

AN OWNER OR TENANT OF A BUILDING OR PRIVATE PREMISES OR AN AGENT OF THE OWNER OR TENANT MAY NOT RESTRAIN OR HINDER THE ENTRY, EXAMINATION, SURVEY, OR PLACING OR MAINTENANCE OF MONUMENTS OR MARKS BY A COMMISSIONER OR AN EMPLOYEE OR AGENT OF THE COMMISSION UNDER § 15–118 OF THIS ARTICLE.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 90 DAYS OR A FINE NOT EXCEEDING $500 OR BOTH.

(C) CONTINUING VIOLATION.

EACH DAY A VIOLATION CONTINUES IS A SEPARATE VIOLATION.

REVISOR'S NOTE: This section is new language derived without substantive change from the second sentence of former Art. 28, § 2–116 and the third and fourth sentences, and, as it related to misdemeanor offenses, the first sentence of § 2–120.

In subsection (a) of this section, the reference to an owner or tenant "of a building or private premises" is added for clarity.

In subsection (b) of this section, the specific reference to "imprisonment not exceeding 90 days or a fine not exceeding $500 or both" is substituted for the former reference to "the general penalty provisions of this article" for clarity.

Defined terms: "Commission" § 14–101
"Commissioner" § 14–101
"Person" § 14–101

GENERAL REVISOR'S NOTE TO ARTICLE

The Department of Legislative Services is charged with revising the law in a clear, concise, and organized manner, without changing the effect of the law. One precept of revision has been that, once something is said, it should be said in the same way every time. To that end, the Land Use Article Review Committee conformed the language and organization of this article to that of previously enacted revised articles to the extent possible.

It is the manifest intent both of the General Assembly and the Land Use Article Review Committee that this bulk revision of the substantive land use law of the State render no substantive change. The guiding principle of the preparation of this article is that stated in *Welch v. Humphrey*, 200 Md. 410, 417 (1952):

[T]he principal function of a Code is to reorganize the statutes and state them in simpler form. Consequently, any changes made in them by a Code are presumed to be for the purpose of clarity rather than change of meaning. Therefore, even a change in the phraseology of a statute by a codification thereof will not ordinarily modify the law, unless the change is so radical and material that the intention of the Legislature to modify the law appears unmistakably from the language of the Code. (citations omitted)

Accordingly, except to the extent that changes, which are noted in Revisor's Notes, clarify the former law, the enactment of this article in no way is intended to make any change to the substantive law of Maryland. This intent is further stated in uncodified language included in the enactment of this article. *See* § 17 of Ch. 426, Acts of 2012.

Throughout this article, as in other revised articles, for consistency and to avoid unnecessary confusion, the singular verb "adopt" is used in relation to rules or regulations, and verbs such as "prescribe" and "promulgate" are deleted.

Also throughout this article, the defined term "local law" is substituted for the former terms "ordinance", "resolution", and in some cases, "regulation". The definition of local law as "an enactment of the legislative body of a local jurisdiction, whether by ordinance, resolution, or otherwise" is intended to unify the terminology used for local

enactments, without altering how each local jurisdiction is procedurally authorized to adopt the local law under its express powers as a charter county, code county, commissioner county, municipal corporation, or Baltimore City. *See* §§ 1–101(j) and 14–101(g) of this article. The definition specifically excludes a "public local law" in order to avoid confusion with a provision that might otherwise newly become subject to referendum. *Cf. Kent Island Defense League v. Queen Anne's Co. Bd. of Elections*, 145 Md. App. 684 (2002). In order to clarify that the substitution of the comprehensive term "local law" for the former references to "ordinances" and "resolutions" does not in any manner alter the form or mechanism by which a local jurisdiction adopts a local law that a provision of this article requires or authorizes, the Land Use Article Review Committee added rules of interpretation to that effect in each division of this article. *See* §§ 1–205 and 14–203 of this article. No substantive change is intended.

Also throughout this article, for clarity and consistency with other recently revised articles, references to "the public", "members of the public", and "residents" are commonly substituted for former phrases such as "the citizens of this State" and "the citizens of Maryland" because the meaning of the word "citizen" in such contexts is unclear.

Also throughout this article, for consistency with other recently revised articles, the term "municipal corporation" is generally substituted for former references such as "municipality", "incorporated city", "incorporated town", and "incorporated municipality" to conform to Article XI–E of the Maryland Constitution. However, wherever the former law used the term "incorporated municipality" as defined in former Art. 28, § 8–104(c), revised in part in § 14–101 of this article as "governed special taxing district" or "governed district", the term "incorporated municipality" has been replaced by the phrase "municipal corporation or governed special taxing district" or "municipal corporation or governed district" for accuracy and clarity. The term "governed special taxing district" includes special taxing areas and similar entities "hav[ing] an elected local governing body and perform[ing] general municipal functions". No substantive change is intended.

Also throughout this article, for consistency, the former phrase "real or personal", which formerly modified the comprehensive term "property", is deleted to avoid the implication that there is any other form of property which is neither real nor personal. Similarly, former references to "land or other" property, and "interests in" property, in conjunction with references to "property", are deleted as implicit in the comprehensive references to "property". Unless otherwise qualified by specific terms such as "real" or "personal", any reference to "property" in this article means property of any sort, real or personal, tangible or intangible, or with any permissible mixture of those attributes, even in conjunction with a phrase such as an "interest in land".

Also throughout this article, in the context of acquisition of property for consideration, the references to acquisition "by condemnation or purchase" and similar phrases are deleted as implicit in the comprehensive reference to "acquisition", which is not limited as to the mechanism of transfer of title.

Also throughout this article, references to the "chair" and "vice chair", respectively, are substituted for former references to the "chairman" and "vice–chairman", respectively, because § 2–1238 of the State Government Article requires, to the extent practicable, the use of words that are neutral as to gender. Similar substitutions are made to other former gender–specific terms.

In some provisions in this article, as in other revised articles, the term "unit" is substituted for former references to State entities such as "agency", "department", "division", "office", "commission", "board", "committee", and "council". In revised articles of the Code, the term "unit" is used as the general term for an organization in the State government because it is broad enough to include all such entities.

In Division I of this article, references to "this division" are substituted for the former references to "this article" to reflect the reorganization of former Article 66B – Land Use in Division I of this article. Similarly, in Division II of this article, references to "this division" are substituted for the former references to "this article" to reflect the reorganization of material derived from former Article 28 – Maryland–National Capital Park and Planning Commission in Division II of this article.

In provisions governing bonding authority, principally in Title 18, Subtitle 2 of this article, references to a trust "agreement" are substituted for the former references to a trust "indenture" to reflect current terminology in bond practice. Similarly, references to a "competitive or negotiated" sale of bonds are substituted for former references to a "public or private" sale to reflect current terminology.

References to current units and positions are substituted for obsolete references to entities and positions that have been abolished or have otherwise ceased to exist.

Some apparently obsolete provisions allocated to the Land Use Article are transferred to the Session Laws for historical purposes or to avoid any inadvertent substantive effect their repeal might have.

In some instances, the staff of the Department of Legislative Services may create "Special Revisor's Notes" to reflect the substantive effect of legislation enacted during the 2012 Session on some provisions of this article.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article 1 – Rules of Interpretation

25.

(a) Unnumbered revised articles of the Annotated Code of Maryland may be cited as stated in this section.

(b) A section of the Agriculture Article may be cited as: "§___ of the Agriculture Article".

(c) A section of the Business Occupations and Professions Article may be cited as: "§___ of the Business Occupations and Professions Article".

(d) A section of the Business Regulation Article may be cited as: "§___ of the Business Regulation Article".

(e) A section of the Commercial Law Article may be cited as: "§___ of the Commercial Law Article".

(f) A section of the Corporations and Associations Article may be cited as: "§___ of the Corporations and Associations Article".

(g) A section of the Correctional Services Article may be cited as: "§___ of the Correctional Services Article".

(h) A section of the Courts and Judicial Proceedings Article may be cited as: "§___ of the Courts Article".

(i) A section of the Criminal Law Article may be cited as: "§___ of the Criminal Law Article".

(j) A section of the Criminal Procedure Article may be cited as: "§___ of the Criminal Procedure Article".

(k) A section of the Economic Development Article may be cited as: "§___ of the Economic Development Article".

(l) A section of the Education Article may be cited as: "§___ of the Education Article".

(m) A section of the Election Law Article may be cited as: "§___ of the Election Law Article".

(n) A section of the Environment Article may be cited as: "§___ of the Environment Article".

(o) A section of the Estates and Trusts Article may be cited as: "§___ of the Estates and Trusts Article".

(p) A section of the Family Law Article may be cited as: "§___ of the Family Law Article".

(q) A section of the Financial Institutions Article may be cited as: "§___ of the Financial Institutions Article".

(r) A section of the Health – General Article may be cited as: "§___ of the Health – General Article".

(s) A section of the Health Occupations Article may be cited as: "§___ of the Health Occupations Article".

(t) A section of the Housing and Community Development Article may be cited as: "§___ of the Housing and Community Development Article".

(u) A section of the Human Services Article may be cited as: "§___ of the Human Services Article".

(v) A section of the Insurance Article may be cited as: "§___ of the Insurance Article".

(w) A section of the Labor and Employment Article may be cited as: "§___ of the Labor and Employment Article".

(x) **A SECTION OF THE LAND USE ARTICLE MAY BE CITED AS: "§___ OF THE LAND USE ARTICLE".**

(Y) A section of the Natural Resources Article may be cited as: "§___ of the Natural Resources Article".

[(y)**] (Z)** A section of the Public Safety Article may be cited as: "§___ of the Public Safety Article".

[(z)**] (AA)** A section of the Public Utilities Article may be cited as: "§ ___ of the Public Utilities Article".

[(aa)**] (BB)** A section of the Real Property Article may be cited as: "§___ of the Real Property Article".

[(bb)**] (CC)** A section of the State Finance and Procurement Article may be cited as: "§___ of the State Finance and Procurement Article".

[(cc)**] (DD)** A section of the State Government Article may be cited as: "§___ of the State Government Article".

[(dd)**] (EE)** A section of the State Personnel and Pensions Article may be cited as: "§___ of the State Personnel and Pensions Article".

[(ee)**] (FF)** A section of the Tax – General Article may be cited as: "§___ of the Tax – General Article".

[(ff)**] (GG)** A section of the Tax – Property Article may be cited as: "§___ of the Tax – Property Article".

[(gg)**] (HH)** A section of the Transportation Article may be cited as: "§___ of the Transportation Article".

SECTION 4. AND BE IT FURTHER ENACTED, That Section(s) 14.05(f) of Article 66B – Land Use of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to be Section(s) 9–10B–01 to be under the new subtitle "Subtitle 10B. Charles County New School Capacity Financing" of Article 24 – Political Subdivisions – Miscellaneous Provisions of the Annotated Code of Maryland, to read as follows:

Article 24 – Political Subdivisions – Miscellaneous Provisions

SUBTITLE 10B. CHARLES COUNTY NEW SCHOOL CAPACITY FINANCING.

9–10B–01.

[(f)**] (A)** (1) **[**(i)**]** In this **[**subsection**]** **SECTION** the following words have the meanings indicated.

[(ii) 1.**] (2) (I)** "All county costs" means the total costs incurred to construct new capacity for public school facilities in the county, including costs for:

[A.**] 1.** Land acquisition;

[B.**] 2.** Architectural and engineering design;

[C.**] 3.** Infrastructure;

[D.**] 4.** New classrooms;

[E.**] 5.** Equipment;

[F.**] 6.** Interest on bond principal; and

[G.**] 7.** Bond issuance.

[2.**] (II)** "All county costs" includes the total square footage of new public school facilities multiplied by the State square foot construction allowance, minus the State funding share.

[(iii)**] (3)** "Dwelling type" means single family detached home, town house, or multifamily housing unit.

[(iv)**] (4)** "New residential development" means the development of land that results in the issuance of a use and occupancy permit for a residential dwelling unit.

[(v)**] (5)** "New school capacity construction bonds" means 10–year bonds issued by the County Commissioners under this **[**subsection**] SECTION**.

[(vi)**] (6)** "Public school facilities" means elementary, middle, and high school facilities.

[(vii)**] (7)** "Pupil generation rate" means the average number of students in the county by dwelling type attending elementary, middle, and high school.

(B) THIS SECTION APPLIES ONLY IN CHARLES COUNTY.

[(2) (i)**] (C) (1)** The County Commissioners may issue 10–year new school capacity construction bonds at any time and from time to time on the full faith and credit of the county to fund all county costs in providing new school capacity.

[(ii)**] (2)** The new school capacity construction bonds shall constitute securities:

[1.**] (I)** In which all public officers, public bodies of the State and its political subdivisions, all insurance companies, State banks and trust companies, national banking associations, savings banks, savings and loan associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds including capital in their control or belonging to them; and

[2.**] (II)** Which may be properly and legally deposited with and received by any State or county officer, any State agency, or political subdivision of the State for any purpose for which the deposit of bonds or obligations of the State may be authorized by law.

[(iii)**] (3)** The issuance and sale of new school capacity construction bonds under this **[**subsection**] SECTION** is exempt from the provisions of Article 31, §§ 9 through 11 of the Code.

[(iv)**] (4)** The transfer of, interest on, and any income derived from new school capacity construction bonds shall be exempt from State and local taxation.

[(3) (i)**] (D) (1)** The County Commissioners, by **[**ordinance**] LOCAL LAW**, may fix and impose a fair share school construction excise tax levied against the owner of real property located in the county that is improved by new residential development.

[(ii) 1.**] (2) (I)** For fiscal year 2003, the fair share school construction excise tax may not exceed the following amounts:

[A.**] 1.** For a single–family detached home, $9,700;

[B.**] 2.** For a town house, $9,200; and

[C.**] 3.** For a multifamily housing unit, $7,000.

[2.**] (II)** For fiscal year 2004 and succeeding fiscal years, the limits set forth in **[**subsubparagraph 1**] SUBPARAGRAPH (I)** of this **[**subparagraph**] PARAGRAPH** shall be altered by the same percentage as the change in the producer price index for the materials and components for construction, as reported by the United States Department of Labor, for the fiscal year preceding the year for which the amount is being calculated.

[(iii)**] (3)** Prior to the sale or transfer of real property in Charles County that is improved by new residential development, the seller or transferor shall provide notice to the buyer or transferee that includes:

[1.**] (I)** A statement that the fair share school construction excise tax may be levied on the property; and

[2.**] (II)** The amount of the tax for the dwelling type on the property.

[(iv)**] (4)** The fair share school construction excise tax shall be:

[1.**] (I)** Collected and secured in the same manner as general ad valorem taxes unless otherwise provided by **[**ordinance**] LOCAL LAW**; and

[2.**] (II)** Subject to the same penalties and the same procedure, sale, and lien priority in case of delinquency as provided in general ad valorem taxes.

[(v) 1.**] (5) (I)** The fair share school construction excise tax shall be collected annually over a period of 10 years at level amortized payments of principal and interest.

[2.**] (II)** The rate of interest payable by a property owner shall be set at the rate of interest paid by the county on the new school capacity construction bonds issued in the first year the excise tax is levied on that property owner.

[(vi)**] (6)** The fair share school construction excise tax shall constitute a lien on all taxable real or personal property of the taxpayer for a period of 10 years or until the lien is satisfied by repayment.

[(vii)**] (7)** The revenues from the fair share school construction excise tax shall be used to pay the principal and interest as it becomes due on the new school capacity construction bonds issued under **[**paragraph (2)**] SUBSECTION (C)** of this **[**subsection**] SECTION**.

[(viii)**] (8)** The County Commissioners shall conduct an annual study to determine the current amount of all county costs and the current pupil generation rate by dwelling type in the county before setting the rate of the fair share school construction excise tax.

[(4)**] (E)** The County Commissioners shall hold a public hearing and provide reasonable notice of the hearing prior to:

[(i)**] (1)** Issuing new school capacity construction bonds; and

[(ii)**] (2)** Enacting **[**an ordinance**] A LOCAL LAW** to provide the necessary and appropriate procedures and measures to implement the fair share school construction excise tax.

[(5)**] (F)** The Charles County Commissioners shall report to the General Assembly on or before August 1 each year, subject to § 2–1246 of the State Government Article, on the following items, for the preceding fiscal year:

[(i)**] (1)** The amount of the tax set by the Charles County Commissioners for each dwelling type;

[(ii)**] (2)** The amount of proceeds derived from the issuance and sale of the county's new school capacity construction bonds;

[(iii)**] (3)** The number of parcels of real property improved by new residential development in Charles County; and

[(iv)**] (4)** The number of square feet of new public school capacity approved for construction in Charles County by the Interagency Committee on School Construction.

REVISOR'S NOTE: Chapter 426, Acts of 2012, which enacted the Land Use Article, also enacted this section, of which subsections (a) and (c) through (f) formerly were Art. 66B, § 14.05(f).

Subsection (b) of this section is new language patterned after former Art. 66B, § 14.05(a).

The only changes are in style.

SECTION 5. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article 2B – Alcoholic Beverages

9–216.

(G) (1) THE MONTGOMERY COUNTY BOARD OF LICENSE COMMISSIONERS MAY ISSUE AND RENEW AN ALCOHOLIC BEVERAGES LICENSE THAT THE BOARD PREVIOUSLY ISSUED FOR PREMISES ON WHICH A LAWFUL NONCONFORMING USE EXISTS.

(2) THE BOARD OF LICENSE COMMISSIONERS MAY NOT ISSUE A LICENSE THAT IS LESS RESTRICTIVE THAN ANY LICENSE THAT THE BOARD PREVIOUSLY ISSUED FOR THE PREMISES.

REVISOR'S NOTE: Chapter 426, Acts of 2012, which enacted the Land Use Article, also enacted this subsection, which is new language derived without substantive change from former Art. 28, § 8–109(c).

In paragraph (1) of this subsection, the former phrase "within its discretion" is deleted as surplusage.

SECTION 6. AND BE IT FURTHER ENACTED, That Section(s) 1–101 through 1–105 and 2–121 of Article 28 – Maryland–National Capital Park and Planning Commission of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to the Session Laws, to read as follows:

Maryland–National Capital Park and Planning Commission

[1–101.**] 1.**

The Maryland–National Capital Park and Planning Commission is continued as a body corporate, to have and exercise the powers, duties, and functions provided in **[**this article**]** **FORMER ARTICLE 28 OF THE CODE AND IN DIVISION II OF THE LAND USE ARTICLE**. It is the same agency as that with the same name created by Chapter 448 of the Acts of the General Assembly of Maryland of 1927, as subsequently amended from time to time. Hereafter in this **[**article**]** **SUBHEADING** it may be referred to as "the Commission" or as "Commission".

[1–102.**]** **2.**

All property of every kind belonging to or in the possession of the Commission immediately prior to July 1, 1975 is not abated, but is continued in the name of the Commission herein continued with the same effect as if so originally brought or begun. All subsisting liabilities, obligations, contracts, claims, or demands at law or in equity accrued or to accrue against the Commission or in favor of the Commission without further formality or action of any kind shall be and become on July 1, 1975 the liabilities, obligations, contracts, claims, or demands at law or in equity of the Commission herein continued. No criminal action, prosecution, or indictment arising under the laws of the Commission at any time prior to July 1, 1975 is affected by the enactment of **[**this article**]** **FORMER ARTICLE 28 OF THE CODE**. Any such criminal action, prosecution, or indictment shall be prosecuted under the laws in force prior to July 1, 1975.

[1–103.**]** **3.**

Nothing in **[**this article**]** **FORMER ARTICLE 28 OF THE CODE OR IN DIVISION II OF THE LAND USE ARTICLE** may be construed to affect or impair the validity or obligation of any bonds, notes, or certificates of indebtedness heretofore issued and sold by the Commission under any previous statute which is amended or repealed by **[**this article**]** **THOSE PROVISIONS**. All such bonds, notes, or certificates of indebtedness are ratified and confirmed as the valid and binding obligations of the Commission herein continued in accordance with the terms thereof, as issued upon the full faith and credit of the Commission and of the county or counties guaranteeing them.

[1–104.**]** **4.**

(A) Nothing in **[**this article**]** **FORMER ARTICLE 28 OF THE CODE OR IN DIVISION II OF THE LAND USE ARTICLE** may impair the continued and entire effectiveness of any ordinance, order, regulation, resolution, adoption, certification, decision, determination, plan, map, plat, or other action duly and validly enacted, adopted, made, or taken by the County **[**Commissioners**]** **COUNCIL** or district council of Prince George's County, or by the County Council or district council of Montgomery County, or by the Commission, or by the board of zoning appeals of Prince George's County, or by the county board of appeals of Montgomery County, or by any other body

or official under the authority of any law previously repealed, prior to the effective date of the repeal, unless the ordinance, order, regulation, resolution, adoption, certification, decision, determination, plan, map, plat, or other action may be amended, repealed, revoked, or otherwise changed under and in accordance with the provisions of **[**this article**]** **FORMER ARTICLE 28 OF THE CODE OR OF DIVISION II OF THE LAND USE ARTICLE**.

(B) Nothing contained in **[**this article**]** **FORMER ARTICLE 28 OF THE CODE OR IN DIVISION II OF THE LAND USE ARTICLE** may be deemed or construed to validate, ratify, legalize, or make conforming any building, structure, or use which was, is, or may hereafter be unlawful or prohibited under the provisions of any ordinance, order, regulation, resolution, adoption, certification, decision, determination, plan, map, plat, or other action enacted, adopted, made, or taken by the County Council or district council of Montgomery County or by the County **[**Commissioners**]** **COUNCIL** or district council of Prince George's County, or by the Commission, or by the board of zoning appeals of Prince George's County, or by the county board of appeals of Montgomery County, or by any other body or official under the authority of any law previously repealed, previous to the time the repeal took effect.

[1–105.**]** **5.**

Any zoning ordinance, regulation, resolution, amendment or change, report, zoning map, or other zoning action enacted, adopted, made, or taken prior to April 29, 1977, by the County Council of Montgomery County or the County Council of Prince George's County, acting respectively as the district councils of the regional district, or by the Commission under any applicable laws, are approved, ratified, validated, and confirmed, notwithstanding any defect in the procedure followed in the enactment, adoption, making, or taking of such ordinance, regulation, resolution, amendment or change, report, zoning map, or other zoning action, or any failure strictly to conform to or comply with the procedure specified in the applicable laws; any zoning map amendment enacted by resolution prior to April 29, 1977, by the County Council of Montgomery County or the County Council of Prince George's County, acting respectively as the district councils of the regional district are hereby ratified, confirmed and validated.

[2–121.**]** **6.**

All laws or parts of laws inconsistent with or contrary to the provisions in **[**this article**]** **FORMER ARTICLE 28 OF THE CODE OR IN DIVISION II OF THE LAND USE ARTICLE** are repealed to the extent of the inconsistency.

REVISOR'S NOTE: These sections are new language derived without substantive change from former Art. 28, §§ 1–101, 1–102, 1–103, 1–104, 1–105, and 2–121.

Former Art. 28, § 1–101, which provided for the continuity of the Maryland–National Capital Park and Planning Commission in the recodification of the Public Local Laws governing the Commission as Article 66D of the Annotated Code of Maryland in 1975, and the renumbering of that article as Article 28 in 1983, is not retained in the Code because it is apparently obsolete. It is transferred to the Session Laws to avoid any inadvertent substantive effect that its repeal might have. *See* Ch. 892 of 1975 and Ch. 57 of 1983.

Former Art. 28, § 1–102, which provided for the continuity of certain property, rights, and actions, is not retained in the Code because it applies, if at all, to a diminishing class of legal rights, liabilities, responsibilities, and actions arising before July 1, 1975, and July 1, 1983. It is transferred to the Session Laws to avoid any inadvertent substantive effect that its repeal might have. *See* Ch. 892 of 1975 and Ch. 57 of 1983.

Former Art. 28, § 1–103, which provided for the continuity of certain bonds, is not retained in the Code because it applies, if at all, only to a small class of outstanding bonds issued by the Commission before July 1, 1975, or July 1, 1983. It is transferred to the Session Laws to avoid any inadvertent substantive effect that its repeal might have. *See* Ch. 892 of 1975 and Ch. 57 of 1983.

Former Art. 28, § 1–104, which provided for the continuity of certain actions, is not retained in the Code because it applies, if at all, to a diminishing number of outstanding ordinances, resolutions, decisions, and related actions taken by the local governing bodies of Montgomery County and Prince George's County before the recodification of the Public Local Laws governing the Commission as Article 66D of the Annotated Code of Maryland in 1975, and the renumbering of that article as Article 28 in 1983. It is transferred to the Session Laws to avoid any inadvertent substantive effect that its repeal might have. *See* Ch. 892 of 1975 and Ch. 57 of 1983.

Former Art. 28, § 1–105, which validated certain zoning actions, is not retained in the Code because it applied only to the recodification of the Public Local Laws governing the Commission as Article 66D of the Annotated Code of Maryland in 1975, and the renumbering of that article as Article 28 in 1983, with a technical correction in 1977. It is transferred to the Session Laws to avoid any inadvertent substantive effect that its repeal might have. *See* Ch. 892 of 1975, Ch. 283 of 1977, and Ch. 57 of 1983.

Former Art. 28, § 2–121, which provided that all laws or parts of laws inconsistent with or contrary to the provisions in Article 28 were repealed to the extent of the inconsistency, is not retained in the Code because it

applied to the recodification of the Public Local Laws governing the Commission as Article 66D of the Annotated Code of Maryland in 1975, and the renumbering of that article as Article 28 in 1983. It is transferred to the Session Laws to avoid any inadvertent substantive effect that its repeal might have. *See* Ch. 892 of 1975 and Ch. 57 of 1983.

SECTION 7. AND BE IT FURTHER ENACTED, That Section(s) 4–105(b) of Article 28 – Maryland–National Capital Park and Planning Commission of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to the Session Laws, to read as follows:

Prior Acquisition Contracts

[4–105.**] 1.**

[(b)**]** Any contract or commitment with respect to the acquisition of park lands within the **[**metropolitan district**] MARYLAND–WASHINGTON METROPOLITAN DISTRICT**, entered into by the **MARYLAND–NATIONAL CAPITAL PARK AND PLANNING** Commission prior to the year 1947 pursuant to any act of the General Assembly of Maryland enacted prior thereto, is validated and approved and declared to be binding, in accordance with its terms, upon the State of Maryland, the Commission, and Montgomery County or **[**the County Commissioners of**]** Prince George's County.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 4–105(b).

Former Art. 28, § 4–105(b), which provided for the continuity of certain contracts entered into before 1947, is not retained in the Code because it is apparently obsolete. It is transferred to the Session Laws to avoid any inadvertent substantive effect its repeal might have.

SECTION 8. AND BE IT FURTHER ENACTED, That Section(s) 5–110(a) of Article 28 – Maryland–National Capital Park and Planning Commission of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to the Session Laws, to read as follows:

Long–Term Leases

[5–110.**] 1.**

[(a) The Commission may (1) lease for a term not exceeding 40 years and renew the lease from time to time for additional terms not exceeding ten years each, to any responsible individual, partnership or corporation, any portion of the lands within the metropolitan district, acquired for park purposes under any of the provisions of this article. The Commission may not enter into any lease agreement in excess of 20

years duration without the prior approval of the provisions of the lease by legislative enactment of the county in which the lease property is located in whole or in part. Further, all such lease agreements shall contain provisions for reversion without cost to the Commission of the property and its improvements regardless of whether the improvements were added to the property by the lessee during the term of the lease or any extension of the lease; and/or (2) grant privileges, permits, and/or concessions, and/or enter into contracts relating to the same, with any responsible individual, partnership, or corporation, to engage in any business or enterprise on lands acquired for park purposes within the metropolitan district under any of the provisions of this article; all on terms and conditions the Commission deems advantageous to the development of the park system as a part of the plan for the physical development of the metropolitan district and the plan of the Maryland–Washington Regional District within the metropolitan district. The purpose for which the property is leased, and/or the privileges, permits, and/or concessions are granted, may not be inconsistent with the use of the property for park purposes. Any lease and/or contract executed under the authority of this section shall contain a condition, stating specifically the purposes for which the property is leased, and/or the privilege, permit, or concession is granted. All agreements entered into by the Commission pursuant to this article shall contain provisions forbidding the assignment of the agreement without the consent of the Commission. This article may not be interpreted as a limitation on the Commission's authority to require in any agreement more restrictive provisions deemed by the Commission to be in the public interest.**]** The provisions of **[**this article**]** **FORMER ARTICLE 28 OF THE CODE OR OF DIVISION II OF THE LAND USE ARTICLE** may not be construed to validate any lease or agreement executed prior to July 1, 1972, which provides for an initial term beyond 20 years duration, nor to permit the renegotiation of any lease or agreement executed prior to July 1, 1972, for the purpose of extending the initial term of the lease beyond 20 years duration. This limitation does not apply to any lease with a nonprofit, service–oriented organization.

REVISOR'S NOTE: This section is new language derived without substantive change from the eighth and ninth sentences of former Art. 28, § 5–110(a).

The eighth and ninth sentences of former Art. 28, § 5–110(a), which limited the validation and renegotiation of certain leases and agreements executed before July 1, 1972, are not retained in the Code because they are apparently obsolete. They are transferred to the Session Laws to avoid any inadvertent substantive effect their repeal might have.

SECTION 9. AND BE IT FURTHER ENACTED, That Section(s) 5–106(d) of Article 28 – Maryland–National Capital Park and Planning Commission of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to the Session Laws, to read as follows:

Jesup Blair Park

[5–106.**] 1.**

[(d)**]** The **MARYLAND–NATIONAL CAPITAL PARK AND PLANNING** Commission may have a proper survey made and ascertain and determine the boundaries of the land referred to in the devise **OF JESUP BLAIR PARK**; and record the survey and the boundaries in the land records of Montgomery County; and mark the boundaries in a suitable manner.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 5–106(d).

Former Art. 28, § 5–106(d), which required the Commission to have a survey made and mark certain boundaries, is not retained in the Code because it is apparently obsolete, the survey and marks having already been completed. It is transferred to the Session Laws to avoid any inadvertent substantive effect its repeal might have.

SECTION 10. AND BE IT FURTHER ENACTED, That Section(s) 2–118(a)(1) of Article 28 – Maryland–National Capital Park and Planning Commission of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to the Session Laws, to read as follows:

Budget Programs and Procedures

[2–118.**] 1.**

[(a) None of the provisions of any public general law governing the preparation and filing of budgets by agencies of the State of Maryland are applicable to the budgetary procedure of the Commission.**]** Except as hereinafter provided, the budget programs and procedures heretofore followed by the Commission are ratified and confirmed and approved for use by the **MARYLAND–NATIONAL CAPITAL PARK AND PLANNING** Commission hereafter, together with such improvements therein as, in the discretion of the **MARYLAND–NATIONAL CAPITAL PARK AND PLANNING** Commission, be deemed necessary or appropriate in the public interest.

[(1) For each fiscal year, beginning on July 1 and ending on June 30 of the subsequent year, the Commission shall prepare an annual capital and operating budget which shall contain, separately for each county where items are so allocable for which a tax is levied, the proposed expenditures and estimates of revenue anticipated. The proposed budget shall be established as hereinafter set forth. The Commission's budget shall include for each county within the regional district a complete planning work program including a schedule for the production of all plans and amendments, hereinafter called the planning schedule of the Commission. The budget shall contain items allocable to both counties including provisions for the operation of the departments of the Commission established pursuant to law and the regional planning

program. The budget shall also contain a schedule of recreation activities and programs for Prince George's County in accordance with § 5–207 of this article.**]**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 2–118(a)(1).

The second sentence of the introductory language to former Art. 28, § 2–118(a), which provided for the continuity of certain budget programs and procedures, is not retained in the Code because it applies, if at all, to a diminishing number of programs and procedures of the Maryland–National Capital Park and Planning Commission as of July 1, 1975. It is transferred to the Session Laws to avoid any inadvertent substantive effect that its repeal might have. *See* Ch. 892 of 1975 and Ch. 57 of 1983.

For the revision of the first sentence of the introductory language to former Art. 28, § 2–118(a), *see* LU § 18–101.

SECTION 11. AND BE IT FURTHER ENACTED, That Section(s) 3–102 through 3–107 of Article 28 – Maryland–National Capital Park and Planning Commission of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to the Session Laws, to read as follows:

Maryland–Washington Metropolitan District Boundaries

[3–102.**] 1.**

(a) The boundaries of the **[**metropolitan district**]** **MARYLAND–WASHINGTON METROPOLITAN DISTRICT** are as follows:

Beginning at a point where the Maryland–District of Columbia boundary line, in Montgomery County, intersects with the Maryland–Virginia boundary line on the southwest side of the Potomac River and running thence in a northwesterly direction about 12.5 miles along the said boundary line to its intersection with a straight line produced southwesterly from the intersection of the centers of Falls Road and the road running westerly and northwesterly from Scotland, at Wayside School, through Oak Spring Lock Triangulation Station; thence northeasterly about 5.3 miles along the aforesaid straight line extended to its intersection with a line 300 feet east of and parallel to the center of Seven Locks Road; thence southerly about 0.1 mile along the aforesaid line to its intersection with a line 300 feet north of and parallel to the center of the Montrose Road, which road runs generally easterly from Seven Locks Road to Randolph; thence easterly about 2.7 miles along the aforesaid line to its intersection with a line 300 feet southwest of and parallel to the center of the Rockville–Washington Road; thence northwesterly about 2.3 miles along the aforesaid line to its intersection with the southern boundary of the Town of Rockville, as defined by §§ 902, 903, 904 and 905 of Article 16 of the Code of Public Local Laws of Maryland

(1939 Edition) and amended by Chapters 203 and 204 of the Laws of Maryland of 1941; thence easterly, southeasterly and northwesterly about 1.9 miles along the aforesaid boundary to its intersection with a line 300 feet north of and parallel to the center of the Rockville–Norbeck Road; thence northeasterly about 4.2 miles along the aforesaid line to its intersection with a line 300 feet west of and parallel to the center of the Norbeck–Olney Road; thence northerly about 0.1 mile along the aforesaid line to its intersection with the prolongation of a line 300 feet northwest of and parallel to the center of the Norbeck–Ednor Road; thence northeasterly and easterly about 3.1 miles along the aforesaid line to its intersection with a line 300 feet northeast of and parallel to the center of the Olney–Norwood–Beltsville Road; thence southeasterly about 2.0 miles along the aforesaid line to its intersection with a line 300 feet northwest of and parallel to the center of the Colesville–Ednor Road; thence northeasterly about 0.3 mile along the aforesaid line to its intersection with the prolongation of a line 300 feet northeast of and parallel to the center of the continuation of the Olney–Norwood–Beltsville Road, also known as the Briggs–Chaney Road; thence southeasterly about 2.2 miles along the aforesaid line extended to its intersection with a line 300 feet southeast of and parallel to the center of the Columbia Road; thence southerly about 0.1 mile along the aforesaid line to its intersection with a line 300 feet northeast of and parallel to the center of the continuation of the Olney–Norwood–Beltsville Road; thence southeasterly about 1.6 miles along the aforesaid line to its intersection with the Montgomery–Prince George's County line; thence southwesterly about 2.9 miles along the aforesaid county line to its intersection with the present dividing line between Election District No. 1 (Vansville) and Election District No. 21 (Berwyn) in Prince George's County; thence southeasterly about 1.7 miles along the aforesaid line to its intersection with the centerline of Little Paint Branch; thence northerly about 2.6 miles along the aforesaid line to its intersection with the original centerline of the Colesville–Beltsville Road, also known as the Odell Road; thence easterly and southeasterly about 2.0 miles along the aforesaid line to its intersection at Vansville with the centerline of the Old Washington–Baltimore Road; thence southwesterly about 0.2 mile along the aforesaid line to its intersection with the original centerline of a road running southerly to Edmonston Road; thence southerly about 1.3 miles along the aforesaid line to its intersection with the centerline of Sunnyside Avenue; thence westerly about 0.1 mile along the aforesaid line to its intersection with the centerline of Indian Creek; thence southerly about 1.2 miles along the aforesaid line to its intersection with the centerline of a small branch running easterly to Edmonston Road, approximately 0.7 mile south of the entrance to Beaverdam Creek; thence easterly about 0.7 mile along the aforesaid line to its intersection with the centerline of Edmonston Road; thence northeasterly about 0.1 mile along the aforesaid line to its intersection with a line drawn due north from the point of intersection of the centers of Good Luck Road and Jefferson Avenue, approximately 1.2 miles east of Edmonston Road; thence due south about 2.3 miles along the aforesaid line to its intersection with a line 300 feet north of and parallel to the center of the Branchville–Glendale Road; thence easterly about 2.2 miles along the aforesaid line to its intersection with the centerline of a road running northerly from Lanham; thence southerly about 1.0 mile along the aforesaid line to its intersection with the centerline of National Defense Highway, thence easterly about 0.4 mile along

the aforesaid line to its intersection with the centerline of Bald Hill Branch; thence southeasterly about 1.4 miles along the aforesaid line to its intersection with the centerline of the George N. Palmer Highway; thence southwesterly about 1.3 miles along the aforesaid line to its intersection with the centerline of the Ardmore–Brightseat Road; thence southerly about 1.5 miles along the aforesaid line to its intersection with the centerline of the Landover–Brightseat Road; thence southeasterly about 0.4 mile along the aforesaid line to its intersection with the centerline of the C. M. Roberts private road; thence southerly about 1.8 miles along the aforesaid line to its intersection with the centerline of Central Avenue; thence westerly about 0.5 mile along the aforesaid line to its intersection with the centerline of the Ritchie Road, which road forms the eastern boundary line of Election District No. 18 (Seat Pleasant); thence southerly, southwesterly, and westerly about 4.3 miles along the aforesaid boundary line to its intersection at Oakland with the centerline of the Washington and Marlboro Road; thence due southwest about 300 feet to a line 300 feet southwest of and parallel to the aforesaid road; thence northeasterly about 1.2 miles along the aforesaid line to its intersection with the Maryland–District of Columbia boundary line; thence due northeast about 1.7 miles along the aforesaid boundary line to the eastern corner of the District of Columbia; thence due northwest 10.0 miles along the aforesaid boundary line to the northern corner of the District of Columbia; thence due southwest about 6.0 miles along the aforesaid boundary line to the place of beginning.

(b) (1) The **[**metropolitan district**]** **MARYLAND–WASHINGTON METROPOLITAN DISTRICT** shall include all of Prince George's County except for those areas excluded under this subsection.

(2) The **[**metropolitan district**]** **MARYLAND–WASHINGTON METROPOLITAN DISTRICT** does not include the following municipal corporations, as the municipal corporations' boundaries were defined as of July 1, 1995:

(i) District Heights; and

(ii) Greenbelt.

(3) The **[**metropolitan district**]** **MARYLAND–WASHINGTON METROPOLITAN DISTRICT** does not include the City of Laurel as its municipal corporate boundaries existed on July 1, 1997.

(4) The **[**metropolitan district**]** **MARYLAND–WASHINGTON METROPOLITAN DISTRICT** does not include the following election districts, as the election districts' boundaries were defined as of July 1, 1966:

(i) Election District No. 4; and

(ii) Election District No. 8.

(c) Notwithstanding the provisions of subsection (b) of this section, in Prince George's County, a public service company, as defined in § 8–401 of the Tax – General Article, may not be excluded from the **[**metropolitan district**]** **MARYLAND–WASHINGTON METROPOLITAN DISTRICT**.

REVISOR'S NOTE: This section formerly was Art. 28, § 3–102.

It is not retained in the Code because the boundaries of the metropolitan district rarely change and having them in the Session Laws will be adequate to maintain their legal status while not confusing users of the Annotated Code. It is transferred to the Session Laws to avoid any inadvertent substantive effect that its repeal might have.

The only changes are in style.

[3–103.**]** **2.**

(a) All of the area of Montgomery County not included within the Maryland–Washington Metropolitan District as it is now or may hereafter be defined, with the exception of the area now or hereafter located within the boundaries of municipal corporations as defined in Article 23A, § 9 of the Code, is hereby added to the Maryland–Washington Metropolitan District and is designated the "Upper Montgomery County Metropolitan District". For purposes of taxation, this shall constitute a special taxing district in which the Montgomery County Council is authorized to levy annually a tax of not to exceed 2 cents on each $100 of assessable real property within the Upper Montgomery County Metropolitan District and 5 cents on each $100 of assessable personal property and operating real property described in § 8–109(c) of the Tax – Property Article within the Upper Montgomery County Metropolitan District, which tax shall be collected and paid over to the Maryland–National Capital Park and Planning Commission and shall be expended by the Commission for the acquisition, maintenance and development of parks and playgrounds in the Upper Montgomery County Metropolitan District, provided that no part of the revenue derived from such tax shall be expended for the amortization of bonds or other certificates of indebtedness.

(b) That portion of the Maryland–Washington Metropolitan District in Montgomery County existing prior to April 28, 1959, and including any extensions that may be made to it from time to time, for purposes of distinction is designated and shall be known as the "Lower Montgomery County Metropolitan District" and shall in all other respects be unaffected by the provisions of this section.

REVISOR'S NOTE: This section formerly was Art. 28, § 3–103.

It is not retained in the Code because the boundaries of the metropolitan district rarely change and having them in the Session Laws will be

adequate to maintain their legal status while not confusing users of the Annotated Code. It is transferred to the Session Laws to avoid any inadvertent substantive effect that its repeal might have.

No changes are made.

[3–104.**] 3.**

All that area located within the corporate limits of the City of Rockville is excluded from the **[**metropolitan district**] MARYLAND–WASHINGTON METROPOLITAN DISTRICT**, any other provisions of this **[**title**] SUBHEADING** to the contrary notwithstanding.

REVISOR'S NOTE: This section formerly was Art. 28, § 3–104.

It is not retained in the Code because the boundaries of the metropolitan district rarely change and having them in the Session Laws will be adequate to maintain their legal status while not confusing users of the Annotated Code. It is transferred to the Session Laws to avoid any inadvertent substantive effect that its repeal might have.

The only changes are in style.

[3–105.**] 4.**

(a) The following described areas within Montgomery County are hereby added to the Lower Montgomery County Metropolitan District:

Beginning at a point on the Rockville Pike (Md. Route 355) lying 0.72 mile north of the intersection of said Rockville Pike and Norris Street, and continuing in a northwesterly direction 1.57 miles along Rockville Pike (Md. Route 355) to Shady Grove Road.

Thence northerly along Shady Grove Road .80 mile to the grade crossing over the B & O Railroad.

Thence crossing the B & O Railroad and continuing northeasterly .10 mile to the corporate limits of Washington Grove.

Thence along the eastern and northern corporate limits of Washington Grove 1.00 mile to the intersection with the Gaithersburg–Laytonsville Road (Md. Route 124).

Thence northerly on the Gaithersburg–Laytonsville Road (Md. Route 124) 2.59 miles to the intersection with Warfield Road.

Thence northeasterly along the Warfield Road 1.10 miles to the Laytonsville corporate limits (at Claysville Road).

Thence southeasterly along the Claysville Road (Md. Route 108) 5.48 miles to the intersection with Georgia Avenue (Md. Route 97) at Olney.

Thence southerly along Georgia Avenue (Md. Route 97) 3.03 miles to the intersection with the existing Maryland–Washington Metropolitan District line approximately 300 feet north of the intersection with the Norwood Road (Md. Route 609).

Thence southwesterly along the existing Maryland–Washington Metropolitan District line which is parallel to, and 300 feet north of, the Norbeck Road (Md. Route 28), approximately 2.66 miles to a point where the existing **[**metropolitan district**]** **MARYLAND–WASHINGTON METROPOLITAN DISTRICT** line intersects the maximum expansion line of Rockville, said point lying approximately 1200 feet southwest along the existing Maryland–Washington Metropolitan District line from the easterly 1010.63 foot line of the property of J. B. and M. C. Shapiro as recorded at Liber 1827, Folio 82 of the land records of Montgomery County, Maryland.

Thence proceeding with the said Rockville and Maryland–Washington Metropolitan District expansion line N 37° 30′ W, 1930 feet to a point.

Thence turning and continuing with said Rockville and Maryland–Washington Metropolitan District expansion line N 66° W, 2250 feet to a point.

Thence turning and continuing in a northerly direction with said Rockville and Maryland–Washington Metropolitan District expansion line, said line being also the west boundary of the Francis Horner property as recorded at Liber 624, Folio 148 of the land records of Montgomery County, Maryland, 1848 feet to a point.

Thence turning and leaving said Francis Horner property and with said Rockville and Maryland–Washington Metropolitan District expansion line in a northwesterly direction, 565 feet, said line being also the south property line of the A. H. Lagasse property as recorded at Liber 1031, Folio 233 of the land records of Montgomery County, Maryland.

Thence turning and continuing with said Rockville and Maryland–Washington Metropolitan District expansion line and leaving the A. H. Lagasse property line, S 46° 30′ W, 710 feet to a point on the northerly line of the Daisy P. Hull property as recorded at Liber 916, Folio 225 of the land records of Montgomery County, Maryland.

Thence turning and continuing with said Rockville and Maryland–Washington Metropolitan District expansion line along said northerly property line of said Daisy P. Hull property N 44° 30′ W, 1110 feet to a point lying within the boundary of Michael

Pakneck property as recorded at Liber 1230, Folio 577 of the land records of Montgomery County, Maryland.

Thence turning and continuing with said Rockville and Maryland–Washington Metropolitan District expansion line in a southwesterly direction 2650 feet to a point on the east property line of A. Gude Sons Company as recorded at Liber 382, Folio 371 of the land records of Montgomery County, Maryland.

Thence turning and continuing with said Rockville and Maryland–Washington Metropolitan District expansion line along said easterly line of A. Gude Sons property in a southerly direction, 264 feet to the southeast corner of said A. Gude Sons property.

Thence turning and continuing with said Rockville and Maryland–Washington Metropolitan District expansion line with the southerly property line of said A. Gude Sons property in a northwesterly direction, 1619 feet to a point.

Thence turning and continuing with said Rockville and Maryland–Washington Metropolitan District expansion line and still with A. Gude Sons southerly property line in a northerly direction 757.30 feet to a point.

Thence turning and continuing with said Rockville and Maryland–Washington Metropolitan District expansion line and still with A. Gude Sons southerly property line, in a westerly direction crossing the Baltimore and Ohio Railroad right–of–way, 2450 feet to a point of intersection of the Maryland–Washington Metropolitan District expansion line, said point being the point of beginning, lying on the Rockville Pike (Maryland Route 355).

(b) No municipal corporation within the areas added by this section to the Maryland–Washington Metropolitan District shall be authorized, by means of an amendment to its charter or otherwise, to exercise any of the powers relating to planning, subdivision control and/or zoning now or hereafter granted to the Maryland–National Capital Park and Planning Commission or the County Council of Montgomery County. If this section shall for any reason be held by any court of competent jurisdiction to be invalid, it is hereby declared to be the intention of the General Assembly that this section would have been enacted without the invalid portion.

REVISOR'S NOTE: This section formerly was Art. 28, § 3–105.

It is not retained in the Code because the boundaries of the metropolitan district rarely change and having them in the Session Laws will be adequate to maintain their legal status while not confusing users of the Annotated Code. It is transferred to the Session Laws to avoid any inadvertent substantive effect that its repeal might have.

The only change is in style.

[3–106.**] 5.**

The boundaries of Lower Montgomery County Metropolitan District are extended by the addition thereto of the three (3) following described areas which said areas shall hereafter become integral portions of the **[**metropolitan district**]** **MARYLAND–WASHINGTON METROPOLITAN DISTRICT**:

(1) All of the Rockville Election District (No. 4) not previously included within said district, excepting therefrom however all the area located within the corporate limits of the City of Rockville as of October 1, 2007, and any area annexed into the City of Rockville on any subsequent date in accordance with Article 23A, § 19 of the Code.

(2) All of the Gaithersburg Election District (No. 9) not previously included within said district, excepting therefrom however all the area located within the corporate limits of the City of Gaithersburg and the Town of Washington Grove as of October 1, 2007, and any area annexed into the City of Gaithersburg or the Town of Washington Grove on any subsequent date in accordance with Article 23A, § 19 of the Code.

(3) All of the Colesville Election District (No. 5) not previously included within said district.

REVISOR'S NOTE: This section formerly was Art. 28, § 3–106.

It is not retained in the Code because the boundaries of the metropolitan district rarely change and having them in the Session Laws will be adequate to maintain their legal status while not confusing users of the Annotated Code. It is transferred to the Session Laws to avoid any inadvertent substantive effect that its repeal might have.

The only change is in style.

[3–107.**] 6.**

The boundaries of the Lower Montgomery County Metropolitan District are extended by the addition thereto of all of that area within Montgomery County which, until May 4, 1965, was in the Upper Montgomery County Metropolitan District.

REVISOR'S NOTE: This section formerly was Art. 28, § 3–107.

It is not retained in the Code because the boundaries of the metropolitan district rarely change and having them in the Session Laws will be adequate to maintain their legal status while not confusing users of the

Annotated Code. It is transferred to the Session Laws to avoid any inadvertent substantive effect that its repeal might have.

For the incorporation of the Upper Montgomery County Metropolitan District into the Lower Montgomery County Metropolitan District, *see* Ch. 365, Acts of 1965.

No changes are made.

SECTION 12. AND BE IT FURTHER ENACTED, That Section(s) 8–115(c) of Article 28 – Maryland–National Capital Park and Planning Commission of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to the Session Laws, to read as follows:

Prince George's County Building Codes

[8–115.**] 1.**

[(c)**]** **[**Following the adoption of any rules or regulations, the County Commissioners of Prince George's County shall cause the rules and regulations adopted by it to be recorded in a book or books kept by it for that purpose in its office, and when recorded all persons shall be deemed and taken to have notice thereof, and no actual notice need be proven. It is further the duty of the County Commissioners to cause to be printed for general distribution a sufficient number of copies of the rules and regulations when adopted and recorded, and the printed copy of the rules and regulations shall be prima facie evidence thereof whenever it may be necessary to prove their existence in any judicial proceedings.**]** The rules and regulations **[**now**]** in force in that portion of the regional district within Prince George's County **BEFORE MAY 7, 1943,** shall be deemed to have been adopted as aforesaid.

REVISOR'S NOTE: This section is new language derived without substantive change from the third sentence of former Art. 28, § 8–115(c).

The third sentence of former Art. 28, § 8–115(c), which provided for the continuity of certain rules and regulations in force in Prince George's County before May 7, 1943, is not retained in the Code because it is apparently obsolete. It is transferred to the Session Laws to avoid any inadvertent substantive effect its repeal might have. *See* Ch. 714, Acts of 1939; § 2HH of Ch. 992, Acts of 1943.

SECTION 13. AND BE IT FURTHER ENACTED, That Section(s) 7–108(d)(2)(i) and (3) of Article 28 – Maryland–National Capital Park and Planning Commission of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to the Session Laws, to read as follows:

Prior Plans and Laws

[7–108.**] 1.**

[(d) (2) (i)**] (A)** **[**The district council shall establish by ordinance or subsequent amendment thereto, after public hearing, (30 days' notice of the time and place of which shall be given by at least one publication in a newspaper of general circulation in the county), procedures for the submission, adoption, approval, and amendment of any plan or part thereof by the Commission. The procedures may include requirements for submission to and approval by the district council of preliminary concepts, guidelines, goals, or plans. The procedures shall include provision for adoption and amendment of plans by the Commission after at least one public hearing thereon, 30 days' notice of the time and place which shall be given by at least one publication in a newspaper of general circulation in the county. They may also include procedures for the approval of each plan or amendment thereto by the district council; and shall include a method for the certification and filing of the plan by the Commission in the office of the clerk of the Circuit Court of Montgomery County and provisions for publication by the Commission of adopted and approved plans.**]** Any plans **[**heretofore**]** adopted **BEFORE OCTOBER 1, 1959,** shall remain in effect according to present provisions unless or until amended or superseded pursuant to procedures established under the provisions of **[**this article**] FORMER ARTICLE 28 OF THE CODE OR OF DIVISION II OF THE LAND USE ARTICLE**. The existing provisions of the Maryland–Washington Regional District Law (§ 63 of Chapter 780 of the Laws of Maryland 1959, as amended) repealed by Chapter 711 of the Laws of Maryland 1969 relating to procedural matters shall remain in full force and effect unless or until specifically superseded or amended in accordance with the power and authority granted herein. **[**This subsection is intended to vest control over planning procedures in the respective district councils, to the extent that control is not inconsistent with other provisions of the Regional District Act, and nothing contained herein shall be deemed to authorize any transfer or dilution of planning authority and responsibility now vested in the Commission, planning boards, and district councils.**]**

[(3)**] (B)** **[**The district council shall establish by ordinance or subsequent amendment thereto after public hearing (30 days' notice of the time and place of which shall be given by at least one publication in a newspaper of general circulation in the county), procedures for initiation, submission and adoption, and amendment of any plan or part thereof by the Commission, and for the approval or amendment of any plan or part thereof by the district council. The procedures shall include requirements for approval by the district council of preliminary concepts, guidelines, and goals. The procedures shall include review of preliminary plans by the district council and the County Executive, to identify any inconsistencies between the plan and existing or proposed State or county facilities including roads, highways, or other public facilities. In the event any inconsistencies are revealed, the district council shall direct the Commission on how the inconsistencies shall be eliminated or accommodated within the plan. The procedures shall provide for one or more public hearings on the plan to be held jointly by the Commission and the district council, at the direction of the district council, after 30 days' notice by publication in a newspaper

of general circulation in the county. The procedures shall include provision for adoption and amendment of plans by the Commission after the hearing, and for the amendment and approval of the plan by the district council. The procedures shall include a method for the certification and filing of an approved plan in the office of the clerk of the Circuit Court for Prince George's County, and provisions for publication by the Commission of adopted and approved plans.**]**

Any plans **[**heretofore**]** adopted **BEFORE OCTOBER 1, 1959,** shall remain in effect according to present provisions unless or until amended or superseded pursuant to procedures established under the provisions of **[**this article**] FORMER ARTICLE 28 OF THE CODE OR OF DIVISION II OF THE LAND USE ARTICLE**. The existing provisions of the Maryland–National Regional District Law (§ 63 of Chapter 780 of the Laws of Maryland 1959, as amended) repealed by Chapter 711 of the Laws of Maryland 1969 relating to procedural matters shall remain in full force and effect unless or until specifically superseded or amended in accordance with the power and authority granted herein. **[**This subsection is intended to vest control over planning procedures in the respective district councils, to the extent that control is not inconsistent with other provisions of the Regional District Act, and nothing contained herein shall be deemed to authorize any transfer or dilution of planning authority and responsibility now vested in the Commission planning boards, and district council.**]**

REVISOR'S NOTE: This section is new language derived without substantive change from the fifth and sixth sentences of former Art. 28, § 7–108(d)(2)(i) and the eighth and ninth sentences of (3).

The fifth and sixth sentences of former Art. 28, § 7–108(d)(2)(i) and the eighth and ninth sentences of (3), which provided for the continuity of certain plans and laws in effect on October 1, 1959, are not retained in the Code because they are apparently obsolete. They are transferred to the Session Laws to avoid any inadvertent substantive effect their repeal might have.

SECTION 14. AND BE IT FURTHER ENACTED, That Section(s) 8–113 of Article 28 – Maryland–National Capital Park and Planning Commission of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to the Session Laws, to read as follows:

Prior Zoning Regulations Continued

[8–113.**] 1.**

[The**] ANY** zoning **[**regulations duly and validly**] REGULATION** enacted by the County Commissioners of Montgomery **[**and**] COUNTY OR THE COUNTY COMMISSIONERS OF** Prince George's **[**Counties and in force**] COUNTY AND IN**

EFFECT on May 24, 1939, including the maps **[**which at that date**]** **THAT** accompanied and were a part of the regulations **[**shall be**]** **ON THAT DATE:**

(1) **ARE** deemed to have been made, enacted, and in force under **[**this title**]** **TITLE 22, SUBTITLE 1 OF THE LAND USE ARTICLE;** and

(2) shall continue in **[**force and**]** effect until they are amended by the **APPLICABLE** district **[**councils respectively as authorized by this title**]** **COUNCIL IN ACCORDANCE WITH TITLE 22 OF THE LAND USE ARTICLE**.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 8–113.

It is not retained in the Code because it is obsolete. It is transferred to the Session Laws to avoid any inadvertent substantive effect its repeal might have.

SECTION 15. AND BE IT FURTHER ENACTED, That Section(s) 7–116(c)(1) of Article 28 – Maryland–National Capital Park and Planning Commission of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to the Session Laws, as follows:

Subdivision Regulatory Enforcement Agreements

[7–116.**]** **1.**

[(c) (1)**]** In Montgomery County, the planning board of the **MARYLAND–NATIONAL CAPITAL PARK AND PLANNING** Commission or its designee may enter into regulatory plan enforcement agreements, declarations, easements, covenants, and other instruments, with appropriate persons or entities regarding any action it is authorized to take under **[**this article**]** **FORMER ARTICLE 28 OF THE CODE OR UNDER DIVISION II OF THE LAND USE ARTICLE**. The agreement may establish terms and conditions required to implement the action and provide for enforcement and appropriate remedies. A regulatory enforcement agreement, or instrument, is not a development rights and responsibilities agreement as provided in **[**§ 7–121 of this article**]** **TITLE 24, SUBTITLE 3 OF THE LAND USE ARTICLE**, unless the parties agree that some or all terms of the regulatory enforcement agreement should be incorporated into a development rights and responsibilities agreement.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 7–116(c)(1).

Former Art. 28, § 7–116(c), which authorized certain regulatory enforcement agreements in Montgomery County, has never been used

and is apparently obsolete. It is transferred to the Session Laws to avoid any unforeseen consequences its repeal might have.

SECTION 16. AND BE IT FURTHER ENACTED, That Section(s) 9–101(e) of Article 28 – Maryland–National Park and Planning Commission of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to the Session Laws, to read as follows:

Anacostia River Flood Control Bonds

[9–101.**] 1.**

[(e) This section**] TITLE 25, SUBTITLE 7 OF THE LAND USE ARTICLE** does not affect the obligation of the City of Bowie with respect to the payment of **[**outstanding**]** Anacostia River basin flood control bonds **OUTSTANDING ON OCTOBER 1, 2012,** or the interest on those bonds.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 28, § 9–101(e).

It is not retained in the Code because it applies only to a limited and diminishing class of obligations. It is transferred to the Session Laws to avoid any inadvertent substantive effect its repeal might have.

SECTION 17. AND BE IT FURTHER ENACTED, That it is the intention of the General Assembly that, except as expressly provided in this Act, this Act shall be construed as a nonsubstantive revision, and may not otherwise be construed to render any substantive change in the law of the State.

SECTION 18. AND BE IT FURTHER ENACTED, That the catchlines, captions, Revisor's Notes, Special Revisor's Notes, and General Revisor's Notes contained in this Act are not law and may not be considered to have been enacted as a part of this Act.

SECTION 19. AND BE IT FURTHER ENACTED, That nothing in this Act affects the term of office of an appointed or elected member of any commission, board, office, department, agency, or other unit. An individual who is a member of a unit on the effective date of this Act shall remain a member for the balance of the term to which appointed or elected, unless the member sooner dies, resigns, or is removed under provisions of law.

SECTION 20. AND BE IT FURTHER ENACTED, That, except as expressly provided to the contrary in this Act, any transaction or employment status affected by or flowing from any change of nomenclature or any statute amended, repealed, or transferred by this Act and validly entered into or existing before the effective date of this Act and every right, duty, or interest flowing from a statute amended, repealed, or transferred by this Act remains valid after the effective date of this Act and may be

terminated, completed, consummated, or enforced as required or allowed by any statute amended, repealed, or transferred by this Act as though the repeal, amendment, or transfer had not occurred. If a change in nomenclature involves a change in name or designation of any State unit, the successor unit shall be considered in all respects as having the powers and obligations granted the former unit.

SECTION 21. AND BE IT FURTHER ENACTED, That the continuity of every commission, board, office, department, agency, or other unit is retained. The personnel, records, files, furniture, fixtures, and other properties and all appropriations, credits, assets, liabilities, and obligations of each retained unit are continued as the personnel, records, files, furniture, fixtures, properties, appropriations, credits, assets, liabilities, and obligations of the unit under the laws enacted by this Act.

SECTION 22. AND BE IT FURTHER ENACTED, That, except as expressly provided to the contrary in this Act, any person licensed, registered, certified, or issued a permit or certificate by any commission, office, department, agency, or other unit established or continued by any statute amended, repealed, or transferred by this Act is considered for all purposes to be licensed, registered, certified, or issued a permit or certificate by the appropriate unit continued under this Act for the duration of the term for which the license, registration, certification, or permit was issued, and may renew that authorization in accordance with the appropriate renewal provisions of this Act.

SECTION 23. AND BE IT FURTHER ENACTED, That this Act does not rescind, supersede, change, or modify any rule adopted by the Court of Appeals that is or was in effect on the effective date of this Act concerning the practice and procedure in and the administration of the appellate courts and the other courts of this State.

SECTION 24. AND BE IT FURTHER ENACTED, That the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by the General Assembly, cross–references and terminology rendered incorrect by this Act or by any other Act of the General Assembly of 2012 that affects provisions enacted by this Act. The publisher shall adequately describe any such correction in an editor's note following the section affected.

SECTION 25. AND BE IT FURTHER ENACTED, That Title 15, Subtitle 2 of the Land Use Article and the subtitle "Subtitle 2. Minority Business Enterprise Utilization Program", as enacted by Section 2 of this Act, shall remain effective until the taking effect of the termination provision specified in Section 2 of Chapter 256 of the Acts of the General Assembly of 1995, as amended. If that termination provision takes effect, Title 15, Subtitle 2 of the Land Use Article and the subtitle "Subtitle 2. Minority Business Enterprise Utilization Program", as enacted by Section 2 of this Act, shall be abrogated and of no further force and effect. This Act may not be interpreted to have any effect on that termination provision.

SECTION 26. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 25 of this Act, this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.