
Chapter 426 of the Acts of 2012

Land Use Article

Summary Report

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Summary Report on Chapter 426 of the Acts of 2012

Land Use Article

I. Purpose and Scope of Code Revision.

The Land Use Article is a product of the continuing revision of the Annotated Code of Maryland by the legal staff of the Office of Policy Analysis of the Department of Legislative Services. The first revised articles were enacted at the First Extraordinary Session of 1973, and, as of the date of the introduction in the General Assembly of the Land Use Article, 32 revised articles have become law: Agriculture, Business Occupations and Professions, Business Regulation, Commercial Law, Corporations and Associations, Correctional Services, Courts and Judicial Proceedings, Criminal Law, Criminal Procedure, Economic Development, Education, Election Law, Estates and Trusts, Family Law, Financial Institutions, Health – Environmental (now Environment), Health – General, Health Occupations, Housing and Community Development, Human Services, Insurance, Labor and Employment, Natural Resources, Public Safety, Public Utility Companies (now Public Utilities), Real Property, State Finance and Procurement, State Government, State Personnel and Pensions, Tax – General, Tax – Property, and Transportation.

Each revised article is a formal bulk revision under the guidelines set in 1970, which include improvement of organization, elimination of obsolete or unconstitutional provisions, resolution of inconsistencies and conflicts in the law, correction of unintended gaps or omissions in the law, deletion of repetitive or otherwise superfluous language, and general improvement of language and expression. *See* § 2-1238 of the State Government Article.

The primary purposes of the revision are modernization and clarification. Nonetheless, a revision sometimes must touch on the substance of the law. Every effort is made to ensure that a proposed revision conforms as nearly as possible to the intent of the General Assembly, and all these revisions are highlighted in the revisor’s notes. In other instances, the staff and the Land Use Article Review Committee (“the committee”) have used revisor’s notes to call to the attention of the General Assembly policy issues that are beyond the purview of the revision process. They have not, however, attempted to resolve these issues.

II. Form, Content, and Organization.

The Land Use Article conforms to the organization, form, and numbering system used in the previously revised articles. Accordingly, the article is a separate, unnumbered volume and is cited by name. *See* Article 1, § 25 of the Code.

A precept of the revision process since 1973 has been that, once something is said, it should be said in the same way each time. This precept reduces the ambiguity that results from minor variations in provisions intended to be identical in substance. To that end, the language of the Land Use Article has been conformed to that of other revised articles and among parts within the article.

III. Revisor's Notes.

Revisor's notes provide a link between the current and revised law by explaining, in detail, their relationship. Each section or, in some instances, each subsection of the Land Use Article is followed by a revisor's note that identifies the current law that the revised section or subsection will replace. These revisor's notes also explain all significant changes made in the revision process.

Revisor's notes speak as if the proposed article were already the law and refer to the current law as the "former" law. The staff of the Office of Policy Analysis will make any needed minor changes in the revisor's notes before the article appears in the Session Laws. The staff will also update any revisor's notes that other 2012 legislation may affect.

IV. Preparation of the Land Use Article.

Until 1985, the Commission to Revise the Annotated Code of Maryland supervised preparation of revised articles. In 1985, the Legislative Policy Committee established an article selection committee to recommend a schedule for production of revised articles and provided for article review committees, composed of experts in the area of the law being revised and in good drafting, to review drafts prepared by the staff.

The Land Use Article Review Committee was chaired by the Honorable Glenn T. Harrell, Jr. Other members were the Honorable James A. Kenney, III, Stanley D. Abrams, John J. Delaney, David H. Fishman, Lisa Jackson, George A. Nilson, Joseph A. Stevens, Lawrence N. Taub, William C. Wantz, Shelley S. Wasserman, and Peter Max Zimmerman.

Each title of the Land Use Article was prepared initially by the staff of the Office of Policy Analysis of the Department of Legislative Services. Individuals whose efforts contributed to the proposed article were: Susan H. Russell and Susan G. Phelps, Office of Policy Analysis, managers, legislative drafting and code revision; Michael I. Volk, Office of Policy Analysis, coordinator, committee and legislation function and drafter; Robert K. Smith, article supervisor; Carol D. Mihm, editor; Philip S. Anthony, Matthew J. Bennett, Georgeanne A. Carter, Jodie L. Chilson, Amy A. Devadas, Lindsay A. Eastwood, Cristen C. Flynn, J. Patrick Ford, Erin R. Hopwood, Evan M. Isaacson, John J. Joyce, Theodore E. King, Jr., Laura P. Lodge, Judith D. Markoya, Karen D. Morgan, Douglas R. Nestor, Shirleen M. Pilgrim, Effie C. Rife, Claire Rossmark, Erika S. Schissler, Lisa J. Simpson, Carol L. Swan, Dana K. Tagalicon, Stanford D. Ward, Lisa J. Campbell, Elisa R. Ford, Anne E. Gawthrop, Marie L. Grant, Joshua Loh, and Alexander M. Rzaa, drafters and reviewers; Carolyn V. Schmitt,

Elizabeth DiMattesa, and the document management staff; and Kimberly T. Miller, Dana L. Thompson, and the legislative editing staff.

The first drafts were prepared by the staff. In keeping with standard code revision practice, the committee reviewed the staff drafts page by page over the course of 17 meetings. In two later meetings the committee again reviewed the drafts. After an additional review, the final versions of these drafts were then collected and printed as House Bill 1290. The bill was enacted as Chapter 426 of the Acts of the General Assembly of 2012 when it was signed on May 2, 2012. Cross-reference and reverse cross-reference tables are available to aid in finding where the former law is revised.

In preparing the revised article, the committee received help from departmental liaisons and outside consultants who explained provisions, advised about administrative practices, provided valuable insights, reviewed drafts, and participated in committee meetings. The committee and staff are deeply indebted to these consultants, especially Adrian R. Gardner, General Counsel, and Carol Rubin, Associate General Counsel, Maryland-National Capital Park and Planning Commission (“M-NCPPC”), who served as agency liaisons to the committee; Jeffrey Zyontz, Montgomery County Office of Law; and Philip Deter, Assistant Attorney General, Department of Planning. The committee and staff are also indebted to their colleagues and other members of the legal community and staff who assisted the committee members in researching and explaining sometimes turgid statutory prose, particularly in the areas of bond authorization and collective bargaining.

V. Necessary Modifications.

The following discussion provides a representative sample of the changes made by the committee.

Unnecessary Provisions

Some existing statutory language is plainly unnecessary. Examples of this language include unused definitions, severability provisions, and provisions that are redundant of other more general provisions.

For example, the source law contained a number of references to severability. However, since Art. 1, § 23 provides that all legislation enacted after July 1, 1979, is presumed to be severable absent specific legislation to the contrary, all severability provisions were deleted including Art. 28, §§ 2-122, 2-115(e), and the third sentence of 7-103(b), which provided for the severability of former Article 28, M-NCPPC ethics provisions, and regional district boundary provisions, respectively, and Art. 66B, §§ 7.04 and 8.17, which provided for the severability of former Article 66B and its historic preservation provisions, respectively.

Obsolete Provisions

The committee deleted several obsolete provisions. Among them are provisions relating to the requirements in former Article 66B to include the mineral resources element in each plan and amendment “after July 1, 1986”. The requirements continue in force.

In other cases, if appropriate, the committee changed obsolete terminology to conform to current usage, such as changing to “judicial review” the former references to “appeal” in the courts, and changing to “Prince George’s County Council” references to the former “County Commissioners of Prince George’s County”.

In yet other cases, the committee transferred obsolete provisions to the Session Laws. For example, several provisions of former Art. 28, §§ 1-101 through 1-105 provided for the continuity of M-NCPPC and its jurisdiction after recodifications in 1975 and 1983. The committee believed that these provisions should be transferred to the Session Laws to avoid any inference that repeal might disassociate the current M-NCPPC and its jurisdiction from that established under earlier laws.

Inconsistent Provisions

Over time, laws may be enacted that are inconsistent with existing statutes. Generally, the committee felt that it should draw the inconsistency to the attention of the General Assembly for resolution by repeal or other reconciliation, rather than substitute the committee’s judgment for that of the legislature.

VI. Outline of the Land Use Article.

The Land Use Article consists of two divisions of 11 and 14 substantive titles, respectively. The article as a whole governs the establishment and implementation of land use mechanisms by local governments in their jurisdictions. Division I is derived from Article 66B – Land Use and contains statewide enabling authority and planning requirements and other provisions concerning land use in commission counties, municipal corporations, and Baltimore City. Division II is derived from Article 28 – Maryland-National Capital Park and Planning Commission and contains provisions on M-NCPPC and on land use in Montgomery and Prince George’s counties.

The divisions and titles of the Land Use Article are as follows:

Division I. Single-Jurisdiction Planning and Zoning.

Title 1. Definitions; General Provisions.

Title 2. Planning Commissions.

Title 3. Comprehensive Plan.

Title 4. Zoning.

Title 5. Subdivision.

Title 6. Street Planning.

Title 7. Other Development Management Tools.

Title 8. Historic Preservation.

Title 9. Single-County Provisions.

Title 10. Baltimore City Zoning.

Title 11. Enforcement.

Title 12. Reserved.

Title 13. Reserved.

Division II. Maryland-National Capital Park and Planning Commission.

Title 14. Definitions; General Provisions.

Title 15. Commission.

Title 16. Employment.

Title 17. Powers and Property.

Title 18. Finances.

Title 19. Maryland-Washington Metropolitan District.

Title 20. Maryland-Washington Regional District.

Title 21. Regional District Plan.

Title 22. Zoning.

Title 23. Subdivision.

Title 24. Montgomery County Provisions.

Title 25. Prince George's County Provisions.

Title 26. Miscellaneous Provisions.

Title 27. Enforcement.

Preparation of this revised article was particularly challenging because of the age of many of the component statutes and the piecemeal approach to land use strategies over many decades in many jurisdictions. Some provisions of Division I were essentially unchanged from the model zoning act promoted by the United States Department of Commerce in 1926. The application of some provisions in Division II was unclear, on account of a series of transfers of the law back and forth between the public general laws and the public local laws over many years.

VII. Discussion of the Land Use Article.

The following is a brief summary of all the titles of the Land Use Article.

Division I. Single-Jurisdiction Planning and Zoning.

This division contains provisions authorizing zoning, subdivision, planning, and related land use matters in commission counties, municipal corporations, and Baltimore City. It also includes statewide provisions relating to comprehensive planning that are applicable to charter and code home rule counties as well.

Title 1. Definitions; General Provisions.

This title contains definitions that apply to all of Division I. It also contains planning provisions that apply to charter and code home rule counties as well as to commission counties, municipal corporations, and Baltimore City.

Subtitle 1. Definitions.

Subtitle 1 contains definitions of terms that are standard in revised articles, such as "county" and "person", as well as subject-specific terms such as "special exception", "subdivision", "variance", and "zoning law".

Subtitle 2. General Provisions.

Subtitle 2 contains the Visions that guide land use throughout the State. It also contains a number of provisions of general application, such as required education, annual reports, and the relationship of Division I to other laws.

Subtitle 3. Consistency.

Subtitle 3 contains the requirements for consistency between plans and land use actions, including actions in priority funding areas.

Subtitle 4. Home Rule Counties.

Subtitle 4 consists of three parts. Part I lists the provisions of Division I that apply in charter counties and provides for the treatment of code counties. Part II requires charter counties to adopt a comprehensive plan under the subtitle. It also sets forth the minimum requirements and elements of the comprehensive plan in a charter county. Part III provides for the implementation and review of the comprehensive plan in a charter county.

Title 2. Planning Commissions.

This title concerns the establishment of planning commissions in commission counties and municipal corporations.

Subtitle 1. Organization and General Authority.

Subtitle 1 provides for the authority to establish planning commissions. It includes standard provisions on membership, officers, meetings, and employees of planning commissions. The subtitle provides for the general duties of planning commissions, their resources, and their rules and records.

Title 3. Comprehensive Plan.

This title sets forth the requirements for the comprehensive plan in a commission county or municipal corporation.

Subtitle 1. Requirements and Elements.

Subtitle 1 requires the jurisdiction to adopt a comprehensive plan in accordance with Title 3. This subtitle includes the plan elements that are required and it authorizes additional elements. It also provides for the inclusion of a municipal plan in the corresponding county plan.

Subtitle 2. Development and Adoption.

Subtitle 2 establishes requirements and procedures for preparation, development, and adoption of a comprehensive plan. It includes requirements for public comment and planning commission review. It also establishes a joint planning framework for counties and municipal corporations.

Subtitle 3. Implementation.

Subtitle 3 provides for the periodic review and revision of the comprehensive plan and its implementing local laws.

Title 4. Zoning.

This title deals with the establishment of zoning and related procedures in commission counties and municipal corporations.

Subtitle 1. Powers.

Subtitle 1 establishes the framework for a commission county or municipal corporation to divide its area into districts or zones and to assign permitted uses in those districts or areas. The subtitle sets forth the general zoning powers and limitations of the local jurisdiction.

Subtitle 2. Designation and Adoption.

Subtitle 2 establishes the procedures that the local jurisdiction must follow when designating or amending districts and zones. It includes provisions on administrative adjustments, variances, and adaptive reuse. The subtitle also authorizes the appointment and use of hearing examiners.

Subtitle 3. Board of Appeals.

Subtitle 3 requires the establishment of a board of appeals in local jurisdictions that implement zoning. It provides for the membership, powers, duties, and procedures of the board of appeals.

Subtitle 4. Judicial Review.

Subtitle 4 governs the process of obtaining and conducting judicial review of zoning actions in the circuit court and higher courts.

Title 5. Subdivision.

This title concerns the procedures for subdivision of land, plat approval, and the status of unapproved plats in commission counties and municipal corporations.

Subtitle 1. Powers.

Subtitle 1 establishes the framework for a commission county or municipal corporation to regulate the division of lots for purposes of development in its area. It includes procedures for adopting subdivision regulations for the local jurisdiction.

Subtitle 2. Plat Approval.

Subtitle 2 provides procedures for temporary and final plat approvals.

Subtitle 3. Unapproved Plats and Subdivisions.

Subtitle 3 prohibits the sale or transfer of lots in unapproved subdivisions. It also prohibits the recording of unapproved subdivisions. The subtitle includes civil penalties and remedies.

Subtitle 4. Judicial Review.

Subtitle 4 governs the process of obtaining and conducting judicial review of subdivision actions in the circuit court and higher courts.

Title 6. Street Planning.

This title revises the procedures for commission counties and municipal corporations to use when planning for future roads and reserving property for them.

Subtitle 1. Street Reservation.

Subtitle 1 contains measures on reservation of property for future acquisition for road development through the preparation and adoption of a plat. It also concerns negotiation between the local jurisdiction and affected landowners.

Subtitle 2. Development Restrictions.

Subtitle 2 prohibits development in areas reserved for future roads, as shown on an official map. It also establishes an appellate process.

Title 7. Other Development Management Tools.

This title includes miscellaneous development mechanisms available in a variety of local jurisdictions.

Subtitle 1. Development Mechanisms.

Subtitle 1 authorizes a local jurisdiction to adopt local laws implementing a wide range of management tools to promote appropriate growth and affordable housing. This subtitle applies in all forms of local government.

Subtitle 2. Transfer of Development Rights.

Subtitle 2 is the enabling authority for the transfer of development rights to preserve natural resources and promote orderly growth. Priority funding areas may have separate similar transfer programs as well. This subtitle applies in all forms of local government.

Subtitle 3. Development Rights and Responsibilities Agreements.

Subtitle 3 authorizes local jurisdictions to enter into development rights and responsibilities agreements. These agreements allow the parties to negotiate a stable set of rules that will apply to large phased developments yet allow local jurisdictions to respond to changing circumstances. All local jurisdictions but Montgomery and Prince George's counties may employ the agreements under this subtitle. Those counties have similar specific provisions in Division II.

Subtitle 4. Inclusionary Zoning.

Subtitle 4 enables a local jurisdiction to enact local laws to promote affordable housing through inclusionary zoning, and to establish restrictions on certain housing created in those areas. This subtitle applies in all forms of local government.

Title 8. Historic Preservation.

This title establishes a framework for preservation of historic sites and structures in a commission county or municipal corporation.

Subtitle 1. General Provisions.

Subtitle 1 enables a local jurisdiction to adopt a local law restricting demolition and construction affecting historic sites and structures. It declares the public purpose of preserving areas and structures of historical interest. The subtitle authorizes the designation of historic districts, and the establishment of boundaries for the districts, sites, and structures.

Subtitle 2. Commission.

Subtitle 2 authorizes the establishment of local historic district commissions and historic preservation commissions. It provides for their membership, powers, and support.

Subtitle 3. Preservation and Permitting.

Subtitle 3 requires a local jurisdiction to adopt guidelines for rehabilitation and new construction in historic sites, structures, and districts. The subtitle establishes application and review procedures for permits for construction, alteration, and demolition. It includes plans for the preservation of sites and structures.

Subtitle 4. Miscellaneous Provisions.

Subtitle 4 allows a local jurisdiction to enact a local law on conversion of overhead utility facilities underground. It applies in charter counties as well as in commission counties and municipal corporations.

Subtitle 5. Enforcement.

Subtitle 5 allows a local historic district commission or historic preservation commission to request the appropriate local enforcement authority to seek remedies for a violation of a local historic preservation law.

Title 9. Single-County Provisions.

This title contains miscellaneous provisions relating to single counties other than Baltimore City. A number of subtitles are merely reserved for future legislation.

Subtitle 1. Allegany County.

Subtitle 1 provides for the membership of the planning commission in Allegany County.

Subtitle 2. Anne Arundel County.

Reserved.

Subtitle 3. Baltimore County.

Subtitle 3 authorizes additional administrative proceedings for zoning enforcement in Baltimore County, including the imposition of civil fines and penalties.

Subtitle 4. Calvert County.

Reserved.

Subtitle 5. Caroline County.

Reserved.

Subtitle 6. Carroll County.

Subtitle 6 provides for the membership of the planning commission in Carroll County. It also allows certain industrial and commercial lots to be sold under certain circumstances before a subdivision plat is finalized, if the plat is approved before the property transfer takes place. The subtitle authorizes an assessment against a property to pay for the abatement of a zoning violation on it.

Subtitle 7. Cecil County.

Subtitle 7 provides for the membership of the planning commission and the board of appeals in Cecil County. It also governs the appointment of the local director of planning and zoning.

Subtitle 8. Charles County.

Subtitle 8 provides for the membership of the planning commission and the tenure of the members of the board of appeals in Charles County. It allows the county commissioners to hear and decide certain special exceptions. The subtitle allows the county subdivision regulations to reserve property for certain purposes, and excludes industrial property from the general prohibition against negotiating or transferring property in an unapproved subdivision.

Subtitle 9. Dorchester County.

Reserved.

Subtitle 10. Frederick County.

Subtitle 10 allows the county commissioners to overrule the county planning commission. It also provides for the tenure of members of the county board of appeals. The subtitle allows certain industrial and commercial lots to be sold under certain circumstances

before a subdivision plat is finalized, if the plat is approved before the property transfer takes place.

Subtitle 11. Garrett County.

Reserved.

Subtitle 12. Harford County.

Reserved.

Subtitle 13. Howard County.

Subtitle 13 authorizes additional administrative proceedings for zoning enforcement in Howard County, including the imposition of civil fines, penalties, and costs.

Subtitle 14. Kent County.

Reserved.

Subtitle 15. Queen Anne's County.

Reserved.

Subtitle 16. St. Mary's County.

Subtitle 16 provides specific limitations and prohibitions on certain uses of land in St. Mary's County. It provides for the tenure of members of the county board of appeals. The subtitle excludes industrial property from the general prohibition against negotiating or transferring property in an unapproved subdivision, and exempts certain other properties from that prohibition. It also authorizes civil penalties for subdivision and zoning violations.

Subtitle 17. Somerset County.

Reserved.

Subtitle 18. Talbot County.

Reserved.

Subtitle 19. Washington County.

Subtitle 19 authorizes the Washington County Commissioners to adopt an adequate public facilities law, and to provide civil fines and penalties for a violation of that law.

Subtitle 20. Wicomico County.

Reserved.

Subtitle 21. Worcester County.

Subtitle 21 authorizes the Worcester County Commissioners to use conditional zoning in accordance with local law. The subtitle also requires the disclosure of certain information on an application for zoning classification or reclassification.

Title 10. Baltimore City Zoning.

This title sets forth procedures and requirements for zoning in Baltimore City. Because the provisions are extensive and largely correspond to the provisions of Title 4 of this article, the committee chose to revise this material in its own title rather than in a subtitle of Title 9 of this article, *above*.

Subtitle 1. General Provisions.

Subtitle 1 lists the other provisions of this division that apply to Baltimore City. It also provides for the relationship of provisions of this title with other provisions of law.

Subtitle 2. Powers.

Subtitle 2 establishes the framework for the city to divide its area into districts or zones and to assign permitted uses in those districts or areas. The subtitle sets forth the general zoning powers and limitations of the city. It also authorizes the Mayor and City Council to adopt historic and landmark preservation laws.

Subtitle 3. Designation and Adoption.

Subtitle 3 establishes the procedures that the city must follow when designating or amending districts and zones. It includes provisions on administrative adjustments, variances, and adaptive reuse. The subtitle also authorizes the appointment and use of hearing examiners.

Subtitle 4. Implementation.

Subtitle 4 authorizes the appointment and use of hearing examiners. It also authorizes the establishment of a Board of Municipal and Zoning Appeals, and provides for the membership, powers, duties, and procedures of the board.

Subtitle 5. Judicial Review.

Subtitle 5 governs the process of obtaining and conducting judicial review of zoning actions in the circuit court and higher courts.

Title 11. Enforcement.

This title governs the enforcement of provisions of Division I.

Subtitle 1. General Provisions.

Subtitle 1 is enabling legislation for a local jurisdiction to adopt local laws for enforcement of Division I and any local law or regulation adopted under it. The subtitle provides that such a violation is a misdemeanor. The subtitle also authorizes a local jurisdiction to institute proceedings to prevent or abate certain violations.

Subtitle 2. Civil Penalty.

Subtitle 2 authorizes a local jurisdiction to establish a civil penalty for a zoning violation. It also provides for a citation for the violation, related procedures, and the disposition of fines and costs.

Title 12. Reserved.

Title 13. Reserved.

Division II. Maryland-National Capital Park and Planning Commission.

This division includes provisions relating to M-NCPPC, land use in Montgomery and Prince George's counties, and related programs and activities.

Title 14. Definitions; General Provisions.

This title contains definitions that apply to all of Division II. It also contains general provisions that apply throughout the metropolitan district and the regional district.

Subtitle 1. Definitions.

Subtitle 1 contains definitions of terms that are standard in revised articles, such as "county" and "person", as well as subject-specific and Commission-specific terms such as "county planning board", "district council", and "zoning law".

Subtitle 2. General Provisions.

Subtitle 2 provides for the scope of the division and its relationship to certain other laws.

Title 15. Commission.

This title contains the general provisions that establish the Maryland-National Park and Planning Commission and relate to its operations.

Subtitle 1. Organization and General Authority of Commission.

Subtitle 1 establishes the Commission. It includes provisions on membership, appointment procedures, officers, meetings, and employees of the Commission. The subtitle provides for the general powers and duties of the Commission, its resources, and its records. The subtitle also establishes certain prohibited acts based on conflicts of interest.

Subtitle 2. Minority Business Enterprise Utilization Program.

Subtitle 2 provides governs the Commission's Minority Business Enterprise Utilization Program. The subtitle is subject to a termination provision, which Chapter 426 does not affect.

Subtitle 3. Intergovernmental Cooperation.

Subtitle 3 designates the Commission as the State's representative for certain purposes under Division II and for purposes of the federal Capper-Cramton Act, which has provided funding for certain parkland acquisition in the Maryland-Washington Metropolitan District. The subtitle provides for the cooperation of certain units with the Commission. It also establishes certain requirements for acquisition contracts under the Capper-Cramton Act.

Title 16. Employment.

This title governs employment by the Commission, including the merit system, collective bargaining, and related matters.

Subtitle 1. Merit System.

Subtitle 1 establishes the Commission's merit system. This subtitle also provides for the merit system board and its operations.

Subtitle 2. Collective Bargaining – In General.

Subtitle 2 sets forth the collective bargaining provisions relating to most Commission employees. It includes provisions on the election of an employee organization as exclusive

representative of a bargaining unit, the appointment of a labor relations administrator, and eligibility disputes. The subtitle details procedures for collective bargaining, mediation and mediation-arbitration, allowed and prohibited activities of employees and of the Commission, and funding of a collective bargaining agreement. It also contains provisions on strikes, unfair labor practices, and freedom of expression.

Subtitle 3. Collective Bargaining – Police Officers.

Subtitle 3 provides parallel collective bargaining rights and provisions for Commission police officers that are very similar to the general provisions in Subtitle 2. This subtitle includes provisions for the election of an employee organization as exclusive representative of a bargaining unit and for eligibility disputes. The subtitle details procedures for collective bargaining, arbitration, allowed and prohibited activities of employees and of the Commission, and funding of a collective bargaining agreement. It also contains provisions on strikes, unfair labor practices, and freedom of expression.

Subtitle 4. Service Contracts.

Subtitle 4 establishes procedures and analysis that the Commission must perform when attempting to outsource certain service contracts. It includes mandatory review of certain factors and required outplacement assistance.

Subtitle 5. Prince George’s County Parks and Recreation Employees.

Subtitle 5 establishes the status of and the benefits provided to full-time and part-time park employees in the Prince George’s County Parks and Recreation Program. It also provides for the status of Program volunteers.

Title 17. Powers and Property.

This title revises the authority and procedures of the Commission regarding property acquisition and construction in areas under its jurisdiction. It includes regulation of the use of Commission property. It also includes provisions relating to the authority of the Commission’s park police.

Subtitle 1. Property Acquisition.

Subtitle 1 restates the general authority of the Commission to acquire property in the metropolitan district and in the regional district. Part I contains the Commission’s general authority and limitations. Part II establishes specific procedures for purchase and condemnation of property. Part III provides a mechanism for paying certain relocation expenses arising out of property acquisition.

Subtitle 2. Use of Property.

Subtitle 2 provides that the Commission holds its property for the general benefit. The subtitle authorizes the Commission to lease its land for park purposes, and to grant privileges, permits, and concessions on Commission land. This subtitle provides for the transfer and disposal of Commission property. It authorizes the Commission to adopt regulations for property use and establishes a system of citations and fines for Commission infractions.

Subtitle 3. Park Police.

Subtitle 3 authorizes the Commission to appoint park police officers with specified duties and authority. Park police have concurrent jurisdiction with Montgomery County and Prince George's County police. They also may enter into reciprocal arrangements for jurisdiction off park property.

Subtitle 4. Miscellaneous Property.

Subtitle 4 contains provisions on property for a Commission administration building, for Glenn Dale Hospital, and for Jesup Blair Park.

Title 18. Finances.

This title revises provisions on the Commission budget process, bonding, taxation, land acquisition financing, and payment procedures.

Subtitle 1. Budget.

Subtitle 1 sets forth the budget procedures applicable to the Commission and the county governments. Part I details the annual budget process, including budget development, submission, amendment, and funding. Part II restates provisions on the Commission's capital improvements program.

Subtitle 2. Debt and Securities.

Subtitle 2 governs the issuance of bonds and other indebtedness by the Commission for property acquisition. It includes authorization for revenue bonds, refunding bonds, and tax anticipation notes.

Subtitle 3. Taxes.

Subtitle 3 authorizes the imposition of a variety of taxes by the Commission. The taxes include park taxes, the Montgomery County bond tax, the Prince George's County recreation tax, the administrative tax, and the Advance Land Acquisition Revolving Funds tax.

Subtitle 4. Land Acquisition Financing.

Subtitle 4 establishes an Advance Land Acquisition Fund in each county. The subtitle regulates the Commission's advance land acquisition processes in each county. It also provides for grants by the counties to the Commission for property acquisition and agreements on use of the property acquired.

Title 19. Maryland-Washington Metropolitan District.

This title continues the metropolitan district and provides for Commission authority in it. For purposes of clarity and simplicity, the metes and bounds descriptions of various parts of the metropolitan district are transferred to the Session Laws under § 11 of Chapter 426.

Title 20. Maryland-Washington Regional District.

This title continues the regional district and provides for its boundaries. The title establishes the county planning boards. It also revises several other provisions relating to the authority of the Commission in the regional district.

Subtitle 1. General Provisions.

Subtitle 1 establishes the regional district and its boundaries.

Subtitle 2. County Planning Boards.

Subtitle 2 designates the commissioners from each county as the county planning boards of their respective counties. The subtitle provides for the authority and duties of the county planning boards, as well as the relationship of their jurisdiction to the jurisdiction of the Commission.

Subtitle 3. Review of Public Projects.

Subtitle 3 provides for mandatory and permissive review of public projects by the Commission. Part I governs mandatory review specified actions by a public board, body, or official. Part II authorizes the Commission to comment on certain real property sites on request of the Montgomery Community College.

Subtitle 4. Road Grades.

Subtitle 4 contains specific provisions for the establishment of road grades in each county.

Subtitle 5. Building Codes and Permits.

Subtitle 5 governs building permits and zoning reviews in the regional district in each county. Part I requires a building permit for construction or substantial alteration of a building or structure in the regional district. Part II contains specific provisions in Montgomery County. Part III contains specific permit procedures in Prince George's County. Part IV establishes an expedited permit process for certain projects in Prince George's County. Part V revises permit enforcement provisions.

Subtitle 6. Prince George's County – Annexation.

Subtitle 6 establishes petition, public comment, and local law and referendum procedures for annexation of property to the regional district in Prince George's County.

Subtitle 7. Municipal Planning and Zoning Authority.

Subtitle 7 limits the authority of municipal corporations in the regional district to exercise planning and zoning authority. Part I recognizes the continuing authority of seven "prior established municipal corporations" to exercise planning and zoning authority under Division I, because they were already vested with that authority when the regional district was created in 1957. Under Part I, the Commission or the county planning board may only exercise planning and zoning authority in such a municipal corporation by mutual agreement. Other municipal corporations in Montgomery County have no authority to exercise planning and zoning authority, except as otherwise authorized in Division II, in particular under Title 24. Under Part II, a municipal corporation in Prince George's County that is in the regional district may not exercise any planning and zoning authority that is not specifically delegated to it under § 25-303 of this article.

Title 21. Regional District Plan.

This title provides for the development and implementation of the regional district plan, a comprehensive plan for that district, and its subsidiary plans.

Subtitle 1. In General.

Subtitle 1 requires the regional district plan and establishes its purpose and elements. The subtitle also authorizes local planning areas, area master plans, functional master plans, and other subsidiary plans and elements.

Subtitle 2. Development and Adoption.

Subtitle 2 establishes general procedures for development of the regional district plan and specific procedures for each county. Part I provides for the initiation and adoption of the plan

and for intergovernmental cooperation. Part II contains specific procedures that apply in the Montgomery County portion of the regional district, and Part III contains specific procedures for the Prince George's County portion of the regional district.

Title 22. Zoning.

This title establishes the framework for zoning in the regional district. It covers adoption and amendment of zoning, boards of appeals, and judicial review.

Subtitle 1. General Provisions.

Subtitle 1 contains the provisions generally applicable in both counties. Part I designates each county council as the district council for its respective portion of the regional district, and authorizes the district councils to adopt zoning laws for those portions. Part I also restates provisions on development rights, certain map amendments, and certain protected areas. Part II deals with nonconforming uses. Part III provides coordination with statewide zoning laws, and Part IV contains a miscellaneous provision.

Subtitle 2. Designation and Adoption.

Subtitle 2 provides for the implementation of zoning in the regional district. Part I authorizes the designation of districts and zones, the effect of zoning laws, and certain municipal powers. Part II provides for adoption of zoning amendments, including required referrals to an affected municipal corporation or governed special taxing district. Part III contains provisions applicable only in Prince George's County on conditional zoning and map amendments.

Subtitle 3. Board of Appeals.

Subtitle 3 governs the respective boards of appeals of the counties. Part I authorizes a district council to adopt zoning laws on the grant of special exceptions by a board of appeal or certain other local units, and to grant certain other authority to the board of appeals. Part II deals with special exceptions and variances in Montgomery County. Part III deals with the board of appeals and special exceptions in Prince George's County.

Subtitle 4. Judicial Review.

Subtitle 4 governs the process of obtaining and conducting judicial review of zoning actions in the circuit court and higher courts. Part I applies in Montgomery County, and Part II applies in Prince George's County.

Title 23. Subdivision.

This title concerns the procedures for subdivision of land, plat approval, and the status of unapproved plats in the regional district.

Subtitle 1. Powers.

Subtitle 1 establishes the framework for regulating the division of lots for purposes of development in the regional district. It includes procedures for adopting subdivision regulations, land dedication and reservation for public purposes, and adequate public facility requirements.

Subtitle 2. Plat Approval.

Subtitle 2 provides procedures for temporary and final plat approvals, with certain specific provisions for each county.

Subtitle 3. Unapproved Plats and Subdivisions.

Subtitle 3 prohibits the sale or transfer of lots in unapproved subdivisions. It also prohibits the recording of unapproved subdivisions.

Subtitle 4. Judicial Review.

Subtitle 4 governs the process of obtaining and conducting judicial review of subdivision actions in the circuit court.

Subtitle 5. Enforcement.

Subtitle 5 provides for the enforcement of subdivision regulations in the regional district. Part I authorizes the district council or the county to file for an injunction or other appropriate relief. Part II authorizes civil penalties and fines in Montgomery County.

Title 24. Montgomery County Provisions.

This title contains provisions applicable only in Montgomery County.

Subtitle 1. General Provisions.

Subtitle 1 provides that Title 24 applies only in Montgomery County.

Subtitle 2. Municipal Zoning – Specific Municipalities.

Subtitle 2 grants concurrent jurisdiction to enforce county zoning laws to Kensington and Takoma Park.

Subtitle 3. Development Rights and Responsibilities Agreements.

Subtitle 3 authorizes the Montgomery County district council to authorize the county planning board to enter into development rights and responsibilities agreements. These agreements allow the parties to negotiate a stable set of rules that will apply to large phased developments yet allow local jurisdictions to respond to changing circumstances. This subtitle is similar but not identical to the general provisions of Title 7, Subtitle 3 and the Prince George's County provisions of Title 25, Subtitle 5 of this article.

Title 25. Prince George's County Provisions.

This title contains provisions applicable only in Prince George's County.

Subtitle 1. General Provisions.

Subtitle 1 provides that Title 25 applies only in Prince George's County.

Subtitle 2. Land Use Controls – In General.

Subtitle 2 contains general provisions on land use practice and procedure, certain special exceptions, and site plan review.

Subtitle 3. Municipal Delegation.

Subtitle 3 authorizes the district council to delegate certain zoning matters to a municipal corporation in the regional district in Prince George's County.

Subtitle 4. Revitalization and Redevelopment.

Subtitle 4 authorizes the county to provide by local law for revitalization and redevelopment activities, including management of the activities and marketing of enterprise operations.

Subtitle 5. Development Rights and Responsibilities Agreements.

Subtitle 5 authorizes the Prince George's County Executive to enter into development rights and responsibilities agreements. These agreements allow the parties to negotiate a stable set of rules that will apply to large phased developments yet allow local jurisdictions to respond to changing circumstances. This subtitle is similar but not identical to the general provisions of Title 7, Subtitle 3 and the Montgomery County provisions of Title 24, Subtitle 3 of this article.

Subtitle 6. Agricultural Preservation Easement Program.

Subtitle 6 establishes the Prince George's County Agricultural Preservation Easement Program and Fund. The Program provides for easement acquisition under the administration of the county soil conservation district in accordance with local law adopted by the county council.

Subtitle 7. Anacostia River Flood Control.

Subtitle 7 revises provisions on flood control and navigation projects in the Anacostia River valleys and tributaries in the county.

Subtitle 8. Prince George's County Recreation Program.

Subtitle 8 revises provisions on the county recreation program in coordination with the Commission's park program. The subtitle establishes a standing advisory committee on recreation. This subtitle also contains a provision relating to the administration and operation of the Bladensburg Marina and Boat Basin.

Title 26. Miscellaneous Provisions.

This title contains other miscellaneous provisions.

Subtitle 1. Historic Grant Programs.

Subtitle 1 revises provisions on the Montgomery County Historic Preservation Grant Program and Fund and the Prince George's County Historic Property Grant Program and Fund. The subtitle authorizes each Program and Fund to provide grants and matching funds for research, educational material development, and promotion of historic preservation.

Title 27. Enforcement.

This title contains the general misdemeanor penalty applicable to violations of Division II. It also provides a specific penalty for interfering with access to a building or premises by certain Commission personnel.

VIII. Obsolete Material.

In the case of material that appeared to be obsolete, the committee took two types of action – transferring to the Session Laws any material that might still have some effect, and repealing other material outright.

Transfers to the Session Laws

A statute is transferred to the Session Laws to ensure that the statute remains in effect but does not clutter the Annotated Code. This method is used for statutes that appear to be obsolete but may conceivably still affect entities in existence at the time of transfer.

Section 6 of Chapter 426 transfers to the Session Laws former Art. 28, §§ 1-101 through 1-105 and 2-121. Former Art. 28, §§ 1-101 through 1-105 provided for the continuity of M-NCPPC, its property, liabilities, claims, bonds and other evidences of indebtedness, actions, plans, maps, ordinances, regulations, and resolutions through recodifications and related legislation in 1975, 1977, and 1983. Former Art. 28, § 2-121 provided for the repeal of laws or parts of laws inconsistent with or contrary to former Article 28 to the extent of the inconsistency, and had been itself reenacted several times in recodifications over many decades. *See also* General Revisor's Note to Article.

Section 7 transfers to the Session Laws former Art. 28, § 4-105(b). This provision provided for the continuity of certain contracts entered into before 1947. *See also* General Revisor's Note to Article.

Section 8 transfers to the Session Laws the eighth and ninth sentences of former Art. 28, § 5-110(a). This provision limited the validation and renegotiation of certain leases and agreements executed by M-NCPPC before July 1, 1972. *See also* General Revisor's Note to Article.

Section 9 transfers to the Session Laws former Art. 28, § 5-106(d). This provision required M-NCPPC to survey the land that became Jesup Blair Park, record the survey and boundaries in the land records, and mark the boundaries. *See also* General Revisor's Note to Article.

Section 10 transfers to the Session Laws the second sentence of former Art. 28, § 2-118(a)(1). This provision provided for the continuity of certain budget procedures of M-NCPPC. *See also* General Revisor's Note to Article.

Section 11 transfers to the Session Laws former Art. 28, §§ 3-102 through 3-107. These provisions established the metes and bounds descriptions of the Maryland-Washington Metropolitan District, certain alterations of those boundaries, and related matters. *See also* General Revisor's Note to Article.

Section 12 transfers to the Session Laws the third sentence of former Art. 28, § 8-115(c). This provision provided for the continuity of certain building rules and regulations in force in Prince George's County before May 7, 1943. *See also* General Revisor's Note to Article.

Section 13 transfers to the Session Laws the fifth and sixth sentences of former Art. 28, § 7-108(d)(2)(i) and the eighth and ninth sentences of (3). This provision provided for the

continuity of certain plans and laws in effect in the Maryland-Washington Regional District on October 1, 1959. *See also* General Revisor’s Note to Article.

Section 14 transfers to the Session Laws former Art. 28, § 8-113. This provision provided for the continuity of zoning regulations and maps enacted by the county commissioners of Montgomery and Prince George’s counties as of May 24, 1939. *See also* General Revisor’s Note to Article.

Section 15 transfers to the Session Laws former Art. 28, § 7-116(c)(1). This provision authorized certain regulatory enforcement agreements in Montgomery County but has never been used. *See also* General Revisor’s Note to Article.

Section 16 transfers to the Session Laws former Art. 28, § 9-101(e). This provision maintained the obligation of the City of Bowie to pay certain Anacostia River basin flood control bonds. *See also* General Revisor’s Note to Article.

Repealed Material

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.

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. 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.

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.

IX. Special Sections.

Chapter 426 contains a number of standard uncodified sections common to code revision projects, primarily designed to protect the status of the revision as a bulk, nonsubstantive

restatement of the former law. Section 17 states the intention of the General Assembly that this Act be construed as a nonsubstantive revision and not to render a substantive change in the law of the State, except as expressly provided. Section 18 provides that the captions and catchlines contained in the Act are not law and are not to be considered part of the enactment. Sections 19 and 20 are savings clauses to protect members, appointments, transactions, and contracts undertaken under the former law. Similarly, Sections 21 and 22 provide for the continuity of administrative units, permits, and certificates subject to the former law. Section 23 provides that this Act does not affect rules adopted by the Court of Appeals concerning practice in, procedure of, or administration of the courts of the State. Section 24 authorizes the publisher of the Annotated Code of Maryland to correct certain cross-references and terminology rendered incorrect by the Act and other Acts affecting this Act, subject to approval of the Department of Legislative Services.

Chapter 426 preserves a contingency and termination to which a provision of the former law was subject. Section 25 provides that Title 15, Subtitle 2, the Minority Business Enterprise Utilization Program of M-NCPPC, which was subject to sunset under Chapter 100 of the Acts of 2008, remains subject to that sunset provision.

Finally, Section 26 provides that the Act takes effect October 1, 2012.