PART II

THE CODE

CHAPTER 1

GENERAL PROVISIONS

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Sec. 1-1. How Code designated and cited. *

The ordinances embraced in this and the following chapters and sections shall constitute and be designated as "The Code of the City of Bowie, Maryland," and may be so cited. The Code may also be cited as "Bowie City Code."


A. As used in the Bowie City Code, the following terms shall have the meanings indicated, unless a contrary meaning is clearly intended from the context in which the term appears:

   Bond. When a bond is required, an undertaking in writing shall be sufficient.
   City. The term "City" shall mean the City of Bowie, in the County of Prince George's and State of Maryland, except as otherwise provided.
   City Council. The term "City Council" or "Council" shall mean the City Council of the City of Bowie.
   City Manager. The term "City Manager" and "City Administrator" shall be synonymous and shall have the meaning set forth in Chapter 2, Article II, Division 2 of the Code.
   City of Bowie Seal. The term "City of Bowie Seal" shall have the meaning set forth in Section 1-9.

*For state law as to power of council to provide for the publication and codification of all laws, ordinances, resolutions or regulations adopted by or affecting the municipality, see Md. Ann. Code, art. 23A, ss 2, subsec. (1) (1957).

Code. The term "Code" shall mean the Code of the City of Bowie, which is also referred to as the Bowie City Code, as such is amended from time to time.

Code Enforcement Officer. The term "Code Enforcement Officer" shall mean an employee of the City authorized by the City Manager to issue citations for violations of this Code. Code Enforcement Officer shall include certain employees of the City as the City Manager shall designate from time to time.

Charter. The term "Charter" or "City Charter" shall mean the Charter of the City of Bowie, as amended from time to time.

County. The term "County" shall refer to Prince George's County, Maryland.

Month. The term "Month" shall mean a calendar month.
Municipal infractions. Any violation of this Code, which has been specifically declared to be an infraction. For purposes of this Code, an “infraction” is a civil offense. (added by O-08-90, 4/16/90).

Number. Words used in the singular include the plural and the plural includes the singular number.

Oath. The term "Oath" shall be construed to include an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

Owner. The term "Owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such building or land.

Person. The term "Person" shall include a corporation, company, firm, partnership, association or society as well as a natural person.

Property. The term "Property" shall include real and personal property.

Real property. The term "Real Property" shall include lands, tenements and hereditaments.

Sidewalk. The term "Sidewalk" shall mean any portion of a street between the curb line, or the lateral lines of a roadway where there is no curb, and the adjacent property line intended for the use of pedestrians.

Signature or subscription. The terms "Signature" or "Subscription" shall mean a persons legal signature under seal, but shall include a mark when the person cannot write, his name being written near it and witnessed by a person who writes his own name as witness.

State. The term "State" shall be construed to mean the State of Maryland.

Street. The term "Street" shall include but not be limited to public avenues, boulevards, highway, roads, alleys, lanes, viaducts, bridges and the approaches thereto and all other public thoroughfares in the City, and shall mean the entire width thereof between abutting property lines; it shall be construed to include a sidewalk or footpath, unless the contrary is expressed or unless such construction would be inconsistent with the manifest intent of the City Council.

Tenant, occupant. The terms "Tenant" and "Occupant," applied to a building or land, shall include any person who occupies the whole or a part of such building or land, whether alone or with others.

Time. Words used in the past or present tense include the future as well as the past and present.

Writing. The term "Writing" shall include printing.

Year. The term "Year" shall mean a calendar year.

B. In the construction of the Bowie City Code and of all ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the City Council. Further, whenever used in the Bowie City Code, the following words shall have the meanings set forth below:

Computation of time. (Office hours of the filing of papers). The time within which an act is to be done shall be computed by excluding the first and including the last day, and if the last day so computed falls on a Saturday, Sunday or a legal holiday, that day shall be excluded and the period shall be extended to the first day thereafter. For the filing of papers with the City or any of its boards, committees, or commissions such papers shall be filed with the City Clerk no later than 5:00 p.m. of the last day allowed.

Gender. Words importing the masculine gender shall include the feminine and neuter.

Joint authority. All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Personal property. The term "Personal Property" shall have the meaning customarily set forth and shall include, but not be limited to, money, goods, chattels, things in action and evidences of debt.
Sec. 1-3. Catchlines of sections.

The catchlines of the several sections of this Code printed in bold-faced type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections, nor as any part of such sections, nor unless expressly so provided, shall they be so deemed when any of such section, including the catchlines, are amended or re-enacted.

Sec. 1-4. Provisions considered as continuation of existing ordinances.

The provisions appearing in this Code, so far as they are the same as those of ordinances existing prior to the adoption of this Code, shall be considered as continuations thereof and not as new enactments.

Sec. 1-5. Severability of parts of Code.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and words of this Code are severable, and if any word, clause, sentence, paragraph or section of this Code be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining words, clauses, sentences, paragraphs and sections of this Code, since the same would have been enacted by the City Council without the incorporation in this Code of any such unconstitutional or invalid word, clause, sentence, paragraph or section.

Sec. 1-6. Misdemeanor; municipal infractions; general penalty; continuing violations.

A. Misdemeanor. As used in this section "misdemeanor" shall have the following meaning: (1) A criminal offense, not amounting to a felony, arising from a violation of a law of the State, which violation is defined as a misdemeanor. (2) Unless otherwise specified, a violation of any law of the City. All violations of this Code shall be treated as "misdemeanors" unless specifically declared by this code or any ordinance of the City to be a municipal infraction.

B. Fine for misdemeanor. Whenever in this Code or in any ordinance of the City any act is prohibited or is made or declared to be a misdemeanor, where no specific penalty is provided therefor, the violator of any such provision of this Code or any ordinance shall be punished by a fine not to exceed $500.00 or imprisonment for thirty (30) days or both. Each day any violation of any provision of this Code or of any ordinance continues shall constitute a separate offense.

C. Municipal infractions.

(1) Declaration. The City Council shall, by official act, declare the violation of which ordinance(s) shall be municipal infractions. For each such violation, a specific fine shall be set which shall not exceed One Thousand Dollars ($1,000) for each infraction and for each repeat or continuing infraction. The fine shall be expressed as a discrete amount rather than being expressed in terms of a maximum or a minimum amount. The authority to declare infractions and set fines shall not be delegated by the City Council to any other administrative or legislative body.

(2) Citation. Citations for municipal infractions shall be issued by a Code Enforcement Officer to those persons whom they adjudge to be committing a municipal infraction or on the basis of an affidavit submitted to an appropriate official of the municipality, setting forth the facts of the alleged violation. The Code Enforcement Officer shall serve a citation in accordance with Maryland Rule 3-121 or, for real property related violations, if proof is made...
by affidavit that good faith efforts to serve the defendant under Rule 3-121(a) of the Maryland Rules have not succeeded, by regular mail to the defendants last known address; and by posting of the citation at the property where the infraction has occurred or is occurring, and, if located within the City, at the residence or place of business of the defendant. A copy of the citation shall be retained by the City and shall bear the certification of the enforcing official attesting to the truth of the matter set forth in the citation. The citation shall contain at a minimum the following information:

(a) Name and address of the person charged.
(b) The nature of the infraction.
(c) The location and time that the infraction occurred or was observed.
(d) The amount of the infraction fine assessed.
(e) The manner, location and time in which the fine may be paid to the City.
(f) The right of the accused to elect to stand trial for the infraction.
(g) The effect of failing to pay the assessed fine or demand a trial within the prescribed time.
(h) The issuing authority's certification attesting to the truth of the matter set forth in the citation.

(3) Payment of fine. The fine for an infraction shall be as specified in the section violated or as set forth in this section. The fine is payable by the recipient of the citation, at City Hall, within twenty (20) calendar days of receipt of the citation.

(4) Election to stand trial. A person receiving a citation for a municipal infraction may elect to stand trial for the offense by notifying the City in writing of his/her intention to stand trial. The notice shall be given at least five (5) days prior to the date of payment of a fine as set forth in the citation. Upon receipt of the notice of the intention to stand trial, the City shall forward to the District Court having venue a copy of the notice from the person who received the citation indicating his intention to stand trial. Upon receipt of the citation, the District Court shall schedule the case for trial and notify the defendant of the trial date. All fines, penalties or forfeitures collected by the District Court for violations of infractions shall be remitted to the General Fund of the City.

Maryland Rule 3-121 provides that service may be made by delivering to the person to be served a copy of the required papers or by mailing to the person served the required papers by certified mail requesting "Restricted Delivery" -- showing to whom, date and address of delivery. In addition, Maryland Rule 3-121 provides instructions for serving people who are out of the State and for addressing situations where a person is evading service.

(5) Right of Administrative Review. A person charged with a municipal infraction shall be informed of the right to request review of the issuance of the citation by the Administrative Review Board in accordance with Chapter 1A of the Code of the City of Bowie. A person who requests review of the issuance of a citation by the Administrative Review Board must do so within fifteen (15) days of the issuance of the citation. A hearing before the Administrative Review Board will be scheduled as soon as practicable, but no later than thirty (30) days, after receipt of a request for review.

(6) Failure to pay fine. If a person who has received a citation for a municipal infraction fails to pay the fine for the infraction by the date of payment set forth on the citation and fails to file a notice of his intention to stand trial for the offense, and does not request a review of the issuance of the citation by the Administrative Review Board, the person is liable for the assessed fine. In such cases, the fine may double to an amount not to exceed One Thousand Dollars ($1,000). The City shall then request adjudication of the case through the District Court, including the filing of a demand for judgment by affidavit. The District Court shall promptly schedule the case for trial and summon the defendant to appear. The defendant's

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failure to respond to such summons shall result in the entry of a judgment against the defendant in favor of the City in the amount then due if a proper demand for judgment on affidavit has been filed.

(7) Conviction. Adjudication on a municipal infraction, whether by the District Court or by payment of the fine to the City, is not a criminal conviction for any purpose, nor does it impose any of the civil disabilities ordinarily imposed by criminal conviction. If any person shall be found by the District Court to have committed a municipal infraction, the person shall be required to pay the fine determined by the District Court in an amount not to exceed $1,000.00, the person shall be liable for the costs of the proceedings in the District Court, and the Court may permit the City to abate any such condition at the person’s expense.

(8) Certain violations declared infractions. Except as otherwise specifically stated within each Chapter, violation of the following ordinances are hereby declared to be municipal infractions of the City Code: Chapter 1, Section 9; Chapter 3; Chapter 4, Section 4-6(a), (b), (c), (d), (g), (h) and (i); Chapter 5; Chapter 6; Chapter 10; Chapter 11; Chapter 13; Chapter 15; Chapter 16, Sections 1 through 7 and 10; Chapter 17, Sections 1(a) through 1(e), 1(h), 1(k), 1(m), 1(n), 1(p), 1(r) through 1(y); Chapter 18; Chapter 22; Chapter 25; Chapter 26 and Chapter 27 and any other violation of ordinances that are specifically declared to be municipal infractions from time to time by the City Council.

(9) Fine. Whenever in this Code or in any ordinance of this City any act has been declared a municipal infraction and no specific penalty is provided therefor, the violator of any such provision of this Code or any ordinance shall be punished by a fine of one hundred dollars ($100.00) for the first offense and two hundred dollars ($200.00) for every subsequent offense. Each day any violation of any provision of this Code or of any ordinance shall continue shall constitute a separate offense. (Sec. 1-6 amended by O-32-90, adopted 12/17/90; Sec. 1-6 amended by O-17-94, adopted 10/3/94; Sec. 1-6(c) (8) deleted and (9) and (10) renumbered by O-8-99, adopted 11/8/99; Sec. 1-6 (c) amended by O-5/05, effective 5/18/05; Sec. 1-6 (7) and (8) amended by Ordinance O-5-08, effective 12/31/08).

Sec. 1-6A. Injunction.

In addition to a civic penalty, the Council and/or the City Manager may seek an injunction against any person who violates or threatens to violate any provision of this Code. (Sec. 1-6(a) added by O-17-94, adopted 10/3/94.)

Sec. 1-7. Effect of repeal or ordinances.

The repeal of an ordinance shall not revise any ordinances in force before or at the time the ordinance repealed took effect.

The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceedings pending at the time of the repeal, for an offense committed under the ordinance repealed.

Sec. 1-8. Interference with city personnel engaged in enforcement activities.

A. It shall be unlawful for any person to interfere with any agent or employee of the City, engaged in enforcing any provision of this chapter or any other section of the City Code.

B. Violation of this section shall be deemed a misdemeanor, and upon conviction thereof, punishment shall be by a fine of not more than five hundred dollars ($500.00), nor less than fifty dollars ($50.00), or by imprisonment or not more than thirty (30) days, or both.

Sec. 1-9. City of Bowie Seal

A. The City of Bowie Seal is the seal of the City.
B. The seal is depicted by an inverted horseshoe bearing the words "Bowie, Maryland", with the United States Flag at the top left hand corner and the Maryland Flag at the top right hand corner; inside the horseshoe are four sections which depict a horseshoe and a horse head with the date 1914 in the left hand section, a steam locomotive with the date 1870 in the top section, the Belair Mansion with the date 1737 in the righthand section and the word "Inc." with the date 1916 in the bottom section. This enclosed design has a ribbon stretching to both sides of the horseshoe inscribed with the words, "Growth, Unity, Progress". "Huntington City" and "Bowie Station", are inscribed above the bottom curve of the inverted horseshoe.

C. The seal of the City is for official use by the City and its authorized representative only.

D. The duly elected Mayor of Bowie and the duly appointed City Manager shall be authorized to attest to the City of Bowie Seal.

E. No person shall use any seal, insignia, envelope or any other format which simulates the City of Bowie Seal.

F. **Penalties.**

   The misuse or unauthorized use of the City Seal is a municipal infraction subject to the penalty and enforcement provisions of Sections 1-6 and 1-6A of this Code. (Sec. 1-9F. amended by O-17-94, adopted 10/3/94).

**Sec. 1-10. Unpaid fees and penalties to constitute a lien.**

Fees and penalties established in the City Code which are not paid as required therein shall be included in the non-payor's real property tax bill and shall be collected as City taxes are collected and the charges shall be due and payable at the time of payment of the tax bill. In the case of a misdemeanor or municipal infraction, the fine shall not be deemed due and owing the City until such time as judgment or order therefore is issued by a court of competent jurisdiction. Such charges shall constitute a lien on the non-payor's real property. (Sec. 1-10 added by O-18-98, adopted 9/22/98, effective 10/22/98).
Sec. 1A-1. Statement of policy.

It is the policy of the City of Bowie to protect the health, safety and welfare of its residents through the enforcement of the provisions of the Code of the City of Bowie (the "Code"). To ensure the equitable application of the Code, the City desires to create a process whereby persons who receive a citation for a municipal infraction may seek review of its issuance and persons aggrieved by a decision or action of the City Manager may have a forum for the review of such decision or action.

Sec. 1A-2A. Composition; appointment, terms and removal of members; vacancies.

The Council of the City of Bowie, Maryland may provide for the appointment of an Administrative Review Board composed of seven (7) members who are residents and registered voters of Bowie. Each member shall serve a term of two (2) years or until a successor is appointed. The Board may sit in three (3) member hearing panels which shall be designated by the Chairman. Vacancies shall be filled by the Council for the unexpired term of any member whose term becomes vacant. The members of the Administrative Review Board may be removed for cause by the Council of the City of Bowie upon written charges and after public hearing before the Council of the City of Bowie.

B. Power and functions.

The Administrative Review Board shall have and may exercise the following functions and powers:

(1) Hear, review and decide appeals from the issuance of municipal infraction citations issued by a City Code Enforcement Officer prior to the transmittal of the matter to District Court by the City.

(2) Review decisions of the City Manager made pursuant to Chapter 5 of the Code of the City of Bowie.

(3) Hear and decide appeals from decisions of the City Manager concerning non-conforming uses.

(4) Review and make recommendations on matters referred to it by the City Council.

(5) Perform such other administrative review functions as the City Council may provide by law.

Sec. 1A-3. Rules of Procedure.

A. The Administrative Review Board shall comply with all provisions of R-65-86, as amended from time to time, governing the Rules and Regulations of City Boards. The Board shall keep minutes of its proceedings and all findings and recommendations shall be reduced to writing and entered as a matter of public record in the Office of the City Clerk. In matters concerning the procedure for meetings not covered by R-65-86 or this Chapter, the Board may establish its own rules, provided they are approved by the City Attorney for form and legal sufficiency.

B. The City Manager shall designate an executive secretary to the Administrative Review Board and shall provide such support service as may be required.

Sec. 1A-4. Request for review.

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A. Any person aggrieved by an action of the City Manager under the provisions of Chapter 5 of the Code of the City of Bowie or any person aggrieved by an action of a Code Enforcement Officer of the City of Bowie may, within fifteen (15) days of receipt of a notice of action by the City Manager or a citation for a municipal infraction, request a hearing before the Administrative Review Board. Hearing requests shall be on forms provided by the City Manager and shall be filed with the executive secretary who will notify the aggrieved person in writing of the time and place set for the hearing.

B. A request for review of a citation for a municipal infraction issued by a municipal Code Enforcement Officer shall operate to stay further action of the Code Enforcement Officer until a decision of the Board is transmitted to the City Manager and the Citation is transmitted by the City Manager to the District Court for adjudication. This section shall not be construed to prohibit the City from seeking an injunction to protect the public's health, safety and welfare. (Sec. 1A-4B amended by O-17-94, adopted 10/3/94).

C. Within sixty (60) days of the filing of a request for review, the Administrative Review Board shall conduct a hearing at which time an opportunity shall be given to both the aggrieved person and the City staff or Code Enforcement Officer to present evidence. The hearing shall be open to the public and records and minutes shall be maintained by the Board at all such hearings. The Board shall issue a written decision affirming, reversing, or modifying the action under review no later than thirty (30) days from the closing of the hearing and shall provide a copy thereof to the persons aggrieved.

D. An aggrieved person shall abide by the decision of the Board which shall be deemed a final resolution of the matter in the review of an action of the City Manager pursuant to Chapter 5 of the Code of the City of Bowie. In matters involving a municipal infraction, where the decision of the Administrative Review Board is to reverse the citation, the citation may be transmitted by the City Manager to the District Court after notification to the City Council. If the Board determines that a violation of a provision of the Code has occurred and that the Code Enforcement Officer's action was correct, the violation must be corrected within a time period established by the Board, not to exceed thirty (30) days from the date on which the decision of the Board was issued. If the violation remains uncorrected after the time day period within which the Board has established the violation should be corrected, the City Manager shall request adjudication of the case through the District Court in accordance with State law. (Sec. 1A-4 amended by O-27-91, effective1/2/92); Sec. 1A-4(C) amended by O-4-02, effective 7/31/02).

Sec. 1A-5. Validity.

Chapter 1A of the Code shall not affect citations issued for the violation of any ordinance, code or regulation of the City of Bowie issued prior to the effective date of this Chapter and any such violation shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes or regulations in effect at the time the violation was committed.

Sec. 1A-6. Severability.

If any clause, sentence, part or parts of this Chapter, or of any section thereof, shall be held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining parts of this Chapter or of any section thereof.

Chapter 1A enacted by O-07-90, 4/16/90)
CHAPTER 2
ADMINISTRATION

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ARTICLE I. CITY COUNCIL.

Sec. 2-1. Annual financial report.

The Council shall prepare and file among the records of the corporation annually a report showing the amount of all money at its disposal for public expenditure during each Year terminating on the thirtieth day of June, the amount actually expended, and for what purpose, and the liabilities and credits of the City.

Sec. 2-2. Duty to turn records over to successors.

The City Councilmen shall turn over to their successors after each election, when they shall have qualified and entered on the duties of their office, all the books, papers, and records and other City properties in their possession.

ARTICLE II. PERSONNEL SYSTEM.

Division 1. Generally.

Sec. 2-3. Applicability of article.

All offices, employments and positions within the City service, except those filled by election of the people, offices of the City attorney, City Manager and such other appointments as may be required by statute, are hereby placed within the jurisdiction of the personnel system and shall be subject to such rules and procedures as may be included within this article or as set forth by resolution of the Council.

Sec. 2-4. Responsibilities of City Council.

The Council shall:
(a) Adopt rules for the regulation of personnel matters in conformity with and in furtherance of this article.
(b) Approve, establish, modify or abolish all positions or classes of positions; provided, that in connection with the adoption of the annual budget for the City, the Council shall approve all proposed positions.
(c) Approve, establish or modify all salary schedules for classes of positions. The compensation plan shall take effect either by ordinance of the Council or by adoption as part of the annual budget of the City.

**Sec. 2.5. Definitions.**

For purposes of this Chapter, the terms set forth below are defined as follows:

2. City Manager: The City Manager or the City Manager's designee.
3. Part Time Employees: Regular employees who work less than the number of hours required of full time employees.
4. Probationary Period. Except for sworn police personnel, a period of 180 calendar days from the date on which an employee initially enters full time or part time employment with the City or any extension thereof. With respect to sworn police personnel, a period of 365 calendar days from the date on which an employee initially enters full-time or part-time employment with the City or any extension thereof.
5. Regular Employee: A full time or part time employee who has completed a probationary period and been evaluated as qualified for regular employment.
6. Seasonal Employees: Employees appointed to temporary or contractual positions required to serve seasonal activities.
7. Temporary Employees: Employees hired on a contractual, temporary, or emergency basis. Temporary employees are not entitled to the rights and benefits of this Article.
8. Time Calculations: Unless otherwise specified, time requirements under this Article are to be measured by regular working days and exclude week-ends and holidays.

(Sec. 2-5 4. amended by O-2-07, adopted 1/16/07, effective 2/15/07).

**Sec. 2-6. Work day; work week.**

Except for employees who are subject to a collective bargaining agreement, hours of work shall be set by the City Manager based upon recommendations of the appropriate Department Head. Department Heads shall establish schedules for unpaid lunch breaks, work schedules and shifts.

**Division 2. City Manager.**

**Sec. 2-8. Appointment; duties generally; limitations on appointing council members as City Manager.**

The Council shall appoint a person to be an officer of the City who shall have the title of City Manager and shall have the powers and perform the duties as provided in this division. No member of the Council shall receive such appointment during the term for which he shall have been elected, nor within two years the expiration of his term. The term City Manager shall be synonymous with the term "City Administrator."

**Sec. 2-9. Qualifications.**

The City Manager shall be chosen by the Council solely on the basis of executive and administrative qualifications with special reference to his actual experience in, or knowledge of, accepted practice in respect to the duties of the office as set forth herein.

**Sec. 2-10. Compensation.**
The Council shall from time to time and in compliance with the Charter of the City of Bowie, fix such compensation as they shall deem adequate for the City Manager. The Council may embody the terms and conditions governing the employment of the City Manager in a contract approved by Council resolution. (Sec. 2-10 amended by O-6-93, adopted 5/17/93, effective immediately.)

Sec. 2-11. Removal.

The Council shall appoint the City Manager who shall serve at the pleasure of the City Council, provided however, that the Council may remove him/her by a majority vote of the entire Council upon thirty (30) days written notice to the City Manager. (Sec. 2-11 amended by O-6-93, adopted 5/17/93, effective immediately.)

Sec. 2-12. Duties.

The City Administrator shall:
(a) See that this Code or other ordinances of the City are faithfully executed by the chief executive officer of the City, and be the head of the administrative branch of the City government.
(b) Subject to the terms of the Law Enforcement Officers Bill of Rights with respect to police personnel, appoint and remove all subordinate officers and employees of the City in accordance with the rules and regulations of any merit system which may be adopted by the Council.
(c) Make an annual report to the Council and to the public on the condition of municipal affairs.
(d) Make such recommendations to the Council as he deems proper for the public good and welfare of the City.
(e) Be the chief financial officer of the City. The financial powers of the City, except as otherwise provided for in this Article, shall be exercised by the City Manager.
(f) Prepare an annual budget to be submitted to the Council.
(g) Supervise and be responsible for the disbursement of all money and have control over all expenditures to assure that budget appropriations are not exceeded.
(h) Maintain a general accounting system for the City in such form as the Council may require but not contrary to state law.
(i) Submit at the end of each fiscal year and at such other times as the Council may require a complete financial report to the Council.
(j) Ascertain that all taxable property within the City is assessed for taxation.
(k) Collect all taxes, special assessments, license fees, liens, and all other revenues, including utility revenues of the City and all other revenues for whose collection the City is responsible, and receive any funds receivable by the City.
(l) Have custody of all public money, belonging to or under control of the City, except as to funds in the control of any set of trustees, and have custody of all bonds and notes of the city.
(m) Arrange for the taking of minutes of all Council meetings and keep a full and accurate account of the proceedings of the Council.
(n) Do such other things as the Council may require or as may be required elsewhere in the City Charter.
(o) Delegate any of the duties as listed in this section to the Assistant City Manager, as needed. (Sec. 2-12 (o) added by O-21-89); (Sec. 2-12(b) amended by O-2-07, adopted 1/16/07, effective 2/15/07).

Division 3. Director of Human Resources.

Sec. 2-13. Designation.

The responsibility for implementing the provisions of this Article and for the general supervision of the personnel system is vested in the City Manager or the City Manager's designated Director of Human Resources. Whenever any provision in this Code refers to the
City's Personnel Officer, such reference shall be deemed to be a reference to the Director of Human Resources. (Sec. 2-13 amended by O-6-10, adopted 6/21/10, effective 7/1/10).

Sec. 2-14. Functions.

The Director of Human Resources shall be responsible for:
(a) Recommendations to the Mayor and Council for the establishment and the classification of all positions in the personnel system.
(b) Recommendations for, and after adoption by the Mayor and Council, the administration of rates of compensation covering all classes of positions in the personnel system. Such recommendations shall be included each year as a part of the budget recommendations of the City Manager.
(c) Establishing standards of qualifications for all employment positions established by the Council.
(d) Recruiting, examining, investigating and determining qualification of applicants for all positions in the personnel system.
(e) The appointment, transfer, promotion, reclassification, demotion, suspension, dismissal, or any other change in status of an employee.
(f) Maintenance of such personnel records as may be required.
(g) Recommending measures calculated to increase efficiency and to promote the interest and welfare of employees.
(h) Devising necessary administrative procedures to execute the policies of the Mayor and Council.
(i) Administering such rules and procedures as may be set forth relating to the personnel system.
(Sec. 2-15 amended by O-6-10, adopted 6/21/10, effective 7/1/10).

Sec. 2-15. Duty to classify positions.

The Director of Human Resources shall recommend classification of all of the positions in the personnel system, assigning to each the appropriate title, experience capacity, knowledge, skill and other qualifications including the minimum prerequisites to be required for appointment. This classification plan shall be so developed and maintained that all positions substantially similar with respect to duties, responsibilities, and authority over character of work, are included within the same schedule of compensation can be made to apply with equity under like working conditions to all positions within the class. The classification plan so recommended shall be transmitted to the Mayor and Council for adoption. The Director of Human Resources may reclassify positions within the limits of the annual adopted budget. Every position in the personnel system shall be allocated to one of the classes and thereafter the position title and class so established shall be used in all personnel, fiscal and other documents and correspondence of the City. (Sec. 2-15 amended by O-6-10, adopted 6/21/20, effective 7/1/10).

Sec. 2-15A. Records, forms and reports.

(a) The Director of Human Resources shall cause to be maintained a complete personnel file for each employee. Such file shall contain a personal history form or application form and all other records, memoranda or other data pertinent to the development of a complete record of the employee's service with the City. The Director of Human Resources shall develop such other forms and procedures as may be required to carry out the provisions of this Article. Personnel records will be secured so as to ensure the confidentiality of their contents. No person may have access to an employee's personnel file, or be provided information concerning its contents, except the employee, persons authorized in writing by the employee, the persons who supervise the employee's work, and Human Resources Department staff members, where such access is authorized by the Director of Human Resources. The City Manager and the Director of Human Resources shall be deemed to supervise the employee's work.
(b) All information regarding an employee's medical condition, including the results of alcohol/drug screening and referral to the employee assistance program will be treated as confidential medical records and will be maintained and secured separate from the employee's personnel file. No one will be allowed access to confidential medical records except the employee and those persons who require such access in order to make decisions concerning the employee's ability to perform the essential functions of the employee's job, the employee's request for a disability-related accommodation, or the employee's entitlement to leave or other benefits.

(c) The Director of Human Resources shall cause to be maintained adequate current records for leave accounting, such records to be a part of the personnel and fiscal records of the City.

((Formerly Sec. 2-57). Sec. 2-15A numbered administratively).
(Sec. 2-15A amended by O-6-10, adopted 6/21/10, effective 7/1/10).
(Sec. 2-15A(a) and Sec. 2-15A(b) amended by O-4-12, adopted 4/16/12, effective 5/17/12).

Division 3A. Chief of Police.

Sec. 2-15B. Designation and duties.

(a) The position of Chief of Police is hereby established. The Chief of Police shall assist the City Manager in the establishment of a Police Department. The power to manage and operate the City's Police Department shall be vested in the Chief of Police, subject to approval and oversight by the City Manager. It shall be the function of the Police Department to enforce the laws of the City and, when appropriate and lawful, the laws of Prince George's County and the State of Maryland; the Chief of Police shall ensure that the Police Department adequately and competently fulfills this function.

(b) The duties of the Chief of Police shall be as follows:

1) To hire, with the concurrence of the City Manager, police officers to perform the policing functions of the Department;

2) To hire, with the concurrence of the City Manager, civilian employees, as necessary, to perform administrative and clerical functions for the Department;

3) To prepare and implement, with the concurrence of the City Manager, statements of policy and practice and general orders, as appropriate, to govern the conduct of City police officers;

4) To manage the day-to-day operations of the Department and supervise the Department's police and civilian employees, including but not limited to the scheduling of Department employees and the discipline of police officers in accordance with the provisions of State law, where applicable. (Division 3A of Article II added by Ordinance O-6-09, adopted 5/15/06 and effective 6/15/06).

Division 4. Plan of Compensation.

Sec. 2-16. Generally.

(a) The City Manager shall, when necessary, make recommendations to the Council for changes in base and maximum salaries for each class of position in the personnel system as established by the initial schedule to be adopted by the Council. If funds therefore have been appropriated in the City's operating budget, provision may be made for annual performance based salary increases for each class of position until the maximum salary is attained; provided, that prior to the granting of any performance based salary increase the supervisor of the employee concerned shall certify to the personnel officer that the employee has performed his or her duties satisfactorily for the preceding year, or in the case of probationary appointees from date of appointment, except as provided in Section 2-30. If funds therefore have been appropriated in the City’s Operating Budget, the City Manager may approve an annual across-the-board bonus.

(Sec. 2-16(a) amended by O-14-91, adopted 5/13/91, effective 6/12/91; O-7-93, adopted 6/21/93, effective 7/21/93; O-4-12, adopted 4/16/12, effective 5/17/12)
Sec. 2-17. Eligibility for performance based salary increase.

(a) Subject to the availability of funds and subject to the provisions of Section 2-18 of this Code, a performance based salary increase may be granted to all regular employees. Performance based salary increases will vary based upon individual performance evaluations and/or the achievement of departmental goals as determined by the City Manager. Approved performance based pay increases will take effect July 1st.

(b) A new employee who has successfully completed the required probationary period by July 1st, but has worked less than one full year is eligible to receive a pro-rated performance based salary increase based upon the number of full months of employment worked by the employee in the preceding fiscal year.

(c) A new employee hired between January 1 and June 30 who has completed the required probationary period and has received a satisfactory individual performance evaluation is eligible to receive a pro-rated performance based salary increase at the conclusion of the probationary period based on the number of full months of employment in the preceding fiscal year.

(d) Employees who have achieved the maximum pay level for their position are not eligible for performance based pay increases, but shall continue to receive the cost of living increases approved by the City Council.

(e) The City Manager, upon the recommendation of both a Department Director and the Director of Human Resources, may in his or her discretion approve an incentive award for employees who have demonstrated outstanding performance and an unusual and substantial contribution to City objectives, which will not increase their base salary.

(Sec. 2-17 (a) through (e) added by O-7-93, adopted 6/21/93, effective 7/21/93)
(Sec. 2-17(a) and (e) amended by O-4-12, adopted 4/16/12, effective 5/17/12)

Sec. 2-18. Performance evaluations.

(a) Individual performance evaluations for all employees will be conducted prior to July 1 of each year.

(b) An employee who receives an unacceptable performance evaluation may receive the cost of living increases approved by the City Council, but is ineligible for a performance based salary increase and will be subject to an additional evaluation within a six month period. Two successive unacceptable evaluations are grounds for dismissal.

(Sec. 2-18 (a) through (c) added by O-7-93, adopted 6/21/92, effective 7/21/93)
(Sec. 2-18(a) through (c) amended by O-4-12, adopted 4/16/12, effective 5/17/12)

Sec. 2-19. Salary upon promotion or reclassification.

No employee who is promoted or whose position is reclassified to a higher grade shall receive a salary or wage lower than that which the employee received prior to promotion or the reclassification of the position. In the event an employee is demoted or reassigned to a lower grade, the Director of Human Resources shall set the employee's level of compensation within the employee's new classification.

(Sec. 2-19 amended by O-4-12, adopted 4/16/12, effective 5/17/12)

Sec. 2-20. Limitations upon salary.

No employee in the personnel system shall be paid a salary less than the established minimum nor greater than the maximum rates fixed in the compensation plan for the position he holds.

Sec. 2-21. Reimbursement for use of personal vehicles.

Employees required to travel, or use personally owned vehicles, on official business for the City, shall be reimbursed at rates fixed by the Council, in its enactment of the City's budget but in no event shall reimbursement be used as a means of extending the compensation provisions of this Article.
Sec. 2-22. Overtime compensation.

(a) Except as may otherwise be provided by collective bargaining agreement, hourly, clerical and technical employees who qualify as non-exempt under the Fair Labor Standards Act shall be compensated at the rate of time and one-half of the employee's regular hourly rate of pay for hours worked in excess of forty per week; however, the City Manager may, as permitted by law, direct that compensatory leave at the time and one-half rate be granted in lieu of payment.

(b) Professional, administrative and supervisory employees who qualify as exempt under the Fair Labor Standards Act shall receive compensatory leave for overtime worked on a time for time basis for hours worked in excess of their normal work week.

(c) Public Works supervisory personnel through Grade 13 who qualify as exempt under the Fair Labor Standards Act shall receive overtime pay or credit to be taken as compensatory time computed at the rate of one and one half (1 1/2) hours for each hour worked over 40 hours in a workweek or for work performed outside the supervisor's work schedule. The City Manager shall determine the form of compensation for the performance of overtime work.

(d) Supplemental overtime. Non-exempt employees shall be paid at the rate of two times the employee's regular hourly rate of pay for work performed on the seventh consecutive full day of work.

(e) Compensatory leave may be accumulated up to 240 hours in a calendar year but must be reduced to a maximum of 15 days by the end of each calendar year.

(Sec. 2-22(a), (b), (e) and (f) amended by O-4-12, adopted 4/16/12, effective 5/17/12)

Sec. 2-23. Effecting compensation plan.

The compensation plan shall take effect either by ordinance of the Council or by adoption as part of the annual budget of the City.

Division 5. Appointments.

Sec. 2-24. Generally.

In the event that a vacancy occurs in any position established under the personnel system, the City Manager may seek applicants from inside or outside the City's employment service by advertisement or such other means as the City Manager may deem advisable.

Sec. 2-25. Application--Forms; contents.

All applicants for employment shall be required to furnish, on forms provided by the City, complete information relating to education, special training, experience and skills, a chronological statement of previous employment with references, and such other information as the City may lawfully require.

Sec. 2-26. Application--Investigation, etc.

(a) The Director of Human Resources shall make, or cause to be made, such investigation as is necessary to verify the facts contained in the application and shall conduct such oral interviews and such tests and examinations relevant to the qualifications and technical requirements for the position as the Director may deem necessary. The investigation may include a criminal background and/or credit history inquiry when such inquiry is consistent with City policy and authorized by law.

(b) The Director of Human Resources shall require a post offer, preemployment medical examination, including drug and alcohol screening for applicants in specified classes of work where such tests relate to bona fide occupational qualifications for employment. This examination shall be performed by a licensed physician selected by the Director of Human Resources and conducted at the City's expense.

(Sec. 2-26 amended by O-4-12, adopted 4/16/12, effective 5/17/12)
Sec. 2-27. Appointments to be made on basis of merit; veterans preference.

All appointments shall be made on the basis of merit only, without regard to race, color, creed, religion, sex, sexual orientation, national origin or physical or mental disability. Honorably discharged veterans of the United States armed forces shall be granted preference over others equally qualified.

Sec. 2-28. Probationary period.

All appointments to positions made from outside the City's Personnel System shall be subject to a probationary period. Appointments made from within the City's Personnel System may be subject to an appropriate probationary period as established by the City Manager. During this period, the appointee's performance shall be closely reviewed to determine the employee's ability to carry out assigned tasks, efficiency and other characteristics relative to the requirements of the position. Such a review shall be conducted by the employee's Department Head prior to the conclusion of the probationary period. Additionally, supervisors and probationary employees shall discuss the employee's job performance at reasonable intervals during the probationary period. If it is determined that the work of the probationary employee is not satisfactory, the Director of Human Resources may extend the probationary period for an additional period as provided in Section 2-30 of this Article or may dismiss the employee from the job.

(Sec. 2-28 amended by O-4-12, adopted 4/16/12, effective 5/17/12)

Sec. 2-29. Temporary appointment.

Whenever the City Manager determines that because of heavy workloads or special projects or for other similar reasons it is of advantage to the City, the City Manager may, within the limits set forth in the budget ordinance, make appointments on a temporary or seasonal basis. Such appointments may not exceed a period of three months except with approval of the Council. A temporary or seasonal appointment shall not be granted regular employment status in the personnel system. A temporary or seasonal employee who receives a regular appointment shall be deemed a new employee. Any time spent as a temporary or seasonal employee shall not be credited toward the probationary period.

(Sec. 2-29 amended by O-4-12, adopted 4/16/12, effective 5/17/12)

Sec. 2-30. Regular appointment.

(a) Upon satisfactory completion of any probationary period, an employee shall be granted regular employment status. In each case the Department Head with the approval of the City Manager shall include in the employee's personnel file a statement evaluating the employee's performance during the probationary period. In the event the Department Head is unable to make a determination as to whether an employee should be granted regular employment status at the end of the probationary period, the Director of Human Resources may extend the employee's probation for one additional probationary period not to exceed one hundred eighty days.

(b) An employee who has satisfactorily completed his or her initial probationary period and achieved regular employment status may be placed in probationary status by the Director of Human Resources at the request of the employee's Department Head when the employee's performance is unsatisfactory in any significant respect. During any such additional probationary period, the employee will not be considered a regular employee. At the conclusion of the additional probationary period, the employee shall receive an additional performance evaluation. If the employee's performance fails to improve sufficiently during the additional probationary period such that the employee's performance is rated satisfactory in all respects, the employee shall be dismissed.

(Sec. 2-30 amended by O-4-12, adopted 4/16/12, effective 5/17/12)

Sec. 2-31. Part-time employees.
The City Manager is authorized to employ persons on a part-time basis. Part-time employees shall be subject to probation in the same way as regular, full time employees. Part-time employees hired before July 1, 2012 shall be eligible for personal leave days and vacation days on a pro rata basis. Part-time employees hired on or after July 1, 2012 shall not accrue personal or vacation leave. Part-time employees shall not be paid holiday pay for a day on which they were not regularly scheduled to work.

(Sec. 2-31 amended by O-4-12, adopted 4/16/12, effective 5/17/12)

Sec. 2-32. Reserved.

Division 6. Suspension, dismissal, demotion and resignation.

Sec. 2-33. Personnel appointed by Council.

Personnel subject to appointment by the Council and not covered under the personnel system as provided in Section 2-3 shall serve at the pleasure of the Council.

Sec. 2-34. Personnel system employees; discipline.

Subject to the terms of the Law Enforcement Officers Bill of Rights with respect to police personnel, whenever an employee's performance is deficient or whenever an employee violates any applicable provision of this Chapter, it is the duty of the employee's supervisor to point out the deficiencies or violations to the employee. Except for the conduct set forth in Section 2-37(b) verbal or written warning with a sufficient time for improvement should, wherever possible, precede more severe forms of discipline.

(Sec. 2-34 amended by O-2-07, adopted 1/16/07, effective 2/15/07; O-4-12, adopted 4/16/12, effective 5/17/12)

Sec. 2-35. Suspension.

Subject to the terms of the Law Enforcement Officers Bill of Rights with respect to police personnel, the City Manager, Department Head, Assistant Department Head, or Director of Human Resources may for disciplinary purposes suspend an employee without pay for a period not to exceed thirty (30) days. Whenever possible, employees shall be given written notice as to the cause for the action prior to suspension. Employees may appeal a suspension in accordance with Section 2-38 of this Chapter.

(Sec. 2-35 amended by O-2-07, adopted 1/16/07, effective 2/15/07; O-4-12, adopted 4/16/12, effective 5/17/12)

Sec. 2-36. Demotion.

Subject to the terms of the Law Enforcement Officers Bill of Rights with respect to police personnel, where the action or performance of an employee is unsatisfactory or requires disciplinary action but does not warrant dismissal, or where the nature of the work required of the employee warrants such action, the City Manager may reduce an employee to an established position in a lower grade or class subject to the appeal rights set forth in Section 2-38 of this Chapter.

(Sec. 2-36 amended by O-2-07, adopted 1/16/07, effective 2/15/07; O-4-12, adopted 4/16/12, effective 5/17/12)

Sec. 2-37. Dismissal.

(a) Subject to the terms of the Law Enforcement Officers Bill of Rights with respect to police personnel, the City Manager may dismiss an employee for cause. If the employee has attained regular employment status, the employee shall have those rights of appeal set forth in Section 2-38 of this Article or, in the case of employees covered by Division 8 of this Article, in Section 2-58 of this Article. Dismissal shall be initiated by written recommendation of the
Department Head to the City Manager with a copy to the Director of Human Resources and the employee. If the City Manager conurs in the recommendation, a written notice signed by the City Manager or by the Director of Human Resources as the City Manager's designee shall be issued to the employee. The written notice shall contain a description of the grounds for dismissal and shall provide that the employee is suspended with or without pay pending termination. If requested by the employee within forty-eight hours of receipt of written notice, the Director of Human Resources will meet with the employee within five days of the date of the employee's request for a meeting. The employee may bring a representative to the meeting with the Director of Human Resources, and will be given an opportunity to respond to the grounds for the recommended dismissal. The Director of Human Resources will provide written notice of the decision to accept or reject the recommended dismissal within five working days after meeting with the employee. If the employee is discharged, the written notice will inform the employee of the right to appeal the termination. A copy of all documents relating to the termination and any response shall be filed in the employee's permanent personnel record.

(b) The following conduct and other acts not specifically enumerated herein involving conduct that would bring the City into disrepute, or that is clearly contrary to common sense, decency, or ethical behavior, may be sufficient cause for immediate removal:

1. Incompetence or inefficiency in the performance of duty.
2. Engaging in brutal, abusive, disrespectful treatment of the public or fellow employees.
3. Engaging in sexual harassment of members of the public or fellow employees.
4. Refusal to obey or follow any lawful or reasonable direction.
5. Acceptance of any service, valuable thing or benefit, such as a loan or discount not available to the general public, given directly or indirectly by any person, firm or corporation where it may reasonably be implied that such gift may have been given in the hope or expectation of influencing the employee's judgment or receiving preferential treatment from such employee.
6. Engaging in any private endeavor in conflict with the City's business or expending such time and attention to non-city business which makes it reasonable to assume that the employee may jeopardize the employee's health or ability to perform efficiently.
7. Solicitation of a gift in connection with the performance of City duties.
8. Conviction of or receipt of probation before judgment for a criminal offense involving a felony.
9. Conviction of a criminal offense that is a misdemeanor if such offense involves violence, dishonesty, or alcohol or drug intoxication.
10. Causing, through negligence or willful conduct damage to public property or waste of public equipment or supplies.
11. Making an assessment or solicitation of any kind for political purposes on any City employee.
12. Use or found to be under the influence of intoxicating liquors or narcotic drugs while on duty or while engaged in City business. This conduct is subject to referral under the City's Employee Assistance Program.
13. Loaning an employee's identification or City property to any person without proper authorization.
14. Stealing, tampering with or willfully destroying, marring or defacing City property.
15. Use of City property such as supplies or vehicles for personal use without proper authorization.
16. Making a willfully false official statement, falsifying a record, time card, time sheet or report or defrauding the City.
17. Assault of a fellow employee or member of the public or creating a disturbance while engaged in City business.
18. Carrying an unauthorized deadly weapon.
19. Excessive tardiness or absence from work or abuse of the use of sick or other leave privileges.
20. Selling of any tickets, posting of notices, circulating of petitions, soliciting of employees or asking for any donations for charitable causes while engaged in City business without the specific approval of the Personnel Officer.

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(21) Gambling while on duty or while engaged in City business or while on City property.

c) In addition, any employee is subject to dismissal in the event that the employee's job is abolished.

d) No employee shall directly or indirectly use or seek to use his or her official position, authority, or influence to control or modify the political action of any other person; nor shall any employee, during duty hours, engage in any form of political activity.

(Sec. 2-37(a) amended by O-2-07, adopted 1/16/07, effective 2/15/07)
(Sec. 2-37(a), (b)(9) thru (21) and (d) amended by O-4-12, adopted 4/16/12, effective 5/17/12)

Sec. 2-38. Procedure for hearing in cases of removal, suspension or demotion; appeal board created.

(a) The appeal procedure hereinafter described shall apply only to regular employees as defined in Section 2-5 of this Chapter.

(b) A Board of Personnel Appeals is hereby created for the purpose of affording a fair hearing to employees, upon request, who have been dismissed, suspended or demoted. The Board shall have three (3) members and two (2) alternate members who shall be appointed by the Council for two (2) year terms, and who shall serve without compensation. In the event of a vacancy in regular member's seat or in the event of the unavailability of a regular board member, an alternate member, if one is available, shall be designated by the Board’s Chairperson to participate in any hearing requested by an employee and the Board may not hear an appeal with fewer than three persons on the panel unless an alternate is not available to serve. Members and alternate members of the Board shall be knowledgeable about personnel and employment matters and appointment preference shall be given to persons who are residents of the City of Bowie and registered voters. The Council shall designate a chairperson.

(c) The Board shall conduct its affairs pursuant to rules of procedure established by the Board and approved by the City Council, and shall be guided in the absence of a rule of the board regarding any particular subject by the Maryland Administrative Procedure Act. All proceedings shall be recorded, and shall be conducted in a private or public session at the option of the employee. During proceedings before the Board of Personnel Appeals, both the employee and the City may be represented by counsel, or such person as the party may choose.

(d) Any employee who believes his/her demotion, suspension or disciplinary dismissal is without cause may have a hearing before the Board of Personnel Appeals by filing a written request with the City Clerk within fifteen (15) days after the day the employee was notified of the demotion, suspension, or dismissal. The Board shall schedule a hearing not less than ten (10) nor more than thirty (30) days after the request is filed, however, the Board may schedule a hearing before the said ten (10) days or beyond the said thirty (30) days if the Board is satisfied that there is good reason to do so; provided, however, that the unavailability of a regular Board member shall not constitute good reason to delay a hearing if an alternate member is available. The employee and the City shall be promptly notified of the hearing date. The employee's request for hearing shall fairly state the reason or reasons the employee believes the action complained of is without cause. An employee who does not desire a hearing may, in writing, waive any right to a hearing and may request a review of the action by the Board based upon written submissions.

(e) Subject to the requirements of Subsection (b) of this Section that the Board’s Chairperson must designate an alternate member to hear an appeal if one is available in the absence of a regular member, at least two (2) Board members or alternate Board members must be present at the hearing to constitute a quorum. The Board may promulgate rules and procedures governing extraordinary circumstances. Every decision shall be in writing and shall contain findings of facts found and conclusions of law. A copy shall be promptly delivered or mailed to the employee the City’s representative and the City Clerk.

(f) The Board shall, within ten (10) days of the conclusion of the hearing, issue a written decision affirming, reversing or modifying the decision of the Department Head or the City Manager, as the case may be. The Board may only reverse or modify a decision of the Department Head or the City Manager if it finds, based upon a preponderance of the evidence,
that the decision was so unreasonable and without justification as to be arbitrary and capricious. The Board may not otherwise substitute its judgment for that of the City Manager. If the Board sustains the appeal, the Board may restore the employee to the full benefits and privileges of employment, grant any unpaid salary, and cause all matters relating to this issue to be removed from the employee's personnel file, or such partial relief as the Board may consider warranted. If either the City Manager or the employee is dissatisfied with the decision of the Board, he or she may, within thirty (30) days of the decision, file a petition for judicial review in the Circuit Court for Prince George's County. A party who is aggrieved by a final judgement of the Circuit Court under this section may appeal to the Court of Special Appeals in the manner provided by law for the appeal of actions involving judicial review of administrative decisions under the Maryland Administrative Procedure Act.

(g) The provisions of this section shall not apply to any sworn police personnel subject to the terms of the Law Enforcement Officers Bill of Rights.

(h) An employee who is a member of a collective bargaining unit and to whom Section 2-58 is applicable must waive his or her rights under Section 2-58 in order to elect to have an appeal heard by the Board of Personnel Appeals pursuant to this Section. Such waiver must be signed by the employee's collective bargaining representative and must be filed within five (5) days of the date on which the employee files the hearing request required by Subsection (d) of this Section.

Sec. 2-38 amended by O-9-98, adopted 2/17/98, effective 3/29/98
Sec. 2-38 (g) added by O-2-07 adopted 1/16/07, effective 2/15/07
Sec. 2-38(b) thru (f) and (h) amended by O-4-12, adopted 4/16/12, effective 5/17/12
Sec. 2-38(f) amended by O-2-16, adopted 2/16/16, effective 3/17/16

Sec. 2-39. Reemployment.

(a) An employee resigning his or her position shall, whenever possible, give at least two weeks notice in writing.

(b) The City Manager may pay to any employee upon termination by resignation or dismissal severance pay in an amount not to exceed the employee's salary for two weeks at the time of termination of employment with the City in lieu of providing the employee with notice, if the employee consents to the procedure and waives the right to appeal or bring other actions against the City arising out of the employee's employment with the City and the employee is advised of the right to consult with legal counsel before giving such consent or waiver.

(c) In the event a former employee of the City is reemployed within one (1) year from the date of termination of his or her employment, the City Manager may reinstate the employee in his or her former grade and credit him with his or her prior service with the City.

Sec. 2-39 amended by O-25-90, adopted 11/19/90, effective 12/19/90
Sec. 2-39 amended by O-4-12, adopted 4/16/12, effective 5/17/12

Sec. 2-39A. Complaints of misfeasance or malfeasance; non-retaliation policy.

(a) The City will not take any adverse employment action or otherwise retaliate against any employee who, in good faith and upon personal knowledge, makes a complaint regarding misfeasance or malfeasance committed by a City employee within the scope of his or her employment or by a city official acting under color of office.

(b) Complaints alleging misfeasance or malfeasance committed in the scope of employment by any City employee or by a City official acting under color of office are to be made to the City's Director of Human Resources. If a complaint concerns the Director of Human Resources, or the complaining employee otherwise believes that submission of a complaint to the Director of Human Resources would be ineffective or futile, a complaint may be made to the Assistant City Manager or, in his absence, to the City Manager.

(c) The City will undertake a reasonable and appropriate investigation of a complaint asserted pursuant to Subsection (b) of this Section.

(d) An employee may make an anonymous complaint of misfeasance or malfeasance by a City employee acting within the scope of employment or by a City official acting under color of office, provided that the City is not obligated to investigate an anonymous complaint that fails
to provide the name of a witness with personal (firsthand) knowledge of the alleged misconduct if the alleged misconduct is of a nature that cannot be objectively verified without witness statements.

(e) The City may take disciplinary action against an employee who provides false information regarding alleged misconduct by an official or employee:

(1) Knowingly and intentionally, or

(2) In bad faith

(Sec. 2-39A amended by O-4-12, adopted 4/16/12, effective 5/17/12)


Sec. 2-40. Employment benefits plans.

Subject to the terms of the Plan approved by the Council, eligible employees including employees subject to Division 8 of the Code will participate in the City’s Flexible Benefits Plan. This Plan is established to allow eligible employees to choose among various non-taxable fringe benefits available to such employees or, alternatively, to receive cash in lieu of those benefits. This Plan is intended to be a cafeteria plan within the meaning of Section 125 of the Internal Revenue Code and is to be interpreted accordingly. City Council members shall have the option of participating in the Health and Hospitalization Insurance Program and in those programs available under the City’s Flexible Benefits Plan. The participating Council member shall bear the total cost of the premium associated with participation in the Plans. For purposes of this section, Councilmembers shall be considered regular, full time employees of the City.

(Formerly Section 2-25, Section 2-25 amended by O-19-91, adopted 8/5/91, effective 9/4/91; amended by CAR-2-02, adopted 12/2/02, effective 1/21/03; amended by O-4-12, adopted 4/16/12, effective 5/17/12)

Sec. 2-40A. Retirement benefits.

All regular employees in the Personnel System of the City shall be participants in the Federal Old Age and Survivors Insurance Program and the City’s retirement plan, except that Police Personnel who are eligible to participate in the Law Enforcement Officers pension plan are not eligible to participate in the City’s retirement plan. Councilmembers may also participate in the City’s retirement plan at no cost to the City.

(Formerly Sec. 2-7)

(Sec. 2-40A amended by O-4-12, adopted 4/16/12, effective 5/17/12)

Sec. 2-41. Leave of absence without pay.

The City Manager may grant request for leave of absence without pay for periods not to exceed one (1) year, when such leave is for a valid purpose and when it appears that such leave would be in the best interest of the City. Except as provided in the provisions of this Section concerning family and medical leave, an employee on unpaid leave of absence accrues no benefits during the period of leave and is not guaranteed reinstatement to the employee's former position at the conclusion of the period of leave.

(Sec. 2-41 amended by O-4-12, adopted 4/16/12, effective 5/17/12)

Sec. 2-41A. Family and medical leave act.

The City will provide to employees eligible for leave under the Federal Family and Medical Leave Act (“FMLA”) that leave required by the FMLA and any duly-adopted Federal regulations implementing the FMLA. Leave under the FMLA will be granted in accordance with the terms of a policy adopted by the City Manager, as such policy may be amended from time to time; provided that to the extent any such policy is contrary to the provisions of the FMLA or its implementing regulations, the provisions of the FMLA or its implementing regulations shall prevail.

(Sec. 2-41A added by O-4-12, adopted 4/16/12, effective 5/17/12)
Sec. 2-42. Administrative leave; court appearances.

(a) The City Manager may grant paid or unpaid administrative leave to an eligible employee for reasons deemed in the best interest of the City. All requests for administrative leave must be approved by the City Manager in advance. Such leave will not be deducted from any other leave earned by the employee.

(b) Employees required to appear before a court or other public body by subpoena or official summons on any matter not related to their work and in which they are not personally involved as a plaintiff or defendant or as the debtor in a bankruptcy case shall be granted a leave of absence with pay for the period necessary to fulfill their civic responsibilities.

(Sec. 2-42 amended by O-4-12, adopted 4/16/12, effective 5/17/12)

Sec. 2-43. Jury leave.

Any regular employee called upon for jury service will be compensated at the employee's regular rate of pay. Such leave will not be deducted from any other leave earned by the employee.

Sec. 2-44. Military leave.

(a) Any regular employee who is a member of any United States military reserve or national guard unit and is required to engage in training exercises will be granted military leave not to exceed two (2) weeks in any one (1) calendar year. Such employee shall be entitled to receive the difference between his or her regular salary and his or her military pay, if the latter is less than his or her regular pay. Such leave will not be deducted from any other leave earned by the employee.

(b) In addition, all employees shall receive those rights of reinstatement and/or protection from discrimination and retaliation to which they are entitled pursuant to the Federal Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA).

(Sec. 2-44 amended by O-4-12, adopted 4/16/12, effective 5/17/12)

Sec. 2-44A. Funeral leave.

Any regular City employee shall be granted up to three (3) working days off with pay upon the death of a member of the employee's immediate family. The City may require reasonable proof of death or relationship to establish the validity of a request for a leave under this Section. For the purpose of this Section, immediate family shall include the following: spouse, children, parents, brother, sister, (including stepparents, stepchildren, stepbrothers, and stepsisters), grandparents, or other blood relatives residing in the employee's household, or in-laws to the employee or spouse. Such leave will not be deducted from any other leave earned by the employee.

(Sec. 2-44A amended by O-4-12, adopted 4/16/12, effective 5/17/12)

Sec. 2-45. Vacation leave.

(a) All vacation leave shall be computed on a calendar year basis.

(b) For employees hired before July 1, 2010, vacation allowances shall be earned annually based on the following schedule:

1. Employees with less than three (3) years of service shall be entitled to one (1) day of vacation for each month of service per year.

2. Employees with three (3) years or more of service but less than five (5) years of service shall be entitled to one and one-quarter (1 1/4) days of vacation leave for each month of service per year.

3. Employees with five (5) years or more of service but less than ten (10) years of service shall be entitled to one and one-half (1 1/2) days of vacation leave for each month of service per year.
(4) Employees with ten (10) years or more of service but less than fifteen (15) years of service shall be entitled to one and three-quarters (1 3/4) days of vacation leave for each month of service per year.

(5) Employees with fifteen (15) years or more of service shall be entitled to two and one-twelfth (2 1/12) days of vacation leave for each month of service per year.

(c) For employees hired on or after July 1, 2010, vacation allowances shall be earned annually based on the following schedule:
   (1) Employees with fewer than five (5) years service shall be entitled to .83 (83/100) days of vacation leave per month of service per year.
   (2) Employees with more than five (5) years of service but fewer than fifteen (15) of service shall be entitled to one and one-quarter (1 1/4) days of vacation leave per month of service per year.
   (3) Employees with more than fifteen (15) years of service but fewer than twenty (20) years of service shall be entitled to one and two-thirds days of vacation leave per month of service per year.
   (4) Employees with more than twenty (20) years of service shall be entitled to two and one-twelfth (2 1/12) days of vacation leave per month of service per year.

(d) Part-time employees hired before July 1, 2012 shall earn a pro rated credit for vacation leave, based upon years of service as set forth in Subsection (a) through (e) of this Section, in proportion to the number of hours employed. Part-time employees hired on or after July 1, 2012 shall not accrue vacation leave.

(e) Probationary employees may accrue vacation leave but may not use it until successful completion of the probationary period, except that sworn police department personnel with one-year probationary periods may use accrued vacation leave after six months of employment.

(Sec. 45 (g) added by O-2-07 adopted 1/16/07, effective 2/15/07).
(Sec. 45 amended by O-6-10, adopted 6/21/10, effective 7/1/10).
(Sec. 2-45 amended by O-4-12, adopted 4/16/12, effective 5/17/12)

Sec. 2-46. Computation of vacation leave.

All vacation leave shall be computed on a calendar year basis.

Sec. 2-47. Accumulation of vacation leave.

No employee shall be allowed to carry past December 31st of any year more than thirty (30) days of vacation leave, and any vacation leave in excess of thirty (30) days shall be cancelled on January 1st of each year.

Sec. 2-47A. Cash for leave option.

On or before December 15 of each calendar year, an employee may elect to convert up to five (5) vacation leave days which the employee is entitled to accrue during the upcoming calendar year to their cash equivalent as determined by the City Manager based upon the employee's daily rate of pay at the beginning of the next calendar year. Payments of cash in lieu of vacation leave days will be paid directly to the employee on a pro rata basis as part of the employee's regular pay each pay period for the calendar year.

(Sec. 2-47A amended by O-4-12, adopted 4/16/12, effective 5/17/12)

Sec. 2-48. Crediting vacation leave.

Vacation leave shall be credited to each employee after it is earned. Under no circumstances will vacation leave be credited to an employee in advance. No employee shall be entitled to use earned vacation leave until the employee has successfully completed his or her probationary period.

(Sec. 2-48 amended by O-4-12, adopted 4/16/12, effective 5/17/12)

Sec. 2-49. Payment for unused leave upon termination of employment.

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Upon termination, a regular employee may take the unused portion of vacation leave or may request payment for same. In no event shall such leave, including taken and paid leave, exceed thirty (30) days.

Sec. 2-50. Vacation schedules.

The City Manager may require vacation schedules to be prepared in advance and shall have the authority to adjust such schedules so as to maintain an effective working force at all times.

Sec. 2-51. Injuries received on duty - Workers' Compensation Insurance.

(a) Employees incapacitated due to an injury sustained in the course of employment with the City shall not be charged sick leave; however, absence due to a work-related injury shall be counted against the employee's leave entitlement under the Family and Medical Leave Act to the extent permitted by federal law. The City shall pay the employee his or her regular pay for the first three (3) days. Employees incapacitated due to an employment-related injury for more than three (3) days shall be entitled to that amount the employee receives under the City's workers' compensation insurance program. Employees shall not accrue annual or personal leave while on worker's compensation status.

(b) Pursuant to MD. Code Ann., Labor and Emp. Art., § 9-683.6, the City elects to subject City employees covered by the Maryland Worker's Compensation Act who are subject to § 9-503 thereof, and their dependents, to sections 9-683.1 through 9-683.5 of said article, as of the date of acknowledgement of said election by the workers' compensation commission, pursuant to section 9-683.6 of said article.

(Sec. 2-51 amended by O-4-12. adopted 4/16/12, effective 5/17/12)

(Sec. 2-51 amended by O-6-15, adopted 4/6/15, effective 5/7/15)

Sec. 2-52. Sick leave--Generally.

(a) All employees hired prior to July 1, 1988 and who have not elected the option set forth in Section 2-53(c), shall be entitled to one and one-quarter (1 1/4) days of sick leave for each month of service and may accumulate such sick leave with no limit. No payment shall be made for earned sick leave upon termination of employment.

(b) Conditions under which sick leave may be taken:

1. Personal illness,
2. Quarantine, or
3. Illness in the immediate family for up to five (5) consecutive days. For the purposes of this Article, immediate family shall include the following: spouse, children, parents, brother, sister, (including stepparents, stepchildren, stepbrothers, and stepsisters), grandparents or other relatives residing in the employee's household or the in-laws to the employee or employee's spouse.

(c) The Director of Human Resources may require, after the third consecutive work day, such evidence as the Director of Human Resources deems necessary to validate illness, disability, or quarantine, except if the Director of Human Resources determines, based upon the employee's employment history that such evidence be provided sooner.

(d) Whenever the Director of Human Resources has reason to believe that an employee's health, physical or mental, is impeding the satisfactory performance of the duties, tasks and responsibilities assigned to the employee, the Director of Human Resources may require any such employee to undergo a medical or psychiatric examination by a licensed physician of the Director of Human Resources selection, at the City's expense.

(Sec. 2-52(c) amended by O-4-12, adopted 4/16/12, effective 5/17/12)

Sec. 2-53. Personal Leave; Salary Continuation.
(a) Personal Leave. Except as to part-time employees hired on or after July 1, 2012, all employees hired after June 30, 1988, and employees hired prior to June 30, 1988 who elect to receive salary continuation benefits, shall be entitled to six (6) personal leave days per year.

(b) Personal leave days may be used in the case of occasional absence due to illness or injury in which case prior scheduling is not required. In all other cases, the City Manager shall require that the use of personal days be scheduled in advance and the City Manager shall have the authority to approve or disapprove such schedules in order to maintain an effective working force at all times.

(c) Salary Continuation. All regular full-time employees hired after June 30, 1988, and employees hired prior to June 30, 1988 who so elect, shall be entitled to short-term disability salary continuation benefits on such terms and in such amounts as may be determined by the City Council from time to time.

(d) Part-time employees hired before July 1, 2012, shall accrue personal leave on a pro-rated basis in proportion to the number of hours regularly worked by the employee each week. Part-time employees hired on or after July 1, 2012, shall not accrue personal leave and shall not be eligible for salary continuation benefits.

(Sec. 2-53(a), (c), amended, (d) added by O-4-12, adopted 4/16/12, effective 5/17/12)

Sec. 2-54. Advancement of unearned sick or personal leave.

(a) In exceptional cases, an employee with more than two (2) years service who is eligible to receive sick or personal leave may be advanced unearned sick or personal leave upon recommendation of the employee’s Department Head and approval of the Director of Human Resources.

(b) The City may advance up to thirty (30) work days of sick or personal leave to an employee who is eligible to receive sick or personal leave in any calendar year only for a serious illness or disability of the employee, if the employee has used all leave with pay that has been credited to the employee.

(c) The use of advanced sick leave by an employee constitutes a debt for which payment shall be enforceable upon the employee’s return to work. A written agreement regarding the method of payback shall be executed prior to the receipt of the leave of the employee. Reimbursement to the City shall be at the minimum rate of one half (1/2) of the rate of sick or personal leave earned; or, at the employee’s discretion, by applying other credited leave or cash payments to the amount owed.

(d) If an employee retires or resigns before the advanced leave is paid back, an amount equal to the balance due shall be deducted from the employee’s final check.

(Sec. 2-54 amended by O-4-12, adopted 4/16/12, effective 5/17/12)

Sec. 2-55. Holidays.

(a) The following days shall be recognized and observed as paid holidays:

1. New Year’s Day
2. Presidents Day
3. Martin Luther King, Jr. Day
4. Memorial Day
5. Juneteenth National Independence Day
6. Independence Day
7. Labor Day
8. Veterans’ Day
9. Thanksgiving Day
10. the Friday immediately following Thanksgiving Day
11. Christmas Day

In supplement to the above holidays, two additional holidays shall be granted to employees who may take a day of their own choosing. Advance notice of two (2) days shall be given to the Department Head, or, in the case of the Department Heads, to the City Manager.

(b) Eligible employees shall receive one (1) day’s pay for each of the holidays listed above on which they perform no work.
(c) Whenever any of the holidays listed above shall fall on Saturday, the preceding Friday shall be observed as the holiday; whenever any of the holidays listed above shall fall on Sunday, the following Monday shall be observed as the holiday.

(d) If any regular full-time employee works on any of the holidays listed above, he shall be paid three times his or her hourly rate for all hours worked. The City Manager may, where permitted by law or the provisions of this Code, pay holiday pay in the form of compensatory time.

(e) For the purpose of computing overtime, all holiday hours (worked or unworked) for which an employee is compensated shall be regarded as hours worked.

(f) Holiday leave will not be deducted from any other leave earned by any employee.

(g) Employees shall be granted leave of not more than three (3) hours with pay on Presidential Election days.

(h) Regular work days on which City offices are closed and employees excused from work shall not be considered a holiday for purposes of this Section. Employees who work on such days where offices are closed because of inclement weather shall be compensated at one and one half times the employee’s regular rate of pay.

(i) Any regular full-time employee who is scheduled to be off work on a day otherwise recognized as a City holiday pursuant to subsection (a) hereof shall receive, in lieu of such holiday, a floating holiday, which the employee may use on a day of the employee's choosing upon which the employee would otherwise be scheduled to work a full shift, provided:

1. That the employee's request to schedule a floating holiday granted under this subsection must be submitted to the employee's supervisor at least one week prior to the beginning of the pay period during which the employee desires to schedule the floating holiday.

2. That the employee must schedule a floating holiday granted under this subsection to be used within sixty (60) days of the regular City holiday for which the floating holiday has been substituted or such floating holiday will be forfeited; and

3. That an employee who is scheduled to use a floating holiday pursuant to this subsection may not be scheduled to work any amount of time during that pay period that, when added to the floating holiday, exceeds eighty (80) hours for that pay period without the approval of the City Manager or his or her designee.

(Sec. 2-55 amended by Emergency Ordinance O-6-09, adopted 6/15/09, effective 7/1/09).
(Sec. 2-55(d), (i), (i)(3) amended by O-4-12, adopted 4/16/12, effective 5/17/12).
(Sec. 2-55(a) amended by O-3-21, adopted 10/4/21, effective 11/3/21).

Division 8. Members of Employee Organizations.

Sec. 2-56. Applicability.

The following sections of this division shall apply to all employees eligible for membership in a recognized employee organization. The provisions of this Chapter will govern if there is a conflict between any collective bargaining agreement and the provisions of this Chapter.

Sec. 2-57. Discipline; discharge.

(a) It is the City's intent to follow a course of progressive discipline designed to allow a correction of the employee's conduct by discussion and counseling before the more punitive disciplinary measures of suspension, demotion or termination are imposed. However, the City may suspend or terminate an employee without the imposition of other actions if the conduct of the employee is sufficiently serious. Disciplinary action or measures shall include only the following:

1. oral reprimand,
2. written reprimand,
3. suspension (notice to be given in writing),
4. demotion, and
5. discharge

Disciplinary action may only be imposed for failure to fulfill employment related responsibilities. Any disciplinary action imposed upon an employee who has successfully completed the probationary period pursuant to Section 2-28 of this Chapter may be reviewed as a grievance...
through the procedure established in Section 2-58. If a supervisor has reason to reprimand an employee, it shall be done in a manner that will not embarrass the employee before other employees or the public.

(b) Suspension. An employee who commits an act of malfeasance, nonfeasance, negligence or other job-related misconduct warranting a period of suspension must either be suspended within three (3) days of the discovery of the infraction or be given written notice within three (3) days of the discovery of the infraction that, pending further investigation, he or she may be suspended as a consequence of the apparent infraction. Any suspension imposed as a consequence of the infraction must be imposed within twenty (20) days of the notice of investigation. A suspension must be imposed in writing, and the notice of suspension must be signed by the Director or Assistant Director of the employee's department. All suspension days must be consecutive work days.

(Sec. 2.63.2 amended by O-25-90, adopted 11/19/90, effective 12/19/90, and O-15-92, adopted 7/6/92, effective 8/5/92).

(c) Demotions.

(1) Voluntary demotion: A voluntary demotion may be granted by the City Manager, upon recommendation of the Department Head with the written consent of the employee. The demoted employee will be placed in a job classification in which the wage rate most closely approximates, but does not exceed, the rate in the employee's classification before demotion unless the employee consents to a lower wage rate.

(2) Involuntary demotion: The City Manager may demote an employee upon the Department Head's written recommendation, a copy of which shall be given to the employee. The recommendation shall include a) the specific reason for the proposed demotion, b) the position and rate of compensation to which the employee is to be demoted and, c) a statement of the employee's appeal rights. The demoted employee may reapply for promotion to his or her previous position after a period of twelve (12) months, upon availability of the next position vacancy.

(d) Discharge. The City shall not discharge any employee without just cause. If, in any case, the City determines there is just cause for discharge, the employee will be suspended for five (5) days pending dismissal. The employee and, with the employee's consent, his or her union representatives, will be notified in writing that the employee has been suspended and is subject to discharge. The union shall have the right to take up the suspension or discharge of a nonprobationary employee as a grievance at the third step of the grievance procedures as set forth in Section 2-58 of this Article, except that the employee's step 3 notice shall be given within five (5) days of the receipt of the notice of termination of employment. The matter shall be handled in accordance with the procedures in section 2-58 through the arbitration step, if deemed necessary by either party. Should the City Manager initiate the discharge or suspension of any employee, the Mayor will designate a hearing officer to substitute for him in the third step.

(Sec. 2.57(a) thru (d) amended by O-4-12, adopted 4/16/12, effective 5/17/12)

Sec. 2.58. Grievance procedure.

(a) The grievance procedure herein described shall apply only to bargaining unit employees pursuant to the provisions of this Chapter.

(b) Grievances or disputes between any bargaining unit employee and the City may be settled in the following manner:

(1) Step 1. If a bargaining unit employee wishes to submit a grievance regarding a grievable matter, he shall do so in writing, to the Director of Human Resources, within five (5) days of the date on which he knows or has reason to know of the action of which he complains. The Director of Human Resources shall notify the employee's supervisor of the filing of the grievance and the supervisor shall meet with the employee and an organization representative or the union steward to discuss the grievance or dispute, within fifteen (15) working days of the grievance. The immediate supervisor shall attempt to adjust the matter and shall respond to the union representatives in writing within five (5) working days of the date of the meeting.

(2) Step 2. If, after a thorough discussion with the immediate supervisor, the grievance has not been satisfactorily resolved, the organization representative or steward and the
president of the employee organization or local union and the complaining employee shall
notify the Director of Human Resources within five (5) working days after the immediate
supervisor's step 1 response, which notification shall be designated a “Step 2 Notice”. The
Director of Human Resources shall notify the department head, who shall respond in writing
within five (5) working days of the receipt by the Director of Human Resources of the step 2
notice.

(3) Step 3. If after a thorough discussion with the department head, the grievance has
not been satisfactorily resolved or where an employee has received notice of pending
dismissal, the organization representative or steward, the complaining employee, the
president of the employee organization or local union and the union council representative shall, notify
the Director of Human Resources within five (5) working days after the department head’s step 2
response, which notification shall be designated as a “Step 3 Notice”. The City Manager
shall respond in writing within five (5) working days of the receipt of the step 3 notice by the
Director of Human Resources.

(4) Step 4. If the grievance is still unsettled either party may within fifteen (15) days of
the City Manager’s response to the Step 3 Notice, by written notice to the other, request
arbitration. The arbitration proceedings shall be conducted by an arbitrator as provided below:

(a) The Maryland Department of Labor, Licensing, and Regulation is hereby
designated as the first choice of both parties to function as the arbitrator.

(b) In the event said department is unable or unwilling to do so, both parties agree to
seek any other no-cost source of arbitrator(s) agreeable to both parties.

(c) If the parties fail to select an arbitrator, the Federal Mediation and Conciliation
Service shall be requested by either or both parties to provide a panel of five (5) arbitrators.
Both the employer and the employee or the employee’s organization shall have the right to
strike two (2) names from the panel. The party requesting arbitration shall strike the first name;
the other party shall then strike one (1) name. The process will be repeated and the remaining
person shall be the arbitrator.

(d) The decision of the arbitrator shall be final and binding on the parties. The
arbitrator shall issue a decision within thirty (30) days after the conclusion of testimony and
argument. The employer shall permit all persons pertinent to the grievance, including those
requested by the employee, to be given time off from duty without loss of pay in order that said
person may testify at the hearing.

(e) If any grievance is not answered by management within the time limit prescribed, the
relief requested will be considered granted, unless the time limits are extended by written
request.

(d) Nothing herein shall be construed to deny the right of individual employees to present
matters to the employer on their own behalf.

(e) The costs of such proceedings shall be shared equally by the employer and the union.

(f) Should any grievance go unheard or unanswered through step three within the time
periods set forth herein as a result of management delay, the grievance shall be deemed
resolved in the favor of the employee, unless the City demonstrates good cause for such delay
or the resolution of the grievance in favor of the employee would significantly violate public
policy. Any employee found to be unjustly suspended or discharged shall be reinstated with full
compensation for all lost time and with full restoration of all other rights and conditions of
employment.

(Sec. 2-58 amended by O-4-12, adopted 4/16/12, effective 5/17/12)

(Article II amended by Ordinance O-18-95, adopted 12/4/95).

ARTICLE III. RESERVED.

Sec. 2-60. through 2-62. Reserved
(Article III repealed in its entirety by O-5-13, adopted 7/1/13, effective 7/31/13)

ARTICLE IV. DEFERRED COMPENSATION PLAN.

Sec. 2-64. Deferred Compensation Plan.
A deferred compensation plan is established for all employees who wish to participate and for any member of the Council who may wish to participate. The City Manager is directed to execute the deferred compensation plan offered by the International City Management Association Retirement Corporation and to take all actions needed to carry out said plan, including executing joinder agreements with employees and City Council members who wish to participate, except that any Joinder Agreement for the City Manager shall be executed on behalf of the City by the Mayor.

Sec. 2-65. Repealed.

ARTICLE V. PUBLIC ETHICS.

Sec. 2-66. Short Title.

This Article may be cited as the Bowie Public Ethics Ordinance.

Sec. 2-67. Statement of Purpose and Policy.

A. The City of Bowie, recognizing that our system of representative government is dependent in part upon the residents maintaining the highest trust in their public officials and employees, finds and declares that the residents have a right to be assured that the impartiality and independent judgment of public officials and employees will be maintained.

B. This trust is eroded when the conduct of City business is subject to improper influence or the appearance of improper influence.

C. In order to accomplish the City Council's commitment to avoiding of improper influence, the City Council enacts this Public Ethics Ordinance to require City elected officials, candidates to be City elected officials and those City employees and individuals appointed to boards and commissions listed in Sections 2-71 and 2-72 of this Article to disclose financial affairs and to set minimum standards for all City employees and officials for the conduct of City business.

D. It is the intention of the City Council that this Article be liberally construed to accomplish its stated purpose.

Sec. 2-68. Definitions.

The words used in this Article shall have their normal accepted meanings except as set forth below:

A. "Business entity" means any corporation, general or limited partnership, sole proprietorship, joint venture, unincorporated association or firm, institution, trust, foundation, or other organization, whether or not operated for profit. "Business entity" does not include a governmental entity.

B. "Commission" means the City of Bowie Ethics Commission established under Sec. 2-69 of this Article.

C. "Compensation" means money or any thing of value, regardless of form, received or to be received by any individual covered by this Article from an employer for service rendered. For purposes of Sec. 2-73A "Lobbying", if lobbying is only a portion of a person's employment, "Compensation" means a prorated amount based on the time devoted to lobbying compared to the time devoted to other employment duties.

D. "Doing business with" means: Having or negotiating a contract that involves the commitment, either in a single transaction or a combination of transactions of Five Thousand Dollars ($5,000) or more of City or City-controlled funds, or being regulated by or otherwise subject to the authority of the City; or being registered as a lobbyist in accordance with Section 2-73A of this Article.

E. "Elected official" means any individual who holds an elective office of the City.

F. "Employee" means an individual who is employed by the City. "Employee" does not include an elected official.

G. "Financial interest" means:
1. Ownership of any interest as the result of which the owner has received, within any of the past three (3) years, or is presently receiving, or in the future is entitled to receive, more than One Thousand Dollars ($1,000) per year; or

2. Ownership, or the ownership of securities of the kind representing or convertible into ownership, of more than three (3) percent (3%) of a business entity by a City official or employee, or the spouse of an official or employee.

H. "Gift" means the transfer of anything of economic value regardless of the form without adequate and lawful consideration. "Gift" does not include a political campaign contribution regulated under the Elections Article, Annotated Code of Maryland, or any other provision of state or local law regulating the conduct of elections or the receipt of political campaign contributions.

I. " Immediate family" means an individual’s spouse and dependent children.

J. "Interest" means any legal or equitable economic interest, whether or not subject to an encumbrance or a condition, that is owned or held, in whole or in part, jointly or severally, directly or indirectly. For purposes of Section 2-71 of this Article, "interest" includes any interest(s) held at any time during the reporting period. "Interest" does not include:

1. An interest held in the capacity of an agent, custodian, personal representative, trustee, or other fiduciary unless the holder has an equitable interest therein;

2. An interest in a time or demand deposit in a financial institution;

3. An interest in an insurance or endowment policy or annuity contract under which an insurer promises to pay a fixed number of dollars either in a lump sum or periodically for life or some other specified period;

4. A common trust fund or a trust that forms part of a pension or profit sharing plan that has more than twenty-five (25) participants and that has been determined by the Internal Revenue Service to be a qualified trust under the Internal Revenue Code;

5. A college savings plan under the Internal Revenue Code;

6. A mutual fund that is publicly traded on a national scale unless the mutual fund is composed primarily of holdings of stocks and interests in a specific sector or area that is regulated by the City.

K. "Lobbying" means:

1. Communicating in the presence of a City official or employee with the intent to influence any official action of that official or employee; or

2. Soliciting others to communicate with a City official or employee with the intent to influence that official or employee.

L. "Lobbyist" means a person or entity that engages in lobbying.

M. "Official" means any person elected or appointed to the Bowie City Council, and any person appointed to any City committee, board, commission, or similar entity having decision making authority: (1) whether or not paid in whole or in part with City funds; and (2) whether or not compensated.

N. "Person" includes an individual or business entity.

O. "Qualified relative" means a spouse, parent, child, brother or sister.

Sec. 2-69. Administration.

A. 1. There shall be a Bowie Ethics Commission, which shall consist of five (5) regular members, and two (2) alternate members, all of whom shall be residents of the City and who shall be appointed by the City Council.

2. The Commission members shall serve two year terms, except that a Commission member may serve until a successor is appointed and qualifies.

B.1. The Commission shall elect a Chair from among its members. The appointment of the Chair shall be ratified by the City Council.

2. The term of the Chair shall be two years.

3. The Chair may be reelected.

C. 1. The City Attorney or independent counsel appointed by the City Council shall assist the Commission in carrying out its duties.
2. If the City Attorney generally advises the Commission, and a conflict of interest under Section 2-70 of this Article or other conflict arises that prohibits the City Attorney from assisting the Commission in a matter, the City shall provide sufficient funds for the Commission to hire independent counsel for the duration of the conflict.

D. The Commission shall be the advisory body responsible for interpreting this Article and advising persons subject to it as to its application.

E. The Commission shall hear and decide, with advice of the City Attorney, or other legal counsel if appropriate, all complaints filed regarding an alleged violation of this Article by any person.

F. The City Clerk shall be the custodian of all forms and documents generated by the Commission or submitted by any person in accordance with this Article and shall retain as a public record all such forms for at least four years after receipt thereof by the Commission.

G. The Commission shall conduct a public information and education program regarding the purpose and implementation of this Article.

H. The Commission shall certify to the State Ethics Commission on or before October 1 of each year that the City is in compliance with the requirements of State Government Article, Title 15, Subtitle 8, Annotated Code of Maryland for elected officials.

I. The Commission may recommend changes to this Article that, in the Commission’s opinion, may be required for the city to be in compliance with the requirements of State Government Article, Title 15, Subtitle 8, Annotated Code of Maryland, and shall forward any such recommended changes and amendments to the City Council for its consideration.

J. Any person subject to the provisions of this Article may request of the Commission an advisory opinion concerning the application of the provisions of this Article. Such requests shall be in writing. The Commission shall respond to these requests, providing interpretations of this Article based on the facts provided or reasonably available to it within 90 days of the request or as soon thereafter as is practical. In an advisory opinion, the Commission shall limit its findings to matters of law. Advisory opinions shall be limited to those facts and circumstances presented to the commission by the requestor. Copies of the advisory opinions, with the identity of the subject(s) deleted, shall be published and otherwise made available to the public in accordance with all applicable State and City of Bowie laws regarding public records.

K. Any person may file a complaint with the Commission alleging a violation of any of the provisions of this Article. A complaint shall be in writing and under oath. A complaint must be filed not later than:
   1. One year from the date of the earliest act or omission giving rise to the alleged violation, or
   2. One year from the date that the alleged violation became, or reasonably could have become, known to the general public if the earliest act or omission giving rise to the alleged violation was not known, or reasonably could not have been known, to the general public within one year from the date of the act or omission.

The Commission may refer a complaint to the City Attorney or other legal counsel if appropriate, for investigation and review. If after receiving an investigative report, the Commission determines there are insufficient facts upon which to base a determination of violation, it may dismiss the complaint. If there is a reasonable basis for believing a violation has occurred then the subject of the complaint shall be given an opportunity for a hearing conducted on the record. Any final determination of a violation resulting from the hearing shall include findings of fact and conclusions of law. Upon a finding of a violation, the Commission may take any enforcement action provided for in Section 2-73B of this Article. After a complaint is filed and until a final determination by the Commission, all actions regarding a complaint shall be treated confidentially. A finding of a violation is public information.

L. The Commission may grant exemptions to or modifications of the conflict of interest and financial disclosure provisions of this Article to elected officials, employees and persons serving as members of City Boards and Committees, when the Commission finds that the exemption or modification would not be contrary to the purposes of this Article and the application of this Article would:
   1. Constitute an unreasonable invasion of privacy; and
   2. Significantly reduce the availability of qualified persons for public service.
Any exemption or modification granted by the commission shall be limited to the facts and circumstances presented to the Commission upon which the Commission based its decision to grant the exemption or modification. Any exemption or modification shall not extend to any change in circumstances of the requestor.

M. The City may:
1. Assess a late fee of $2 per day up to a maximum of $250 for a failure to timely file a financial disclosure statement required under Sec. 2-71 and Sec. 2-72 of this Article.
2. Assess a late fee of $10 per day up to a maximum of $250 for a failure to file a timely lobbyist registration or lobbyist report required under Sec. 2-73A of this Article.

Sec. 2-70. Prohibited conduct and interests.

A. Participation Prohibitions.
1. Except as permitted by Commission regulation or opinion, an official or employee may not participate in:
   a. Any matter, except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision with respect to that matter, if, to his knowledge, the official or employee or a qualified relative of the official or employee has an interest therein.
   b. Any matter, except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision with respect to the matter, when any of the following is party thereto:
      1. Any business entity in which the official or employee has a direct financial interest of which he may reasonably be expected to know;
      2. Any business entity for which the official, employee or qualified relative of the official or employee is an officer, director, trustee, partner, or employee;
      3. Any business entity with which the official or employee or, to the knowledge, of the official or employee, a qualified relative is negotiating or has any arrangement concerning prospective employment;
      4. Any business entity that is a party to an existing contract with the official or employee, or which, to the knowledge of the official or employee is a party to a contract with a qualified relative, if the contract could reasonably be expected to result in a conflict between the private interests of the official or employee and the official duties of the official or employee;
      5. Any entity doing business with the City in which a direct financial interest is owned by another entity in which the official or employee has a direct financial interest, if the official or employee may be reasonably expected to know of both direct financial interests; or
      6. Any business entity that the official or employee knows is a creditor or obligee of the official or employee, or that of a qualified relative of the official or employee with respect to a thing of economic value and, as a creditor or obligee, is in a position to affect directly and substantially the interest of the official or employee or a qualified relative of the official or employee.
   2. If a disqualification pursuant to subsection A.1. of this subsection leaves any body with less than a quorum capable of acting, or if the disqualified official is required by law to act or is the only person authorized to act, the disqualified person shall disclose the nature and circumstances of the conflict and may participate or act.

B. Employment and Financial Interest Restrictions.
1. Except as permitted by regulation of the Commission when such interest is disclosed or when the employment does not create a conflict of interest or appearance of conflict, an official or employee may not:
   a. Be employed by, or have a financial interest in, any entity subject to his authority, or to that of the City agency, committee, board, or commission with which he is affiliated, or any entity that is negotiating or has entered a contract with the City; or
   b. Hold any other employment relationship that would impair the impartiality or independence of judgment of the official or employee.
2. The prohibitions of paragraph B.1 of this section do not apply to:
   a. An official or employee who is appointed to a regulatory or licensing authority, municipal association or trust organization serving governmental bodies, pursuant to a statutory requirement that persons subject to the jurisdiction of the authority be represented in appointments to it;
b. Subject to other provisions of law, a member of a board, or commission in regard to a financial interest or employment held at the time of appointment, provided it is publicly disclosed to the City and the Commission; or

c. An official or employee whose duties are ministerial, if the private employment or financial interest does not create a conflict of interest or the appearance of a conflict of interest, as permitted in accordance with regulations adopted by the Commission; or

d. Employment or financial interests allowed by the Commission if the employment does not create a conflict of interest or the appearance of a conflict of interest or the financial interest is disclosed.

C. Post-employment Limitations and Restrictions.

1. A former official or employee may not assist or represent a party other than the City for compensation in a case, contract, or other specific matter involving the City if that matter is one in which he significantly participated as an official or employee.

2. For a period of one year after an elected official leaves office, a former member of the City Council may not assist or represent another party for compensation in a matter that is the subject of legislative action. The activity prohibited under this section shall include communicating in the presence of a City official or employee with the intent to influence any official or employee and expending any funds for food, entertainment or other gifts for any City officials or employees in connection with such communication, or receiving any compensation for such communication or activity. In no event shall this prohibition be construed to include uncompensated communication with City officials or employees on one’s own behalf or on behalf of City residents on matters of general public concern.

D. Contingent Compensation. An official or employee may not assist or represent a party for contingent compensation in any matter before or involving the City other than in a judicial or quasi-judicial proceeding.

E. Use of Prestige of Office.

1. An official or employee may not intentionally use the prestige of his office or public position for his own private gain or that of another.

2. The performance of usual and customary constituent services, without additional compensation, does not constitute the use of the prestige of office for an official's or employee's private gain or that of another.

F. Solicitation or Acceptance of Gifts.

1. An official or employee may not solicit any gift.

2. An official or employee may not knowingly directly solicit or facilitate the solicitation of a gift, on behalf of another person, from an individual regulated lobbyist

3. No official or employee may knowingly accept any gift, directly or indirectly, from any person that he knows or has reason to know:
   a. Is doing business with or is seeking to do business with the City.
   b. Has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of his official duties.
   c. Is engaged in an activity regulated or controlled by the City; or
   d. Is a lobbyist with respect to matters within the jurisdiction of the official or employee.

4. Unless a gift of any of the following would tend to impair the impartiality and the independence of judgment of the official or employee receiving it or, if of significant value that would give the appearance of doing so, or if of significant value, that the recipient official or employee believes, or has reason to believe, that it is designed to do so, Section F does not apply to:
   a. Meals and beverages consumed in the presence of the donor or sponsoring entity;
   b. Ceremonial gifts or awards which have insignificant monetary value;
   c. Unsolicited gifts of nominal value that do not exceed $20 in cost or trivial items of informational value;
   d. Reasonable expenses for food, travel, lodging, and scheduled entertainment of the official or the employee at a meeting which is given in return for participation in a panel or speaking engagement at the meeting;
e. Gifts of tickets or free admission extended to an elected official to attend charitable, cultural, or political events, if the purpose of this gift or admission is a courtesy or ceremony extended to the elected official’s office;

f. A specific gift or class of gifts which the Commission exempts from the operation of this section upon a finding, in writing, that acceptance of the gift or class of gifts would not be detrimental to the impartial conduct of the business of the City and that the gift is purely personal and private in nature;

g. Gifts from a person related to the official or employee by blood or marriage or any other individual who is a member of the household of the official or employee; or

h. Honoraria for speaking to or participating in a meeting, provided that the offering of the honorarium is not related in any way to the official’s or employee’s position.

G. Disclosure of Confidential Information. Other than in the discharge of his official duties, an official or employee may not disclose or use for his own economic benefit or that of another confidential information which he has acquired by reason of his public position and which is not available to the public.

H. Participation in Procurement.

1. An individual or a person that employs an individual who assists a City Department in the drafting of specifications, an invitation for bids, or a request for proposals for a procurement, may not submit a bid or proposal for that procurement or assist or represent another person, directly or indirectly, who is submitting a bid or proposal for the procurement. This section shall only apply to elected officials and former elected officials.

2. The Commission may establish exemptions from the requirements of this subsection for providing descriptive literature, sole source procurements and written comments solicited by the City.

Sec. 2-71. Financial Disclosure – Elected Officials and Candidates to be Elected Officials.

A. Applicability. This section applies to all elected officials and all candidates to be elected officials.

B. Filing of Financial Disclosure Statements. Except as provided in Subsection D below, each elected official and candidate to be an elected official shall file with the Commission the Financial Disclosure statement required under this section on a form provided by the Commission, under oath or affirmation.

C. Deadlines for Filing Statements.

1. An elected City official shall file, on or before the 15th day of February of each year during that person’s term in office, the statement required by this section, for the calendar year immediately preceding each such year in office. An individual who has not filed the required statement and who is appointed to fill a vacancy to the City Council shall file a statement covering the calendar year prior to his appointment within thirty (30) days after appointment.

2. An individual who, other than by reason of death, leaves an office for which a statement is required shall file a statement within 60 days after leaving the office. The statement shall cover:

   a. The calendar year immediately preceding the year in which the individual left office, unless a statement covering that year has already been filed by the individual; and

   b. The portion of the current calendar year during which the individual held office.

D. Candidates to be Elected Officials.

1. Except for an official or employee who has filed a Financial Disclosure statement pursuant to another provision of this Article for the same year for which a statement otherwise would be required to be filed by this subsection, a candidate for City elected office shall file with the City Clerk or Board of Election Supervisors together with his Certificate of Candidacy, or with the Commission prior to filing the Certificate of Candidacy, a Financial Disclosure Statement required by this section, for the calendar year immediately preceding the year in which the Certificate of Candidacy is filed and, if the Certificate of Candidacy is not filed in the year of the election, a candidate for City elective office shall also file a Financial Disclosure Statement for the year immediately preceding the election in accordance with Subsection 2.b below.
2. A candidate to be an elected official shall file a statement required under this section with the Commission:
   a. In the year of the Certificate of Candidacy is filed, no later than the filing of the Certificate of Candidacy; and
   b. In the year of the election, on or before the earlier of April 30 or the last day for the withdrawal of candidacy.

3. If a candidate fails to file a statement required by this section after written notice of his obligation to do so is provided by the City Clerk or Board of Election Supervisors, given at least twenty (20) days before the last day for the withdrawal of candidacy, he shall be deemed to have withdrawn his candidacy.

4. The City Clerk or Board of Election Supervisors may not accept any Certificate of Candidacy unless a statement in proper form has been filed.

5. Within thirty (30) days of the receipt of a statement required by this section, the City Clerk or Board of Election Supervisors shall forward it to the Commission for the Commission to review in accordance with Section H below.

E. Public Record.

All Financial Disclosure Statements filed pursuant to this section shall be maintained by the City Clerk and shall be made available during normal office hours for examination and copying by the public, subject, however, to such reasonable fees and administrative procedures as the City Council may establish from time to time. The forms shall be retained for four (4) years from the date of receipt. Any person examining or copying these statements shall be required to record his name, home address, and the name of the person whose disclosure statement was examined or copied. This record shall be forwarded upon request to the person whose disclosure statement is so examined or copied. Notwithstanding the foregoing, the City Clerk may not make available for examination and copying by the public any portion of a Financial Disclosure Statement that includes an individual’s home address that the individual has identified as the individual’s home address.

F. Contents of Statement. All Financial Disclosure Statements filed pursuant to this section shall be on a form developed by the Commission with the assistance of the City Attorney, and shall disclose the following interests, if known:

1. Interests in Real Property. A statement filed under this section shall include a schedule of all interests in real property wherever located. This schedule, as to each such interest, shall include:
   a. The nature of the property and the location by street address, mailing address, or legal description of the property;
   b. The nature and extent of the interest held, including any conditions thereto and encumbrances thereon;
   c. The date when, the manner in which, and the identity of the person from whom the interest was acquired;
   d. The nature and amount of the consideration given in exchange therefore or, if acquired other than by purchase, the fair market value of the interest at the time acquired.
   e. If any interest was transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received for the interest, and the identity of the person to whom the interest was transferred; and
   f. The identity of any other person with an interest in the property.

2. Interests in Corporations and Partnerships.
   a. A statement filed under this section shall include a schedule of all interests in business entities, regardless of whether they do business with the City.
   b. For each interest reported under this Subsection F.2, the schedule shall include:
      1. The name and address of the principal office of the business entity;
      2. The nature and amount of the interest held, including any conditions and encumbrances on the interest;
      3. As to any interests transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received in exchange therefore and, if known, the identity of the person to whom the interest was transferred; and
4. As to any interests acquired during the reporting period: the date when, the manner in which, and the identity of the person from whom the interest was acquired; and the nature and the amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired.

c. An individual may satisfy the requirement to report the amount of the interest held under subsection F.2 of this section by reporting, instead of the dollar amount:
   1. For an equity interest in a corporation, the number of shares held and, unless the corporation’s stock is publicly traded, the percentage of equity interest held; or
   2. For an equity interest in a partnership, the percentage of equity interest held.

3. Interests in Business Entities doing Business with the City:
   a. A statement filed under this section shall include a schedule of all interests in any business entity that does business with the City. For each interest reported under this subsection, the schedule shall include:
      1. The name and address of the principal office of the business entity;
      2. The nature and amount of the interest held, including any conditions to and encumbrances on the interest;
      3. With respect to any interest transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received in exchange for the interest and, if known, the identity of the person to whom the interest was transferred; and
      4. With respect to any interest acquired during the reporting period:
         i. The date when, the manner in which, and the identity of the person from whom the interest was acquired; and
         ii. The nature and the amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired.

   A statement filed under this section shall include a schedule of each gift exceeding Twenty Dollars ($20) in value, or a series of gifts totaling One Hundred Dollars ($100) or more received during the reporting period, from, or on behalf of, directly or indirectly, any one person who does business with the City. This schedule, as to each gift, shall include a description of the nature and value of the gift; and the identity of the person from whom, or on behalf of whom, directly or indirectly, the gift was received.

5. Employment with or Interests in Entities Doing Business with the City.
   a. A statement filed under this subsection shall include a schedule of all offices, directorships, and salaried employment by the individual or member of the immediate family of the individual held at the time during the reporting period with entities doing business with the City.
   b. For each position reported under this paragraph, the schedule shall include:
      1. The name and address of the principal office of the business entity;
      2. The title and nature of the office, directorship or salaried employment held and the date it commenced; and
      3. The name of each City Department with which the entity is involved.

6. Indebtedness to Business Entities Doing Business with the City.
   a. A statement filed under this section shall include a schedule of all liabilities, excluding retail credit accounts, to business entities doing business with the city owed at any time during the reporting periods:
      1. By the individual; or
      2. By a member of the immediate family of the individual if the individual was involved in the transaction giving rise to the liability.
   b. For each liability reported under this subsection, the schedule shall include:
      1. The identity of the person to whom the liability was owed and the date the liability was incurred;
      2. The amount of the liability owed as of the end of the reporting period;
3. The terms of payment of the liability and the extent to which the principal amount of the liability was increased or reduced during the year; and
4. The security given, if any, for the liability.

7. Employment with the City. A statement filed under this section shall include a list of the immediate family members of the individual employed by the City in any capacity at any time during the reporting period.

8. Sources of earned income.
   a. A statement filed under this section shall include a schedule of the name and address of each place of employment and of each business entity of which the individual or a member of the individual’s immediate family was a sole or partial owner and from which the individual or member of the individual’s immediate family received earned income, at any time during the reporting period.
   b. A minor child’s employment or business ownership need not be disclosed if the City does not regulate, exercise authority over, or contract with the place of employment or business entity of the minor child.
   c. For a statement filed on or after January 1, 2019, if the individual’s spouse is a regulated lobbyist, the statement shall include the name and address of the entity that has engaged the spouse for lobbying purposes.

9. Additional Information. A statement filed under this section may also include such additional interests or information as the person making the statement wishes to disclose.

G. Interests Attributable to Person Making Statement. For the purposes of subsections F1, 2 and 3, the following interests shall be considered to be the interests of the person making the statement:

1. Any interest held by a member of the immediate family of the person making the statement, if such interest was at any time during the reporting period directly or indirectly controlled by the person making the statement.
2. Any interest held by a business entity in which the individual held a thirty (30) percent (30%) or greater interest at any time during the reporting period.
3. Any interest held by a trust or an estate in which, at any time during the reporting period (1) the person making the statement held a reversionary interest or was a beneficiary, or (2) if a revocable trust, was a settler. A trust, within the meaning of this subsection, does not include a common trust fund or a trust which forms part of a pension or profit-sharing plan which has more than twenty-five (25) participants and which has been determined by the Internal Revenue Service to be a qualified trust under the appropriate sections of the Internal Revenue Code.

H. Review of Statements. The statements submitted pursuant to this section shall be reviewed by the Ethics Commission and the City Attorney for compliance with the provisions of this section, and officials and employees shall be notified of any omissions or deficiencies. The City Attorney shall refer evidence of any non-compliance with this section and/or section 2-72 to the Commission for appropriate action. The City Ethics Commission may take appropriate enforcement action to ensure compliance with this section.

I. The Commission may, after consulting with counsel, grant exemptions to or modifications of this section as to elected City officials or candidates to be elected City officials, where it finds that the application of the section would constitute an unreasonable invasion of privacy and would significantly reduce the availability of qualified persons for public service and it also finds that the exemption or modification would not be contrary to the purposes of this Article.

Sec. 2-72. Financial Disclosure – City Employees and Appointed Members of City Boards and Commissions.

A. This section applies to the following appointed officials and employees: The City Manager, Assistant City Manager, the City Clerk, the City Attorney, all Department Directors and Assistant Department Directors, and members of the Bowie Advisory Planning Board, the Administrative Review Board, the Board of Elections, the Ethics Commission and the Board of Personnel Appeals.

B. A statement filed under this section shall be filed with the Commission under oath or affirmation.
C. On or before February 15 of each year during which an official or employee holds office, an official or employee shall file a statement disclosing gifts received during the preceding calendar year from any person that contracts with or is regulated by the City, including the name of the donor of the gift and the approximate value at the time of receipt.

D. An official or employee shall disclose employment and interests that raise conflicts of interest in connection with a specific proposed action by the employee or official sufficiently in advance of the action to provide adequate disclosure to the public.

E. The Commission shall maintain all disclosure statements filed under this section as public records available for public inspection and copying as provided for in Sec. 2-71E of this Article.

Sec. 2-73A. Lobbying.

A. Except as provided for in subsections M and N of this section, any person or entity who engages in lobbying before the Council, or who acts as a lobbyist as defined in Section 2-68, shall file a lobbying registration with the Commission, on or before the beginning of the calendar year in which a person expects to lobby or before engaging in lobbying activities, if this person or entity, during the calendar year:

1. Expends, exclusive of personal travel and subsistence expenses in excess of Two Hundred and Fifty Dollars ($250) in furtherance of this activity; or

2. Is compensated in excess of One Hundred Dollars ($100) in connection with this activity.

B. The registration filed pursuant to this section shall be dated and on a form developed by the Commission with the assistance of the City Attorney, and shall include the following:

1. The lobbyist's full and legal name and permanent address;

2. The full and legal name and address, and nature of business of any person or entity on whose behalf the lobbyist acts;

3. The written authorization of any person or entity on whose behalf the lobbyist acts or an authorized officer or agent, other than the lobbyist, of the person or entity on whose behalf the lobbyist acts;

4. A statement of whether the person or entity on whose behalf the lobbyist acts is exempt from registration pursuant to subsection N of this section;

5. The identification by formal designation if known of matters on which the lobbyist expects to act;

6. The identification of the period of time within a single calendar year during which the lobbyist is authorized to engage in these activities, unless sooner terminated; and

7. The full legal signature of the lobbyist and, when appropriate, the person or entity on whose behalf he acts, or an agent or authorized officer thereof.

C. A lobbyist shall file a separate registration for each such person or entity that has engaged or employed the lobbyist for lobbying purposes.

D. A lobbyist may terminate his registration by providing written notice to the Commission. Any outstanding reports and registrations must be submitted with this notification. Termination shall be effective thirty (30) days after receipt by the Commission of this notice properly filed.

E. No person or entity may engage in lobbying activities on behalf of another person or entity for compensation, the payment of which is contingent upon the passage or defeat of any action by the City Council or the outcome of any executive action.

F. Each lobbyist shall file with the Commission one (1) report concerning the lobbyist’s lobbying activities covering the period beginning January 1 through June 30, filed by July 31, and one report covering the period beginning July 1 through December 31, filed by January 31. If the lobbyist is not an individual, an authorized officer or agent of the entity shall sign the form. A separate activity report shall be filed for each person on whose behalf the lobbyist acts. The report shall include:

1. A complete and current statement of the information required to be supplied with the lobbyist’s registration form.

2. Total expenditures on lobbying activities in each of the following categories:

   a. Total compensation paid to the lobbyist not including expenses reported under Items B-I of this subsection.

   b. Office expenses of the lobbyist;
c. Professional and technical research and assistance not reported in subparagraph 1 of this subsection;

d. Publications which expressly encourage persons to communicate with City officials or employees;

e. Names of witnesses, and the fees and expenses paid to each;

f. Meals and beverages for City officials or employees;

g. Reasonable expenses for food, lodging, and scheduled entertainment of City officials or employees at a meeting given in return for the official or employee's participation in a panel or speaking engagement at the meeting;

h. Other gifts to or for officials or employees or their spouses or dependent children; and

i. Other expenses.

G. With the six-month activity report required under subsection F about, a lobbyist shall report, except for gifts reported in Paragraphs F.2.g above, gifts from the lobbyist with a cumulative value of seventy-five dollars ($75) or more during the reporting period to an official, employee, or member of the immediate family of an official or employee, whether or not the gift was given in connection with the lobbyist's lobbying activities.

H. 1. If any report filed under this section contains the name of an official or employee or member of his immediate family, the Commission shall notify the official or employee within thirty (30) days. The Commission shall keep the report confidential for sixty (60) days following receipt by the Commission.

2. Following notification of the inclusion of his name in a report filed by a lobbyist an official or employee shall have thirty (30) days to file a written exception to the inclusion in the report of his name or the name of a member of the immediate family of the official or employee.

I. The Commission may require a lobbyist to submit other reports as it deems necessary.

J. All registrations and reports filed pursuant to this section shall be maintained by the Commission, or the City Clerk. The Commission shall make lobbying registrations and reports available during normal office hours for examination and copying by the public, subject to such reasonable fees and administrative procedures as may be established by the City Council or by the Commission. The forms shall be retained for four (4) years from the date of receipt.

K. The registration and reports filed pursuant to this section shall be reviewed by the Commission for compliance with the provisions of this section, and persons engaging in lobbying activities shall be notified of any omissions or deficiencies. The Commission may take appropriate enforcement action to ensure compliance with this section.

L. The Commission shall compute and make available a subtotal under each of the nine required categories in subparagraph F.2 above. The Commission shall compute and make available the total amount reported by all lobbyists for their lobbying activities during the reporting period.

M. The following activities are exempt from regulation under this section:

1. Professional services in drafting bills or in advising and rendering opinions to clients as to the construction and effect of proposed or pending City Council actions when these services do not otherwise constitute lobbying activities.

2. Appearances before the City Council upon its specific invitation or request, but only if the person or entity engages in no further or other activities in connection with the passage or defeat of City Council actions.

3. Appearances as part of the official duties of a duly elected or appointed official or employee of the State or a political subdivision of the State, or of the United States and not on behalf of any other entity.

4. Actions of a publisher or working member of the press, radio, or television in the ordinary course of business of disseminating news or making editorial comment to the general public who does not engage in further or other lobbying that would directly and specifically benefit the economic, business, or professional interests of the person or entity or the employer of the person or entity.

5. Appearances by an individual before the City Council at the specific invitation or request of a registered lobbyist if the person performs no other lobbying act and notifies the City Council that the person or entity is testifying at the request of the lobbyist.
6. Appearances by an individual before a government agency as the specific invitation or request of a registered lobbyist if the person or entity performs no other lobbying act and notifies the agency that the person or entity is testifying at the request of the lobbyist.

7. The representation of a bona fide religious organization solely for the purpose of protecting the right of its own members to practice the doctrine of the organization.

8. Appearances as part of the official duties of an officer, director, member, or employee of an association engaged exclusively in lobbying for counties and municipalities and not in behalf of any other entity.

N. A person or entity who compensates one or more lobbyists and who would otherwise be required to register as a lobbyist and submit reports pursuant to this section is not required to file a registration and file lobbying reports if he reasonably believes that all expenses incurred in connection with his lobbying activities will be reported by a properly registered person or entity acting of his behalf. The authorization required by subsection B3 of this section shall be completed by these individuals as to persons acting on their behalf. Persons or entities exempted herein, however, become subject to the provisions of this section immediately upon failure of the lobbyist to report any information required by this section.

Sec. 2-73B. Enforcement.

A. Upon a finding of a violation of any provision of this Article, the Commission may:
1. Issue an order of compliance directing the respondent to cease and desist from the violation;
2. Issue a reprimand; or
3. Recommend to the City Council other appropriate discipline of the respondent, including censure or removal if that discipline is authorized by law.

B. If the commission finds that a respondent has violated Section 2-73A of this Article, the Commission may:
1. Require a respondent who is a registered lobbyist to file any additional reports or information that reasonably related to the information that is required under Section 2-73A of this Article;
2. Suspend the registration of an individual registered lobbyist if the Commission finds that the lobbyist has knowingly and willfully violated Section 2-73A of this Article or has been convicted of a criminal offense arising from lobbying activities.

C. Upon request of the City Council, the City Attorney may file a petition for injunctive or other relief in the Circuit Court for Prince George's County, or in any other court having proper venue for the purpose of requiring compliance with provisions of this Article. The City Attorney may seek:
1. To have the Court issue an order to cease and desist from the violation; or
2. To void an official action taken by an official or employee with a conflict of interest prohibited by this Article when the action arises from or concerns the subject matter of the conflict, and if the legal action is brought within ninety (90) days of the occurrence of the official action, if the Court deems voiding the action to be in the best interest of the public, provided however, that the Court may not void any official action appropriating public funds, levying taxes, or providing for the issuance of bonds, notes, or other evidences of public obligation; or
3. To impose a fine of up to Five Thousand Dollars ($5,000) for any violation of the provisions of this Article, with each day upon which the violation occurs constituting a separate offense.

D. Any person who knowingly and willfully violates the provisions of Section 2-72 of this Article is guilty of a misdemeanor, and upon conviction, is subject to a fine of not more than One Thousand Dollars ($1,000) or imprisonment for not more than one year, or both. If the person is a business entity and not a natural person, each officer and partner of the business entity who knowingly authorized or participated in the violation is guilty of a misdemeanor and, upon conviction, each is subject to the same penalties as the business entity.

E. In addition to any other enforcement provisions in this Article a person who the Commission or a court of competent jurisdiction finds has violated this Article is subject to termination or such other disciplinary action as may be warranted, and may be suspended from receiving payment of salary or other compensation pending full compliance with the terms of an order of the Commission or a court.
F. Any person who is subject to the provisions of this Article shall obtain and preserve all accounts, bills, receipts, books, papers, and documents necessary to complete and substantiate any reports, statement, or records required under this Article for three (3) years from the date of filing the report, statement, or record. These papers and documents shall be available for inspection upon request by the Commission or the City Council after reasonable notice.

ARTICLE VI. INDEMNIFICATION OF CITY OFFICIALS.

Sec. 2-74. Definitions.

The term "official" shall include all elected officials and all full and part time employees.

Sec. 2-75. Applicability.

The City shall provide and pay for a legal defense for any of its officials in any action which alleges damages resulting from tortious acts or omissions committed by an official within the scope of his or her office, duty or employment with the City. The right to a legal defense given herein is contingent upon an official's full cooperation in such defense. If an official should fail to cooperate he or she shall forfeit the right to legal defense provided hereunder.

Sec. 2-76. Exceptions and Conditions.

(a) Except as limited by subsections 2-76 (b) and (c) below, the City shall indemnify any of its officials for any personal liability arising from tortious acts or omissions done by any such official within the scope of his or her office, duty or employment with the City.

(b) The right to indemnity guaranteed hereunder is contingent upon an official's full cooperation in the legal defense provided pursuant to Section 2-75 of this Article. If an official fails to cooperate fully in such defense he or she forfeits any right to indemnity granted hereunder.

(c) Under no circumstances shall the City indemnify any official for legal or other expenses or for any damages incurred as a result of acts which are determined in any court or other legal proceedings to constitute gross negligence or willful or wanton conduct taken in reckless disregard for the rights of others.

(d) Under no circumstances shall the City indemnify any official for punitive damages of any kind assessed or levied in any action for tort, contract, or other liability brought against such employee.

(e) The City's obligation to indemnify shall be secondary and shall not be deemed a contribution to any rights or benefits to which any official may be entitled pursuant to any insurance program in which the official is a participant.

ARTICLE VII. EX PARTE REGULATIONS, CONFIDENTIAL INFORMATION

Sec. 2-77. Definitions.

For the purpose of this Chapter, the following words and phrases shall describe the meanings respectively ascribed to them by this section:

(a) Ex parte communication means any oral or written communication of public information:

1. Not on the public record nor communicated to the Council in any Council meeting; and

2. Made by a Councilmember to a party or by a party, the party’s attorney or agent, whether compensated or not, to a Councilmember with the intention of influencing a decision of the Council on behalf of any individual or group with a special interest in a decision of the Council separate and distinct from that of the public-at-large; and

3. Made by a Councilmember to a party or by a party, the party’s attorney or agent, whether compensated or not, to a Councilmember who is involved or may reasonably be expected to be involved in a quasi-judicial or administrative appeal decision by the Council, or
on any matter on which the Council is required or authorized to make a recommendation to another governing body with authority to make such decisions.

(b) Ex parte communication shall not include:

1. Technical advice, explanations or other communications among Councilmembers subject to the requirements of Section 10-501 et.seq., ("Meetings") State Government Article, Annotated Code of Maryland or with City staff, City engineers or legal counsel rendered by the request of the Council or one of its members;
2. Communications from individual constituents or community associations without a direct material or financial interest in the matter before the Council;
3. Communications from a duly elected or appointed official or employee of the State or a political subdivision of the State, or of the United States, and not on behalf of any other entity, except on those matters requiring disclosure under subsection (a)(3);
4. Communications between Councilmembers and members of the press, radio or television made in the ordinary course of disseminating news or making editorial comments to the general public.

Sec. 2-78. Public Information.

(a) Public information means essential information to which the public is entitled because the information is, or potentially will be used, as the basis for the Council’s decision to carry out advisory, legislative, executive or quasi-judicial functions.

(b) Public information does not include information relating to:

1. The appointment, employment, assignment, promotion, evaluation, discipline, demotion, compensation, removal or resignation of appointees, employees, or officials or any other personnel matter;
2. Information affecting the privacy or reputation of individuals with respect to matters not related to public business;
3. Communications relating to the acquisition or sale of real property for public purpose or matters directly related thereto;
4. Communications pertaining to a proposal for a business or industrial organization to locate or remain in the City and which may request or suggest action, current or potential, on the part of the Council, to approve a project or make appropriate recommendations on a project to other government agencies, including communications which involve an inquiry as to a Councilmember’s opinion on a proposal in light of current City policy or requirements;
5. Consideration of the investment of public funds;
6. Consideration of the marketing of public securities;
7. Consultation with counsel to obtain legal advice;
8. Consultation with staff, consultants or other individuals about pending or potential litigation;
9. Consideration of strategies relating to collective bargaining negotiations or consideration of matters relating to such negotiations;
10. Information relating to an investigative proceeding on actual or possible criminal conduct;
11. Compliance with specific constitutional, statutory or judicially imposed requirements that prevent public disclosures about a particular proceeding or matter;
12. Inquiries before a contract is awarded or bids are open, relating to negotiation strategy or the contents of a bid proposal, if public disclosure would adversely affect the ability of the public body to participate in the competitive bidding or proposal process.

Sec. 2-79. Disclosure.

(a) All Councilmembers shall:

1. Disclose ex parte communications concerning matters over which the Council has the authority to issue a final decision or permit;
2. Disclose ex parte communications concerning matters as to which the Council makes recommendations to other government agencies;
3. Disclose ex parte communications regarding legislative, executive or administrative matters, pending before the Council, excluding casual or informal comments from individuals
without apparent special or vested interest in the matter. A matter shall be considered pending when placed on an agenda for any Council meeting except matters before the Council in closed session;

4. Disclose ex parte communications of information, which can reasonably be expected to become a matter pending before the Council;

5. Information disclosed to a Councilmember, not deemed to be public information under Section 2-78 (b)4 shall be disclosed to all Councilmembers on a form approved by the Council. Such disclosure shall be deemed confidential within the meaning of Section 2-81 of this Article unless disclosure is waived by consent of the Council. In no event shall this provision be deemed to apply to matters defined under Section 2-77 of this Article.

Sec. 2-80. Disclosure Procedure.

Councilmembers shall disclose ex parte communications, setting forth the nature and subject matter of the communication on a form approved by the City Council, which shall be filed with the City Clerk within two weeks of the date on which the communication occurs or prior to any action by the City Council on which the communication was received, whichever is the earlier. Copies of such form shall be made available to the public in the Office of the City Clerk. In addition, disclosures made pursuant to Section 2-79(a)1, 2 and 3 shall be included in any files maintained for the pending matter to which the disclosure relates and shall be included in the formal record of public hearings at which the particular matter is considered.

Sec. 2-81. Disclosure of confidential information.

No Councilmember or employee shall disclose without proper authorization any confidential information acquired in the course of the person’s official duties or use such information for any purpose.

Sec. 2-82. Sanctions.

Matters involving interpretations or alleged violations of this Article VI may be referred to the Bowie Ethics Commission for recommendation to the Council. Allegations of violation shall be referred by an affirmative vote of not less than four (4) members of the Council. In the event of a finding of a violation, the Council may determine (a) to censure the member violating the Article or (b) to direct enforcement of this Article pursuant to Section 2-73 I of this Chapter, or both.

(Chapter 2 amended by Ordinance O-13-11, adopted 9/6/11, effective 10/6/11)
(Chapter 2, Article III, IV, V, VI renumbered to Article IV, Article V, Article VI, Article VII; Article III added by Ordinance O-16-11, effective 1/5/12)
(Chapter 2, Article V, amended by Ordinance O-4-15, effective 4/15/15)
(Chapter 2, Article V, Sec. 2-69.K, amended by Ordinance O-12-15, adopted 9/21/15, effective 10/21/15)
(Chapter 2, Article V, Sec. 2-71.E, F.8, F.9, amended by Ordinance O-1-20, adopted 2/3/20, effective 3/3/20)
CHAPTER 3

AMUSEMENTS, CARNIVALS, FAIRS OR SIMILAR USES

3-1. Policy of the City.
3-2. Other laws applicable.
3-3. Adoption of Environmental Noise Control.
3-4. Definitions.
3-5. Fees.
3-6. Permit--Required and Conditional.
3-7. Permit--Application.
3-8. Permit--Issuance.
3-9. Appeal from action of City Manager upon failure to issue.
3-10. Duration of Permit; Limitation on Number of Permits.
3-11. Locations.
3-12. Insurance and Inspections.
3-16. Prohibitions.
3-17. Cooperation of Other Governmental Units.
3-18. Penalty.

Sec. 3-1. Policy of the City.

It is the policy of the City government to provide opportunities for both nonprofit and for-profit persons and organizations to operate amusements, carnivals, fairs and similar uses and, at the same time, to assure all residents of the City safe, healthful, aesthetically and culturally pleasing functions while protecting against those uses which could be detrimental to the residents' health, comfort, convenience, safety and welfare. In order to carry out this policy it is the continuing responsibility of the City to review, coordinate, approve and enforce the provisions of this Chapter.

Sec. 3-2. Other laws applicable.

No carnival will be permitted within the City without a permit being obtained as provided for herein. No amusement, carnival, fair or similar use shall be operated in the City except in full compliance with this Chapter, nor shall any amusement, carnival, fair or similar use be operated in violation of any applicable law or regulation of any governmental agency having jurisdiction in the matter. A permit under this Chapter shall not allow the operation of an amusement, carnival, fair or similar use in such a manner as to constitute a public nuisance.

Sec. 3-3. Adoption of Environmental Noise Control.

Pursuant to the authority of Title 3 of the Health Environmental Article of the Annotated Code of Maryland, amusement, carnivals, fairs or similar uses in the City shall be fully subject to the provisions of the environmental noise standard, sound level limits, and noise control rules and regulations of the State of Maryland and the laws and regulations of the City unless the City enacts more restrictive regulations.

Sec. 3-4. Definitions.

"Nonprofit" shall mean that no part of the net earnings inure to the benefit of any private shareholder or individual, but said net earnings are exclusively devoted to charitable, social, civil or educational purposes.
"Person" shall mean any individual, a nonprofit organization, a civic, religious, social and/or educational association, a corporation, a company, a firm, a partnership or a society.

Sec. 3-5. Fees.

The fee for each amusement, carnival, fair or similar use permit shall be as set by the Council in its annual budget ordinance.

Sec. 3-6. Permit--Required and Conditional.

(A) It shall be unlawful for any person to erect any temporary structures to be used as an amusement, carnival, fair or similar use whatsoever within the limits of the City without having first made application for and received permission to do so by receiving a temporary use and occupancy permit from the City Manager.

(B) The permit shall be granted upon receipt of a completed application and payment of the fee, but the permit so granted shall be conditioned upon full compliance during the operation of the amusement, carnival, fair or similar use with the provisions of this Chapter and all other applicable laws as provided herein.

Sec. 3-7. Permit--Application.

Application for a temporary use permit shall be made to the City Manager or his designee not less than thirty (30) days prior to the scheduled dates of the amusement, carnival, fair or similar use. The application signed by the sponsoring person or duly authorized agent shall provide the following information:

1. Name and address of the person sponsoring or owning the amusement, carnival, fair or similar use.
2. Name and address of the owner of the property upon which the amusement, carnival, fair or similar use is to be held.
3. A signed statement of permission to use the property from the owner of the property.
4. Name and address of persons providing mechanical equipment, amusement rides, and other temporary structures.
5. The scheduled dates of the event and the proposed hours of operation.
6. A sketch or map of the proposed site showing abutting properties and streets.
7. The number of structures to be erected including amusement rides and the general placement of same on site.
8. The number and size of vehicles that will be unloaded, loaded and temporarily parked on the site.
9. The security and safety to be provided.
10. The parking area designated for public use and the proposed entrances and exits.
11. The proposed public sanitary facilities.
12. The proposed trash control including who is supplying containers and how often they will be emptied.
13. The need for electricity and lighting on site and where lights will be located.
14. The use of temporary advertisement signs, if any.
15. Date and number of the County permit.
16. Any other special or unique circumstances or conditions associated with the temporary use or other information which may be required by the City Manager.

Sec. 3-8. Permit--Issuance.

Upon receipt of the application the City Manager shall inform the County police, fire and health departments of the proposed use and shall investigate any issues that are deemed necessary for the protection of the public health and welfare. Upon completion of this notification, investigation and payment of the permit fee, the City Manager may issue the permit required by this Article.
Sec. 3-9. Appeal from action of City Manager upon failure to issue.

An appeal from the denial by the City Manager of a permit application for an amusement, carnival, fair or similar use may be taken to the Board of Appeals of the City, which shall after public hearing upon reasonable public notice, affirm the action of the City Manager or overrule it and direct the City Manager to issue the permit. The Board of Appeals shall issue their decision within fifteen (15) days after hearing such appeal.

Sec. 3-10. Duration of Permit; Limitation on Number of Permits.

The permit for amusements, carnivals, fairs and other similar uses shall be good for a period of time not to exceed seventeen (17) days. Not more than two (2) permits shall be issued by the City for a fair, carnival or similar use on any property or portion of any property in any calendar year.
(Sec. 3-10 amended by ordinance O-6-14, adopted 8/4/14, effective 9/3/14)
(Sec. 3-10 amended by ordinance O-8-15, adopted 5/4/15, effective 6/3/15)

Sec. 3-11. Locations.

The site of the amusement, carnival, fair or similar use shall be at least two hundred fifty (250) feet from any residential dwelling. In noncommercial, light or heavy industry zones it shall be located on a parking lot. The site shall be of sufficient size to accommodate the vehicles associated with the use as well as an area of sufficient size to accommodate the public vehicles attracted to the use. Public parking may be provided in the areas adjacent to the site where the City Manager finds there is not unreasonable impact on any public facilities or adjacent residential properties. Lighting used on the site shall be so arranged as to not reflect or cause glare into any residential properties. The City Manager may prepare a list of acceptable locations within the City.

Sec. 3-12. Insurance and Inspections.

The City Manager shall determine that the applicant has made provisions for public liability and workmen's compensation insurance, approval by the County Department of Health and Fire Inspections, sanitary facility needs and food handling and preparation shall be approved by the health inspectors.

Sec. 3-13. Hours of Operation.

The City Manager shall approve the hours of operation in all cases. All operations shall cease by 10:00 P.M. on Mondays, Tuesdays, Wednesdays, Thursdays and Sundays unless the following day shall be a State or Federal holiday, in which case they shall cease by 11:30 P.M. Operations shall cease at 11:00 P.M. on Fridays and Saturdays. Equipment shall not be installed or removed after 10:00 P.M. nor prior to 7:00 A.M. on any day.

Sec. 3-14. Security.

The applicant shall provide, at its own expense, sufficient police or private security guards on the site of the amusement, carnival, fair or similar use during the hours of operation and at all times the permit is in effect to maintain peace and to protect life and property on the site. The cost of such services, if any, shall be borne by the applicant.

Sec. 3-15. Removal of equipment, clearing site.

All material and equipment used in conjunction with the amusement, carnival, fair or similar use shall be completely removed from the site within twenty-four (24) hours after the closing.
This includes the removal of all trash or any other matter of deposits of any kind generated by the use.

**Sec. 3-16. Prohibitions.**

Livestock shall not be boarded or remain on the site during the non-hours of public operation.

**Sec. 3-17. Cooperation of other Governmental Units.**

The City Manager or his designee shall communicate with any state or local governmental unit having permitting authority in this area to request that unit to cooperate fully and coordinate its activities with the City in carrying out the intent of this Chapter.

**Sec. 3-18. Penalty.**

Violations of this Chapter are municipal infractions, subject to the penalty and enforcement provisions of Chapter 1, Sections 6 and 6A. (Sec. 3-18 amended by O-17-94, adopted 10/3/94).
CHAPTER 4

ANIMAL CONTROL

4-1. Definitions.
4-2. Animal Control Program.
4-3. Bird Sanctuary.
4-4. Keeping of animals, including poultry, cattle or livestock.
4-5. Diseased animals.
4-6. Running at large.
4-7. General provisions.
4-8. Confinement of animal biting a person or other animal.
4-9. Interference with Animal Control Officer.
4-10. Records of impounded animals.
4-11. Injured animals; prompt euthanasia.
4-12. Property in impounded animals.
4-13. Public nuisance conditions and animals; procedures.
4-14. Reserved.
4-15. Vicious animals.
4-16. Vicious animals; restrictions.
4-17. Defecation; removal of excrement.
4-18. Disposal of animal carcasses.
4-19. Destruction of vicious and dangerous animals.
4-20. Incorporation of Prince George’s County Animal Control Ordinance.
4-21. Entering private property.
4-22. Enforcement.
4-23. Redemption of impounded animals.

Sec. 4-1. Definitions.

As used in this Chapter, the following terms shall have the meaning indicated below unless otherwise expressly stated or the context clearly indicates a different intention.

a) Animal shall include the male and female of the species, including, but not limited to: cats, dogs, fowl, horses, and all other domesticated and wild animals.

b) Animal Control Facility shall mean any facility operated by or under contract with the City of Bowie or Prince George’s County, Maryland, for the care, confinement, detention, euthanasia or other disposition of animals pursuant to the provisions of this Chapter.

c) Animal Control Officer shall mean that person or persons designated by the City Manager to perform the duties described in this Chapter.

d) At large shall mean off the real property limits of the owner and not under restraint. “At large” shall also include any animal which is:

   (1) Confined or secured by any person other than its owner at a location other than on the premises of its owner, custodian or authorized agent;

   (2) Herded or tied for grazing in any street or other public place;

   (3) Fastened on public property to any hydrant, shade tree, or to any box or case around such tree, or to any public ornamental tree on any street or public ground.

e) Commission shall mean the Prince George’s County Commission for Animal Control or a Hearing Officer designated by Prince George’s County.

f) Confine shall mean to shut within an enclosure. Enclosure shall include, but not be limited to, a fenced in area of the real property of the owner, pet shelter (i.e., pen, dog house or kennel) and any building on the owner’s property, including house or garage.

g) Cruelty shall mean every act, omission, or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted including but not limited to the failure to provide an animal with nutritious food in sufficient quality, necessary veterinary care, proper drink, air, space, shelter or protection from the weather, beating, torturing or tormenting an animal.
h) **Impound** shall mean to seize and take into custody.

i) **Owner** shall mean any person, partnership or corporation owning, keeping or harboring an animal, either permanently or temporarily or that person to whom an animal’s identifying tag is registered.

j) **Public nuisance animal** shall mean any animal which unreasonably annoys or threatens humans, endangers the life or health of other animals or persons, which reasonably causes offense to human senses, or which substantially interferes with the rights of residents, other than its owners, to enjoyment of life or property.

The term “public nuisance animal” shall include, but is not limited to, any animal which:

1. Is repeatedly found at large;
2. Damages the property of anyone other than its owner;
3. Which eliminates its bodily waste on property other than that of its owner and where such waste is not disposed of in accordance with Sec. 4-17 of this Chapter:
4. Moles or intimidates pedestrians or passersby;
5. Chases vehicles;
6. Excessively makes disturbing noises, including but not limited to, continued and repeated howling, barking, whining or other utterances, causing unreasonable annoyance, disturbance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
7. Causes fouling of the air by odor and thereby causing unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
8. Attacks other domestic animals; or
9. Has been found by the Commission or the Courts, after notice to its owner and a hearing, to be a public nuisance animal by virtue of being a menace to the public health, safety or welfare.

k) **Restraint** shall mean secured by a leash or lead, or confined within a vehicle or domicile.

l) **Stray animal** shall mean any animal which is “at large”.

m) **Public nuisance condition** shall mean an unsanitary, dangerous or offensive condition occurring on any premises caused by the size, number or types of animals maintained, kept or harbored, or due to the inadequacy of the facilities, or by reason of the manner or method of holding, confining, restraining, boarding or training animals. A public nuisance condition shall be deemed to exist on any premises in which any animal is maintained, kept or harbored under conditions which constitute cruelty to such animals, or where the animal maintained, kept or harbored is a public nuisance animal.

n) **Vicious animal** shall include any dog or other animal which, without provocation has attacked, bitten or injured any human being, other animal, or livestock or which has a known propensity to attack or bite human beings or animals.

**Sec. 4-2. Animal control program.**

a) There is hereby established an Animal Control Program for the City of Bowie.

b) Animal Control Officers shall enforce the provisions of this Chapter including, but not limited to, programs for animal control, animal licensing, rabies vaccination, public education, cruelty prevention, and other duties described in this Chapter.

Animal Control Officers are authorized and empowered as follows:

1. To enforce the animal control provisions of this chapter by impounding animals found at large, or animals injured, or found to be diseased, or found in such condition which may present a serious threat to the safety, health or well being of the animal, any other animal or the public, and to issue notices of violation to the owners of such animals;
2. To enforce the cruelty prevention provisions of this Chapter by removing and impounding mistreated animals and by issuing notices of violations to the person or persons inflicting cruelty upon animals.
(3) To administer emergency assistance or first aid to injured animals with which they come into contact with or without the consent of the owner or owners of such animals; and

(4) To enforce programs as directed by the City Manager.

Sec. 4-3. Bird Sanctuary.

a) Designation of City as a bird sanctuary. The area embraced within the corporate limits of the City is hereby designated as a bird sanctuary.

b) Prohibited acts. It shall be unlawful to trap, hunt, shoot or otherwise kill, within the sanctuary established by subsection a) hereof, any domestic or wild bird, provided that nothing contained herein shall be construed to supersede or bestow protected status on birds considered to be unprotected by State law, Natural Resources Article of the Annotated Code of Maryland, Sec. 10-101 (1990) as amended from time to time.

c) Authority of City Manager. The City Manager is authorized to erect such signs, giving notice of the regulations herein provided, at such places and of such design as may be approved by the City Council.

d) Exceptions. The provisions of this section do not prohibit the trapping, within the sanctuary established by subsection a) hereof, of any domestic or wild bird when considered necessary to protect human life, the life of the bird, or property from damage or destruction.

Sec. 4-4. Keeping of animals, including poultry, cattle or livestock.

The use of any land or building in the City of Bowie, Maryland for the purpose of keeping poultry, cattle or livestock must comply with the provisions of Subtitle 27, “Zoning”, of the Prince George’s County code, as the same is amended from time to time.

Sec. 4-5. Diseased animals.

a) No animal infected with a dangerous communicable disease shall be brought or kept within the City and the bodies of animals which have died of such diseases or have been killed on account thereof, shall not be buried within the City.

b) The owner of any animal which is known to have a disease contagious to other animals or human beings, shall not keep such diseased animal within the City, except if confined within the immediate domicile of the owner or under the control of a licensed veterinarian.

Sec. 4-6. Running at large.

a) No owner or custodian of any animal shall allow or fail to prevent such animal from being at large within the City. Any animal found at large or running at large is declared to be a nuisance and dangerous to the public health, safety and welfare.

b) The owner of any animal running at large shall be held strictly liable for a violation of this Chapter, except as provided in Paragraphs (e) and (f) of this Section and for any damages caused by said animal.

c) Any person who is aware of an animal running at large within the City may report the condition to the City. The identity of an informant under this Section shall not be disclosed except to employees of the City involved in the enforcement of this Chapter; however, when a person files an affidavit of complaint upon which the issuance of a municipal infraction is based, the affidavit becomes a public record which may be disseminated to the public upon request.

d) Any Animal Control Officer, Police Officer or other agent authorized or empowered to perform any duty under this Chapter may pursue any animal at large or running at large and may go upon any premises for impounding the animal at large or running at large. If the animal returns to the premises of its owner, an Animal Control officer or Law Enforcement officer may pursue the animal upon the exterior premises of the owner. If the owner or custodian takes the animal within the enclosed interior portion of his premises, an Animal Control Officer or Law Enforcement officer may direct the owner or custodian to surrender the
animal for impoundment. Any owner or custodian, after having been directed by the Animal Control Officer or Law Enforcement officer to surrender an animal for impoundment, shall surrender the animal. Failure to surrender an animal for impoundment upon demand by an Animal Control officer is a municipal infraction subject to the penalties set forth in Sec. 4-22(c) of the Bowie City Code.

e) This section shall not apply to an animal under the control of its owner, custodian or an authorized agent of the owner by a leash, cord or chain and shall not apply to any dog free of restraint on property owned by the City and duly designated by the City Council as a Dog Park.

f) No animal running at large by accident with a person in immediate pursuit of it shall be deemed to be running at large or a stray.

Sec. 4-7. General provisions.

a) All animals located or kept within the City of Bowie shall be cared for in accordance with “The Proper Animal Care Standards for Enforcement of Anti-Cruelty Laws” adopted by the Prince George's County Animal Control Division. Copies of the Standards may be obtained upon request from the City Clerk.

b) Animals in heat. The owner of any female dog, cat or other animal which is in estrus, a condition commonly known as “in heat”, shall keep the animal confined within a building or secure enclosure or under restraint in such a manner that she will not be in contact with, except for intentional breeding purposes, or attract any dog, cat or animal.

c) Rabies vaccination. The owner of any dog or cat over the age of four (4) months shall not keep such animal within the City unless it has a current rabies vaccination and the owner has a valid certificate which evidences such rabies vaccination.

d) Confinement of animals. From and after the passage of this ordinance, any person owning animals, whether vaccinated or unvaccinated, licensed or unlicensed, shall confine such animal so as to prevent it from being at large. Animals shall not be continuously tied or chained to dog houses, or other stationary objects, but must be kept in a proper enclosure, except an animal may be chained outside only during the time a responsible person is present to supervise and to ensure that cruel or nuisance conditions do not occur.

e) Cruelty to animals. Cruelty to animals is hereby prohibited as set forth in Article 27 of the Annotated Code of Maryland Sec. 59 et. seq., as amended from time to time. Said provisions of Article 27 are hereby incorporated by reference as if fully set forth herein. Pursuant to Article 27, Sec. 59 of the Annotated Code of Maryland, cruelty to animals is a misdemeanor punishable by a fine not exceeding $1,000 or by imprisonment not to exceed ninety (90) days, or both.

Furthermore, mutilation of animals as defined and set forth in Article 27, Sec. 59 of the Annotated Code of Maryland is hereby prohibited. The penalty for such act shall be as set forth in Sec. 59(b) a fine of $5,000 and/or imprisonment not to exceed 3 years or both.

f) County license. The owner of any dog(s) or cat(s) shall have such dog(s) or cat(s) properly licensed under the provisions of the Prince George’s County Animal Control Ordinance.

Sec. 4-8. Confinement of animal biting a person or other animal.

a) An Animal Control Officer shall have the authority to order the confinement of an animal pursuant to this section and shall further be authorized to confine for observation for ten (10) consecutive calendar days any animal that bites a person.

b) The owner of any animal which has bitten any person, or another animal, shall keep such animal confined within a building or secure enclosure in such a manner that it will not come into contact with any other animal for a period of ten (10) consecutive calendar days beginning with the day in which the bite occurs.

c) No person shall knowingly allow such confined animal to escape; or sell, give away or otherwise dispose of such animal before the expiration of the ten (10) day confinement period.
d) If the animal is not vaccinated against rabies at the time of exposure, the animal shall be required to receive a rabies vaccination from a licensed veterinarian, at the owner’s expense, immediately after the ten-day confinement period.

e) If, at the time of exposure, the owner fails to provide proof of a valid rabies vaccination for the animal in question, the animal will be examined by a licensed veterinarian at the owner’s expense or observed by the Prince George’s County Division of Animal Control or an Animal Control Officer immediately after the ten-day confinement period. Proof of valid rabies vaccination must be shown at the time of post-confinement visit by the Animal Control officer or other authorized person.

f) If rabies symptoms appear, the animal shall be surrendered to an Animal Control Officer or a veterinarian for euthanasia and testing for rabies.

Sec. 4-9. Interference with Animal Control Officer.

No person shall obstruct or interfere with an Animal Control officer while in the performance of his duties as described in this Chapter.

No person shall willfully prevent or obstruct the impounding of any animal in violation of any of the provisions of this Chapter by an Animal Control Officer or Law Enforcement Officer, nor shall any person take or attempt to take any animal out of the Animal Control Facility without the consent of an Animal Control Officer, nor shall any person knowingly impound or attempt to impound any animal not legally liable to impoundment. Any violation of this section is a misdemeanor punishable pursuant to Sec. 4-22 of this Code.

Sec. 4-10. Records of impounded animals.

a) Animal Control Officers shall keep complete and accurate records of the breed, color, sex, condition and location where found of any animal impounded in the Animal Control Facility and shall record whether or not the animal is licensed, tattooed or has a rabies tag.

b) If an animal impounded in the Animal Control Facility is licensed or vaccinated, an Animal Control officer shall record the name and address of the owner and the number of the license or rabies tag and shall attempt to notify the owner of the impoundment and the location of the animal.

c) Animal Control Officers shall keep complete and accurate records of the care, veterinary treatment and disposition of all animals impounded in the Animal Control Facility.

Sec. 4-11. Injured animals; prompt euthanasia.

When a seriously injured, diseased or suffering animal is taken into custody by an Animal Control Officer, and the owner cannot be promptly identified or contacted, a veterinarian shall be consulted and the animal may be taken to a veterinarian for an examination. The cost of any veterinary examination or consultation shall be an obligation of the owner of the animal. If, after consultation with the veterinarian, an Animal Control Officer determines that the animal should be destroyed for humane reasons, or to protect the public from imminent danger to persons or property, an Animal Control Officer may promptly authorize euthanasia or other humane destruction of the animal without regard to any time limitations established in this Chapter.

Sec. 4-12. Property in impounded animals.

Any domesticated animal which is impounded and not reclaimed by its owner in accordance with Sec. 4-22 shall be deemed abandoned. In the event an impounded animal shows signs of disease, injury or severe behavioral maladjustment, the City has the discretion to send the animal to be euthanized rather than holding it as stated herein, providing the records are checked to see if the animal has been reported missing, the animal appears to be unlicensed and, in the case of disease or injury, a veterinarian has been consulted.
behavioral maladjustment must be of such a nature as to pose a threat to the animal’s welfare while confined at the Animal Control Facility or pose an unreasonable threat to the safety of personnel caring for the animal. An Animal Control Officer may dispose of abandoned animals as may be most advantageous to the City and the public interest.

**Sec. 4-13. Public nuisance conditions and animals; procedures.**

a) No person shall keep or maintain any animal in the City of Bowie in such manner as to cause or permit the animal to be a public nuisance or to cause or permit the animal to cause a public nuisance condition. No person shall keep or maintain any animal in the City of Bowie in such a manner as to disturb the peace, comfort or health of any person residing within the City.

b) No owner or custodian of an animal shall fail to abate a nuisance caused by any animal owned by him or under his control, nor shall any person fail to abate a public nuisance condition found to exist upon the premises owned or controlled by him, after having been notified by an Animal Control Officer or other Law Enforcement Officer in accordance with this Chapter or having been ordered to abate the nuisance by an Animal Control Officer as provided herein. After having been notified of the existence of a nuisance condition by an Animal Control Officer or other Law Enforcement Officer, any person failing to abate such a nuisance shall be guilty of a municipal infraction subject to the penalties set forth in Sec. 4-22 herein.

c) For purposes of this section, a public nuisance is defined as:
   1) Unreasonably disturbing the quiet of any person or neighborhood or permitting an animal unreasonably to disturb the quiet of any person or neighborhood, or causing frequent or long continued noise, to the disturbance of the comfort or repose of any person or neighborhood; or
   2) Causing an odor or unsanitary condition, by reason of the animal’s uncleanliness or deposit of excrement or otherwise; or
   3) Causing damage to real or personal property belonging to a person other than the owner or custodian of the animal.

d) Notwithstanding the provisions of subsection b) of this section, with respect to noise and disturbance of the peace, the owner or custodian of an animal generating noise constituting a nuisance condition shall be guilty of a municipal infraction subject to the penalties set forth in Sec. 4-22; provided, however, that no municipal infraction citation shall be issued except upon the observation of circumstances constituting a violation of this section by a City Code Enforcement Officer or upon the submission of written complaints to the City, on an affidavit form obtained from the City, by at least two witnesses residing in separate households, each of whom must be at least eighteen years of age and have personal knowledge of the alleged violation. A municipal infraction may be issued for a violation of this section without notice and an opportunity to abate as provided for in subsection b) above, if such owner or custodian has within the preceding twelve months been notified by the City that an animal under such person’s control has generated noise constituting a nuisance condition.

(Sec. 4-13 d) amended by O-2-12, adopted 4/16/12, effective 5/17/12)

**Sec. 4-14. Reserved.**

**Sec. 4-15. Vicious animals.**

a) It shall be the duty of Animal Control Officers to receive and investigate complaints concerning vicious animals. Whenever an animal complained against shall be reasonably deemed by an Animal Control officer or the Officer’s designee to be a vicious animal, the Animal Control Officer shall report the fact to the Commission in the form of a written complaint and shall be authorized and empowered to impound the animal pending a hearing by the Commission if the Officer reasonably believes that the owner of the animal is not capable of restraining the animal from attacking, biting or injuring any human being or other animal pending a full hearing on whether the animal is vicious.
b) Whenever an animal has been impounded pursuant to this section, the owner shall be notified within forty-eight (48) hours of the impoundment of a right to a preliminary hearing. The preliminary hearing shall be scheduled within seventy-two (72) hours of a written request by the owner. The hearing shall be conducted in accordance with Sec. 3-136 of the Prince George’s County Code.

c) Any person who alleges that an animal is vicious may file an affidavit of complaint with the City or the Commission that states in clear language why the animal is vicious. This affidavit shall identify where the animal is located and describe the animal which is the subject of the affidavit of complaint. An Animal Control officer shall investigate the allegations in the affidavit of complaint and may impound the animal in accordance with this section.

d) If the Commission finds that the animal complained of is, in fact, a vicious animal, the Commission may direct the owner or custodian of the vicious animal to confine the animal and to abate its danger to the public in accordance with Sec. 4-16 herein or require the owner or custodian of the vicious animal to surrender the animal to the City and authorize an Animal Control Officer to destroy the animal.

e) Animal Control Officers shall maintain a record of all known vicious animals in the City of Bowie.

Sec. 4-16. Vicious animals; restrictions.

a) A vicious animal shall be confined by the owner or custodian within a building or secure enclosure and shall not be taken out of such building or secure enclosure unless securely restrained.

b) A vicious animal shall not be upon any street or public place except while securely restrained, humanely muzzled if appropriate to the species, and in the charge of a responsible person.

c) A vicious animal not confined as required by this section is hereby declared a public nuisance detrimental to the public health, safety and welfare. The owner of the animal shall be strictly liable for any violation of this section and for any damages caused thereby.

Sec. 4-17. Defecation; removal of excrement.

a) No person owning, keeping or having custody of a dog or cat, except a seeing eye dog, shall allow or permit excrement of such animal to remain on public property, including streets or private property without the consent of the owner or occupant thereof.

b) The person owning, keeping or having custody of the animal shall immediately remove and properly dispose of the excrement deposited by the animal.

Sec. 4-18. Disposal of animal carcasses.

a) The owner or custodian of an animal may not deposit or leave such animal upon its death on public property or the property of another person. All such dead animals shall be promptly disposed of by cremation, burial or other sanitary means.

b) An Animal Control Officer, upon request of any person shall pick up dead dogs, cats and other small domestic animals for disposal.

c) It shall be unlawful for any person to skin or gut an animal carcass in public view.

(Sec. 4-18 amended by O-14-98, adopted 2/17/98, effective 3/19/98).

Sec. 4-19. Destruction of vicious and dangerous animals.

If any wild, fierce, vicious or otherwise dangerous animal is at large and cannot be safely impounded by an Animal Control Officer, the Animal Control Officer shall contact the Prince George’s County Police and/or Prince George’s County Animal Control to immobilize or destroy such animal. Notwithstanding any provision of this Chapter, any animal which is an immediate and actual threat to the health and safety of any person may be destroyed by a Prince George’s County Animal Control Officer or any Police Officer.
Sec. 4-20. Incorporation of Prince George's County Animal Control Ordinance.

The City hereby incorporates by reference all provisions contained in the Prince George's County Animal Control Ordinance as it is amended from time to time. In the event of a conflict between the County ordinance and this Chapter, the provisions of this Chapter shall prevail.

Sec. 4-21. Entering private property.

Animal Control Officers may enter onto any property, public or private at all reasonable hours in the performance of their duties under this ordinance, except that they may not enter any private house without the consent of someone authorized to give consent.

Sec. 4-22. Enforcement.

a) Impoundment and notification.
   (1) Animal Control Officers may take up and impound at the Animal Control Facility any stray animal, public nuisance animal or animal not in compliance with the provisions of Chapter 4 of this Code. Upon impounding an animal, an Animal Control Officer shall make a prompt and reasonable effort to locate and notify the owner of such impounded animal of the impoundment. Notice under this Chapter may be served either by delivering it to the person on whom it is to be served, or by leaving it at the person's usual or last known residence, or at the address given on the animal's collar, or obtained by means of a tattoo, or by forwarding it by mail to that person at his usual or last known residence or the address given on the collar. When convenient, the notice may be given by telephone to the owner. All found animals will, when appropriate, by duly advertised.
   (2) A dog found at large with a license tag, rabies tag, tattoo or other indications of ownership shall, except as otherwise provided in this Chapter, be impounded and taken to the Animal Control Facility and there confined in a humane manner for a period of not less than five (5) business days, unless sooner claimed or redeemed by its owner.
   (3) A dog found at large without a license tag or other indications of ownership shall be impounded as above. However, such stray dogs shall be confined in a humane manner for a period of not less than three (3) business days.
   (4) In the event an impounded animal shows signs of disease, injury or severe behavioral maladjustment, an Animal Control Officer has discretion to send the animal to be euthanazed rather than holding it for three (3) business days, providing he has checked the records to see if the animal has been reported missing, the animal appears to be unlicensed and, in the case of disease or injury, he has consulted with a veterinarian. The behavioral maladjustment must be of such a nature as to pose a threat the animal's welfare while confined at the Animal Control Facility, or pose an unreasonable threat to the safety of personnel caring for the animal.
   Domesticated animals other than dogs may be impounded when found at large or abandoned and disposed of in accordance with the procedures established in this Chapter.
   b) Notice of Violation. Upon witnessing any violation of this chapter, Animal Control Officers may issue to the offender a notice of violation. Such notices may be issued in lieu of or in addition to impoundment. The notice of violation may be issued to both residents and non-residents when found within the City.
   (1) Duty of Charging Officer. Each Animal Control Officer who issues a violation notice or citation to an alleged violator shall promptly file the original copy at City Hall and appear for the hearing of such citation should it proceed to hearing.
   c) Penalty. Violations of Sections 4-4, 4-5(b), 4-6, 4-7(a), (b), (c), and (d), 4-8, 4-13, 4-14, 4-16, 4-17, and 4-18 of this Chapter shall be deemed a municipal infraction subject to the provisions of Chapter 1, Sec. 6 of this Code and shall be punishable, subject to Sec. 1-6, by a fine of fifty dollars ($50.00) for the first offense, one hundred dollars ($100.00) for the second offense, and two hundred dollars ($200.00) for every subsequent offense. Failure to pay said fine will subject the violator to the enforcement provisions of Chapter 1, Sec. 6 of this Code.
Violation of any section of this Chapter not specifically deemed a municipal infraction shall constitute a misdemeanor punishable by a fine not exceeding one hundred dollars ($100.00) or imprisonment for thirty (30) days or both. Each day any violations of any provision of this Chapter shall continue, shall constitute a separate offense.

Sec. 4-23. Redemption of impounded animals.

a) The owner of the impounded animal shall be entitled to resume possession upon compliance with any licensing requirements, payment of any veterinarian expenses incurred during the impoundment and payment of any outstanding fines and fees prescribed by the Council in the annual City budget and the presentation of satisfactory proof of ownership.

b) An impoundment fee of $15.00 shall be charged for each impoundment. The owner of an impounded animal shall also be liable to the City of Bowie for the shelter fees and the costs of any required veterinary services in accordance with the schedule of charges promulgated by the Bowie City Council in the City’s annual budget ordinance.

c) Disposal of unredeemed animals. Any animal impounded under the provisions of this Chapter not redeemed by the owner or his representative within five (5) business days after the impoundment may thereafter either be destroyed in a humane manner, sent to the County Animal Shelter or adopted by a responsible party or agency who will comply with any applicable regulations. If the five (5) business days expire on the first workday of the week, an extra day shall be allowed. The City Manager may establish an adoption fee in order to recover the cost of boarding. Notwithstanding any portion of this Chapter, any impounded animal which is unduly suffering due to injury, disease or other conditions that cannot be corrected, may be immediately destroyed for humane reasons in a humane manner.

(Chapter 4 repealed and reenacted by O-3-96, adopted 6/3/96).
(Chapter 4, Sections 4-6, 4-13, 4-14 amended by O-02-02, effective 2/2/02.)
(Chapter 4, Section 4-22 amended by O-6-05, effective 6/2/05).
CHAPTER 5
BUILDING AND PROPERTY MAINTENANCE

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ARTICLE I. BUILDING CODE.

Sec. 5-1. Compliance with Chapter.

It shall be unlawful to erect, construct, or repair any building either for residential or business purposes in violation of the building regulations of the City as set out in this Chapter.

Sec. 5-2. Adopted.

There is adopted by the City for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy, location and maintenance of buildings and structures, including permits and penalties, certain building code known as the Maryland Building Performance Standards as adopted, and amended or modified from time to time by the State of Maryland, or by the Council, of which not less than two (2) copies are filed in the Office of the City Manager and the same are adopted and incorporated as if fully set out at length herein (hereinafter referred to as the "Building Code"); and the provisions thereof shall be controlling in the construction of all buildings and other structures therein contained in the City. (Sec. 5-2 amended by O-13-95, adopted 9/5/95).

Sec. 5-2A. Enforcement authority for Maryland Building Performance Standards.

In conformance with the Annotated Code of Maryland, Article 28, Section 8-116, the Prince George's County Government and its designated officers are exclusively responsible for enforcing compliance with the Maryland Building Performance Standards. Such responsibility
shall include, but is not limited to, plan review and inspections. (Sec. 5-2A amended by O-13-95, adopted 9/5/95; Sec. 5-2A amended by O-8-12, adopted 12/3/12, effective 1/2/13).

Sec. 5-2B. Additional building standards adopted by the City.

In addition to Maryland Building Performance Standards, the City has adopted a "Housing and Property Maintenance Code" which is set forth in Article II of this Chapter. The City Manager or his designee is responsible for enforcing the provisions of the City Housing and Property Maintenance Code, except for those provisions relating to the National Fire Protection Association 1 Code (NFPA 1), Plumbing Code, Accessibility Codes, Mechanical Code and Electrical Code. Complaints and alleged violations of the NFPA 1, Plumbing, Mechanical and Electrical Codes shall be referred to the appropriate agency for consideration and action. The City may from time to time adopt additional building standards which may apply to residential, commercial, recreational, industrial or any other type of building or development. The City Manager or his designee shall assume responsibility for inspection and enforcement of any such additional building standards. (Sec. 5-2B amended by O-13-95, adopted 9/5/95; Sec. 5-2B amended by O-8-12, adopted 12/3/12, effective 1/2/13).

Sec. 5-3. Amendments.

(a) Wherever the word "municipality" is used in the Building Code, it shall be held to mean the City, except where such an interpretation contradicts Section 5-2A herein, in which case Section 5-2A shall govern.

(b) Wherever the term "corporate counsel" is used in such Building Code, it shall be held to mean the City attorney.

Sec. 5-4. City fees and permit requirements.

(a) There is hereby established a City Building Permit requirement. The fee for any permit shall be prescribed by the Council in the Annual City Budget. (Sec. 5-4(a) amended by O-8-21, adopted 11/15/21, effective 12/15/21)

(b) A building permit must be obtained from the City for any construction for which a permit is required from Prince George's County and for any construction that is subject to a City standard that is stricter than that applied by the County, without regard to whether a County permit is required for such construction. A County building permit is a prerequisite for issuance of a City permit when a County permit is required for the construction. (Sec. 5-4(b) amended by O-8-21, adopted 11/15/21, effective 12/15/21)

(c) All applications for issuance of a City building permit must be accompanied by:

1. Plans and specifications drawn to scale with sufficient clarity, with detailed dimensions to be drawn to show the nature and character of the work performed, as required by the City Manager or his designee. The City Manager or his designee may waive the necessity for filing plans and specifications when the work involved is of a minor nature. Sec. 5-4(c)1. amended by O-13-95, adopted 9/5/95; Sec. 5-4(c)1 amended by O-8-12, adopted 12/3/12, effective 1/2/13).

2. A site plan showing to scale the size and location of all structures on the site, distances from lot lines, established street grades and proposed finished grades. The site plan shall be drawn in accordance with an accurate boundary survey.

3. Location of private sewage disposal system where applicable.

4. Where property is located within a Chesapeake Bay Critical Area Overlay Zone, a conservation plan and a conservation agreement. (Sec. 5-4(c)4 and 5 amended by O-8-12, adopted 12/3/12, effective 1/2/13)

(d) Applications for City building permits will be reviewed for compliance with City Housing and Property Maintenance Code provisions, when applicable, and reviewed for their impact on local public facilities and regulatory issues, including but not limited to:

1. Public transportation, to include, public bus and ride share districts;

2. Fence placement and other issues;
3. Refuse removal;
4. Environmental noise control;
5. Storm water management and storm drain systems;
6. Soil erosion and sediment control;
7. Water and sewer systems;
8. Public safety;
9. Road requirements

(Sec. 5-4(d)2, 8, 9 and 10 amended by O-8-12, adopted 12/3/12, effective 1/2/13)

(e) The City Manager may not approve the issuance of a building permit for improvements to property unless all past due amounts owed to the City for real property taxes for the property have been paid.

(f) Whenever any work for which a permit is required has been started, partially completed, or concealed prior to obtaining a permit, the City Manager or his designee may issue a stop work order. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume. A copy of the stop work order shall be posted upon the property and mailed to the property owner. Upon the posting of a stop work order, all work shall cease immediately except such work as that person is directed to perform to remove a violation or unsafe condition. The property owner shall take steps to secure the work against unauthorized entry. A special investigation shall be made before an application may be filed to request the required permit. In addition to the regular permit fee, an investigation fee of ten dollars ($10.00) shall be paid at the time of filing the application for the required permit.

Sec. 5-4A. Impact Fees.

(a) The Council may from time to time establish impact fees for financing the design, establishment, extension, improvement, operation, alteration or maintenance of public bus and ride sharing systems either by resolution of the Council or by inclusion in the annual budget of the City. Such impact fees may be increased or decreased at any time by resolution of the Council.

(b) Prior to the issuance of any building permit, the City Manager or his designee shall review the permit application to determine whether or not the property is located within an area designated as a public bus and ride sharing special assessment district as such districts are created and set forth in Section 88 of the City Charter. If the property is found to be within a public bus or ride sharing special assessment district, then the City Manager shall, prior to the issuance of any building permit, collect an impact fee as established from time to time by resolution of the Council.

(c) In lieu of any impact fee imposed under this section, the City Manager is authorized to accept donations of land equipment or improvements or any combination thereof for existing or proposed public bus and ride sharing facilities provided the City Manager prior to acceptance of such donation certifies to the Council the proposed donation with a statement of justification for acceptance thereof.

Sec. 5-5. Bonds required.

(a) If it is the opinion of the City Manager or his designee in connection with the issuance of a building permit, that a City easement, right of way or City property might be damaged by the movement of heavy equipment or by debris left on the City easement, right of way or property, then a cash bond, or a bond from an approved corporate surety or other collateral acceptable to the City Manager and the City Attorney in the amount of Five Hundred Dollars ($500) shall be posted with the City Manager to guarantee the repair of the damage to the easement, provided however, that homeowner may post a personal bond. When a release is given by the City Manager that the easement, right of way or City property is in satisfactory condition, the bond will be released.

(b) No building permit shall be issued until a One Hundred Dollar ($100) bond has been posted to protect the City against expenses for the removal of debris left on public lands or
Sec. 5-5A. Permit holders responsibility to upgrade local roads.

(a) When in the judgment of the City of Bowie, Prince George's County, or any other state or local authority with jurisdiction, it is determined that improvements or additions to public roads or other public utilities or facilities are required in connection with the issuance of a building permit, the permit holder is responsible for funding and completing the requisite improvements.

(b) Street lighting required by the City or Maryland National Capital Park and Planning Commission regulations or directives shall be the responsibility of, and installed at the expense of, the permit holder and shall be of such type or style as approved by the City.

(c) Improvements or upgrades to adjacent or abutting roads shall comply with the standards contained in Chapter 22 of the Bowie City Code.

(Secs. 5-2A, 2B, added, 5-3, 4 amended, 5-5A added by O-2-93, 3/15/93).

ARTICLE II. HOUSING AND PROPERTY MAINTENANCE CODE.

Sec. 5-6. Definitions.

For purposes of this Article the following words and phrases shall have the meaning respectively ascribed to them by this section.

1. "Basement". A portion of the building partly underground, and having less than half of its clear height below the average grade of the adjoining ground.

2. "Building Code". The Maryland Building Performance Standards as adopted, and amended or modified from time to time, as further defined in Sec. 5-2. (Article II, Sec. 5-6 amended by O-8-12, adopted 12/3/12, effective 1/2/13)

3. "Cellar". (See Basement)

4. "Commercial Buildings". Any building or structure used or zoned for business, commercial or industrial purposes and any residentially zoned building or structure which is used for a purpose other than a residential purpose.

5. "Commercial Unit". One or more rooms arranged for the use of one (1) or more individuals working together as a single enterprise, with offices or other working areas and sanitary facilities.

6. "Compost Sites". Segregated locations on residential property for the controlled biological decomposition of yard refuse, fruit or vegetable waste, eggshells or coffee grounds, maintained to facilitate decomposition and produce innocuous organic material. (Sec. 5-6 added by O-8-21, adopted 11/15/21, effective 12/15/21)

7. "Dwelling(s)". A building or structure, or portion thereof, used for human occupancy. An attached garage, used for storage purposes, shall be not included in this definition. The following are types of dwellings:
   a. Single-family dwelling. A building containing one (1) dwelling unit. (See Footnote)
   b. Multifamily dwelling. A building containing two (2) or more dwelling units.
   c. Hotel. A building arranged or used for sheltering, sleeping or feeding ten or more individuals for which compensation is received.

8. "Dwelling Unit". One or more rooms arranged for the use of one (1) or more individuals living together as a single house-keeping unit, with cooking, living, sanitary and/or sleeping facilities. (Sec. 5-6 7. amended by O-8-12, adopted 12/3/12, effective 1/2/13)

9. "Emergency". The existence of circumstances constituting an immediate danger to the public health or safety and requiring prompt enforcement or remedial action under this Code.

10. "Exterior Property Area". The open space on the premises and on adjoining property under the control of owners or operators of such premises.
11. "Extermination". The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poison spraying, fumigating, trapping, or by any other pest elimination methods.

12. "Family". A group of persons related by blood, marriage or adoption within and including the degree of first cousins.

13. "Garbage". The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

14. "Gross floor area". The total area of all habitable space in a building or structure.

15. "Habitable room". A room or enclosed floor space arranged for living, eating, and sleeping purposes (not including bathrooms, water closet compartment, laundries, pantries, foyers, hallways, and other accessory floor spaces.)

16. "Hedge". A row of shrubs, bushes, or trees forming a boundary to abutting property or public right-of-way. (Sec. 5-6 16. amended by O-8-21, adopted 11/15/21, effective 12/15/21)

17. "Hotel". (See Dwellings.)

18. "Infestation". The presence within or contiguous to a Dwelling, Dwelling Unit or Rooming Unit, Commercial Building, or Commercial Unit of insects, rodents, vermin or other pests.

19. "Motel". For purposes of this code, a motel shall be defined the same as a hotel. (See Dwellings).

20. "Multifamily (multiple) Dwelling". (See Dwellings).

21. "Occupant". Any person over one (1) year of age (including owner or operator) living and sleeping in a dwelling unit or having actual possession of said dwelling or rooming unit or any person having actual possession of any commercial building or commercial unit.

22. "Openable area". That part of a window or door which is available for unobstructed ventilation and which opens directly to the outdoors.

23. "Operator". Any person who has charge, care or control of a multifamily dwelling or rooming house, in which dwelling units or rooming units are let or offered for occupancy.

24. "Owner". The owner or owners of the freehold interest in the premises or lesser estate therein, a mortgagee or vendor in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a building; or their duly authorized agents.

25. "Person". An individual, firm, corporation, association or partnership.

26. "Plumbing or plumbing fixtures". A receptacle or device which is either permanently or temporarily connected to the water distribution system of the premises, and demands a supply of water therefrom; or discharges waste water, liquid-borne waste materials; or sewage either directly or indirectly to the drainage system of the premises; or which requires both a water supply connection and a discharge for the drainage system of the premises.

27. "Premises". A lot, plot or parcel of land including the building or structures thereon.

28. "Rental dwelling". Any rented room or group of rooms forming a single habitable unit occupied by one or more persons which is used or intended to be used by the occupants for living or sleeping.

29. "Residence building". A building in which sleeping accommodations or sleeping accommodations and cooking facilities as a unit are provided; except when classified as an institution under the Building Code.

30. "Rooming house". A "Dwelling" in which (for compensation) lodging (excluding meals) is furnished by the inhabitants to four (4) or more, but not over nine (9) guests.

31. "Rubbish". Household waste materials, except garbage, including but not limited to disposable diapers, paper, rags, cartons, boxes, plastic and glass bottles or containers, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and dust and other similar materials. (Sec. 5-6 31. amended by O-8-21, adopted 11/15/21, effective 12/15/21)

32. "Single-family Dwelling". (See Dwellings).

33. "Storage Tent". Any structure, enclosure or shelter which is constructed of canvas or other pliable material and is supported in any manner except by the contents it protects that
is erected or used to provide cover for any type of vehicle or for storage of personal or household items. The term "Storage Tent" shall not include awnings or camping tents.

34. "Supplied". Installed, furnished or provided by the owner or operator.

35. "Ventilation". The process of supplying and removing air by natural or mechanical means to or from any space.
   b. "Natural". Ventilation by opening to outer air through windows, skylights, door, louvers, or stacks without wind driven devices.

36. "Workmanlike". Whenever the phrase "workmanlike state of maintenance and repair" is used in this Code, it shall mean that such maintenance and repair shall be made in a reasonably skillful manner.

37. "Yard". An open unoccupied space on the same lot with a building extending along the entire length of a street, or rear, or the interior lot line.

(Sec. 5-6 amended by O-8-21, adopted 11/15/21, effective 12/15/21)

Sec. 5-7. Standards.

(a) SCOPE. The provisions of this section shall govern the minimum conditions of property and buildings to be used for human occupancy. Every building or structure constructed for the purpose of human occupancy and the premises on which it stands shall comply with the conditions herein prescribed as they may apply thereto. (Sec. 5-7(a) amended by O-8-12, adopted 12/3/12, effective 1/2/13)

(b) EXTERIOR PROPERTY AREAS. The exterior property areas of any residential or commercial structure, whether occupied or unoccupied, shall comply with the following requirements:

1. Landscaping of premises.
   A. The landscaping of premises shall be maintained in an orderly state with lawns and, bushes, trees, shrubs and other such vegetation trimmed and free from unlawful overgrowth, dead trees or shrubs, and other conditions that would constitute a nuisance or a blighting effect on nearby property.
   B. Dead trees must be removed. Property owners may not leave in place tree trunks or stumps that are higher than 18".
   C. Overgrowth shall be unlawful if any one or more of the following applies:
      I. The overgrowth has caused the primary improvements on the property to be wholly or substantially screened from view from pedestrians standing at ground level upon any right-of-way abutting any property line, except that this subsection is not intended to apply to trees and properly pruned hedges;
      II. The overgrowth obstructs the view of address numerals;
      III. The overgrowth obstructs access to escape and rescue opening points or path of travel from any street to the primary entrance of the main structure;
      IV. The overgrowth is growing into or on the primary structure, storage sheds and buildings or is detrimental or has caused damage to primary or accessory structures; or
      V. The overgrowth constitutes a public heath, safety, welfare, or fire hazard.
   D. The requirements of Subsection (A) above shall have no application in the following areas of the City:
      I. Vegetated wetlands, as defined in the Annotated Code of Maryland Natural Resources Article 9 and COMAR 08.05.04;
      II. Banks of detention ponds, streams, and other bodies of water, natural or manmade;
      III. Banks of drainage easements;
      IV. Property that is currently under development, from the date duly approved land disturbance begins until a certificate of occupancy is
issued; except that if work is discontinued for more than 14 consecutive days, the property is no longer exempt from these requirements; and

V. Any other area required to be vegetated by reason of the application of the City Zoning Ordinance, Subdivision Ordinance, Site Plan Ordinance, Stormwater Management Ordinance, or any other ordinance or provision of law.

(Sec. 5-7(b) 1 amended by O-8-21, adopted 11/15/21, effective 12/15/21)

2. Sanitation.
   A. All exterior property areas shall be maintained in a clean and sanitary condition, free from any accumulation of litter, rubbish, refuse, trash or garbage, including but not limited to paper, boxes, cans, bottles, tires, construction materials, trimmings from lawns, hedges, shrubs or trees, fuel oil, lubricating oil, gravel, broken stone, mortar, and unused accumulations of mulch, hay, straw, manure, shavings, sawdust, coal, or ashes.

   B. The provisions of Subsection (b)(2)(A) shall not apply to a compost site maintained free of noxious odors, situated in the rear yard and cover no more than .5% of the total square footage of the lot.

   (Sec. 5-7(b) 2 amended by O-8-21, adopted 11/15/21, effective 12/15/21)

3. Grading and drainage. All premises shall be graded and maintained so as to prevent the accumulation of stagnant water thereon or within any building or structure located thereon. Water in swimming pools, wading pools, and fish ponds shall not be allowed to stagnate and shall be maintained in a clean and sanitary condition at all times. No person shall redirect stormwater or drain water from any source so that it flows onto or across abutting property or pools or causes erosion.

4. Noxious plant growth. All exterior property areas shall be kept free from species of weeds or plant growth which are noxious or detrimental to the public health.

5. Insect and rodent harborage. All exterior property areas shall be kept free from rodent infestation, and where rodents are found, they shall be promptly exterminated by acceptable processes which will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfection; such precautions shall include construction designed to prevent rodents, vermin or other pests from entering a building by blocking off or stopping up all passages by which rodents, vermin and other pests may gain entry, closing openings in exterior walls with materials through which rodents, vermin, and other pests cannot penetrate, together with such interior rat stoppage, harborage removal, and cleanup as may be necessary to reduce or eliminate breeding places.

6. Open storage.
   A. Exterior property areas shall not be used for the open storage or accumulation of items including, but not limited to, household appliances or fixtures; coolers; items not intended by the manufacturer for exterior use, including upholstered furniture; tool boxes or chests and storage totes or containers; items that may rust or corrode when exposed to weather; automotive parts, fluids and accessories; inoperative vehicles; hazardous substances; glass; building rubbish or refuse; or other similar items or materials or the residue therefrom. All camping, lawn care, maintenance and other construction materials, tools and equipment, except as specifically authorized elsewhere in this Code, shall be stored within a building or completely screened so as not to be visible from adjoining properties or public street right-of-way, except for the following:
      I. Extension ladders and wheelbarrows provided they are stored in the rear yard and do not harbor stagnant water.
      II. Clothesline pole and wires.
      III. Construction materials or equipment as permitted by 26-9 of this Code.
      IV. Landscaping material and equipment being used for an ongoing project on the lot provided that such material and equipment are not stored on the exterior property areas for longer than 10 days.
V. Furniture intended by the manufacturer for outdoor use.

VI. Patio heaters, firepits and grills subject to the regulations of the Prince George’s County Fire Marshall and/or any health, safety and welfare regulations adopted by the City pertaining to the use of such items.

VII. Residential dumpster bags or dumpsters being used for household relocation and improvement projects are permitted subject to the following conditions:

A. The residential dumpster bag or dumpster is located on a property for no more than 45 days in one calendar year.

B. The residential dumpster bag or dumpster must be located on private property and may not protrude into or damage the public right-of-way.

B. This section shall not be construed to prohibit the storage of materials intended for commercial sale by an entity properly licensed to engage in such sale and on property properly zoned for such sale.

(Sec. 5-7(b)6 amended by O-8-21, adopted 11/15/21, effective 12/15/21)

7. Accessory Structures. Any building or structure, the use of which is incidental to that of the main building or residence and which is located on the same lot or ground, including but not limited to, the following: fences, walls, attached or detached garages, gazebos, storage sheds and buildings. Accessory structures shall be maintained in good repair, be structurally safe and sound, and be free from rust, corrosion and graffiti. Storage tents, whether temporary or permanent, are not accessory structures and, therefore, are prohibited.

8. Appurtenance or appurtenant structure. All exterior decorative, aesthetic or other devices such as, but not limited to, canopies, marquees, signs, metal awnings, fire escapes, standpipes, exhaust ducts, shutters, flower boxes, cupolas, steps, porches, and other similar structures that are attached to walls or railings or other parts of the structure shall be maintained in safe, weather resistant and structurally sound condition and shall be free of unsafe obstructions or hazardous conditions, and free from rust, corrosion and graffiti.

9. Firewood storage. No person shall permit the storage on any lot in the City of any wood, logs, branches or other wood products intended to be used for burning in an interior or exterior woodstove or fireplace unless the same shall be cut to lengths for final use and are neatly stacked and stored evenly on a concrete, asphalt, brick or wood deck, patio, porch, or be placed on open racks that are elevated above the ground with minimum clearance of six inches (6") above a concrete, brick, block, asphalt or wood surface or eighteen inches (18") above an unimproved ground surface, and evenly piled so that these materials will not afford shelter or harborage for rodents. The area beneath the firewood rack shall be kept free of all debris and weeds. Firewood shall not be stored in any manner beyond the front building lines of the house. (Sec. 5-8(b)9. added by O-5-89, effective 7/1/90)

10. All vehicle repair facilities, towing stations, and storage lots abutting areas used for residential purposes shall be completely screened in accordance with the requirements of Subtitle 27 of the Code of Prince George’s County, Maryland notwithstanding the nonconforming status of a property.

11. All exterior stairways, walkways, driveways and other parts of the premises shall be kept in good repair and free from corrosion and graffiti. It shall be the duty of the owner to keep the premises free of hazardous conditions, which include but are not limited to ground surface hazards, holes excavations, breaks, and projections, and such conditions shall promptly be filled, repaired, replaced or removed to eliminate any hazard.

(c) EXTERIOR STRUCTURE. Every residential or commercial building or structure, whether occupied or unoccupied, shall comply with the following requirements:

1. Foundations, walls, and roof. Every foundation, exterior wall, roof, and all other exterior surfaces shall be maintained in a workmanlike state of maintenance and repair and shall be kept in such condition as to exclude rodents.

2. Foundations. The foundation elements shall adequately support the building at all points.
3. Exterior walls and exposed surfaces. Every exterior wall and weather-exposed exterior surface or appurtenance shall be free of moss, mold, mildew, rust, corrosion, peeling, chipping or flaking paint, graffiti, holes, breaks, loose or rotting boards or timbers and any other conditions which might admit rain or dampness to the interior portions of the walls or the occupied spaces of the building. All exterior surfaces shall be covered by materials customarily used for exterior surfaces including, but not limited to, brick, aluminum, copper, masonry, stone, stucco or decay-resistant or treated woods. Treated wood coverings shall be made substantially impervious to the adverse effects of weather by periodic reapplication of an approved protective coating of weather-resistant preservative, as necessary to maintain such coverings in such condition.

4. Roofs. The roof shall be structurally sound, tight, and have no defects which might admit rain, and roof drainage shall be adequate to prevent rain water from causing dampness in the walls or interior portion of the building.

5. Stairs, porches and railings. Stairs and other exit facilities shall comply with the following subsections. (Sec. 5-7(c)5. amended by O-8-12, adopted 12/3/12, effective 1/2/13)
   a. Structural safety. Every outside stair, every porch, and every appurtenance attached thereto shall be kept in sound condition and good repair. (Sec. 5-7(c)5.a. amended by O-8-12, adopted 12/3/12, effective 1/2/13)
   b. Handrails. Every flight of stairs, which is more than three (3) risers high, shall have a handrail and every porch, deck, ramp, balcony, stair or other walking surface which is more than thirty inches (30") high shall have a handrail and guards. Every handrail, guard and balustrade shall be firmly fastened and shall be maintained in good condition. (Sec. 5-7(c)5.b. amended by O-8-12, adopted 12/3/12, effective 1/2/13)

6. Windows, doors and hatchways. Every window, exterior door, and basement hatchway, shall be substantially tight and shall be kept in sound condition and repair.

7. Windows to be glazed. Every window sash shall be fully supplied with glass window panes or an approved substitute which is without open cracks or holes.
   a. Windows to be tight. Every window sash shall be in good condition and fit reasonably tight within its frame.
   b. Windows to be openable. Every window, other than a fixed window, shall be capable of being easily opened and shall be held in position by window hardware.

8. Door hardware. Every exterior door, door hinge, door latch and closing mechanism used with said door, shall be maintained in good condition.

9. Door locks. The entrance door to an individual rental dwelling unit shall be provided with locking devices so as to provide security against unauthorized entry.

10. Doors to fit in frame. Every exterior door, when closed, shall fit reasonably well within its frame.

11. Window and door frames to fit in wall. Every window, door, and frame shall be constructed and maintained in such relation to the adjacent wall construction so as to exclude rain as completely as possible, and to substantially exclude wind from entering the dwelling or multifamily dwelling or commercial building.

12. Basement hatchways. Every basement hatchway shall be so constructed and maintained as to prevent the entrance of rodents, rain, and surface drainage water into the dwelling or multifamily dwelling or commercial building.

13. Exit doors. Every door available as an exit shall be clear of any obstruction and capable of being opened from the inside, easily and without the use of a key. (Sec. 5-7(c)13. amended by O-8-12, adopted 12/3/12, effective 1/2/13)

14. Screening. Guards and screens shall be supplied for protection against rodents and insects in accordance with the following requirements:
   a. Guards for basement windows. Every basement or cellar window which is openable shall be supplied with corrosion resistant rodent-proof shields of not less than No. 22 U.S. gauge perforated steel sheets, No. 20 B & S gauge aluminum, or No.6 U.S. gauge expanded metal or wire mesh screens, with not more than one-half (1/2) inch mesh openings, or with other material affording equivalent protection against the entry of rodents, including storm windows.
b. Insect screens. From June 1st to October 15th of each year, every door opening directly from any dwelling to the outdoors, fifty percent (50%) of the nominal area of every double hung and horizontal sliding window, and that portion of every other type window normally used for ventilation and all other openings shall be screened with not less than sixteen (16) mesh per inch material; and every hinged screened door shall have a self-closing device maintained in good working condition; except that no screens shall be required for a dwelling unit on the floor above the fifth floor; provided that screen doors shall not be required on the main entrance door of any dwelling.

15. Gutters and Downspouts. All gutters and downspouts shall be properly connected, secured to the structure and be maintained in good condition, free of holes and obstructions, including plant growth. In the event that any portion of a gutter system or downspout(s) becomes disconnected from the system or the structure, it shall be repaired immediately or the entire gutter system and downspout(s) and the associated hardware shall be removed. Water shall be conveyed off premises in an acceptable manner and not in a manner that may cause standing water to accumulate on or cause the erosion of any neighboring property.

16. House numbers. All dwelling units within the City of Bowie must display house numbers in compliance with the requirements of this subsection. The size of the house numbers shall be as the City Manager shall direct, but in no case shall be less than four inches (4") in height. They must be the Arabic numbers officially assigned to the dwelling and must be legible as such numbers. The use of words spelling out the house numbers does not satisfy the requirements of the subsection. The house numbers must be uniformly spaced and securely mounted against a contrasting background. The numbers must be clearly visible and plainly legible from the assigned street, and vegetation must be trimmed as needed from time to time. In the case of corner houses or multifamily or townhouse dwellings, the house numbers shall be displayed in such size, manner and locations as the City Manager shall direct so as to facilitate the prompt location of addresses by fire, health and safety officials. In the case of houses with mailboxes at the street in front of the house, the house numbers may be displayed on the mailbox rather than on the house itself. House numbers on mailboxes shall be on the broad side or top of the mailbox or on the support post and readable from both directions of the street. Dwellings with rear fences which abut a public street, alley or other such right of way which is used by vehicles, must be posted with numbers on the rear yard fence.

17. Shutters. All shutters shall be erected in pairs and shall be uniform in style and color. If erected, pairs of shutters shall be maintained consistently on a dwelling or commercial building or both shall be removed. If they are removed, all hardware must also be removed from the structure. All slats on shutters must be maintained and in good condition.

18. Chimney Pipe. All exterior metal chimney pipe shall be enclosed in an approved continuous enclosure of brick, block or wood with siding and trim to match the existing structure. The enclosure must start at the bottom edge of the house. This provision shall be waived provided that no more than six (6) linear feet of chimney pipe is exposed and the chimney pipe transitions through the roof of the structure, as opposed to a transition through the wall.

(d) INTERIOR STRUCTURE. No person shall occupy as owner-occupant, or let to another for occupancy, any dwelling, or portion thereof, which does not comply with the following requirements.

1. Free from dampness. Cellars, basements, crawl spaces, and interior portions of a dwelling shall be maintained reasonably free from dampness so as to prevent conditions conducive to decay or deterioration of the structure. (Sec. 5-7(d)1. amended by O-8-12, adopted 12/3/12, effective 1/2/13)

2. Structural members. Supporting structural members shall be maintained in sound condition; showing no evidence of deterioration which would render them incapable of carrying the imposed loads. (Sec. 5-7(d)2. amended by O-8-12, adopted 12/3/12, effective 1/2/13)

3. Maintained in good repair. All interior stairs shall be maintained in sound condition and good repair by replacing treads and risers that evidence excessive wear or are broken, warped or loose. Every inside stair shall be so constructed and maintained as to be safe to use. (Sec. 5-7(d)3. amended by O-8-12, adopted 12/3/12, effective 1/2/13)
4. Handrails. Every stairwell and every flight of stairs, which is more than three (3) risers high, shall have handrails or railings. Every handrail or railing shall be firmly fastened and must be maintained in good condition. Properly balustraded railing or guards capable of bearing normally imposed loads shall be placed on the open portions of stairs, balconies, landings and stairwells. (Sec. 5-7(d)5. amended by O-8-12, adopted 12/3/12, effective 1/2/13)

5. Bathroom floors. Every toilet and bathroom floor surface shall be constructed and maintained so as to be substantially impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.

6. Sanitation. All interior spaces shall be maintained in a clean and sanitary condition free from any accumulation of rubbish or garbage. Rubbish, garbage, and other refuse shall be properly kept inside temporary storage facilities and as further set forth elsewhere in this code.

7. Insect and rodent harborage. Dwellings shall be kept free from insect or rodent infestation, and where insects and rodents are found they shall be promptly exterminated by acceptable processes which will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinestation; such precautions shall include construction designed to prevent rodents, vermin or other pests from entering a building by blocking off or stopping up all passages by which rodents, vermin and other pests may gain entry, and includes the closing of openings in exterior walls with materials through which rodents, vermin, and other pests cannot penetrate, together with such interior rat stoppage, harborage removal, and cleanup as may be necessary to reduce or eliminate breeding places.

8. Interior walls, floors and ceilings. Every interior wall, floor and ceiling shall be maintained in a clean, sanitary, safe and structurally sound condition, free of holes, cracks, loose plaster or wallpaper, flaking or scaling paint, and shall be substantially insect and rodent proof. When paint is applied to interior surfaces of habitable spaces, it must be lead free.

9. Caulking. The caulking around all fixtures and surfaces which require caulking shall be maintained so as to be substantially impervious to water and so as to permit such fixtures and surface areas to be easily kept in a clean and sanitary condition.

10. Interior doors. All interior bathroom, bedroom and utility room doors shall be maintained in good repair and shall fit properly in their frames and shall retain all necessary hardware. (Sec. 5-7(d)6. 7. 8. 9. 10. 11. amended by O-8-12, adopted 12/3/12, effective 1/2/13)

(e) BASIC FACILITIES. No person shall occupy as owner-occupant, or let to another for occupancy, any dwelling, or portion thereof, which does not contain the following basic facilities.

1. Water closet. Every dwelling unit shall contain within its walls a room, separate from the habitable rooms, which affords privacy and which is equipped with a water closet.

2. Lavatory. Every dwelling unit shall contain a lavatory, which, when a water closet is required, shall be in the same room with said water closet.

3. Bathtub or shower. Every dwelling unit shall contain a room which affords privacy to a person in said room and which is equipped with a bathtub or shower.

4. Kitchen sink. Every dwelling unit shall contain a kitchen sink apart from the lavatory required elsewhere by this code.

5. Cooking facilities. Every dwelling unit shall contain cooking and baking facilities for the purpose of preparing food, and such facilities shall be properly installed and operated and kept in a clean and sanitary condition.

6. Refrigeration for food preservation. Every dwelling unit shall contain a refrigeration unit adequate for the temporary preservation of perishable foods. Such refrigeration unit shall be capable of maintaining an average temperature of below forty-five (45) degrees Fahrenheit, shall be properly installed and operated, and kept in a clean and sanitary condition.

7. Water and sewer system. Every kitchen sink, lavatory basin, bathtub or shower and water closet required under the provisions of this Code, shall be properly connected to either a public water and sewer system or to a private water and sewer system. All sinks, lavatories, bathtubs and showers shall be supplied with hot and cold running water.

8. Water heating facilities. Every dwelling unit shall be supplied with water heating facilities, which are installed in an approved manner, properly maintained, and properly
connected with hot water lines to the fixtures required to be supplied with hot water elsewhere in this Code. Water heating facilities shall be capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub, shower, and laundry facility or other similar units, at a temperature of not less than one hundred ten (110) degrees Fahrenheit at any time needed. (Sec. 5-7(e)8. amended by O-8-12, adopted 12/3/12, effective 1/2/13)

9. Heating facilities. Every dwelling unit shall have heating facilities and the owner of the heating facilities shall be required to see that they are properly installed, safely maintained and in good working condition, and that they are capable of safely and adequately heating all habitable rooms, bathrooms and toilet rooms located therein, to a temperature of at least an average of sixty-eight (68) degrees Fahrenheit with an outside temperature of ten (10) degrees below zero. The owner shall maintain a minimum average room temperature of sixty-eight (68) degrees Fahrenheit in all habitable rooms including bathrooms and toilet rooms when rented, at all times on the basis of ten (10) degrees below zero outside.

10. Operation of heating facilities. Every dwelling unit shall have operative heating and water heating facilities. (Sec. 5-7(e)10. amended by O-8-12, adopted 12/3/12, effective 1/2/13)

11. Storage and removal of rubbish and garbage. Every dwelling unit shall be supplied with containers and covers for the temporary storage of rubbish and garbage. There shall also be a method for the removal of said rubbish and garbage from the premises.

(f) INSTALLATION AND MAINTENANCE. No person shall occupy as owner-occupant, or let to another for occupancy, any dwelling, or portion thereof which does not comply with the following requirements.

1. Facilities and equipment. All required equipment and facilities shall be constructed and maintained so as to properly and safely perform their intended function. (Sec. 5-7(f)1. amended by O-8-12, adopted 12/3/12, effective 1/2/13)

2. Maintained clean and sanitary. All facilities shall be maintained in a clean and sanitary condition so as not to breed insects and rodents or produce dangerous or offensive gases or odors.

3. Plumbing fixtures. Water lines, plumbing fixtures, vents and drains shall be properly installed, connected and maintained in working order and shall be kept free from obstructions, leaks and defects and capable of performing the function for which they are designed. (Sec. 5-7(f)3. amended by O-8-12, adopted 12/3/12, effective 1/2/13)

4. Plumbing systems. Every plumbing stack, waste and sewer line shall be so installed and maintained as to function properly and shall be kept free from obstructions, leaks and defects to prevent structural deterioration or health hazards. (Sec. 5-7(f)4. amended by O-8-12, adopted 12/3/12, effective 1/2/13)

5. Heating equipment. Every required room heating, water heating, and cooking device shall be properly installed, connected, and maintained, and shall be capable of performing the function for which it was designed. (sec. 5-7(f)5. amended by O-8-12, adopted 12/3/12, effective 1/2/13)

6. Electrical outlets and fixtures. Every electrical outlet and fixture required by this code shall be installed, maintained and connected to the source of electric power and maintained in safe working order. (Sec. 5-7(f)6. amended by O-8-12, adopted 12/3/12, effective 1/2/13)

7. Electrical system. The electrical system shall be maintained in such a manner that it will not constitute a hazard to the occupants of the building by reason of inadequate service, improper fusing, insufficient outlets, improper wiring or installation, deterioration or damage, or for similar reasons.

(g) OCCUPANCY REQUIREMENTS. No person shall occupy as owner-occupant, or let to another for occupancy, any dwelling, or portion thereof, which does not comply with the following requirements.

1. Minimum ceiling heights. Habitable rooms shall have a clear ceiling height of not less than seven and one-third (7-1/3) feet, except that in attics or top half stories the ceiling height shall be not less than seven (7) feet or not less than one third (1/3) of the area when used for sleeping, study or similar activity. In calculating the floor area of such rooms only
those portions of the floor area of the rooms having a clear ceiling height of five (5) feet or more may be included.

2. Required space in dwelling units. Every dwelling unit shall contain a minimum gross floor area of not less than one hundred fifty (150) square feet for the first occupant and one hundred (100) square feet for each additional occupant. The floor area shall be calculated on the basis of the total area of all habitable rooms.

3. Required space in sleeping rooms. Every room occupied for sleeping purposes by one (1) occupant shall have a minimum gross floor area of at least seventy (70) square feet. Every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50) square feet of floor area for each occupant thereof.

4. Access limitation of dwelling unit to commercial uses. No habitable room, bathroom or water closet compartment which is accessory to a dwelling unit shall open directly into or shall be used in conjunction with a food store, barber or beauty shop, doctor's or dentist's examination or treatment room, or similar room used for public purposes.

5. Location of bath and second sleeping room. No dwelling unit containing two (2) or more sleeping rooms shall have such room arrangements that access to a bathroom or water closet compartment intended for use by occupants of more than one (1) sleeping room can be had only by going through another sleeping room; nor shall the room arrangement be such that access to a sleeping room can be had only by going through another sleeping room or a bathroom or water closet compartment. No bathroom shall be so located that access thereto is solely through a kitchen.

6. Occupancy of dwelling units below grade. No dwelling unit partially below grade shall be used for living purposes unless:
   a. Floors and walls are watertight;
   b. Total window area, total openable area and ceiling height are in accordance with this Code; and
   c. Required minimum window area of every habitable room is entirely above the grade of the ground adjoining such window area.

(h) LIGHT AND VENTILATION. No person shall occupy as owner-occupant, or let to another for occupancy, any dwelling, or portion thereof which does not comply with the following requirements.

1. Natural light in habitable rooms. Every habitable room shall have at least one (1) window facing directly to the outdoors or to a court. The minimum total window area, measured between stops, for every habitable room shall be ten percent (10%) of the floor area of such room, except in a kitchen when artificial light may be provided. Whenever walls or other portions of the structure face a window of any room and such obstructions are located less than three (3) feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors or to a court and shall not be included as contributing to the required minimum total window area for the room. (Sec. 5-7(h)1. amended by O-8-12, adopted 12/3/12, effective 1/2/13)

2. Light in non-habitable workspace. Every laundry, furnace room, and all similar non-habitable work space shall have a minimum of one (1) supplied electric light fixture available at all times.

3. Light in public halls and stairways. Every public hall and inside stairway shall be adequately lighted at all times. (Sec. 5-7(h)3. amended by O-8-12, adopted 12/3/12, effective 1/2/13)

4. Electric outlets required. Where there is electric service available to the building or structure, every habitable room shall contain at least two (2) separate and remote outlets, one (1) of which may be a ceiling or wall-type electric light fixture. In kitchens three (3) separate and remote wall-type electric convenience outlets or two (2) such convenience outlets and one (1) ceiling or wall-type electric light fixture shall be provided. Every public hall, water closet compartment, bathroom, laundry room or furnace room shall contain at least one (1) electric light fixture. In addition to the electric light fixture in every bathroom and laundry room, there shall be provided at least one (1) electric outlet.

5. Adequate ventilation. Every habitable room shall have at least one (1) window which can be easily opened or such other device as will adequately ventilate the room. The
total openable window area in every habitable room shall be equal to at least forty-five percent (45%) of the minimum window area size required by the light and ventilation requirements of this Code except where mechanical ventilation is provided. (Sec. 5-7(h)5. amended by O-8-12, adopted 12/3/12, effective 1/2/13)

6. Ventilation and light in bathroom and water closet. Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms, except that no window shall be required in bathrooms or water closet compartments equipped with an adequate ventilation system. (Sec. 5-7(h)6. amended by O-8-12, adopted 12/3/12, effective 1/2/13)

(i) FIRE SAFETY. No person shall occupy as owner-occupant, or shall let to another for occupancy, any dwelling, or portion thereof, which does not comply with the following requirements for safety from fire. (Sec. 5-7(i) amended by O-8-12, adopted 12/3/12, effective 1/2/13)

1. Storage of flammable liquids prohibited. The dispensing or storage of flammable liquids with a flash point of one hundred ten (110) degrees Fahrenheit or lower shall not be permitted within a dwelling.

2. Cooking and heating equipment. All cooking and heating equipment, components, and accessories in every heating, cooking and water heating device shall be maintained free from leaks and obstructions, and kept functioning properly so as to be free from fire, health, and accident hazards. (Sec. 5-7(i)2. amended by O-8-12, adopted 12/3/12, effective 1/2/13)

3. Kerosene heaters and wood stoves. Only recognized and approved units may be used. Open flame devices may not be used for cooking or heating unless specifically intended for and approved for such use. (Sec. 5-7(i)3. amended by O-8-12, adopted 12/3/12, effective 1/2/13)

4. All multifamily apartments shall have:
   a) A fire extinguisher in each unit or located in a place accessible to all units.
   b) A card posted beside all central fire alarm switches which gives simple directions on the use of the central fire alarm switch as well as the street name and address of the building in which the central fire alarm switch is located.
   c) Entrance doors to each multifamily unit secured by a dead-bolt lock shall be easily opened from within without the use of a key.
   d) A peephole with one hundred eighty (180) degree visibility from inside a multifamily unit, located in the entrance door to each multifamily unit.

5. Smoke alarms. All dwelling units shall be equipped with smoke alarms of a type, make, and model approved by the Prince George’s County Fire Protection Codes. These smoke alarms shall be mounted in each story within a dwelling unit including basements, and in each room used for sleeping purposes. Smoke alarms shall be maintained in working order. (Sec. 5-7(i)5. amended by O-8-12, adopted 12/3/12, effective 1/2/13)

6. Carbon monoxide detectors. As of January 1, 2013, all dwellings units with a fossil fuel burning heater or appliance, a gas or wood burning fireplace, or an attached garage, shall be equipped with operational carbon monoxide detectors with alarms located within 10’ (ten feet) of each sleeping area and on each level of the home. (Sec. 5-7(i)6. added by O-8-12, adopted 12/3/12, effective 1/2/13)

(j) ROOMING HOUSES. Every person who operates a rooming house, or who occupies or lets to another for occupancy any rooming unit in any rooming house, shall comply with the provisions of every section of this Code, except as provided in the following subsections.

1. Water closet, hand lavatory, and bath facilities. At least one (1) water closet, lavatory basin, and bathtub or shower properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four (4) rooms within a rooming house wherever said facilities are shared. All such facilities shall be located within the residence building served and shall be directly accessible from a common hall or passageway and shall be not more than one (1) story removed from any of the persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.

2. Minimum floor area for sleeping purposes. Every room occupied for sleeping purposes by one (1) occupant shall contain at least seventy (70) square feet of floor area, and
every room occupied for sleeping purposes by more than three (3) persons shall contain at
least fifty (50) square feet of floor area for each occupant thereof.

3. Bed linen and towels. The operator of every rooming house shall supply bed linen
and towels therein at least once each week, and prior to the letting of any room to another
occupant. The operator shall be responsible for the maintenance of all supplied bedding in a
clean and sanitary manner.

4. Shades, drapes, etc. Every window of every rooming unit shall be supplied with
shades, drawn drapes, or other devices or materials which, when properly used, will afford
privacy to the occupant of the rooming unit.

5. Sanitary conditions. The operator of every rooming house shall be responsible for
the sanitary maintenance of all walls, floors, and ceilings, and for the sanitary maintenance of
every other part of the rooming house and premises.

6. Sanitary facilities. Every water closet, flush urinal, lavatory basin and bathtub or
shower required by this code shall be located within the rooming house and within a room or
rooms which:
   a) Afford privacy and are separate from the habitable rooms;
   b) Are accessible from a common hall and without going outside the rooming house
or through the other room therein. (Sec. 5-7 (b) 2 and 3 amended by O-8-02, adopted 8/1/02,
effective 9/3/02).

   (k) REPAIRS AND MAINTENANCE. All repairs and maintenance required to be
performed with respect to a building or structure constructed for the purpose of human
occupancy and the premises on which it stands to maintain the standards set forth in this
section shall be performed in accordance with all applicable federal, state, county and local
laws and regulations. (Sec. 5-7(k) added by O-8-12, adopted 12/3/12, effective 1/2/13)

Sec. 5-8. Administration.

(a) PURPOSE. The purpose of this Code is to protect the public health, safety and welfare
as hereinafter provided by:

   1. Establishing minimum standards for exterior property areas, exterior structure,
interior structure, basic facilities, installation and maintenance, occupancy, light and ventilation,
and fire safety as to residential buildings and establishing minimum standards for exterior
property areas and exterior structure as to commercial buildings.
   2. Providing for administration, enforcement and penalties.

   (b) MATTERS COVERED. The provisions of this article shall apply to all structures used
for human habitation, with respect to structure, protection against fire hazard, equipment or
maintenance, inadequate provisions for light and air, lack of proper heating, unsanitary
conditions and overcrowding, or otherwise may be deemed to constitute a menace to the
safety, health or welfare of the community. The existence of such conditions, factors or
characteristics adversely affect public safety, health and welfare and lead to the continuation,
extension and aggravation of urban blight. Adequate protection of the public, therefore,
requires the establishment and enforcement of these minimum housing and property
maintenance standards.

   (c) APPLICABILITY. Every portion of a building or premise used or intended to be used for
residential or commercial purposes, shall comply with the provisions of this code, irrespective
of when such buildings shall have been constructed, altered or repaired.
(Sec. 5-8(a) and (b) amended by O-8-12, adopted 12/3/12, effective 1/2/13)

Sec. 5-9. Licensing and inspection of rental dwellings.

(a) RENTAL LICENSE. It shall be unlawful for any person to allow any person to inhabit
any dwelling unit or part thereof for any period of time in exchange for compensation from any
source, including any compensation or reimbursement from any government agency, without
having first obtained a license or temporary certificate to do so as hereinafter provided.

   (b) LICENSE APPLICATION. Within sixty (60) days after the enactment of this section, the
legal owner of record shall make written application to the City for a rental unit license upon
such form or forms as the City shall from time to time designate. Such application shall be submitted together with a non-refundable rental license fee. The amount of such fee to be established by a resolution or ordinance of the Council.

(c) TEMPORARY CERTIFICATES. Upon receipt of a completed application for a license, the City Manager shall issue a non-transferable "Temporary Certificate" indicating that a license has been duly applied for, and that a non-transferable license shall be issued or denied after the building, including interior portions thereof, has been inspected for compliance with applicable provisions of the Housing and Property Maintenance Code. It is the duty of the property owner to ensure that the inspection occur within thirty (30) days of the issuance of the temporary certificate and that any required maintenance, repairs and reinspection are completed within thirty (30) days of the date of inspection, except that the City Manager or his designee may extend the time for maintenance, repairs and reinspection upon a showing of good cause for such additional period as may be reasonable and necessary, in the City's discretion. The temporary certificate shall expire sixty (60) days after issuance or, if an extension has been granted for repairs, maintenance and/or reinspection as provided herein, upon the expiration of such extended time period.

(d) INSPECTIONS. All rental properties shall be subject to periodic inspection to determine if they are in conformance with this Code. Permission for such inspections, upon a judicial warrant if required by the property owner or tenant, is a condition of any license or temporary certificate. Failure to allow entry for such inspection or to require any tenant to allow entry for such inspection upon a judicial warrant shall constitute a municipal infraction subject to a fine as set forth in Section 5-13 of this Chapter and shall further constitute sufficient reason for the denial or revocation of the rental license or temporary certificate. Whenever the housing inspector notices violations he shall reinspect the premises to confirm that the violations have been corrected. If the violations have not been corrected, there is hereby imposed an additional charge of fifty dollars ($50) for each succeeding reinspection, until compliance has been obtained. No charge shall be made hereunder for a reinspection unless written notice of such reinspection has been sent to the owner of record at least ten (10) days in advance of such scheduled reinspection. If notice of inspection or reinspection has been given at least ten (10) days in advance of a scheduled inspection or reinspection, and the property owner fails to contact the City prior to the date of such scheduled inspection or reinspection and fails to appear or otherwise make arrangements for the Code Enforcement Officer to gain access to the property for inspection purposes an additional charge of fifty dollars ($50) shall be imposed upon the property owner and shall be paid prior to the scheduling of any further inspection.

(e) REVOCATION OR DENIAL OF LICENSE. A license may be revoked or denied by the City Manager if the owner, after ten (10) days' notice from the City, fails to eliminate violations of any property-related provision of this Code or Subtitle 14, "Morals and Conduct", Division 14, "Nuisances", of the Prince George's County Code. Revocation or denial of a license shall be in addition to, and not in substitution for, such other penalties as may be provided for said violations elsewhere in this Code. (Sec. 5-9(e) amended by O-8-21, adopted 11/15/21, effective 12/15/21)

(f) LICENSE RENEWAL. Licenses and temporary certificates issued hereunder shall expire one (1) year from the date of issuance and shall be renewable annually at the fees specified elsewhere in this Code. Application for renewals shall be made at least sixty (60) days prior to the expiration date. The license or certificate renewal fee shall be subject to a ten percent (10%) penalty per month, or any portion thereof, beyond the date due and payable.

(g) DISPLAY OF LICENSES. Licenses and temporary certificates issued under this section shall be produced on the demand of a tenant or prospective tenant and shall be available at reasonable times for examination by an authorized agent of the City.

(h) REDUCTION OF LEAD RISK. In accordance with Title 5, Subtitle 1 of the Local Government Article of the Annotated Code of Maryland, the owner of residential property that contains any rental dwelling unit that is licensed by the City is required to:

(1) State in writing, under penalty of perjury, as part of the owner's application for a rental license or any renewal thereof, that:
(I) The residential property is not an affected property as that term is defined in Md. Code Ann., Env. Art., §6-801; or
(II) The residential property is an affected property as that term is defined in Md. Code Ann., Env. Art., §6-801 that has been registered and for which the registration has been renewed in accordance with the Environment Article of the Maryland Annotated Code; and

(2) If the property is an affected property, provide the State of Maryland Department of the Environment Inspection Certificate number for the most recent inspection conducted for the current tenancy, as required under any provisions of the Environment Article of the Maryland Annotated Code.

(i) If no property owner resides at the property address or within fifty miles of the City, the property owners shall designate on the application for the rental license or temporary certificate the name, address, and telephone number of a local agent residing within fifty miles of the City who is authorized by the property owner to receive inspection notices and other correspondence regarding violations pertaining to the property, other than citations or other legal process. The property owners shall keep such information current with the City.

(Sec. 5-9(a), (c), and (e) amended by O-8-12, adopted 12/3/12, effective 1/2/13)
(Sec. 5-9(e), (h)(1)(I)(II) and (h)(2) amended by O-1-17, adopted 3/20/17, effective 4/19/17)
(Sec. 5-9(a) amended and (i) added by O-8-20, adopted 1/4/21, effective 2/3/21)

Sec. 5-10. Inspection of other buildings and structures.

(a) INSPECTIONS. The City Manager or his duly authorized representative is hereby authorized to inspect all dwellings, dwelling units, rooming units commercial buildings, commercial units, and premises to determine if they are in violation of the provisions of the Housing and Property Maintenance Code.

(b) ENTRY. If any owner, occupant, or other person in charge of a structure subject to the provisions of this Code prevents entry and free access to any part of the structure or premises, the City Manager, upon the basis of an exterior inspection from the property line, shall make a determination as to whether there is reason to believe that a serious clear and present danger to the health and safety of the occupants or community exists.

1. Serious violation. If such a clear and present danger exists, the City Manager may initiate any appropriate action or proceedings and seek any appropriate order necessary to enforce the City's right of entry.

2. Less serious violations. In the absence of such a clear and present danger, the City Manager is authorized to conduct an exterior inspection from the property line. The owner shall be notified of exterior violations and prosecuted in the manner provided elsewhere in this Code.

(c) In the case of commercial buildings and commercial units, the inspection provided for in Subsection (a) of this Section shall be limited to exterior property area conditions and exterior structural conditions. (Sec. 5-10(a) amended by O-8-12, adopted 12/3/12, effective 1/2/13)

Sec. 5-11. Unfit dwellings.

(a) DANGEROUS STRUCTURES. Any building or structure which shall be found to have any of the following defects shall be condemned as unfit for human habitation and shall be so designated and placarded by the City Manager.

1. One that is so damaged, decayed, dilapidated, unsanitary, unsafe, or vermin-infested that it creates a hazard to the health or safety of the occupants or of the public.

2. One that, for a period of more than 48 hours and not as a consequence of a utility outage or other force majeure condition, lacks electrical service, ventilation, or water service adequate to protect the health or safety of the occupants or of the public.

3. One that because of its general condition or location is unsanitary, or otherwise dangerous to the health or safety of the occupants or of the public.

(b) POSTING OF PLACARD. Any building or structure declared as unfit for human habitation shall be posted with a placard reading "UNFIT FOR HUMAN HABITATION" at each entrance by the City Manager. It shall be unlawful for any person to enter such building or
structure (after the date set forth in the placard to vacate) except for the reason of making the required repairs or of demolishing the same.

The placard shall include the following:

1. Name of City;
2. The chapter and section of the Code under which it is issued;
3. An order that the dwelling or multifamily dwelling shall be vacated by a stated date, and must remain vacant until the order to vacate is withdrawn;
4. The date that the placard is posted;
5. A statement of the penalty for defacing or removal of the placard; and
6. A statement saying "This building is unfit for human habitation and its use or occupancy has been prohibited by the City of Bowie" and the placard shall bear the signature of the City Manager.

(c) REMOVAL OF PLACARD OR NOTICE. No person shall deface or remove the placard from any building or structure which has been declared or placarded as unfit for human habitation except by authority in writing from the City Manager.

(d) VACATING OF DECLARED BUILDINGS. Any building or structure declared as unfit for human habitation and so designated and posted shall be vacated within a reasonable time as ordered by the City Manager, and it shall be unlawful for any owner or operator to let any person inhabit said building or structure which has been declared and posted by the City Manager as unfit for human habitation after the date set forth in the placard.

The City Manager shall remove such placard whenever the defect or defects upon which the declaration and placarding action were based have been eliminated.

(e) NOTICE TO OWNER. Whenever the City Manager has declared a building or structure as unfit for human habitation, he shall give written notice to the owner.

Such notice to the owner shall:

1. Be in writing;
2. Include a description of the real estate sufficient for identification;
3. Include a statement of the reason or reasons why it is being issued;
4. State the date occupants must vacate the dwelling units if the defects have not been eliminated and the order to vacate withdrawn.

(f) SERVICE OF NOTICE. Service of notice that the building is unfit and must be vacated is required as follows:

1. By delivery to the owner personally, or by leaving the notice at the usual place of abode of the owner with a person of suitable age and discretion; or
2. By depositing the notice in the United States Post Office addressed to the owner at his last known address with postage prepaid thereon; or
3. By posting a copy of the notice in placard form in a conspicuous place on the premises to be vacated.

(g) SEALING OF UNFIT STRUCTURE. It shall be the responsibility of the owner of the property to remove all unsanitary or flammable material and to board up all windows and doors after a building or structure has been properly determined to be unfit for human habitation, if such boarding up is determined by the City Manager to be necessary for reasons of health or safety. In the event that the owner of the property fails to properly seal the structure against unlawful entry, the City shall take action to remove unsanitary or flammable waste material and to board up all windows and doors so as to prevent entrance. The cost of said action shall be a lien on the property and collectible in the same manner as delinquent taxes.

(h) DEMOLITION OF UNFIT STRUCTURES. The City Manager may order a building or structure to be demolished if it has been designated unfit for human habitation, has been posted as such, has been vacated, and has not been put into proper repair as to rescind the designation as unfit for human habitation and to cause the placard to be removed. After the City Manager has given an order to demolish an unfit structure, the following procedure shall be followed:

1. The owner of any building or structure which has been ordered demolished, shall be given notice in the manner provided for service of notice for unfit buildings and shall be given reasonable time, not to exceed ninety (90) days, to demolish such structure.
2. When the owner fails, neglects or refuses to demolish an unfit, unsafe or unsanitary building or structure unit within the requisite time, the City Manager may apply to a court of competent jurisdiction for a demolition order to undertake the demolition. The cost of the demolition shall be a lien on the property and collectible in the same manner as delinquent taxes. (Sec. 5-11(h) amended by O-8-12, adopted 12/3/12, effective 1/2/13)

Sec. 5-12. Emergencies.

(a) EMERGENCY ACTION. Whenever in the judgment of the City Manager an emergency exists which requires immediate action to protect the public health, safety or welfare, an order may be issued without notice, conference or hearing, directing the owner, occupant, operator or agent to take such action as is appropriate to correct or abate the emergency.

(b) VACATING BUILDINGS. When in the opinion of the City Manager, there is a clear and present danger to the health or safety of the occupants, the City Manager is authorized and empowered to order and require the occupants to vacate the same forthwith. He shall cause to be posted at each entrance to such building a notice reading as follows: "This Building is Unsafe and Its Use or Occupancy Has Been Prohibited by the City Manager", and it shall be unlawful for any person to enter such building or structure except for the purpose of making the required repairs or of demolishing the same.

(c) TEMPORARY SAFEGUARDS. When, in the opinion of the City Manager, there exists grossly unsanitary conditions or an immediate danger of collapse or failure of a building or structure or part thereof which could endanger life, he shall cause the necessary work to be done to render such building or structure or part thereof temporarily safe, whether or not the legal procedure herein described has been initiated.

(d) CLOSING STREETS. When necessary for the public safety, the City Manager may temporarily close sidewalks, streets, buildings and structures and places adjacent to such unsafe buildings, and prohibit the same from being used.

(e) EMERGENCY REPAIRS. For the purpose of this section, the City Manager shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

(f) COSTS OF EMERGENCY REPAIRS. Costs incurred in the performance of emergency work shall be a lien on the property and collectible in the same manner as delinquent taxes.

Sec. 5-13. Violations.

(a) NOTICE. Whenever the City Manager determines there has been or is a violation of the provisions of this Code, he shall give notice to the owner. Such notice shall:
1. Be in writing;
2. Include a description of the real estate sufficient for identification;
3. Include a statement of the reason or reasons why it is being issued; and
4. State the time to correct the conditions.

Service of notice that a dwelling is in violation shall be as follows:
1. By delivery to the owner personally or by leaving the notice at the usual place of abode of the owner with a person of suitable age and discretion, or
2. By depositing the notice in the United States Post Office addressed to the owner at his last known address with postage prepaid thereon.

(b) PENALTY FOR VIOLATIONS. Violations of this Chapter are municipal infractions, subject to the penalty and enforcement provisions provided herein.

1. Violations of Section 5-7 of this Chapter with respect to commercial buildings or commercial units are subject to a fine of One Hundred Dollars ($100.00) for the first violation, and Three Hundred Dollars ($300.00) for a second violation, Five Hundred Dollars ($500.00) for a third violation, and One Thousand Dollars ($1,000.00) for each repeat violation in excess of three.

2. Violations of Section 5-9 of this Chapter with respect to licensing of rental units by person who are licensed of one or more rental units and who fail to obtain a license for additional units are subject to a fine of Two Hundred Dollars $200.00.
3. Violations of the stop work provisions of Section 5-4(f) of this Chapter are punishable by a fine of five hundred dollars ($500) for each violation.

4. All other violations of this Chapter are subject to a fine of One Hundred Dollars ($100.00) for the first violation, Two Hundred Dollars ($200.00) for the second violation, and Five Hundred Dollars ($500.00) for each subsequent violation.

(c) Whenever violations of this Article have not been corrected within sixty (60) days of issuance of same, the City Manager is authorized to apply to the Circuit Court for Prince George's County for an injunction to counsel the owner to correct the violation(s), and to make such other provision to secure compliance with this Code as the Court sees just and proper. In particular, the City Manager is authorized to request the Court to appoint a trustee to exercise the owner's rights at the earliest time permitted by law to terminate the occupancy rights of the existing tenants; and to request the Court to enjoin the renting or rerenting of the premises upon the termination of the existing tenancy and to request the Court to order the City to perform or have performed all repairs necessary to bring the structure into compliance with this Code and to charge the cost of such repairs as a lien on the property to be included in the next tax bill and to further request the Court to allow a judgment against the owner for the reasonable attorney's fees of the City and for the reasonable administrative costs, including salary and overhead, incurred in connection with the enforcement effort. (Sec. 5-13 (b) and (c) amended by O-17-94, adopted 10/3/94; Sec. 5-13 amended by O-10-07, adopted 9/17/07, effective 10/17/07; Sec. 5-13(a), (b)1., 2., and 4. amended by O-8-12, adopted 12/3/12, effective 1/1/13).

Sec. 5-14. Hearings.

Any person aggrieved by an action of the City Manager or a City Code Enforcement Official under the provisions of this Chapter may, within fifteen (15) days of receipt of notice of action by the City Manager or City Code Enforcement Official, request a hearing before the Administrative Review Board. Hearing requests shall be on forms provided by the City Manager and shall be filed with the City Manager who will notify the appellant in writing of the time and place set for the hearing. A hearing shall not operate to stay the action of the City unless the City Manager stays the action for good cause. The hearing shall be open to the public and records and minutes shall be maintained by the said Committee at all such hearings. Within ten (10) days after said hearing, the Committee shall make a recommendation to the City Managers as to the reversal, modification or affirmation of the action complained of, and shall issue its recommendation in writing and provide a copy thereof to the person aggrieved.

Sec. 5-15. Validity.

(a) SAVING CLAUSE. This Chapter 5 of the Code shall not affect violations of any ordinance, code or regulation of the municipality existing prior to the effective date of this provision of the Code (which date was October 1, 1979) and any such violation shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes or regulations in effect at the time the violation was committed. (Sec. 5-15 amended by O-06-90, 4/16/90).

(Chap. 5 amended and renumbered by O-08-92, adopted 5/4/92, effective 6/3/92).

(Chap. 5 amended by O-4-98, adopted 2/2/98, effective 3/4/98).

(Chap. 5, Section 5-6 (25) and Section 5-7 (b) 1. amended by O-5-98, adopted 2/17/98, effective 3/18/98).

(Chap. 5, Article II, Sections 5-6, 5-7, 5-9, amended by O-6-00, adopted 11/6/00, effective 12/06/00.)

(Chap. 5, Article II, Subsection (b)(2) and (b)(3) amended by O-8-02, adopted 9/3/02, effective 10/3/02).

(Chap. 5, Article II, Sections 5-7, 5-9, 5-13 amended by O-4-07, adopted 5/7/07, effective 6/6/07).

(Chap. 5, Sections 5-4 and 5-13 amended by O-10-07, adopted 9/17/07, effective 10/17/07).
(Chap. 5, Sections 5-6 and 5-7 amended by O-3-11, adopted 3/21/11, effective 4/20/11).
(Ch. 5, Section 5-11 amended by O-7-18, adopted 9/4/18, effective 10/4/18)
(Chap. 5, Sections 5-4, 5-6, 5-7, and 5-9 amended by O-8-21, adopted 11/15/21, effective 12/15/21.)
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ARTICLE I. IN GENERAL.

Sec. 6-1. Definitions; gender references; computation of time.

(a) As used in this chapter, the following terms shall have the meanings indicated unless a contrary meaning is clearly intended from the context in which the term appears:

Ballot. Paper ballots or absentee ballots, or the labels which appear on the face of voting machines, whichever context would be appropriate.

Board Liaison. The person chosen by the Board pursuant to Section 6-43(B) of Article 33 of the Annotated Code of Maryland, (1957 Edition), as amended, to work with the County Board in the development and implementation of a plan of universal registration.

Board. The board of supervisors of elections of the city and the members thereof.
Candidate. Any person who files a certificate of candidacy for any municipal public office. As set forth hereinbelow, when a masculine pronoun is used in this Chapter in reference to a “Candidate”, it is intended to include the feminine gender.

County Board. The Board of Supervisors of Elections of Prince George's County, Maryland and the members thereof.

County Board Liaison. The person chosen by the County Board pursuant to Section 3-2 of Article 33 of the Annotated Code of Maryland, (1957 Edition), as amended, to work with the Board in the development and the implementation of a plan of universal registration.

Contributions. The gift, transfer or promise of gift or transfer of money or other thing of value to any candidate, or his representative, to promote or assist in the promotion of the success or defeat of any candidate, Charter amendment, principal or proposition submitted to a vote at any municipal election.

Election. The process by which voters of this city vote for any municipal public officer pursuant to the laws of the state or the United States, or the Charter of the city, and any Charter amendment, proposition or principle.

Election district. That division of geographical area within the city for purposes of election designated from time to time by the city council by Charter amendment or ordinance.

Expenditure. Any gift, transfer, disbursement or promise of money or other valuable thing by any candidate to promote or assist in the promotion of the success or defeat of any candidate, Charter amendment, principle or proposition submitted to a vote at any municipal election.

Judge (election clerks). Repealed.

List of registered voters or list. The list of registered voters of the City established and prepared by the County Board.

Campaign Agent. Any person appointed by any candidate, or his representative, to promote or assist in the promotion of the success or defeat of any candidate Charter amendment, principle or proposition submitted to a vote at any municipal election.

Campaign Committee. Any combination of two or more persons appointed by a candidate or any other person or formed in any other manner which assists or attempts to assist in any manner the promotion of the success or defeat of any candidate, Charter amendment, principle or proposition submitted to a vote at any municipal election.

Registration. The act by which a person becomes qualified to vote in any municipal election.

Supplemental list of registered voters or supplemental list. The list of registered voters of the City established and prepared by the Board.

Treasurer. Any person appointed by a candidate, campaign agent or campaign committee to receive or disburse money or other things of value to promote or assist in the promotion of the success or defeat of any candidate, Charter amendment, principle or proposition submitted to a vote at any municipal election.

Voter. A person whose name appears on the voter register.

Voter register. An index of all registered voters whose names appear either on the list or the supplemental list together with the information required by Section 6-5 hereof.

(b) Whenever in this chapter words or phrases are used denoting the masculine gender, they shall be taken to include the feminine gender.

(c) In computing the times for notice to be given, or for the performing of any other act, under this chapter, Sunday shall be included, except when the day on which notice should be given or an act should be performed occurs on a Sunday, in which case the notice shall be given or the act performed on the Monday following. In such computation the day of giving notice or performing any act and the day of registration or election shall be excluded.

(d) Whenever the singular is referred to in any provision, section or subsection it shall also include the plural except where such construction would be unreasonable.
Sec. 6-2. Election districts.

Election Districts are established pursuant to Section 22 of the City Charter. The geographical boundaries of the election districts are set forth in Section 6-80 of the City Code. The council shall periodically evaluate the election districts of the city to insure that the representation is reasonably equal, and shall have the power to change the boundaries thereof. The effective date of any change of boundaries shall be determined by the Council. (Sec. 6-2 amended by O-7-12, adopted 6/18/12, effective 8/2/12)

Sec. 6-3. Board of supervisors--Appointment.

The Board shall be appointed as provided in section 23 of the city charter.

Sec. 6-4. Board of supervisors--Duties.

The Board shall carry out election duties as prescribed in section 25 of the city charter and in this chapter.

Sec. 6-5. Board of supervisors--Records.

A record of registered voters by districts shall be maintained by the board. Such records shall include:

(a) In columns;
   1. Name of applicant
   2. Address of applicant
   3. Record of oath of citizenship
   4. Place of birth of applicant
   5. Date of birth
   6. Time of residence in the city
   7. Date of application
   8. Applicant's signature
   9. Qualification verification to be marked "yes" or "no."
  10. Disqualification or other remarks if applicable
  11. Record of when applicant votes

(b) Registration lists shall be kept up to date by the board as provided in section 27 of the City Charter.

(c) Such records shall be in the possession of the Board.

* Charter Amendment No. 9, effective March 4, 1969, established six election districts and fixed the boundaries set out in this section.
  For similar charter provision, see char., s 22.

Sec. 6-6. Board of supervisors--Oath.

The oath taken by appointees to the board shall be as provided for in section 92 of the City Charter.

Sec. 6-7. Board of supervisors--Compensation.

Each member of the Board of Supervisors of Elections, including the chairperson, shall receive compensation in an amount established by the City Council in the applicable city budget for any year in which there is a regular or special election. Calculations and payment shall be on a fiscal year basis.
Each Alternate to the Board shall be compensated only if the alternate works on election day or if the alternate attends a Board meeting. An Alternate shall receive compensation for working on election day and for each meeting attended in an amount established by the City Council in the city budget.

(Sec. 6-7 amended by O-4-13, adopted 6/17/13, effective 7/17/13)

Sec. 6-8. Board of supervisors--Vacancies; removal.

The vacancies and removal of members of the Board of shall be as provided for in section 24 of the City Charter.

Sec. 6-9. Notice of elections.

Notice of elections shall be as provided for in section 26 of the City Charter.

Sec. 6-10. Repealed.

Sec. 6-11. Chief Judges and Judges of Elections.

(a) Appointment; oath. The Board shall have the power to appoint a sufficient number of chief judges, judges and four alternate judges for the conduct of City elections. Such chief judges, judges and alternate judges shall subscribe to the oath of office set forth in section 92 of the City Charter.

(b) Qualifications. Each chief judge, each judge and each alternate judge so appointed must be a registered voter of the City, must be able to speak, read and write the English language and, during the time of the judge's term of appointment as a chief judge, judge or alternate judge, must not be a candidate for any public office within the City.

(c) Compensation. Each chief judge, judge, and alternate judge shall receive compensation for attending training programs and performing duties on the day of an election in an amount established by the City Council in the applicable city budget, provided however, that an alternate judge shall only receive compensation for performance of duties on the day of an election if that alternate judge has been requested to work by the Board.

(d) Duties. The chief judges and the judges shall perform such duties as directed by the Board. With the exception of attending training programs, an alternate judge shall have no duties until such time as the Board shall direct the alternate judge to serve. When serving, the alternate judge shall perform such duties as the Board has directed. There shall be one chief judge at each polling place. The chief judge is the senior official and is the supervisor of the judges.

(Sec. 6-11 amended by O-7-91, adopted 5/6/91, effective 6/5/91; amended by O-4-13, adopted 6/17/13, effective 7/17/13)

Sec. 6-12. Establishing Candidacy --Procedure.

The method of establishing candidacy of a person for elective office in the city shall be as provided for in section 28 of the City Charter.

Sec. 6-13. Same--Withdrawal.

Any candidate who has established a candidacy for elective office under the provisions of section 28 of the City Charter may withdraw from candidacy at any time up until twenty-one days prior to the date of an election. Any person withdrawing as a candidate for any reason shall not be entitled to any refund of the filing fee.
Sec. 6-14. Conduct at polling places.

Each of the judges has the authority to keep the peace and to cause any person to be arrested for any breach of the peace, or for any breach of the election laws of the city, or any interference with the progress of an election, the canvass of ballots or the ascertainment and transcription of the votes recorded on the voting machines. It shall furthermore be unlawful for any person to canvass, electioneer or post any campaign material in a polling place or on public property within a certain radius from the entrance and exit of the building closest to that part of the building in which voting occurs. This radius shall be that established pursuant to Article 33, Section 24-23 of the Annotated Code of Maryland as amended from time to time.

This ordinance is not intended to prevent vehicles bearing campaign stickers or signs from using public thoroughfares that may be within the established radius. Nor is this ordinance intended to prevent canvassing, electioneering and posting of any campaign material outside of the prescribed limit.

It shall be the duty of all officers of the law present to obey the order of any election judge, and an officer making an arrest by the direction of any judge shall be protected in so doing fully as if a warrant had been issued to him to make such arrest.

(Sec. 6-14 amended by O-14-90, adopted 9/17/90, effective 10/17/90)

Sec. 6-15. Hours of voting.

Hours of voting shall be as provided for in section 31 of the City Charter.

Sec. 6-16. Challengers and watchers.

(a) Authorized. Each candidate or political committee shall have the right to designate a registered voter as a challenger and watcher at each place of registration and election. Such persons shall be assigned to such position near the judges, inside the registration or polling room, as to enable them to see each person as he offers to register or vote. The challengers and watchers shall be protected in the discharge of their duty by the judges and the police.

(b) Certificate as evidence of right to be present. A certificate signed by any candidate or chairman of a campaign committee shall be sufficient evidence of the right of such challenger and watcher to be present in the registration or polling room.

(c) Rights; unlawful acts. Each challenger or watcher shall have the right to remain in the polling place from the time the polls are opened until the returns are completed. It shall be unlawful for any such challenger and watcher to inquire or ascertain for what candidate any voter may intend to vote, or has voted, or to converse in the polling place or within 100 feet thereof with any voter or to assist him in the preparation of the voter's ballot or in the operation of the voting machine. Any challenger and watcher offering or attempting to do so shall lawfully be ejected by the judges and shall also be subject to the punishment provided in this Chapter.

(d) Removal. A challenger and watcher may be removed at any time by the same person who appointed the challenger or watcher.

(e) Other persons allowed in polling places. Persons other than accredited challengers and watchers who desire to challenge the vote of any person shall be permitted to enter the polling place for that purpose, but a majority of the judges may limit the number of persons to be allowed in the polling places at any one time for such purpose; and all such persons shall leave the polling place as soon as the right to vote of the person challenged by them has been decided.

(f) Form of certificate. The form for the certificate of a challenger and watcher shall be in the following form:
THE CODE

CHALLENGER'S AND WATCHER'S CERTIFICATE

City of Bowie, Maryland

........................,20 ____

To the Judges of Election:

This is to certify, That ..........................., a registered voter, has been designated by me to act as Challenger and Watcher, for ..........Election District, during the Election to be held on ........................., 20__.

Respectfully submitted

...........................

(Name of Candidate or Chairman of Campaign)

...........................

(Office)

Duties of Challengers and Watchers

"Each challenger and watcher shall have the right to remain in the polling room from the time the polls are opened until they are closed, and after that time he shall be permitted to remain until the returns are completed."

A Challenger and Watcher shall not converse with voters, assist a voter in voting or operate a voting machine.

Sec. 6-17. Record of persons voting.

(a) Identification of voters by voting authority cards. A registered voter offering to vote at any election, before being permitted to vote, shall be identified to a judge by the voter announcing the voter's name and address, by signing a voting authority card and giving any change of address in the presence of the judges which shall be entered on the voting authority card or on a change of address form by the voter. The judge in charge of that portion of the voter register for the election district shall compare the signature upon such card with the signature upon the registration card. If the same are not identical, the applicant shall not be permitted to vote unless the majority of judges are of the opinion that the applicant is the same person whose name appears upon the registration card. If the entry "Cannot sign" appears upon the registration card, then the applicant shall state the applicant's age, which shall be compared with the age stated upon the registration card; or the applicant shall be identified by such other means as are referred to upon the registration card. If, upon comparison of the signature or other identification, it is found that the applicant is entitled to vote, then the judge having charge of the registration file shall approve the voting authority card by initialing the voting authority card. The number of voting authority cards furnished to the judges shall exceed by ten per centum the number of registered voters in each election district. Each voting authority card shall be numbered and dated, and they shall be handed to the applicants in numerical order, as such applicants shall appear and offer to vote.

(b) Disposition of voting authority cards at close of polls. At the close of the polls the judges shall account for all voting authority cards surrendered to them, and return them to the Board wrapped and sealed in a package marked "Surrendered Voting Authority Cards". Such package shall bear the signature of the judges. The unused and spoiled voters' voting authority cards shall be wrapped and sealed in a separate package, marked "Unused and spoiled Voting Authority Cards". Such package shall bear the signature of the judges and be returned to the Board with other election equipment.

Sec. 6-18. Errors in registration not preventing voting.

A person who is not registered as a qualified voter of the City shall not be entitled to vote or to receive a ballot. A voter shall not be rejected because of an error in the spelling of the voter's name because of the omission or incorrect addition of one or more initials of the voter's
middle name or names, or because the voter gives the initials or one or more of the voter's
given name or names, instead of the voter's full name, or one or more of the voter's given
name or names, instead of the initial or initials thereof, or because of an error in the number of
the voter's residence on the voter register; provided, that a majority of the judges are satisfied
that the person offering to vote is the identical person who is registered, and that the voter
intended to register his true name and residence.

Sec. 6-19. Ballots and ballot labels--Generally.

(a) Names of candidates and description of Charter amendments, etc. The Board shall
provide ballots for every city election which shall contain:
(1) The name of every candidate, each in the same style and size of type, who has filed
under the provisions of the Charter.
(2) A description of every Charter amendment or other question which is to be
submitted to the vote of the people.
(b) Sample Ballots. Not less than fourteen days before any election the form and
arrangement of the ballots to be used in the election, showing the offices, names of candidates,
Charter amendments and questions thereon, shall be prepared by the board and made
available for inspection by any candidate whose name shall appear thereon or the official
representative of any campaign Committee having a Charter amendment, principle or
proposition on the ballot.
(c) Correction of errors. If a mistake on the ballot is discovered, it shall be the duty of the
board to correct the same without delay. If the Board shall decline or refuse to make the
correction and appeal may be filed with the City Council. If the Council fails or refuses to
correct the error then upon the sworn petition of any qualified voter who would have the right to
vote for a candidate at the approaching election, the circuit court for Prince George's County
may, by order, require the board to correct the error or to show cause why such error should
not be corrected.
(d) List of candidates to be furnished on demand. A correct list of the names of the
candidates for the designated offices shall be furnished on demand by the board to any
registered voter.
(e) Color and type. The ballots shall be printed in plain clear type in black ink, upon clear
white materials, of such size and arrangement as to fit the construction of the machine.

Sec. 6-20. Same--Names of candidates.

(a) Alphabetical arrangement. The names of candidates for every office shall be arranged
alphabetically on the ballots exactly as their name appears on the registration card according to
their surnames, under the designation of the office.
The use of nicknames, titles, degrees or other professional designations on the ballot is
absolutely prohibited.
(b) Instructions as to number of candidates to vote for. Above the group of names of the
candidates for each office, and upon a separate line immediately underneath the designation of
the office, there shall be printed in bold, plain roman capitals of twelve-point pica type, an
appropriate direction or instruction to the voter informing the voter of the number of persons for
whom the voter may lawfully vote for the particular office mentioned immediately above each
such direction, as: "Vote for One," "Vote for Two" or "Vote for Six," as the case may be.

Sec. 6-21. Same--Questions on ballot.

(a) Condensed statement and descriptive title. The ballots shall contain a condensed
statement in understandable language of every Charter amendment or other question to be
submitted to the vote of the people at any election. It shall be sufficient in any case to print the
legislative title, a brief summary of the contents or purpose of the proposed amendment or
referendum unless the act proposing the Charter amendment or other question specifically
provides the title to be used. The city attorney shall prepare and certify the form in which a
Charter amendment or question shall appear and each amendment or question shall be captioned with a descriptive title in boldface type containing not more than three words. A Charter amendment, or any question to be submitted to the popular vote, shall be printed on the ballots following the names of the candidates for office, and in the absence of some other provisions shall be accompanied by the words "For" and "Against." The city attorney shall prepare and certify to the board the form in which questions shall appear on the ballots. In the event the title of the bill, ordinance or resolution, as the case may be, is one hundred words or less, the title shall be sufficient. In the event the title exceeds one hundred words, a summary of the title containing not in excess of one hundred words shall be prepared and certified to the board.

(b) Order. The Board, in the preparation of ballots, shall follow the order designated by the city attorney and shall always place the proposed Charter amendments and the other referenda, if any, in numerical order as indicated.

Sec. 6-22. Same--Specimen ballots.

(a) Printing. The Board shall cause to be printed on light cardboard or heavy-sized paper, two or more copies of the form of the ballot provided for each voting place at each election therein, in type of the same size, which shall be called "specimen ballots;" and the same number of copies of the form of the ballot label, printed on similar material in type of the same size shall be furnished for each voting place at which voting machines shall be used.

(b) Posting at polling places. On the morning of the election the board shall cause to be conspicuously posted in each polling place the specimen ballots, and the specimen ballots shall be conspicuously displayed in the polling room and on the outside of the building wherein the voting shall take place.

Sec. 6-23. Challenge of right to vote.

(a) Ground for challenge. No person's right to vote shall be challenged at the poll on any ground but identity.

(b) Procedure. When the right of any person to vote shall be challenged, the challenge shall be made and its validity determined immediately before or after such person receives a voting authority certificate or card and before the challenged voter enters the voting booth to cast the voter's ballot. The person challenging shall be put under oath by a judge and assign the person's reason for the challenge, and one of the judges shall administer to the challenged voter an oath to make true answers to questions. The judges shall question the challenged voter touching the cause of the challenge, and if a majority of the judges, after the questioning is concluded, is of the opinion that the challenged voter is the person so registered, the challenged voter's vote shall be received accordingly. Unless a majority of the judges is of the opinion that the challenged voter is entitled to vote, the challenged voter's vote shall not be received, and the word "Rejected" shall be written on the challenged voter's voting authority certificate or card.

Sec. 6-24. Closing of polls.

Closing of the polls shall be as provided for in section 31 of the City Charter.

Sec. 6-25. Tabulation of votes.

The tabulation of votes shall be as provided for in section 33 of the City Charter. In addition, the tabulation of machine votes shall be governed by section 16-16 of article 33 of the Annotated Code of Maryland, 1957 edition, as amended.
Sec. 6-26. Voting machines--Use authorized.

The Board shall provide for the use of voting machines in all elections in accordance with the provisions of this chapter and under the City Charter and under such rules and regulations as the Board may deem advisable or necessary.

Sec. 6-27. Same--Regulations governing use.

The use of voting machines in city elections shall be governed by the provisions of section 16-8 through section 16-12 of article 33, Annotated Code of Maryland, 1957 edition, as amended, where such provisions are applicable to such use.

Sec. 6-28. Same--Time allowed for voting.

No voter shall remain within the voting machine booth longer than four minutes, if there are other voters awaiting an opportunity to register their vote; except, that an additional two minutes shall be allowed if there are City Charter amendments or referenda to be voted upon.

Sec. 6-29. Recount of Ballots.

(a) Time for petition for recount.

Within two (2) days after the day of any election any candidate for municipal elective office who has been defeated on the face of the returns may petition the Board for an appeal from and review of the action and decision of the judges in counting the ballots and for a recount of the ballots cast in any or all of the districts in which the petitioner was a candidate.

(b) Affidavit.

(1) The petition shall be filed with an affidavit or affidavits, made from personal knowledge by candidates, watchers, challengers or other persons, setting forth acts of fraud, mistake, error or irregularity in making the count or returns by the judges, or setting forth that some of the returns and tally sheets of the election show on their faces ambiguity, error, fraud, or mistake or miscalculation by the judges.

(c) Procedure for recount.

(1) The Board, after receiving the petition, shall review the votes recorded on the voting machines or otherwise received and recorded in the manner provided for in Section 6-25 herein, and, if required to resolve the issues raised by the petition, the Board shall proceed without answer, pleading or technicality and without requiring any evidence to be taken or proof submitted, to recount the ballots in those districts named in the petition.

(2) The review and recount of ballots shall be conducted with all possible expedition and in preference to all other business under such procedure as the Board shall prescribe.

(3) The recount shall be conducted in the presence of the candidates or their representatives and of the press and the general public.

(4) The petitioner shall pay the cost of the recount unless the result of the election is changed, in which case the costs shall be borne by the City.

(Sec. 6-29A added by O-13-91, adopted 5/20/91, effective 6/19/91)

Sec. 6-30. Absentee voting generally.

(a) Any qualified voter of the City, may vote as an absentee voter in any general or special election.

(b) The application for an absentee voting ballot must be made in writing and signed by the applicant or, if the applicant is unable to sign, shall bear the mark of the applicant and the signature of two (2) witnesses. The application must be presented to the Board no later than 5:00 p.m. on the day before the Election, excluding Saturdays, Sundays and holidays. It may be presented by mail or delivered in person by the voter or the applicant's duly authorized agent. A voter may designate a duly authorized agent by any signed writing to that effect or if the applicant cannot sign then the writing shall bear the applicant's mark and the signature of
two (2) witnesses. Whenever the board has received an application for an absentee voting ballot it shall issue to the applicant an absentee voting ballot.

(c) When the application is received by mail, the board shall issue the absentee voting ballot by return mail; when the application is presented in person by the voter or duly authorized agent, the board shall issue the absentee voting ballot to the voter or duly authorized agent at the time of application.

(d) Persons receiving absentee ballots shall also be furnished an official self-addressed return envelope for use in returning the marked ballots. Only those ballots returned in an official return envelope shall be counted and considered properly cast.

(e) All absentee voting ballots must be received by the time of the close of the polls on election day. The ballots are to remain in the unopened official return envelope in which they are received and be placed in any ballot box which is designated for the purpose of storing absentee ballots until they are to be counted. Ballots returned in any envelope other than the official return envelope shall be destroyed and not counted.

(f) The board shall open all absentee ballots only after all the polling places have been closed. Absentee ballots are thereafter to be opened, approved as to form, and totaled. The grand total of the ballots cast at the polling places and the ballots cast in absentia shall thereafter be added together and included in any official election result as determined by the board.

(g) Absentee ballots are to be preserved in the same manner as prescribed for any other election ballots in section 34 of the City Charter.

(Sec. 6-30(a) amended by O-4-13, adopted 6/17/13, effective 7/17/13)

Sec. 6-31. Preparation of forms and instructions.

All instructions or forms required under any section or subsection of this chapter shall be prepared for the Board by the City Attorney.

Sec. 6-32. Interpretation of chapter.

Unless an interpretation to the contrary is clearly intended from the context in which it appears, each provision of this chapter shall be interpreted in conformity with article 33 of the Annotated Code of Maryland, 1957 edition, as amended.

Sec. 6-33. Penalties.

(a) Unless otherwise specified by this Chapter or the City Charter, and except as set forth in subsection (b) of this section, any person who violates any provision of this Chapter shall be guilty of a municipal infraction pursuant to Section 1-6 of this Code.

(b) Any person who attempts to fraudulently influence the outcome of any election conducted under this Chapter shall be guilty of a misdemeanor and shall be subject to a fine not to exceed one thousand dollars ($1,000.00) or imprisonment not to exceed ninety (90) days, or both fine and imprisonment. The following actions shall be deemed actions designed to fraudulently influence the outcome of an election under this Subsection:

1. Offering a bribe,
2. Accepting or soliciting a bribe,
3. Acting on a bribe,
4. Making a political contribution under a false name,
5. Coercing a City employee to support any candidate for election or to contribute any money or other thing of value to the candidate or the candidate's campaign.

(c) Any person who has been adjudicated guilty or who has paid a fine prior to trial with respect to two (2) cumulative municipal infractions of this Chapter over the course of one campaign and who commits a third violation of Sections 6-75 of this Chapter shall be guilty of a misdemeanor.

(d) Any person who violates the provisions of Section 6-75 of this Chapter shall be guilty of a municipal infraction and shall be subject to a fine not to exceed five hundred dollars ($500).
(e) Any election official or candidate who is found guilty of a misdemeanor under the provisions of this Chapter shall immediately cease to hold such office, and shall be disqualified as a candidate.

(f) The City may institute injunctive, mandamus or any other appropriate action or proceedings at law or equity for the enforcement of this Chapter or to correct violations of this Chapter. Any Court of competent jurisdiction shall have the right to issue restraining orders, injunctions, mandamus, or any other appropriate form of relief or remedy.

(g) For purposes of the issuance of municipal infraction citations under this chapter, the City Clerk shall be designated as the Code Enforcement Officer.

(h) The Board of Supervisors of Elections is authorized to direct corrective action for violations deemed by the Board to be either inadvertent or minimal and having no effect on the Election campaign.

(Sec. 6-33 amended by O-10-15, adopted 6/15/15, effective 7/15/15)

ARTICLE II. REGISTRATION OF VOTERS.

Sec. 6-34. Voter Lists.

(a) The voter register shall consist of the combined list of registered voters and the supplemental list of registered voters.

(b) List of Registered Voters. All eligible persons registered to vote with the County Board who reside in the City and whose names appear on a list of registered voters supplied to the Board by the County Board, shall be considered registered voters of the City and shall have their names placed upon the voter register.

(c) Supplemental List of Registered Voters.

(1) There is hereby established a supplemental list of registered voters of the City.

(2) The supplemental list of registered voters shall be established through the registration of eligible applicants by the Board, of eligible voters who have not registered to vote with the County Board, and whose names do not appear on the list.

(3) Registration of voters in the City shall be conducted continuously under the direction of the Board.

(4) The Board shall take all reasonable steps to enable registration by citizens who cannot conveniently register in person or by mail.

(5) All persons whose names appear on the supplemental list of registered voters shall have their names placed upon the voter register.

Sec. 6-35. Hours and places of registration.

The Board shall be open at City Hall during normal City business hours, and at such other times and places as the Board may, from time to time, determine. A person may register any time the Board is open for business.

Sec. 6-36. Registration to be permanent.

Registration shall be permanent except as otherwise provided in Section 6-54.

Sec. 6-37. Qualifications of voters.

Qualifications for voting in City elections shall be as provided for in Section 21 of the City Charter and this Chapter.

Sec. 6-38. Persons becoming of voting age.

Registration for persons becoming of voting age shall be as provided for in Section 21 of the City Charter and this Chapter.
Sec. 6-39. Oath for registrants.

The Board by the registering official shall administer to all persons who shall personally apply to register the following oath or affirmation:

"You do solemnly swear (or affirm) under penalties of perjury that you will fully and truly answer all such questions as shall be put to you touching your place of residence, name, place of birth, your qualifications as a voter and your right as such to register and vote under the laws of the City of Bowie."

Sec. 6-40. Registration by mail.

(a) When any person desires to register by mail and gives notice to the Board by postal card provided for that purpose and made available at convenient locations within the City of Bowie to the Board of the desire of such person to register, the Board shall send to the person desiring to register a form requesting the information contained in subsection (b) of section 6.46.

(b) Registration by mail shall be permitted and the Board shall provide suitable application forms to any person who desires to register. Any such mail registration form received with the information required shall thereafter be processed by the Board according to the provisions of this chapter, and if the applicant is found to be qualified, a Voter Identification Card shall be mailed to the registrant, provided that any mail registration request received by the Board when the registration books are closed shall not be processed, nor shall the applicant be registered, until after the books are next opened.

Sec. 6-41. Registration.

Any person eligible to vote and desiring to register may register by registration with the County Board or by registration with the Board.

The time and procedure for registration or change registration shall be as provided in this Chapter. No one shall be permitted to register thirty calendar days prior to or fourteen calendar days following an election.

Sec. 6-42. Procedure for change of address or name.

(a) Persons whose names appear on the list shall make application to the County Board requesting name or address changes.

(b) Persons whose names appear on the supplemental list shall:

1. Subject to the provisions of Section 6-41, notify the Board of a change of address or of a change of name, in writing, by mail, or by making application in person at the office of the board or other place of registration, or by written notice to the Board signed by the voter requesting that the proper form for providing such written notification be mailed to the voter.

2. Upon receiving such written notice, the board shall cause the signature to be compared with the original registration records of such applicant, and if such signature appears to be the same, such change of residence or name shall be made on the original and duplicate registration records and the registrant shall be immediately notified by mail of the change so made.

3. When the Board is not satisfied as to the signature on the written notice or that the change should be made, notice shall be sent to the applicant by mail directing the applicant to appear at the office of the board to answer such questions under oath as may be deemed necessary. If an applicant so notified fails to appear at the office of the board as directed no such entry of change of residence or name shall be made.
Sec. 6-43. Universal registration.

(a) Not less than six (6) months prior to each election, the Board shall submit a request to the County Board for the development of a plan and a schedule to implement universal registration.

(b) The application shall include the name of the person designated to be the Board's liaison who is responsible for working with the County Board in the development of the Plan and the schedule for implementation of the Plan.

(c) Upon receipt of notice from the County Board of its designated liaison, the County Board liaison and the Board liaison shall conduct meetings at a mutually agreed upon time with other appropriate persons, if required, for the purpose of developing a schedule and plan for implementing universal registration. The plan shall include:

1. Procedures for identifying by geographical reference the boundaries and election districts of the City and the methods for including this information on the list of registered voters.

2. The format of the list of registered voters, and whether it is to be divided according to a registrant's City polling place;

3. Information on whether:
   (i) The dates of birth are to be printed on the list of registered voters.
   (ii) The names of registrants who will have attained the age of eighteen (18) years as of the date of the next General or Special Election.

4. The timing for furnishing the list of registered voters for use in the City Elections, including the deadline for accepting voter registration applications of those persons residing in the City prior to the City Election;

5. Procedures for obtaining, updating, and maintaining in the County Board files and the voter history of registrants on the list who vote in City Elections; and

6. Procedures for obtaining, updating, and maintaining changes to the boundaries and election districts that result from annexations, subdivision development, street name changes, street abandonments, redistricting and other changes.

7. Procedures of the City for providing the information required by Section 6-5.

(d) The County Board shall provide to the City at no cost a certified list of registered voters, as required by law, and in compliance with the agreed upon timing and format referred to in subparagraph (c) of this subsection.

(e) On request by the City, the County Board shall at no cost, as provided by law, deliver a certified preliminary list of registered voters who reside within the boundaries of the City, not later than ninety (90) days prior to any City Election. The request for this preliminary list of voters shall be made to the County Board before or during the negotiations authorized in subparagraph (c) of this subsection. Within twenty (20) days after receiving the preliminary list of registered voters, the Board shall notify the County Board of any potential errors in the residency of registered voters. If the actual residency of any person listed on the preliminary lists of registered voters is in doubt, the County Board shall notify such persons within ten (10) days after receiving notification from the Board, and shall thereafter verify in accordance with the procedures of the County Board the residency of such person. Should the County Board determine that such persons is not a resident of the City, it shall inform the Board and such person of its determination, and thereupon, strike such persons from the preliminary list of registered voters.

(f) If upon receipt of the preliminary list of registered voters or during the combining of the list and the supplemental list, the Board determines that names on the preliminary list of registered voters are found on the supplemental list, then the Board shall, pursuant to the procedures set forth herein, strike such names from the supplemental list as duplicate registrations.

Sec. 6-44. Appointment of registrar.

The Board shall appoint registrars from the voter register as well as from a list of classified employees of the City supplied by the City Manager. The registrars shall have all the powers
Sec. 6-45. Form of permanent registration.

(a) The registration of voters shall be conducted as herein provided on cards or loose-leaf pages. When such cards or loose-leaf pages have been duly filled out, and both the original and duplicate registration forms have been signed by the applicant for registration and returned by the registrars or other designated persons to the Board, the original and duplicate form shall be filed in different filing cases or loose-leaf binders. The original forms shall be arranged by election districts in alphabetical order and shall constitute, when combined with the cards received from the County Board, the voter register for use in polling places on election days. The duplicate forms shall be kept in metal filing cabinets and shall be arranged by election district for the whole City, in alphabetical order, and shall constitute the permanent official record of the board.

(b) The registration records shall be open to public inspection under reasonable regulations at all times when the office of the board is open for the registration of voters except upon the special order of the Board. The registration records shall not be removed from the office of the board except on the order of a court and except for temporary removal solely for purposes of data processing, provided that in such removal for data processing, one duplicate copy is always retained in the office of the Board.

(c) Locking and unlocking of binders and cabinets. The binders or filing cases containing the voter register shall be securely locked and the keys safety kept by the Board. The cabinets containing the duplicate forms shall be securely locked, and neither the binders nor the cabinets shall be unlocked except by a clerk or other employee of the board upon its authorization.

Sec. 6-46. Registration forms and cards.

(a) It shall be the duty of the Board, after consultation with the County liaison, to prescribe the style, color, quality and dimensions of all forms, cards and records required for the continuous registration of voters as herein provided, and to prescribe the requirements of the cabinets, binders and other equipment needed for filing the original and duplicate registration cards. Such registration forms or cards shall consist of an equal number of original cards or loose-leaf pages of one color, and duplicate cards or loose-leaf pages of another color, of a size adequate to contain the information required. Provisions shall be made on said cards or loose-leaf pages for recording the fact that registered voters have or have not voted at each election; and space shall be provided for such recording for a period of not less than twelve years. The fact of voting shall be indicated by writing the letter "V" in the proper space. Provision shall also be made on such cards or loose-leaf pages for showing changes of address.

(b) Form. The cards or loose-leaf pages shall be in substantially the following form and provision shall be made on the reverse side of such cards or loose-leaf pages for showing subsequent changes of address.

The form shall include the following columns:

1. Name of applicant.
2. Address of applicant.
3. Record of oath of citizenship.
4. Place of birth of applicant.
5. Date of birth. If the applicant objects to giving the applicant's date of birth, than a statement under oath that the applicant swears that the applicant meets the minimum age requirement for voting.
6. Time of residence in the city.
7. Date of application.
8. Applicant's signature.
9. Qualification verification to be marked "yes" or "no."
10. Disqualification or other remarks if applicable.
11. Record of when applicant votes.
12. Sex of applicant.

Sec. 6-47. Completion of registration forms; comparison of record.

(a) Whether applying by mail or in person, the applicant shall be required to answer all questions required on the registration forms. If it shall be determined that the applicant is not qualified to be a voter, an entry shall be made in appropriate place on the forms. If the applicant is qualified, an entry shall be made. After the answers of the applicant to all questions have been properly entered on the forms, the applicant shall sign his name in the place on the forms for his signature, if he can do so. When applying in person, if the applicant is unable to sign the applicant's name, the registrars shall make the entry "cannot sign" on the forms in the place of his signature, and shall with two witnesses note on the forms the applicant's height, color of eye and distinguishing physical marks. Applicants who cannot sign an application appointment must accomplish the foregoing in person.

(b) At the end of each registration session, the original and duplicate registration forms shall be compared, verified and conformed. If any person is found to have registered more than once, the additional registration forms shall be cancelled.

Sec. 6-48. Old registration forms.

(a) Whenever in the opinion of the board the registration forms have become obsolete and can no longer be used, the information contained thereon shall be transcribed on new forms under the supervision and direction of the board.

(b) The Board shall retain all old registration books or forms which have been transcribed onto new forms under this section for a period of at least five years before the books or microfilm forms may be destroyed.

Sec. 6-49. Temporary certificates of registration.

(a) When issued. If at any election it shall appear that the original registration form of any person representing to be a voter is not among the cards constituting the voter register for use on election day, such person may apply to the Board, on forms to be provided by the Board, for a certificate entitling to cast a ballot in spite of the absence of such original registration form. Upon receipt of any application for such a certificate, accompanied by proof of the identity of the applicant, a majority of the Board shall inspect the duplicate registration forms retained in the office of the Board, and if inspection discloses that the applicant is duly registered voter, the Board shall make reasonable effort to locate the applicant's original registration form. If such original form is not found and if the Board shall be satisfied that its absence is not due to fraud or malfeasance, the Board shall issue its certificate, a copy of which shall be retained by the Board, to the judges assigned by the Board to the election district in which the applicant is a resident declaring the applicant to be a registered voter. The certificate shall be marked "Temporary Certificate of Registration," shall be in the form provided by subsection (c) of this section, and shall be sufficient authority to permit the voter to cast the voter's ballot in the voter's election district as though the voter's original registration form were present. The certificate, when presented to the judges, shall be retained by the judges and returned to the board at the time prescribed for the return of the original registration forms.

(b) New original registration form. At the same time a voter receives a temporary certificate the voter shall sign a new original registration form containing the same information shown by the voter's duplicate registration form. The new original registration form shall entitle the voter, subject to the provisions of this chapter, to vote at any subsequent election.

(c) Form. The form of the temporary certificate of registration shall be as follows:

TEMPORARY CERTIFICATE OF REGISTRATION
To the Judges of Elections
of the _____________ Election District

Upon the application of _____________________ and pursuant to the provisions of section 6-49 of the Code of the City of Bowie, we, the undersigned, constituting a majority of the Board of Supervisors of Elections of the City of Bowie, do hereby certify that:

1. _____________________ is a registered voter of the _____________ Election District and entitled to cast his ballot in the aforesaid Election District, having heretofore sworn that he or she has not applied for or received any absentee ballot for this election.

2. The following entries appear upon the duplicate registration form of the said applicant retained in the office of said Board:

   THIS SPACE RESERVED FOR THE PERMANENT
   REGISTRATION FORM ADOPTED AND MADE
   A PART OF THIS CODE AT SECTION 6-46

   WHEREFORE, In conformity with the provisions of section 6-49 of the Code of the City of Bowie, you are hereby authorized and directed to permit the said _____________________ to cast his or her ballot at the election aforesaid provided that he or she signs his or her name on a Voting Authority Card, and that signature corresponds with his or her signature as it appears on the line directly below.

   ______________________________________
   Signature of Applicant for Temporary
   Certificate of Registration

3. You are further directed to retain this Temporary Certificate of Registration until the polls close and then return same to the Board of Supervisors of Elections, together with the Election District Binder containing the original registration forms of the voters.

   As Witness the following signatures of said Board and the Seal of the Board of Supervisors of Elections.

   ______________________________________
   ______________________________________
   ______________________________________

Sec. 6-50. Challenges of voters and correction of lists.

(a) Who may fill challenge or application for correction of the supplemental list; when and where filed.

Any voter may file in accordance with the provisions contained herein with the Board objections to the registration of any person whom such voter has reason to believe is not eligible to vote, or a request for the addition of any person whose name has been erroneously omitted or dropped from the supplemental list. Application for the correction of the list or a challenge of the right to vote of a person named on the list may be made by any qualified voter at the office of the Board on or before thirty (30) days prior to the election.

(b) Manner of making application or challenge. Such applications or challenges shall be made in the form provided by subsection (e) of this Section and such forms shall be provided by the Board for that purpose. The voter shall state thereon, under oath and of the voter's own personal knowledge, the reason for the application or challenge. Thereafter the voter so
applying or challenging shall be required to appear in person at the time of the hearing on the application or challenge as provided for in subsection (d) of this section and for wilful failure to so appear shall be subject to the penalties provided for in this Code.

(c) Notice; voter may appear in person or by counsel. Any persons whose right to register has been challenged and any person whose name has alleged to have been erroneously omitted or dropped from the supplemental list shall be given written notice, sent by mail, addressed to the voter at the last address given on the voter's registration form. Any person so notified may appear before the Board in person or by counsel.

(d) Hearing and action of Board on applications and challenges. The Board shall sit for the purpose of hearing application for changes on supplemental list, or challenges of the right to vote on the supplemental list. They shall meet at least fifteen days before an election at such hours as the Board may designate. If all such applications or challenges be not determined on that day, they shall sit during the same hours on succeeding days until all cases are heard and decided. All cases shall be decided immediately after hearing. No voter as to whom an application or a challenge has been made shall be removed from the supplemental list unless the application or challenge is substantiated by affirmative proof. In the absence of such proof the presumption shall be that the voter as to whom the application or challenge was made is properly registered. If the Board is satisfied that the person so challenged, omitted or dropped from the supplemental list has actually moved to another election district and is presently residing within that other district, the Board may transfer that person to the election district in which the voter presently resides.

(e) Form of challenge. Objections to the registration of any person shall be made in substantially the following form:

"OATH OF PERSON WHO ASKS THAT A NAME BE REMOVED FROM THE SUPPLEMENTAL LIST OF REGISTERED VOTERS"

I,___________, a voter of the City of Bowie, do solemnly swear that I believe that who professes to reside at _________is not a qualified voter in the ______District of the City of Bowie, on the ground that ____________________________________________ Subscribed and sworn to before me this day of ________, 20__.  

(Notary Public or other person authorized to administer oaths.)

Any person objecting to the registration on the supplemental list of any voter must appear in person to substantiate such objection by affirmative proof. Willful failure to appear at the hearing on such challenge shall be a misdemeanor and is subject to imprisonment for not more than thirty (30) days or a fine not exceeding One Hundred Dollars ($100.00), or both."

Sec. 6-51. Removal because of change of address.

The procedure for removal because of change of address shall be as provided for in this Chapter.

Sec. 6-52. Report of change of address.

The Board may also in its discretion make such arrangements with the postal authorities serving the city and with the water department of public service companies serving persons therein, to receive notices of changes in addresses of persons receiving mail or using such services in the city. The board is authorized to pay a reasonable compensation for the necessary clerical service involved.

Sec. 6-53. Repealed.
Sec. 6-54. Cancellation of registration for failure to vote.

(a) If a voter whose name appears on the supplemental list has been registered, but has not voted at least once at a General or Special Election within the five (5) preceding calendar years, it shall be the duty of the Board, unless cause to the contrary be shown, to cause the registration of that voter to be cancelled by removing the registration cards and forms of the voter in the original and duplicate files and placing them in a transfer file. A notice of this action and the reason therefore shall be sent to the last address of the voter, notifying him to appear before the Board at a date specified in the notice, but not earlier than one (1) week or later than two (2) weeks from the date of the mailing of the notice, and to show cause why his or her name should not be removed from the supplemental list.

(b) A list containing the names and last known street address of those voters whose registration is to be cancelled shall be made available upon request thirty (30) days prior to the date of removal. The Board may charge reasonable fees for such lists.

(c) A voter whose registration has been cancelled under this section shall not thereafter be eligible to vote except by registering again in accordance with the provisions of this chapter or by registering with the County Board.

(d) Annually the Board shall determine which persons have not voted at least once at a General or Special Election within the five (5) calendar years immediately preceding January 1 of the then current year and send those persons the notice required in Subsection (a) of this section. The notice shall be in a form prescribed by the State Administrative Board of Election Laws.

Sec. 6-55. Copies of registration lists.

The Board shall furnish to anyone making written application therefore, within ten (10) days after such application has been received, a certified copy, under their hands, of the names and addresses of all persons registered in the City insofar as the City's records reflect such registration on its most current voter register and/or supplemental list for a sum designated by the Board and approved by the City Council.

Sec. 6-56. Voters' identification cards.

(a) Issuance; duplicates. The Board shall issue a card containing the name and address of the voter, the date of issue and the Election District of the voter. Such card shall be prima facie evidence that such voter has been properly registered on the date appearing thereon. The Board shall have the authority to issue duplicate voters' identification cards, to be stamped "Duplicate" to a voter when he changes his address.

(b) Reproduction, etc., unlawful. Except for the purpose of filing as an exhibit in a court proceeding, it is unlawful to reproduce or copy in any manner for any purpose a voters’ identification card. Violation of this subsection is a misdemeanor punishable as provided herein.

Sec. 6-57. Preservation of cancelled registration records.

The Board is authorized to microfilm cancelled registration records at any time and to destroy the original records after they have been cancelled for a period of five (5) years. All files and binders shall be retained in the office of the Board for a period of five (5) years, and shall be open to public inspection.

ARTICLE III. QUESTIONS.

Sec. 6-58. Certification.

Whenever a proposed Charter or Charter amendment or other question is to be submitted for popular approval to the voters of the city, the city attorney shall certify the same to the board
on or before three weeks prior to the election. Thereupon the board shall include the same in
the publication provided for in section 26 of the Charter and the applicable provisions of article
(Sections 6-1 through 6-58 amended by O-18-89, 10/16/89)

Sec. 6-59. Petition--Requirements with respect to signatures.

In every petition, including an associated or related set of petitions, under the applicable
provisions of article 23A of the Annotated Code of Maryland, 1957 edition, as amended, there
shall be appended to the signature of each signer his residence, the election district wherein he
is registered as a voter, and immediately below the signature of any such signer, there shall be
either printed or typed, the name of such signer.

Sec. 6-60. Same--Misrepresentation or false statements concerning contents.

It is unlawful for a person, as principal or agent, in circulating or in having charge or control
of the circulation of or in obtaining signatures for any petitions, including an associated or
related set of petitions, under the applicable provisions of article 23A of the Annotated Code of
Maryland, 1957 edition, as amended, to misrepresent or to make any false statements
concerning the contents, purport or effect or the petition, to any person who signs, wishes to
sign, is requested to sign, makes inquiry concerning the petition or to whom the petition is
presented for signature.

Sec. 6-61. Same--Prohibited acts generally.

As to any petition, including an associated or related set of petitions, under the applicable
provisions of article 23A of the Annotated Code of Maryland, 1957 edition, as amended, it is
unlawful for any person:
(a) Knowingly or willfully to circulate, publish or exhibit any false statement or
representation concerning the contents, purport or effect thereof, for the purpose of obtaining
any signature to the petition or of persuading any person to sign it.
(b) To refer to the city manager a petition to which is attached, appended or subscribed any
signature which the person knows to be false or fraudulent or not the genuine signature of the
person purporting to sign the petition or of the person whose name is attached, appended, or
subscribed to the petition.
(c) To make a false affidavit.
(d) To give, pay or receive any money or other valuable consideration or inducement for
signing the petition or for securing the signatures thereon.
(e) To circulate or cause to be circulated a petition, knowing it to contain false, forged or
fictitious names.
(f) Knowingly as a petitioner to sign his name more than once.
(g) To sign a petition, knowing at the time he is not qualified to sign it.

Sec. 6-62. Same--Statement of contributions and expenditures.

(a) At the time of filing with the city manager a petition, including an associated or related
set of petitions, under the provisions of article 23A of the Annotated Code of Maryland, 1957
edition, as amended, the person which files the petition shall file with it a statement showing the
contributions and expenditures for the petition. This shall be certified by the person who files
the petition, giving (1) the name and post office address of every contributor to the expense of
the petition, and the amount paid by each; and (2) the name and post office address of every
person to whom, and for what service, and money was paid or promised on account of the
petition or which is owed to be paid.
(b) If such a certified statement is not filed with the petition, the city manager shall treat the
petition as invalid and shall not certify the question of the referendum to the board.
(c) In any proceeding to test the validity of any petition filed as specified in subsection (a) of this section, the person certifying the statement required in this section shall be a party to such a proceeding. Such proceeding shall be filed in the circuit court for Prince George's County.

Sec. 6-63. Same--Effect of question concerning the validity of signature.

On any petition, including an associated or included set of petitions, submitted to the city manager under the applicable provisions of article 23A of the Annotated Code of Maryland, 1957 edition, as amended, any question concerning the validity of the signature of any person on the petition affects that signature only and does not affect or impair any other portion of the petition.

Sec. 6-64. Same--Separate offenses; punishment.

In the enforcement of sections 6-61 and 6-62, each separate violation and the invalidity or impropriety or each individual signature is a separate offense, punishable under the general penalties provided in section 6-33.

Sec. 6-65. Result of votes.

The result of votes shall be governed by the applicable sections of article 23A of the Annotated Code of Maryland, 1957 edition, as amended.

ARTICLE IV. FAIR ELECTION PRACTICES.

Sec. 6-66. Applicability of article.

The provisions of this article shall apply to all elections subsequent to July 1, 1969 in which ballots shall be cast pursuant to the provisions of this chapter.

Sec. 6-67. Distribution of summary of election laws.

The city clerk shall summarize provisions of the election laws of the city relating to campaign contributions and expenditures and provide for the distribution of this summary to all candidates for election to public office at the time such candidates file for election and shall prepare and include in such distribution to each candidate specimen forms provided for in this subtitle.
(Sec. 6-67 amended by O-10-15, adopted 6/15/15, effective 7/15/15)

Sec. 6-68. Appointment of campaign treasurer; candidate joining ticket or slate.

(a) Each candidate for, or election to, public office, upon or before, and as a condition precedent to qualifying as such candidate, shall appoint one campaign treasurer and shall file the name and address of the campaign treasurer with the board as provided in subsection (c) of this section. A campaign treasurer shall be a resident of the City and have resided in the City for one year prior to the date of his or her appointment. Every treasurer so appointed shall accept such appointment, in writing, prior to filing thereof. The board shall not accept any certificate of candidacy unless the name of the treasurer has been filed with it as provided in this subsection. Nothing herein contained shall prevent a candidate from naming himself or herself as treasurer.

(b) The city clerk shall devise and maintain a form for appointment of a treasurer and the acceptance of such appointment by the treasurer. Each candidate shall obtain and use, without alteration, the city's form for appointment of a treasurer.

(c) Any candidate, after filing the name of a treasurer as prescribed in subsection (a) of this section, may choose, at any time after such filing and the first filing as required in paragraph (1) of subsection (a) of section 6-75, to join a group, combination or organization of candidates,
commonly known as a "ticket" or "slate," at which time the candidate must notify the board of the fact that he has joined the ticket or slate. The treasurer of the ticket or slate shall report in the same manner as the treasurer of any political committee as prescribed in subsection (a) of section 6-69.

(d) No person may solicit or collect funds to be used in furtherance of the election to municipal office of any person who has not filed a Certificate of Candidacy and the Notice of Appointment of Treasurer required by Subsection (b) of this Section.

(Sec. 6-68 amended by O-7-15, adopted 4/20/15, effective 5/20/15; amended by O-10-15, adopted 6/15/15, effective 7/15/15)

Sec. 6-69. Appointment of treasurer by political committee; reports.

(a) A political committee is an entity that pools campaign contributions from members and donates those funds to campaign for or against candidates, ballot initiatives, or legislation.

(b) Every political committee except political clubs shall appoint and constantly maintain a treasurer, whose name and address, together with the names and addresses of the principal officers and steering committee, if any, shall be filed with the board. The treasurer shall receive, keep and disburse all money, or other valuable things, which may be collected, received or disbursed by such committee or by any of its members for any purposes for which such committee exists or acts, unless such treasurer, officers and steering committee, if any, are appointed and filed as required in this subsection, it shall be unlawful and a violation of this chapter for a political committee, or any of its members, to collect or receive or disburse money, or other valuable things, for such purposes. The treasurer shall report contributions and expenditures on the form prescribed in section 6-77 and in the manner required by subsection (c) of this section and section 6-76.

(c) If any committee, including a political club, directly or indirectly expends fifty-one dollars ($51.00) or more to aid or oppose the election of any candidate, regardless of the purpose for which the committee is formed, the treasurer of the committee, or in the case of a political club an officer thereof, shall report, on the form prescribed in section 6-77, a statement of contributions and expenditures to the treasurer appointed by the candidate being so aided, which statement shall be included in, or attached to, the statement of contributions and expenditures reported by the treasurer of the candidate as provided in sections 6-76 and 6-77. However, a political club need only report that amount which it actually contributed to a candidate.

(Sec. 6-69 amended by O-10-15, adopted 6/15/15, effective 7/15/15)

Sec. 6-70. Contributions and expenditures to pass through treasurer.

All contributions, money or other valuable things collected, received or disbursed by any candidate or committee for any purpose, shall be paid over to and made to pass through the hands of the treasurer and shall be disbursed by him; and it shall be unlawful and a violation of this chapter for any candidate or any member of a committee, or for any member of a political committee, to make any expenditure, to disburse or expend money or any other valuable things, for any purposes until the money or other valuable things so disbursed or expended shall have passed through the hands of the treasurer; except, that it shall not be unlawful for a candidate, or a person designated by him, to expend his own personal funds; provided, that such expenditure is reported to the treasurer, a receipt is issued by the treasurer and the treasurer's report indicates whether those funds are reimbursed.

Sec. 6-71. Books, records and receipts of treasurer.

(a) Account books. Every treasurer shall keep detailed, full and accurate accounts in proper books, to be called "account books," to be provided and preserved by him, of all contributions, money or valuable things received by or promised to, and all expenditures, disbursements and promises of payment or disbursements of money or valuable things made by any committee, or any of its officers or members, or by any person acting under its authority,
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or on its behalf or by such treasurer, and setting forth in such statement and accounts the sum or valuable thing so received, disbursed or promised, as the case may be, and the date when, the name of the person and his address from whom received or promised, or to whom paid or promised, as the case may be, and the object and purposes for which the sum, or other valuable thing, was received, disbursed or promised, as the case may be. Such books and records may be destroyed or discarded at any time after one year from the date of filing the final report required by section 6-76 unless a court of competent jurisdiction shall order their retention for a longer period.

(b) Campaign contribution receipts.

(1) Upon receipt and before depositing a campaign contribution, a "campaign contribution receipt" shall be issued by the treasurer to each person or treasurer of a committee or group or organization of persons making a contribution to the campaign or purchasing a ticket or tickets to any campaign-related event or purchasing any campaign-related item or items in the amount of fifty-one dollars ($51.00) or more, or upon receipt for any lesser amount, to the candidate or committee of which he is treasurer, setting forth:

(i) The date of the contribution or purchase of a ticket or other item

(ii) The name and address of the person making the contribution or purchase of a ticket or other item

(iii) The amounts of the individual contributions and/or cost of the ticket(s) or other item(s) and the total for all contributions and/or purchases

(iv) The name of the candidate or organization

(2) A check received by a treasurer shall itself serve as a receipt and no additional receipt shall be necessary. Such check shall be recorded by the treasurer in the account books and shall include the date of the check, the amount of the check, the bank upon which it is written and the name of the person signing the check.

(3) The treasurer shall retain all campaign contribution receipts with his books and records as required by subsection (a) of this section and report the information therein in the statement of contributions and expenditures required by sections 6-77 and 6-78.

(4) The campaign contribution receipt issued to a contributor shall serve as evidence of a contribution by such contributor.

(c) Anonymous contributions. Any money or other thing of value received from any unknown person or source by any treasurer or other person or committee authorized to incur obligations or to pay or defray obligations or expenses under the provisions of this chapter, shall not be used for any political purpose whatsoever, but shall be paid by the treasurer, or other persons or committee so receiving the same, to the treasurer of the city.

(d) Disposition of surplus funds. Any surplus funds remaining after payment of all campaign expenditures shall be returned to contributors or to a Section 501(c)(3) corporation of the candidate's choice by the treasurers prior to the time of filing the final report required by section 6-76. In any event, there must be a zero ($0.00) sum balance at the time of the final report.

(Sec. 6-718 amended by O-10-15, adopted 6/15/15, effective 7/15/15)

Sec. 6-72. Contributions of candidate.

(a) Contributions. Any person who is a candidate for public office may make voluntary contributions or payment of money to any treasurer, subject to the provisions and restrictions of this chapter, and for any of the purposes permitted by this chapter, and for no other purposes.

(b) Expenses. Any person who is a candidate for public office may pay that candidate's own personal expenses for filing fees, telegrams, telephoning, travel and board. The payment of such personal expenses shall not be subject to the limitations provided in Section 6-73.

Sec. 6-73. Limits of contributions.

It shall be unlawful for any individual, either directly or indirectly, to contribute any money or thing of value greater than one thousand dollars ($1,000.00) in any city election. The limit of contribution shall be considered for adjustment after each General Election. It shall be unlawful
for any partisan political organization, non-profit or profit-making corporation or other business entity to contribute any money or other thing of value to any candidate in any City election.

**Sec. 6-74. Expenditures by treasurer.**

(a) Proper expenditures. It shall be lawful for any treasurer in connection with any election and in making provisions therefore, to pay all lawful expenses including, but not limited to, the following expenses: (1) Hiring of halls and music for public meetings and for advertising the same; (2) printing and circulating political articles, circulars, pamphlets and books or renting radio and television time and newspaper space for political speeches and advertising; (3) printing and distributing the sample or specimen ballots or instructions to voters, subject, however, to such prohibitions or restrictions as may be imposed by this chapter upon the publication and distribution of such sample or specimen ballots or instructions; (4) renting rooms and headquarters to be used by political committees; (5) compensating clerks, stenographers and typists employed in the committee rooms; (6) traveling and other legitimate expenses of political agents, committees and public speakers; (7) necessary postage, stationery, telegrams, telephoning, and printing expenses.

(b) Time for presentation of statement of money due. Any statement of money owing by a treasurer must be presented for payment to the treasurer within thirty days following the election in connection with which such liability was incurred.

**Sec. 6-75. Election reports to be filed by treasurer.**

(a) The treasurer designated by a candidate prior to an election shall file reports or statements of contributions and expenditures as prescribed in this Section and Section 6-76 with the Board in accordance with the following schedule:

1. By the close of business on the fifteenth day of each month, or if the fifteenth day of the month falls on a Saturday, Sunday or federal holiday, by the close of business on the Monday immediately following the fifteenth day of the month, a report shall be filed containing all contributions received and expenditures made in furtherance of the candidate's election, including those made by the candidate, or with the knowledge of the candidate, and those made by any other person or groups of persons since the date of the last preceding election to fill the office for which he is a candidate. Within forty-eight (48) hours of its submission, excluding Saturdays and Sundays, the Board of its designee shall review each report and return any such report that does not meet the requirements of this Article. A copy of all monthly and final campaign financial reports shall be posted on the City’s website by close of business within three business days after review and acceptance by the Board.

2. A successful candidate, shall file a final campaign financial report that is accepted and approved as sufficiently itemized and complete by the Election Board or its designee no later than noon on the day prior to the date on which the successful candidate takes office.

3. Unsuccessful candidates shall file a final campaign report that is accepted and approved as sufficiently itemized and complete by the Election Board or its designee within thirty (30) days of the election.

(b) Before filing a final campaign report, the treasurer shall pay all outstanding obligations and dispose of all of its remaining assets in accordance with Subsection (f) below. It shall be the responsibility of each candidate to advise the candidate’s creditors that invoices must be received by the candidate within fourteen (14) days of the election. Any unpaid debts reflected in the final campaign report shall be deemed a contribution and therefore subject to the limitations of contributions prescribed in Section 6-73.

(c) It is the responsibility of the treasurer to file the report and such report shall be in full and accurate detail. Each report shall contain all contributions received and expenditures made since filing of the initial report. Any campaign financial report which simply displays lump sum funds spent or obligated to campaign consultants, public relations firms or other entities without reasonable itemization of services provided shall be rejected and returned to the treasurer as failing to meet campaign reporting guidelines.
(d) The treasurer of all political committees shall file the committee’s report of statement of contributions with the board according to the times specified in subsection (a) of this section.

(e) It shall be unlawful for a treasurer to accept money or any other thing of value for or intended to be used on behalf of the candidate more than twenty-one (21) days after an election.

(f) After all campaign expenditures have been made and before filing a final campaign finance report, the remaining balance in the account(s) of a campaign finance entity shall be disposed of in accordance with City Code Section 6-71(d).

(g) A violation of this Section shall be punishable in accordance with City Code, Section 6-33.

(Sec. 6-75 amended by O-10-15, adopted 6/15/15, effective 7/15/15)

Sec. 6-76. Form of report of expenditures and contributions.

The reports required by this section shall be filed on a form devised and distributed by the City Clerk, without alteration.

(Sec. 6-76 amended by O-10-15, adopted 6/15/15, effective 7/15/15)

Sec. 6-77. Requirements of election reports.

(a) Successful candidates. No person shall enter upon the duties of any public office thereof, or receive any salary or emoluments therefrom until he shall have filed the statements provided for in section 6-76.

(b) Section mandatory. The provisions of this section, including the provisions of section 6-76 with respect to the time of filing reports, shall be mandatory and not directory; provided, that no candidate shall be disqualified for failure to file such statement if such failure is found by a court of competent jurisdiction to be with just cause.

Sec. 6-78. Custody of Reports.

The board shall preserve all statements or accounts filed with it pursuant to any section of this chapter for two years after the election. All such statements and accounts shall be open to public inspection.

Sec. 6-79. Requirements concerning advertising; rates.

(a) It shall not be lawful for any candidate or treasurer to print, publish, or broadcast any campaign-related communications whatsoever, including electronic communications, unless such matter shall purport on its face to be printed, published or broadcast by the authority of the candidate or treasurer. Any such material, which is printed, published, or broadcast shall be marked as an advertisement.

(b) Each candidate or treasurer shall maintain for a period of one hundred and twenty days following each election a complete file of sample copies of all matter printed, published, or broadcast by his authority.

(c) No person or corporation publishing or distributing a newspaper or other periodical within the city shall charge a candidate for public office for political advertising a rate in excess of the regular local rate regularly charged by such person or corporation for commercial advertising; except, that when such political advertising is placed with the person or corporation through the medium of an advertising or press agency, then the regular national rate regularly charged by such person or corporation for commercial advertising may be charged.

(d) Violation of this section is a misdemeanor and any person so convicted is subject to the penalties provided in this chapter.

(Sec. 6-79 amended by O-10-15, adopted 6/15/15, effective 7/15/15)

Chapter 6, Sections 6-1, 6-12, 6-13, 6-29, 6-31, 6-67, 6-68, 6-69, 6-72, 6-73, 6-75 amended by O-1-05, effective May 4, 2005.
ARTICLE V. COUNCIL ELECTION DISTRICTS

Sec. 6-80. Geographical boundaries of districts I-IV.

For purposes of this section, the following terms shall have the following meanings: (1) “U.S. Route 301” shall mean southbound U.S. Route 301 unless otherwise noted; (2) “City Boundary” shall mean the City boundary as it exists as of the effective date of this ordinance; and (3) references to the point of intersection of a right-of-way line or property line and a center right-of-way line, shall assume, unless otherwise indicated, the continuation of the right-of-way line or property line to the center right-of-way line.

For purposes of municipal elections, the City of Bowie is hereby divided into the following Council Election Districts:

Council District I – includes the neighborhoods of Bowie Station, Colts Neck, Horsepen Ridge, Huntington, Huntington Crest, Northridge, Ray's Wood, Rolling Hills, Belair Greens, Belair Town, Chapel Forge, Heartfields (Assisted Living Facility), Idlewild, Meadowbrook (North and East of Millstream Drive), Overbrook, Rockledge, Saddlebrook East, Saddlebrook West, Sumner Chase, Victoria Heights, Whitehall, and Yorktown, and inclusive of the following geographical areas defined as: from the point of beginning where the center of the right-of-way of Millstream Drive intersects the center of the right-of-way line of Maryland Route 197, and running thence southeasterly along said line of Millstream Drive where the center line of Millstream Drive right-of-way line intersects the center line of Annapolis Road (MD 450), thence easterly along the said line of Annapolis Road to the point where the City boundary departs to the northwest at the northeastern plat line of Parcel “A” (aka Cornerstone Assembly of God), thence following said plat line northwest to its intersection with the rear lot line of Lot 9 Plat A-5779, thence generally northeasterly along the City boundary including the entirety of Parcels 48 (aka Public Works Drive), Parcels 25, 47, 70, and Parcel 13 (M-NCPPC); thence generally northwest along the City boundary (contiguous with the eastern limits of Prince Georges County) along the Patuxent River, thence departing in a westward bearing along the northwestern deed line of lands (NF) owned by the Southern Maryland Agricultural Association thence running generally northwesterly along the City boundary to the point where the City boundary crosses Race Track Road (center line station 26+85.14) thence following generally a southwesterly bearing along the northern line of Plat 32 – Saddlebrook West; to a point where the City boundary turns northwest along the N 07° 39’ 82” W bearing line of plat two “Colts Neck”; thence following the City boundary (inclusive all lands within plats one and two of Colts Neck) to a point where the S 29° 39’36” E (plat two – Colts Neck) bearing line intersects with the northeastern corner of Plat thirty-two Parcel E – Saddlebrook West; thence running along the City boundary to the point northwesterly deed line of Parcel 222 intersects with the eastern right-of-way of Collington Road (MD 197) thence running northwest with the City boundary to the point where the City boundary intersects with the right-of-way line of Maple Avenue, and running south along Maple Avenue to the point where the right-of-way line of Maple Avenue intersects with the right-of-way line of Duckettown Road, thence west along Duckettown Road to the point where it intersects with the City boundary, and running southwesterly along the City boundary to the point where the City boundary intersects with the right-of-way line of Park Avenue, thence running northwest along Park Avenue to the point where the right-of-way line of Park Avenue intersects with the City boundary, thence southeast along the City boundary to the point where the City boundary intersects with the right-of-way line of lands (N/F) National Railroad Passenger Corp. (Parcel 98); thence running southwest along said right-of-way to the point where the City right-of-way departs from said right-of-way, thence running south along the City boundary to the point where the City boundary intersects with the right-of-way line of Fletchertown Road, thence running west on Fletchertown Road to the point where the center right-of-way line of Fletchertown Road intersects with the right-of-way line of Hillmeade Road,
thence running southeast on Hillmeade Road to the point where the right-of-way line of Hillmeade Road intersects with the City boundary, thence running east, south, east then north along the City boundary to the point where the City boundary intersects with the right-of-way line of Chestnut Avenue, and running north on Chestnut Avenue to the point where the right-of-way line of Chestnut Avenue intersects with the City boundary, thence running easterly along the City boundary to the point where the City boundary intersects with the right-of-way line of 11th Street, thence running east on 11th Street to the point where the right-of-way line of 11th Street intersects with the City boundary parallel to the right-of-way for Route 197, thence running south on this boundary to the point where it departs from the Route 197 right-of-way to the west, thence west, south and east along the City boundary to the point where the City boundary intersects with the right-of-way line of MD 197, thence running south along MD 197 to the point where the right-of-way line of MD 197 intersects with the right-of-way line of Old Chapel Road, thence running west on Old Chapel Road to the point where the right-of-way line of Old Chapel Road intersects with the City boundary, thence running south along the City boundary to the point where the City boundary intersects with the right-of-way line of Route 197, thence running south along MD 197 to the point where the right-of-way line of MD 197 intersects with the right-of-way line of Millstream Drive, back to the point of beginning.

Council District II - includes the neighborhoods of Bowie Forest, Buckingham, Derbyshire, Fairview, Forest Hills, Foxhill, Glenridge, Grady's Walk, Highbridge Park, Kenilworth, Longridge, Maryland Science and Technology Center (Melford), Meadowbrook (south and west of Millstream Drive), Somerset, Somerset Park, Stewart's Landing, and Tulip Grove and inclusive of the following geographical areas defined as: from the point of beginning being where the center line of Millstream Drive intersects with the center line of the Annapolis Road (MD 450), thence running easterly on (MD 450) to the point where the City boundary departs to the south, thence running southeasterly along the City boundary to where the City boundary intersects with the western right-of-way line of Crain Highway (Route 3), and running south along the right-of-way line of Route 3 to the point where the right-of-way line of Route 3 intersects with the City boundary, thence running south along the City boundary to the point where the City boundary intersects with the right-of-way line of Route 3, thence following the Route 3 right-of-way line south to where the right-of-way line of Route 3 intersects with the City boundary thence running east, south, and west along the City of Bowie boundary (aka The Maryland Science and Technology Center Boundary) to the point where it intersects the right-of-way line of Route 3, thence running north to the point where the right-of-way line of Route 3 intersects with the City boundary, thence running west then south to the point where the City boundary intersects the right-of-way line of John Hanson Highway (Rt. 50), thence running west along Route 50 to the point where the right-of-way line of Route 50 intersects with the center of the right-of-way line of Collington Road (MD 197), thence generally north along the centerline of the right-of-way line of MD 197 to the point where the right-of-way line of MD 197 intersects with the southern limit of the Longridge Subdivision plat line of Parcel B (L. 03267 F. 175), then generally west along said line, crossing perpendicular to property owned (N/F) Consolidated Rail Corp. – Popes Creek Branch (Parcel 77) to the west side of said right-of-way, then north along the right-of-way line to its intersection with the southern limits of the Old Annapolis Road right-of-way line (northeast corner of Pt. Parcel 62), then generally west along the said right-of-way line to Church Road, then south along Church Road to its intersection with the southern plat line (Plat 1 Parcel B) of the Stewarts Land Subdivision; then generally west, to said subdivision line intersect with the Church Road right-of-way at the corner of Lot 2 Block B, Plat 2 (Stewart's Landing); thence generally north along the western limits of the Stewart's Landing Subdivision plat line to Route 450, then west along Route 450, then generally north along the western limits of the City boundary line, then following the City boundary generally in an easterly direction to the point where the City boundary intersects the right-of-way line of MD 197, then generally north along MD 197 to the point where the right-of-way line of MD 197 intersects with the center line of the right-of-way of Millstream Drive, then generally east and south along Millstream Drive back to the point of beginning.
Council District III – containing two non-contiguous geographical areas inclusive of the following subdivisions: the neighborhoods of Allen Pond, Archstone Apartments (Governor’s Green), Bowie Commons, Covington (north of Excalibur Road), Dixon Crossing, Enfield Chase, Essington, Evergreen Apartments (Senior Apartments), Evergreen Estates, Heather Hills, Heather Ridge Apartments, Longleaf, Northview, Oak Pond, Old Stage, Palisades, Pin Oak Village, Princeton Square, Princeton Square Addition, Spring Meadows, Summerville (Assisted Living Facility), Vistas, Westview, The Willows (Senior Apartments), Woodmore Estates, Woodmore Highlands and Woodland Lake and consisting of two geographic areas:

District III – Part One, is geographically defined as: the point of beginning is the common point of southwestern corner of the Stewarts Landing Subdivision (Lot 2 Plat 2 Block B) and the northwestern corner of (Lot 1 Block B Plat 3 Dixon Property aka The Dixon Crossing Subdivision), thence generally east along the northern limits of the Dixon Crossing Subdivision to Church Road, then generally north along Church Road along the northwestern boundary of the Spring Meadows Subdivision then generally east to the intersecting points of the Consolidated Rail Corp. – Popes Creek Branch right-of-way and Old Annapolis Road (northeast corner of Pt. Parcel 62), then generally south along the western limit of the (N/F) Consolidated Rail Corp. – Popes Creek Branch Railroad right-of-way to the point where the right-of-way line intersects with the southeastern most plat line of the Westview Subdivision (Plat 4 Parcel A), thence departing westerly along the southern limits of Plat 3 and Plat 1, then north along the western limits of Plat 1 Block A, and Lot 2 and Lot 1 Block D – Plat Ref. 154001 to the right-of-way line of Church Road, thence running south along the eastern right-of-way line of Church Road to its intersection with the southwestern plat line of the Dixon Crossing Subdivision (Plat 1 Block A Lot 15), then generally following the southern limits of the Dixon Crossing Subdivision (aka the City boundary to the most southerly point of Plat 5 Parcel C), then generally north to the parcel’s intersection with the western limits of Parcel A Plat 5 (Church Road right-of-way); thence north along said right-of-way, back to the point of beginning.

District III – Part Two, is geographically defined as: the point of beginning where the City boundary intersects with the right-of-way line of MD 197 at the southeast corner of Parcel A-1 Plat One (Plat 7117021) – just north of London Lane; thence running south on MD 197 to the point where the right-of-way line of MD 197 intersects with the right-of-way line of John Hanson Highway (Rt. 50), thence running east on John Hanson Highway to the point where the right-of-way line of John Hanson Highway intersects with the right-of-way line of Crain Highway (Rt. 301), thence running south on Crain Highway towards the point where the right-of-way line of Crain Highway intersects with the right-of-way line of Governor Bridge Road, thence running easterly along the centerline of Governor Bridge Road to the point where the right-of-way line of Governor Bridge Road intersects with the southwest corner of Plat 8 Parcel R (Plat 179068) of the Longleaf Subdivision, thence north along said subdivision line (aka the City boundary); then in an easterly direction along the City boundary following the northeastern plat lines of (Plat 8 Parcel R, Plat 7 Parcel Q, Plat 6 Pt. of Parcel K, Plat 17 [Longleaf Re-subdivision aka Patuxent Overlook] Block J Lot 8, Plat 18 Block B Parcel J [aka Patuxent Overlook] to the Patuxent River aka the City boundary limits which is contiguous with the eastern limits of Prince Georges County; then south along the said City boundary aka the eastern plat line of Plat 201002 (Parcel Plat 18 B Block J Longleaf aka Patuxent Overlook); thence south along the City boundary aka the southern plat line of Parcel J Block J (Plat 175046) aka Patuxent Overlook; thence running west along the southern limits of the longleaf subdivision line, thence southeast along the City boundary; thence westerly then north westerly (including the entirety of Parcels C and A Plat 182081) towards the point where the City boundary intersects with the eastern right-of-way line of Crain Highway, thence running north along said right-of-way, then west along the City boundary, then south along the Crain Highway eastern right-of-way to a point located approximately 255 feet north of the southern end of the 358.35 ARC foot plat line of Parcel A “Parcel A Charles Carroll Subdivision”, the City boundary departs from said point and crossing the Robert Crain Highway (US 301), following the northeastern parcel lines of Parcel 18 and 19 (L. 10472 F. 47) and Parcel 57 for approximately 1,538 feet; thence the City boundary turns in a southwesterly direction following the eastern parcel limits of Parcel 57 for approximately 1,515 feet, thence the City boundary turns southeast for approximately 1,065 feet following the eastern limits of Parcels 28, 52 and 58; thence the City boundary turns southwest following the
common parcel lines of Parcel 58 and Parcel 29 for approximately 1,604 feet to a common intersecting point with the Mill Branch Road right-of-way; thence following the eastern limits of the Mill Branch Road right-of-way in a generally north western direction approximately 875 feet to its intersection with the truncated right-of-way of (US 301) to the point where the City boundary line intersects the right-of-way line of Crain Highway and the right-of-way line of Excalibur Road, thence running west on Excalibur Road to the point where the right-of-way line of Excalibur Road intersects with the right-of-way line of Mitchellville Road, and running southwest on Mitchellville Road to the point where the right-of-way line on Mitchellville Road intersects with the right-of-way line of Mt. Oak Road, thence running west on Mt. Oak Road to the point where Mt. Oak Road intersects with eastern right-of-way of the (N/F) Consolidated Rail Corp. – Popes Creek Branch; thence running south on (N/F) Consolidated Rail Corp. – Popes Creek Branch to its intersection with the southeastern corner of Plat 4 Parcel ‘A’ (Plat 158061) Tall Oaks Estates (aka Woodmore Estates); thence westerly along the subdivision line of Tall Oaks Estates (aka Woodmore Estates) to its intersection with center line of the right-of-way line of Church Road (the City boundary); thence running north, then generally in an easterly bearing along the City boundary to the point where the City boundary intersects with Mount Oak road (northeast corner of Lot 2 Plat 5 Plat 158062); thence east along Mount Oak Road where the City boundary departs to the north and follows the western plat line of Parcel ‘B’ (Plat 158065) to its intersection with the rear lot line of Lot 15 Block C (Mount Oak Manor Subdivision, Plat 153018); thence the City boundary follows a generally easterly bearing along the perimeter of the aforementioned subdivision, thence running north along the (N/F) Consolidated Rail Corp. – Popes Creek Branch to the point where the City boundary departs to the west along the perimeter subdivision boundary of Woodmore Highlands, to its intersection with Church Road right-of-way, then north along said boundary, then easterly along said boundary to its intersection with the southern corner of Lot 3 (Rodenhouser Property Plat 196018), thence northwest, then southeast along the perimeter of Plat 196018 to its intersection with the (N/F) Consolidated Rail Corp. – Popes Creek Branch right-of-way; then running north and then east crossing Route 50 and continuing west along the southwestern plat line of Princeton Square (Plat 121058); thence north along said plat line, then departing to the west along the southern plat line of Olde Stage Knolls (Plat 164027); thence west and then north along the City boundary including Lots 1-7 (Colman Subdivision Plat 212030) easterly crossing Heatherstone Drive, thence north, then easterly along the northern perimeter of Plats 125084, 125085, 125087, 125088, then south along the City boundary where it departs to the east crossing Parcel M. 54-P 22 and intersecting with the north western corner of parcel 9 Princeton Square Addition, (Plat 123066); thence the City boundary follows the exterior plat lines of Princeton Square Addition and Princeton Square back to back to the point of beginning.

Council District IV - includes the neighborhoods of Amber Meadows, Amber Meadows II, Ashleigh, Ashleigh Station, Collington Manor, Collington Ridge, Collington Station, Covington (South of Excalibur Road), Devonshire Estates, Glen Allen, Graystone, Grovehurst, Lake Village Manor, Mitchellville East, Oaktree, Peach Preserve, Pointer Ridge, Ridgeview Estates, Tall Oaks Crossing, Ternberry, Woodmore at Oak Creek, and Woodson Landing and inclusive of the following geographical areas defined as: from the point of beginning at the southern right-of-way line of Mt. Oak Road with its intersecting with the center line of the right-of-way line of Mitchellville Road, thence running north on Mitchellville Road towards the point where the right-of-way line of Mitchellville Road intersects with the right-of-way line on Excalibur Road, thence going east on Excalibur Road towards the point where the right-of-way line of Excalibur Road intersects with the right-of-way line of Crain Highway (Rt. 301), thence running south on Crain Highway to the point where the right-of-way line of Crain Highway intersects with the City boundary, and running west then south along the City boundary to the point where the City boundary intersects with the right-of-way line of Mitchellville Road, thence running east on Mitchellville Road towards the point where the right-of-way line of Mitchellville Road intersects with the right-of-way line of Pittsfield Lane, and running south on Pittsfield Lane towards the point where Pittsfield Lane runs towards the City boundary, thence running east along the City boundary to the point where the City boundary intersects with the right-of-way line of Crain Highway, thence running south on Crain Highway towards the point where the right-of-way
line of Crain Highway intersects with the City boundary, thence running west, south then east along the City boundary toward the point where the City boundary intersects with the right-of-way of Crain Highway and running south along Crain Highway towards the point where the west right-of-way line of Crain Highway intersects with the City boundary, thence running east, south and then west (inclusive of Parcel A Subdivision Plat 192085-aka The Lowes Property) to the point where it intersects with the west right-of-way line of Crain Highway, running south on Crain Highway towards the point where the right-of-way line of Crain Highway intersects with the right-of-way line of Central Avenue, and running west along Central Avenue to the point where the right-of-way line of Central Avenue intersects with Hall Road (MD Route 978), thence running northwesterly along Hall Road (inclusive of Part 2 Plat A-7852 – aka M-NCPPC) thence going west along Hall Road toward the point where Hall Road intersects with the City boundary, and running north then west along Hall Road (excluding Parcel D Plat 16400) to the point where the City boundary intersects with Devonwood Drive, thence running south along Devonwood Drive towards the point where the right-of-way line of Devonwood Drive intersects with the northern right-of-way line of Central Avenue (Rt. 214), thence running east on Central Avenue along its right-of-way to the point where said right-of-way intersects with the northeastern corner of Parcel B (Plat 2 Collington Station), thence the boundary follows a southerly bearing along the southwestern line of Parcel 8 (Consolidated Rail Corp. – Popes Creek Branch right-of-way line), to the southeastern corner of Parcel Z Block A – Collington Station, thence the City boundary follows a westerly bearing to the eastern right-of-way line of Church Road, thence along the said right-of-way line (exclusive of Parcel A Plat A-6899) to the southwestern corner of Parcel D Block A Plat 5 Twelve Oaks; thence east along said plat line to its intersection with Plat 3 Twelve Oaks of the same bearing, thence north thence west along said plat line to its intersection with Plat 2 Twelve Oaks; thence at its intersection with the northeastern corner of Parcel 71 Map Page 62, the City boundary turns in a northwesterly bearing along the northern line of Parcel 24, being bearing of the western limits of Parcel 70 (Church Road Park), said boundary follows the limits of Parcel 70 northwest, then west to its intersection with the eastern right-of-way line of Church Road; the City boundary following the same courses and distance of said right-of-way till the boundary of Parcel 70 turns to the east; thence the boundary follows the northern limits of Parcel 70, then turns southeast at its intersect with Plat 1 Block A Lot 10 (Ashleigh Plat 184061); then southeast along said plat line then east along said plat line to its intersection with the same bearing line as for Plat 2 (Ashleigh); thence northwest along the common plat line of Plat 2 and Plat 3 (Ashleigh); thence an eastern bearing along Plat 3 (Ashleigh) to its intersection with the same bearing line for Plat 4 (Ashleigh) to the Consolidated Rail Corp. – Popes Creek Branch right-of-way; thence north along said right-of-way to its intersection with the southern right-of-way of Mount Oak road, thence east along said right-of-way back to the point of beginning.

(Sec. 6-80 repealed in its entirety and re-enacted by O-7-12, adopted 6/18/12, effective 8/2/12)
RESERVED.

(Chapter 7 deleted by Ordinance O-4-11, adopted 3/7/11, effective 4/6/11).
8-1. County fire code adopted.

Sec. 8-1. County fire code adopted.

Fire Prevention Code for Prince George's County, Maryland as codified in Prince George's County Code, Subtitle 11 “Fire Safety”, Division 4 “Fire Prevention Code”, as amended from time to time is hereby made applicable and is enforceable in its entirety within the City, by the appropriate officials of Prince George's County.

(Chapter 8, Sec. 8-1 amended by O-5-11, adopted 3/7/11, effective 4/6/11)
ARTICLE I. MINI BONDS.

Section 9.1. City may borrow money. Pursuant to the authority of Sections 58 and 59 of the Charter (the "Charter") of the City, (codified as Sections 5-59 and 5-60 of the Code of Public Local Laws of Prince George's County (1963 Edition as amended and supplemented) it is hereby determined that, subject to the procedures and limitations hereinafter set forth, the City may from time to time borrow money and incur indebtedness for the public purpose of financing, on an interim, temporary or other short term basis, any portion of the costs of acquisition of machinery and equipment or of acquisition, development, construction, improvement, rehabilitation, furnishing and equipping public grounds, buildings or facilities, including the costs of acquisition of any property rights and any planning, feasibility, architectural and engineering services in connection therewith or incidental thereto.

Section 9.2. Public Facilities Bonds. To evidence such borrowing, the City, acting pursuant to the authority of the Charter and this Code, may issue and sell, from time to time, its general obligation bonds to be known as "Public Facilities Bonds" (the "Bonds") and the net proceeds of sale thereof to be used as provided in for in Section 9.1 above. The aggregate principal amount of the Bonds issued and outstanding hereunder at any one time shall not exceed Five Hundred Thousand Dollars ($500,000), and no Bond may be issued to mature more than five (5) years from its date of issue.

Section 9.3. Same--Issuance and Sale. The Bonds shall be issued and sold upon the full faith and credit of the City pursuant to a Resolution of the Council (the "Resolution") which may be introduced, read and finally passed at any regular or special public meeting of the Council, provided however, that the Resolution may not be finally passed until there has been published in a newspaper of general circulation in the City a notice stating that the City proposes to borrow money under the provisions of this and that the passage of a resolution for that purpose will be considered at a regular or special meeting of the Council to be held at the place, date and time stated in the notice and that such notice shall have been published not less than two (2) nor more than fourteen (14) days prior to the stated meeting.

Section 9.4. The Bonds shall bear interest at the rate or rates stated in the proposal of the successful bidder for the Bonds made in accordance with the terms and conditions of the published Notice of Sale. Interest shall be paid at whatever interval or time is prescribed in the Resolution. Each Bond shall bear interest from its date until maturity, subject to any prior redemption prescribed in the Resolution.

Section 9.5. Same--Execution. The Bonds shall be executed in the name of the City and on its behalf by the Mayor, whose signature may be by facsimile. The corporate seal of the City, or a facsimile of it, shall be imprinted on the Bonds, and attested by the manual signature of either the City Manager or of the City Clerk. In the event any official whose signature appears on the Bonds has become invalid after the date of issue or award thereof, the Bonds shall, nevertheless, be valid and legally binding obligations of the City in accordance with their terms.

Section 9.6. Form of Public Facilities Bonds. The Bonds shall be issued in substantially the following form, subject to the provisions of the Resolution and to such additions, deletions, substitutions or alterations as the Mayor may, consistent with the provisions of this Chapter and the Resolution, deem necessary or desirable in the sale of the Bonds.

$                      (Form of Bond)              No.

UNITED STATES OF AMERICA
STATE OF MARYLAND
THE CITY OF BOWIE

Public Facilities Bonds of 19 , (First) Issue.
Dated , 19

THE CITY OF BOWIE, a municipal corporation, of the State of Maryland ("Issuer"), hereby acknowledges itself indebted, and, for value received, promises to pay to the registered owner of this bond, the principal amount of Dollars (in installments as follows) on 19 , (unless called for prior payment as hereinafter provided) and to pay interest thereon, from the date of this bond until payment of said principal amount at the rate of per centum ( %) per annum on , 19, , and (semi-annually) thereafter on the first day(s) of (and) in each year to the registered owner until the principal amount hereof has been paid in full.

(Here insert maturity schedule, if applicable)

Both the principal of and interest on this bond will be paid in lawful money of the United States of America, at the time of payment, at (This Bond is one of a duly authorized issue or series of bonds of the Issuer aggregating $ in principal amount which are of the denomination of each on the first day of in the years 19 to , inclusive. These bonds are numbered from one consecutively upward in the order of their maturities and are of like tenor except as to maturity, number and interest rate.)

This Bond is issued pursuant to and in full conformity with the provisions of Sections 58 and 59 of the Charter of the Issuer, Ordinance No. adopted on ("Ordinance") and a Resolution adopted on ("Resolution").

(This Bond may be called for prior payment at par without premium or penalty upon notice mailed in writing to the registered owner at least thirty (30) days prior to the payment date.)

The full faith and credit of Issuer are hereby pledged to the prompt payment of the principal of and interest on this bond according to its terms and the Issuer does hereby covenant and agree to pay the principal of this bond and the interest thereon, at the dates and in the manner mentioned herein.

It is hereby certified and recited that all conditions, acts and things required by the Constitution or statutes of the State of Maryland, the Charter of the Issuer, the Ordinance and the Resolution to exist, to have happened or to have been performed precedent to or in the issuance of this bond, exist, have happened and have been performed, and that this issue of bonds, together with all other indebtedness of the Issuer, is within every debt and other limit prescribed by said Constitution or statutes or Charter.

IN WITNESS WHEREOF, this bond has been executed by the (manual) (facsimile) signature of the Mayor of the Issuer and (a facsimile of) the corporate seal of the Issuer has been imprinted hereon, attested by the manual signature of the (Clerk) (City Manager) of the Issuer, all as of

ATTEST: 

THE CITY OF BOWIE

Mayor
(Form of Assignment)

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfer unto the within bond and all rights thereunder, and does hereby constitute and appoint to transfer the within bond on the books kept for the registration thereof, with full power of substitution in the premises.

Dated: 

In the presence of:

Section 9.7. a) Public Sale of Bonds. The Bonds shall be offered for sale at public sale at such place as the Resolution prescribes. The Mayor, or in his absence, the City Manager, shall conduct the sale and shall sell and award the Bonds in the name of the City and on its behalf to the bidder therefor for
cash at no less than par whose bid is deemed to be the best responsible bid received in compliance with the terms and conditions of the Notice of Sale. The sale shall be made upon an Award signed by the Mayor of the City or, in his absence, by the City Manager. The Award shall also fix the interest rate or rates to be paid on the Bonds in accordance with the terms of the bid of the successful purchaser.

b) A Notice of Sale shall be published at least twice in a newspaper of general circulation in the City. The first publication shall be made not less than ten (10) days prior to the date of sale. The published Notice of Sale and the prescribed bid form shall be in substantially the following form, subject to the provisions of the Resolution and to such additions, deletions, substitutions or alterations as the Mayor may, consistent with the provisions of this Chapter and the Resolution, deem necessary or desirable in the sale of the Bonds.

(Form of Notice of Sale)

NOTICE OF SALE

THE CITY OF BOWIE, MARYLAND

$ PUBLIC FACILITIES BOND OF 19 __, (FIRST) ISSUE

SEALED BIDS will be received at __ until __ m. (E.T.) on __, 19 __ for the purchase of the above Bonds, dated __, 19 __, bearing interest payable (semi-annually) on the first day(s) of (and)

until maturity or call for prior redemption, and issued under the authority of a Resolution adopted by the City Council pursuant to the provisions of Sections 58 and 59 of the City Charter, the Laws of the State of Maryland and Ordinance No. __. The Bonds shall mature, subject to call for prior redemption on __ as follows:

<table>
<thead>
<tr>
<th>Year of Maturity</th>
<th>Annual Amount</th>
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<tbody>
<tr>
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<td>$</td>
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(etc., if applicable)

The proceeds of the sale of the Bonds will be used for the purpose of financing (Here Insert a Brief and Concise Description of the Facilities to be Financed with the Bond Sale Proceeds)

The principal of and interest on these Bonds will be payable in lawful money of the United States of America at the time of payment at __. The Bonds will be issued in registered form (in the denomination of __).

(The Bonds will be subject to prior payment at par without premium or penalty upon 30 days' prior written notice to the registered owner.)

Each bid must be submitted on the prescribed form which may be obtained from the Director of Finance at the Municipal Building, Bowie, Maryland and must be enclosed in a sealed envelope addressed to the City of Bowie, (Here Insert Address of Place at Which Bids Will Be Received), and marked on the outside "Proposal for Bonds", such bid to be accompanied by a certified check upon, or a cashier's or treasurer's check (or any other equivalent direct obligation) of, a responsible banking institution, payable to the "City of Bowie" in an amount equal to 2% of the par amount of the Bonds. The check of the successful bidder will be collected and the proceeds thereof retained by the City to be applied in part payment for the Bonds, and no interest will be allowed upon the amount thereof, but, in the event the successful bidder shall fail to comply with the terms of his bid, the proceeds of such check will be retained as and for full liquidated damages. The checks of the unsuccessful bidders will be returned promptly.

Any bid for the purchase of less than all of the Bonds will be rejected. The right is reserved to reject any and all bids.
Bidders must bid at least par for the Bonds and must specify the rate or rates of interest to be paid thereon in multiples of one-eighth (1/8) or one-tenth (1/10) of one per centum (1%). (Bidders may specify more than one rate interest to be borne by the Bonds, but the difference between the maximum and minimum rates may not be greater than 2%. Bidders may not specify more than one interest rate for the Bonds of any serial maturity. A zero rate cannot be named for any maturity.)

Bids will be opened promptly after (11:00 o'clock A.M. (E.D.T.)) , 19 . The award, if made, will be made promptly after the bids are opened to the bidder offering the lowest net interest cost to the City, to be determined by computing the total interest to maturity on all the Bonds and deducting therefrom the premium bid, if any; provided, however, that if two or more bidders offer to purchase the Bonds at the same lowest net interest cost, then such award may be made in a ratable portion among such bidders, with their consent, or the award may be made to one or the other of such bidders.

Upon payment of the amount of the successful bid, together with the accrued interest, less the deposit theretofore made, the Bonds will be delivered as soon as practicable, upon due notice and at the expense of the City, either in Bowie or Baltimore, Maryland. Delivery elsewhere will be at the expense of the purchaser.

The Bonds described herein are general obligation bonds of the City of Bowie, Maryland, and will constitute an irrevocable pledge of the full faith and credit and unlimited taxing power of the City.

The issuance of said Bonds will be subject to legal approval by and copies of their opinion will be delivered upon request, without charge, to the successful bidder for the Bonds. There will also be furnished the usual closing papers, including a certificate stating that there is no litigation pending affecting the validity of the Bonds.

Bid forms, financial information and other data relating to the City may be obtained by prospective bidders upon request to the Director of Finance, The City of Bowie, Municipal Building, Bowie, Maryland 20715.

By order of

THE CITY OF BOWIE
(Bid Form)

PROPOSAL FOR $ BOWIE PUBLIC FACILITIES BONDS

(Here Insert Date of Sale)
The City of Bowie
(Here Insert address of place of sale)
Dear Sirs:

We offer to purchase $        par amount Bowie Public Facilities Bonds described in the
published Notice of Sale, which is made a part of this Proposal, the bonds to bear interest at the rates per
annum shown below, and to pay $      ,
the par amount thereof, plus an amount equal to the interest thereon accrued to the date of payment of
the purchase price.

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<thead>
<tr>
<th>Year of Maturity</th>
<th>Principal Amount</th>
<th>Interest Rate</th>
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<td>(etc., if applicable)</td>
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We enclose herewith a certified, bank cashier's or treasurer's or equivalent check, payable to the
order of "The City of Bowie" in an amount equal to 2% of the par amount of the bonds, which check is
to be applied in accordance with the terms of the Notice of Sale.

(This is requested to expedite and facilitate prompt determination of best bid. It is not a part of
the proposal. The omission or inaccuracy of these figures will not affect the validity of the proposal.
The total net interest cost of this proposal is $___________
The effective rate of interest is ________________%.)

Section 9.8. (a) Resolution. Any Resolution adopted in accordance with Section 9.3 hereof may contain
any provision deemed necessary or appropriate in connection with the issuance, sale or delivery of
Bonds not inconsistent with the express provisions of this Chapter and shall contain the following
provisions:

1. The aggregate principal amount of bonds to be issued and sold pursuant to the Resolution;
2. A statement of the public purpose for which the proceeds of the Bonds are to be expended;
3. The denomination or denominations and the maturity or maturities of the bonds;
4. The place and time or times of payment of the Bonds and the interest thereon, and any prior
payment provisions different from those stated in this Chapter;
5. The place, date and time for offering the Bonds at public sale and receiving bids;
6. A statement of the insertions to be made in the forms of (i) the Bond, in conformity with
Section 9.6 hereof, and (ii) notice of sale and bid form to be used in connection with the sale of the
Bonds, in conformity with Section 9.8 hereof.

(b) The material appearing between (brackets) in the forms set forth in Sections 9.6 and 9.8 of this
Ordinance represents either material that may or may not be included in the forms applicable to any
specific issue of Bonds hereunder or instructions to the City Manager as to the type of material to be
inserted in the forms to be used in connection with any specific issue of Bonds hereunder, and the text
of such bracketed material is in no way intended to mandate the use of any particular language or
provision.

Section 9.9. Delivery of Public Facilities Bonds. As soon as practicable after the sale, the Bonds shall
be suitably prepared and delivered to the purchaser. The proceeds of the sale, including any premium
and accrued interest which may be received therefore, shall be paid directly to the City and shall be
deposited in the proper municipal accounts. There shall be deducted from the gross proceeds of the sale
any amount received on account of accruing interest, which amount shall be set apart in a separate fund
and applied to the first maturing interest payable on the Bonds. The balance of the proceeds of the sale
of the Bonds shall be used by the City exclusively and solely for the public purposes described in
Section 9.1 hereof and in the Resolution authorizing sale of that particular issue of bonds.

Section 9.10. Ad valorem taxes. For the purpose of paying the principal of and interest on the Bonds
when due, the City, in addition to the allocation for such purpose of any funds received from any other
source, shall, if and when the aforesaid funds are or will be insufficient for such purpose, levy or cause to be levied, for each and every fiscal year during which any of the Bonds may be outstanding, ad valorem taxes upon all real and tangible personal property within its corporate limits subject to assessment for unlimited municipal taxation in a rate and amount sufficient to provide for the prompt payment of the principal of and interest on the Bonds maturing in each fiscal year and, in the event the proceeds from the collection of the taxes so levied may provide inadequate for such purpose in any fiscal year, additional taxes shall be levied in the subsequent fiscal year to make up any deficiency. The full faith and credit and unlimited taxing power of the City are hereby irrevocably pledged to the prompt payment of the maturing principal of and interest on the Bonds as and when the same respectively mature and to the levy and collection of the taxes hereinabove described as and when such taxes become necessary to provide sufficient funds to meet the debt service requirements of the Bonds. The City hereby covenants with each registered owner of any of the Bonds to take any action that may be appropriate from time to time during the period that any of the Bonds remain outstanding and unpaid to provide the funds necessary to make the principal and interest payments due thereon, and specifically to levy and collect the taxes hereinabove described.

Section 9.11. The City hereby covenants with each registered owner of any of the Bonds that (1) it will not make any use of the proceeds of the Bonds which would cause any of the Bonds to be an "arbitrage bond" within the meaning of Section 103(d)(2) of the Internal Revenue Code of 1954 and regulations applicable thereunder, and (2) it will comply with the requirements of that section and such regulations, as the same may be amended from time to time, as long as any of the Bonds remain outstanding.
CHAPTER 10
GARBAGE, TRASH AND REFUSE

10-1. Throwing, scattering, etc., sawdust, shavings, etc., upon vacant, etc., lots.

10-2. Littering Prohibited; Refuse from Excavations and Landscaping and Construction Work.

10-3. Collection and Disposal of Refuse and Household Trash.

10-4. Storage of Refuse Collection Receptacles

10-5. Requirements Relating to Commercial Receptacles.


10-7. Sweeping Into Gutters Prohibited.


10-10. Disposal of Water Pollutants in a Manner Likely to Carry Same Into Storm Drainage System.


10-12. Authority of City to Remove Accumulations of Litter When Owner Fails To Do So.


Sec. 10-1. Throwing, Scattering, etc., Sawdust, Shavings, etc., upon Vacant, etc., Lots.

It shall be unlawful for any person to throw, deposit, scatter, or drop, or cause to be thrown, deposited, scattered, or dropped, in or upon any vacant lot, City easement, or open space within the city, any refuse, branches, brush, leaves, grass clippings or other matter normally collected by the City refuse crews.

Sec. 10-2. Littering Prohibited; Refuse from Excavations and Landscaping and Construction Work.

(a) It shall be unlawful to litter the streets, roads, walks, parks, parking areas, recreation areas or other public areas within the City by causing or permitting to be discarded, dropped, spilled, scattered, leaked, thrown or let fall any paper, boxes, cans, bottles, refuse, trash, garbage, trimmings from lawns, hedges, shrubs or trees, or any fuel oil in the servicing of tanks, or any lubricating oil in the servicing or repair of motor vehicles or any earth clay, dirt, sod, gravel, broken stone, mortar, hay, straw, manure, shavings, sawdust, coal, ashes or any rubbish or loose material of any kind.

(b) It shall be unlawful for the owner of any land where excavation is being made, where excavated material is being deposited or where landscaping or construction work is being done, or for the owner, driver, operator, contractor, manager, agent, foreman, superintendent or person in charge or any truck, automobile, or other vehicle or any construction equipment to cause or permit any earth clay, dirt, sod, gravel, broken stone, mortar, hay, straw, manure, or any loose material of any kind to be placed, deposited, scattered, dropped, leaked, spilled, let fall from any truck, automobile or other vehicle or any construction equipment or to be tred by the wheels of such vehicles or equipment upon any street, road, sidewalk, crosswalk, curb, gutter or parking area.

(c) Every person having charge of building construction or renovations, either as owner or contractor, shall remove or cause to be removed, at the expiration of each working day, from the City sidewalks, gutters, and roadways adjacent to such building construction or renovation, all earth, sand, gravel, dirt, mortar, stones, broken brick, shavings, rubbish and all other litter that may have been deposited or accumulated thereon as a result of such building construction or renovation.

(Sec. 10-2 amended by O-3-21, adopted 8/2/21, effective 11/1/21)
Sec. 10-3. Collection and Disposal of Refuse and Household Trash.

A. Refuse containers shall be provided by the owner or occupant of a City residence. They shall be between ten (10) and thirty-two (32) gallons, made of metal or plastic, equipped with handles. They shall be kept sanitary and in good condition, shall not exceed a weight of fifty (50) pounds when filled and must be covered at all times. Refuse must be placed inside plastic bags that are tightly tied or otherwise sealed and placed inside refuse containers covered with tight fitting lids.

B. Refuse and household trash shall be placed for collection at the curb in front of the property, except that, for those properties whose rear property line abuts or is adjacent to an alley or public right of way where trash is collected from the rear of the property, refuse and household trash shall be placed at the curb in the rear of the property, but not in the street, alley or other public right of way. Refuse and household trash must be placed at the curb for collection by 7 a.m. on the scheduled collection day but no earlier than 5 p.m. of the prior day. Refuse and household trash placed at the curb after 7 a.m. on the scheduled collection day may not be collected.

C. Notwithstanding anything in this section to the contrary, property occupants may use refuse containers that have a capacity of 48 to 64 gallons if the containers are equipped with a metal bar in the center rear that will allow them to be lifted mechanically.

D. For purposes of this section, the term “refuse” shall mean, animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food and any items that attract animals or vermin, including wrapped diapers but not including unwrapped diapers or sewage, which the City will not collect.

E. For purposes of this section, the term “household trash” shall mean any waste material from the operation of a home not included within the definition of refuse. Household trash shall include bulk trash, mattresses entirely wrapped in plastic, furniture, non-metal cabinetry, wood or laminate countertops, non-metal plumbing fixtures, carpet and padding 4 feet in width or under that is rolled and tied on both ends, mirrors and glass from furniture taped on both sides, yard toys, similar non-metal items and waste building material from projects completed by the homeowner on the residential property, but shall not include yard waste, recycling or metal items, which the City collects separately, or asbestos, concrete, lumber, roof or siding shingles, windows, doors, drywall, tile, mirrors or glass from furniture not taped on both sides, carpet and padding exceeding 4 feet in width or not rolled and tied on both ends, dirt, sod, mulch, rocks, rubble, bricks, stones, unwrapped diapers or sewage, all of which the City will not collect.

F. Waste building materials to be collected with household trash must be placed in contractor bags or trash receptacles, each of which must weigh less than 50 lbs.

(Sec. 10-3 amended by O-3-21, adopted 8/2/21, effective 11/1/21)

Sec. 10-4. Storage of Refuse Collection Receptacles.

A. For purposes of this section, screening shall consist of fences and walls lower than 4’ in height and/or landscaping that collectively block direct visual access to an object from adjoining properties and public streets throughout the year.

B. Refuse receptacles shall be stored on residential property either in an enclosed structure or at the rear of each residence, except that:

1. In the case of an attached dwelling that has no side yard, where refuse collection is accomplished at the front curb, refuse receptacles may be stored in the front yard if screened from public view; and
2. Refuse receptacles may be stored in the side yard of the house, ten feet (10’) or more from the front corner of the side of the house on which the receptacles are stored.

C. Empty containers will not be returned to the storage location on the premises by City employees, and the owner or occupant of the premises shall return the empty containers to a permissible storage location prior to 10 p.m. on the day of collection.

(Sec. 10-4 amended by O-3-21, adopted 8/2/21, effective 11/1/21)
Sec. 10-5. Requirements Relating to Commercial Receptacles.

Commercial receptacles shall be maintained in a manner to prevent rodent access and harborage, in sanitary and structurally sound condition, secured in a manner so as to prevent the scattering or discharge of any contained refuse material.


A. The City provides for yard waste collection to all homes in the corporate limits every Wednesday without special request. “Yard waste” includes bagged grass and leaves, and twigs and branches tied securely in bundles. Branches can be no larger than three inches (3”) in diameter and no longer than four feet (4’) in length. Yard waste does not include bamboo, dirt, rocks, concrete, bricks, stumps, and landscape timbers. Yard waste may not be placed at the curb prior to 5 p.m. the Tuesday evening before the scheduled collection and must be at the curb no later than 7 a.m. on Wednesday morning. Yard waste must be placed in paper bags for collection and must be protected from precipitation before collection; the City will not collect wet yard waste.

B. The City provides for collection of metal items and up to 4 tires per calendar year from all homes in the corporate limits every Wednesday when requested. “Metal items” include household appliances, grills, bikes, hot water heaters, air conditioner units, and any other item that is 98% metal. Metal items do not include auto parts, metal fencing, propane tanks, fence posts, cylinders and drums or garden stakes. Residents must call the Public Works Department prior to Noon on the Tuesday before pickup to be on the special collection list. Items for special collection may only be placed at the curb between 5 p.m. on the Tuesday immediately before the special collection date and 7 a.m. on the Wednesday special collection date. Items placed at the curb after 7 a.m. on the scheduled collection day may not be collected.

C. The City provides collection of mixed (single stream) recycling items on certain days in each section of the City without special request. Items that will be collected for recycling include plastic, metal, and glass food and drink containers; paper; and cardboard. Residents are responsible for checking the City web site or contacting the Public Works Department for an updated list of items that may and may not be included in mixed recycling collection, as the list changes from time to time. Mixed recycling items must be placed in the City-provided recycling containers. Items for recycling collection may only be placed at the curb between 5 p.m. the day before scheduled collection date and 7 a.m. on the day of collection. Items placed at the curb after 7 a.m. on the scheduled collection day may not be collected.

(Sec. 10-6 amended by O-3-21, adopted 8/2/21, effective 11/1/21)

Sec. 10-7. Sweeping Into Gutters Prohibited.

No person shall sweep into or deposit in any gutter, storm drain, drainage swale, street or other public place within the City the accumulation of litter, grass clippings, brush, trees or tree limbs, trash and/or other debris from any public or private sidewalk, residence or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises passable, free of litter, tree limbs, bushes and other vegetable matter.

Sec. 10-8. Posting Notices Prohibited on Public Property.

No person shall post or affix any notice, poster or other paper or device calculated to attract the attention of the public to any public property, or upon any public structure or building, or light pole, except as may be authorized or required by law.

Sec. 10-9. Disposal of Water Pollutants into Storm Drainage System.

Supplement No. 68, Revision
It shall be unlawful to empty, throw, pour, discard, dump or otherwise dispose onto, into or upon any portion of the storm drainage system within the City any motor oil, solvents or water pollutants.

Sec. 10-10. Disposal of Water Pollutants in Manner Likely to Carry Same into the Storm Drainage System.

It shall be unlawful to empty, throw, pour, discard, dump, bury or otherwise dispose onto, into or upon the ground any water pollutants if such disposal will result in the water pollutant draining, flowing or otherwise being carried into any portion of the storm drainage system within the City.


The City Manager is hereby authorized to notify in writing the owner or the person responsible for the maintenance of property to remove or properly dispose of the litter from the subject property within ten (10) days, inclusive of Sundays and holidays, after the date of such notice. Such notice shall advise the owner or responsible person that the City shall take action and the owner or responsible person shall bear the cost if they fail to remove or properly dispose of the litter. For purposes of this section, the term "litter" shall mean any of the items covered by Section 10-2, Subsection (A) of this Chapter.

(Sec. 10-11 amended by O-3-21, adopted 8/2/21, effective 11/1/21)

Sec. 10-12. Authority of City to Remove Accumulations of Litter When Owner Fails To Do So.

(a) Failure, neglect or refusal of any owner or responsible person so notified to properly dispose of litter within the time frame specified in Section 10-11 after receipt of written notice shall constitute a violation and a municipal infraction will be issued.

(b) Upon failure to remove and properly dispose of the litter within the time specified, the litter shall be removed by the City and the cost thereof shall be charged to the person so failing unless good cause to the contrary is shown by filing objection in writing with the City Manager on or before the expiration date of such notice and the City Manager, in his sole discretion, accepts such cause.

(c) If the litter is not removed and properly disposed of within the specified time and no written objections have been filed, then the City Manager is authorized to incur the necessary expense in removing the litter, and shall place a charge against the property of the person who fails to remove or dispose of such litter for such cost and proceed to collect the same by entering same on the tax records as a tax upon such property or by suit for injunction or other relief if deemed necessary, or both.

Sec. 10-13. Penalty.

Violations of this Chapter are municipal infractions, subject to the penalty and enforcement provisions of Chapter 1, Sections 6 and 6A of this Code. (Sec. 10-13 amended by O-17-94, adopted 10/3/94).
CHAPTER 11
HEALTH AND SANITATION

11-1. Reserved.
11-2. Permit prerequisite to establishment of livery stable under certain conditions.
11-3. House refuse, offal, garbage, etc., organic wastes, etc., slops, greasy or soapy water, etc., prohibited.
11-4. Tobacco Products - distribution through vending machines.
11-5. Public Health Officer.
11-6. Access to Health Care Resources.
11-7. Penalties.

Sec. 11-1. Reserved.

Sec. 11-2. Permit prerequisite to establishment of livery stable under certain conditions.

It shall be unlawful for any person to establish within the City any livery stable nearer than two hundred feet (200') to any dwelling house without first having obtained the consent of all property owners within a radius of two hundred feet (200'), and without a permit so to establish, keep, or maintain such livery stable issued by the Council.

Sec. 11-3. House refuse, offal, garbage, etc., organic wastes, etc., slops, greasy, or soapy water, etc., prohibited.

No person shall place, collect, keep, or suffer to be on any property within the City any house refuse, offal, garbage, dead animal, decaying vegetable matter or organic wastes, substances, of any kind, nor any slops, greasy or soapy water, stagnant water, nauseous liquids or any other offensive matter, liquid or solid, liable to become a source of nuisance after exposure to the atmosphere or which by a stench or smell becomes a nuisance to the neighborhood or which becomes a breeding place for germs, or is liable to become a detriment to the public health.

Sec. 11-4. Tobacco Products - distribution through vending machines.

(a) Purpose. The City finds that: (1) Studies have shown that smoking by minors constitutes a serious health problem; (2) cigarette vending machines provide easy access to cigarettes for minors, increasing the opportunity to smoke and the resulting health risks to the minor and the general public; and (3) other local jurisdictions in this State have acted to reduce the ability of minors to obtain tobacco products by regulating the placement of cigarette vending machines in public places. The City therefore declares that: (1) The availability of cigarettes to minors through vending machines is detrimental to the public health, safety and welfare and is a public health hazard; and (2) vending machines shall be prohibited in public places accessible to minors within the City; and (3) operators or premises owners shall be required to obtain licenses from the City for placement of vending machines in approved non-accessible areas.
(b) Definitions. For the purpose of this section the following terms have the meanings indicated:

1. "Distribution" means the sale, dispensing, issuance or purchase for others of tobacco products.
2. "Minor" means an individual under 18 years of age.
3. "Operator" means and includes the person licensed by the State of Maryland to own, operate or service a vending machine (as herein defined) and its agents or employees.
4. "Owner" means and includes the owner or lessee of any premises on which vending machines are located and any manager, agent or employee of the owner.
5. "Person" means any natural person, corporation, partnership, firm, organization or other legal entity.
6. "Public place" means any area to which the public is invited or permitted.
7. "Tobacco product" means any substance which contains tobacco, including but not limited to cigarettes, cigars, smoking tobacco and smokeless tobacco.
8. "Vending machine" means any mechanical, electronic or other similar device which dispenses tobacco products.

(c) Persons responsible. Owners and operators shall be jointly liable for maintaining a vending machine in violation of this section.

(d) Licenses required.

1. A vending machine shall not be placed or permitted to remain in the City in a public place unless a license for its location has been obtained from the City.
2. The license shall be renewed annually and a separate license shall be required for each vending machine location.
3. Applications for licenses shall be made by owners or operators to the City Manager on forms furnished by the City.
4. A fee of twenty-five dollars ($25) shall be charged for each license and renewal thereof in order to defray administrative costs.
5. The application shall include such information as is necessary for the City to determine where the vending machine will be located and that the requested location is not generally accessible to minors. Plans or drawings and a statement of how the location will be monitored or controlled to exclude access to minors will be required.
6. Upon approval, the City shall issue a license for the placement of a vending machine at a specified location. The license shall identify the location, the owner and the operator of the vending machine.

(e) License restrictions.

1. No license shall be issued for placement of a vending machine except in locations which are not generally accessible to or frequented by minors, including by way of example, bars, cocktail lounges, and private clubhouses for members of fraternal or civic organizations not operated as public businesses or open to the general public.
2. Notwithstanding the foregoing, no license shall be issued for a vending machine which is:
   i. Located in an unmonitored coat room, restroom, outer waiting area, or similar unattended or unmonitored area of such establishments; or
   ii. Accessible to the public when the establishment at which the vending machine is located is closed.
   iii. Located in an area which is less than twenty five (25) feet from any point of public ingress to or public egress from the establishment.
(f) Display of license. The license shall be displayed on the vending machine or posted conspicuously in its immediate vicinity.

(g) Revisions. If distributions to minors occur from licensed vending machines, the City may require licensees to relocate the machine and apply to revise the license.

(h) Revocation.

(1) The City Manager may revoke or refuse to renew a license for one or more of the following reasons: Repeated distributions of tobacco products to minors from a vending machine; placing a vending machine in a public place without a license or in an unlicensed location; failure to pay any civic penalty for violations of this section unless otherwise adjudicated.

(2) The City Manager shall inform the applicant in writing of the denial, revocation, or nonrenewal of any license. Upon receipt of the notice, the applicant may request review of the decision by Administrative Review Board in accordance with the provision of Chapter 1A of the Code.

(i) Violations and penalties. The following shall constitute violations of this section and shall be subject to the provisions of Section 11-5 of this Chapter: Failure to obtain or renew a license, placing a vending machine in an unlicensed location, and failure to display the license. A person cited for a violation of this section may request to have the violation reviewed by the Administrative Review Board as provided in Sections 1-6 and Chapter 1A of the City Code.

(j) Regulations. The City Manager, with the approval of the City Council, may promulgate reasonable regulations to carry out the provisions of this Chapter. (Sec. 11-4 added by O-1-91, adopted 4/15/91, effective 5/15/91)

Sec. 11-5. Public Health Officer.

(a) The City Council may from time to time appoint a Public Health Officer who shall serve for such term as the City Council deems appropriate and shall receive such compensation as the City Council sets from time to time by ordinance. He or she shall serve at the pleasure of the City Council.

(b) The Public Health Officer shall hold a medical degree from an institution accredited in the United States or an advanced degree in Public Health Administration and shall have at least three years of relevant experience in a public health capacity.

(c) The Public Health Officer shall:

1. Make recommendations to the City Council relating to the protection and preservation of the health of the City's residents;
2. Enforce such laws and regulations as the City Council may from time to time adopt to prevent the introduction of contagious diseases into the City or the further spread of such contagion, including quarantine and isolation regulations; and
3. Enforce such laws and regulations as the City Council may from time to time adopt relating to the removal and confinement of persons having contagious or infectious diseases; and
4. Enforce such laws and regulations as the City Council may from time to time adopt to prevent and remove health-related nuisances; and
5. Enforce such laws and regulations as the City Council may from time to time adopt providing for the inspection of buildings, structures or places that cause or may cause or contribute to conditions detrimental to the public health.

(d) In order to accomplish the purposes of this Section, the Public Health Officer shall be designated as a Code Enforcement Officer and vested with the authority to issue municipal infraction citations as set forth in Section 1-6 of the City Code and to provide evidence in the trial of any such citation or in any other action or matter arising...
in connection, including an injunctive action brought pursuant to Section 1-6A of the City Code. The Public Health Officer is further authorized to seek the assistance of City Attorney to procure administrative warrants for the inspection of buildings or structures if necessary to the performance of his or her duties under this Section. (Sec. 11-5 enacted by O-3-20, adopted 5/27/20, effective 6/26/20).

Sec. 11-6. Access to healthcare Resources.

(a) The owner and/or manager of any residential structure that is used for habitation primarily by persons over the age of 55 or by persons who are medically fragile and who receives rent or other compensation for housing such persons may not prevent any resident of such habitation from gaining access to healthcare resources provided by or through a Federal, State or Local governmental authority or in conjunction with any program established by such governmental authority.

(b) The Public Health Officer, or in the event of a vacancy is said office, a Code Enforcement Officer is authorized to inspect any residential structure used for habitation primarily by persons over the age of 55 or by persons who are medically fragile to investigate a complaint by any resident of such habitation or by such persons’ immediate family member or other authorized caregiver or by any representative of any entity acting under Federal, State, or Local government authority or pursuant to a program established by such governmental authority of a violation of Subsection (a) of this Section.

(c) The Public Health Officer may apply to a court of competent jurisdiction for an administrative warrant to enter upon and inspect such premises if access is not granted voluntarily by the owner of the premises or an agent of the owner.

(d) The owner of a habitation covered by this Section shall make available to the Public Health Officer a copy of any agreement between any resident and the owner relating to the resident’s tenancy as may be requested by the Public Health Officer within forty-eight (48) hours of a request by the Public Health Officer. The document shall be treated as strictly confidential by the Public Health Officer and shall be destroyed and disposed in a secure manner after it is no longer necessary to the performance of the duties of the Public Health Officer.

(e) A violation of subsection (a) or (d) of this Section is a municipal infraction, subject to a fine of $500.00 per incident. Every day that a violation continues shall constitute a separate offense. A violation with respect to any resident shall constitute a separate incident. (Sec. 11-6 enacted by O-3-20, adopted 5/27/20, effective 6/26/20).

Sec. 11-7. Penalties.

Violations in this Chapter are municipal infractions, subject to the penalty and enforcement provisions of Chapter 1, Section 6 and 6A of this Code. The penalties for violating sections of this Chapter shall be One Hundred Dollars ($100.00) for the first offense and Four Hundred Dollars ($400.00) for every subsequent offense. (Sec. 11-5 amended by O-17-94, adopted 10/3/94).

(Sec. 11-1 deleted by O-6-98, adopted 2/17/98, effective 3/18/98).

(Sec. 11-5 renumbered to Sec. 11-7 by O-3-20, adopted 5/27/20, effective 6/26/20).
CHAPTER 12

CABLE COMMUNICATIONS

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12-1 General provisions
   A. Title.
   This Chapter shall be known and may be cited as the "City Cable Communications
   Regulatory Code."
   B. Effective date and repealer.
   The provisions of this Chapter shall take effect and be in force from and after passage.
   All prior ordinances or parts of ordinances in conflict with the provisions of this Chapter are
   repealed as of that date.
   C. Findings and purpose.
      (1) The City Council finds that the further development of cable communications
      may result in great benefits for the people of the City. Cable technology is rapidly changing, and
      cable plays an essential role as part of the City's basic infrastructure. Cable television systems
      occupy and extensively make use of scarce and valuable public rights-of-way, in a manner
      different from the way in which the general public uses them, and in a manner reserved primarily
      for those who provide essential services to the public subject to special public interest obligations,
      such as utility companies. The City Council finds that public convenience, safety, and general
      welfare can best be served by establishing regulatory powers vested in the City Council or such
      persons as the City Council so designates to protect the public and to ensure that any franchise
      granted is operated in the public interest.
      (2) The City further finds that cable systems have the capacity to provide not only
      entertainment and information services to the City's residents, but can provide a variety of broad
      and, interactive communications services to institutions and individuals.
      (3) In light of the foregoing, the following goals, among others, underlie the
      provisions set forth in this Chapter:
         (a) Cable service should be available to all City residents.
         (b) A cable system should be capable of accommodating both
             present and reasonably foreseeable future cable-related needs of the City.
         (c) A cable system should be constructed and maintained during a
             franchise term so that changes in technology may be integrated to the maximum extent possible
             into existing system facilities.
         (d) A cable system should be responsive to the needs and interests
             of the local community, and should provide a diversity of information sources and services to the
             public.
         (e) A cable operator should pay fair compensation to the City for the
             use of local public rights-of-way.
      (4) All provisions set forth in this Chapter shall be construed to serve the
      public interest and the foregoing public purposes, and any franchise issued pursuant to this
      Chapter shall be construed to include the foregoing findings and public purposes as integral parts
      thereof.
   D. Delegation of powers.
The City Council may delegate the performance of any act, duty, or obligation, or the exercise of any power, under this Chapter or any franchise agreement to any employee, officer, department or agency, except where prohibited by applicable law.

12-2 Definitions and word usage

A. Usage - general.

For the purposes of this Chapter, the terms, phrases, words, and abbreviations set forth in subsection B of this section shall have the meanings given therein, unless otherwise expressly stated. When not inconsistent with the context, words used in the present tense include the future tense; words in the plural number include the singular number, and words in the singular number include the plural number; and the masculine gender includes the feminine gender. The words "shall" and "will" are mandatory, and "may" is permissive. Unless otherwise expressly stated, words not defined herein shall be given the meaning set forth in Title 47 of the United States Code, as amended, and, if not defined therein, their common and ordinary meaning.

B. Definitions.

(1) Access channel: Any channel on a cable system set aside by a franchisee for public, educational, or governmental use.

(2) Affiliate: Any person who owns or controls, is owned or controlled by, or is under common ownership or control with a franchisee.

(3) Basic service: Any service tier that includes the retransmission of local television broadcast signals and/or public, educational, and governmental access signals.


(5) Cable service:
(a) The one-way transmission to subscribers of video programming or other programming services; and
(b) Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

(6) Cable system or system:
(a) A facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable television service which includes video programming and which is provided to multiple subscribers within the City, but such term does not include:
(1) A facility that serves only to retransmit the television signals of one or more television broadcast stations;
(2) A facility that serves subscribers without using any public rights-of-way;
(3) A facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act, except that such facility shall be considered a cable system if such facility is used in the transmission of video programming directly to subscribers;
(4) An open video system that complies with 47 U.S.C. § 573;
or
(5) Any facilities of any electric utility used solely for operating its electric utility system.
(b) Any part of a facility described in subsection B(6)(a) of this section, including, without limitation, converters.

(7) Channel: a six megahertz (mhz) frequency band, or equivalent capacity, which is capable of carrying either one standard video signal, a number of audio, digital or other non-video signals or some combination of such signals.

(8) City: The City of Bowie, Maryland, and any agency, department, or agent thereof.

(9) Reserved.

(10) Complaints: Statements from any subscriber, former subscriber, or other City resident expressing concern or dissatisfaction with any aspect of the cable system or the franchisee’s operations, including, without limitation, statements relating to employee courtesy.
(11) **Converter:** An electronic device which may serve as an interface between a system and a subscriber's television receiver or other terminal equipment, and which may perform a variety of functions, including signal security, descrambling, electronic polling, frequency conversion and channel selection.

(12) **Council:** The governing body of the City.

(13) **Customer:** Same as "subscriber."

(14) **Educational access channel or educational channel:** Any channel on a cable system set aside by a franchisee for educational use.

(15) **Fair market value:** The price that a willing buyer would pay to a willing seller.

(16) **FCC:** The Federal Communications Commission, its designee, or any successor governmental entity thereto.

(17) **Force majeure:** Severe or unusual weather conditions, strike, labor disturbance, lockout, war or act of war (whether an actual declaration of war is made or not), insurrection, riot, act of public enemy, action or inaction of any government instrumentality or public utility including condemnation, accidents for which franchisee is not primarily responsible, fire, flood, or other act of god, sabotage or other events to the extent that such causes or other events are beyond the reasonable control of the franchisee, and only to the extent that any such event affects franchisee's capacity to perform.

(18) **Franchise:** A non-exclusive authorization granted pursuant to this chapter to construct, operate, and maintain a cable system along the public rights-of-way to provide cable service within all or a specified area of the City. Any such authorization, in whatever form granted, shall not mean or include any general license or permit required for the privilege of transacting and carrying on a business within the City as required by the ordinances and laws of the City, or for attaching devices to poles or other structures, whether owned by the City or a private entity, or for excavating or performing other work in or along public rights-of-way.

(19) **Franchise agreement:** A contract entered into pursuant to this Chapter between the City and a franchisee that sets forth, subject to this Chapter, the terms and conditions under which a franchise will be granted and exercised.

(20) **Franchise area:** The area of the City that a franchisee is authorized or required to serve by its franchise agreement.

(21) **Franchisee:** A natural person, partnership, domestic or foreign corporation, association, joint venture, or organization of any kind that has been granted a franchise by the City.

(22) **Governmental access channel or governmental channel:** Any channel on a cable system set aside by a franchisee for government use.

(23) **Gross revenues:** Any and all cash, credits, property or other consideration of any kind or nature that constitute revenue in accordance with generally accepted accounting principles and that arise from or are attributable to, or in any way derived directly or indirectly by a franchisee or its affiliates, or by any other entity that is a cable operator of the franchisee's system to provide cable services except as hereinafter specifically excluded, and including, without limitation, to the extent derived from the operation of a franchisee's cable system to provide cable services in the City, monthly fees collected from subscribers from any basic, optional, premium, per-channel, per-program services, or cable programming service; installation, disconnection, reconnection, and change-in-service fees; fees, payments, or other consideration received from programmers for carriage of programming on franchisee's cable system; revenues from rentals or sales of converters or other equipment; studio rental; fees from third party unaffiliated programmers for leased access programming; production equipment, rental fee and personal fees, advertising revenues, net of normal agency commissions; revenues from the sale or carriage of other cable services; revenues from leased channel fees; late fees and administrative fees; fees, payments, or other consideration received from programmers for carriage of programming on the system; revenues from internet access services, revenues from home shopping and bank-at-home channels; and revenues from the sale of cable guides.

Gross revenues shall not include any taxes on services furnished by a franchisee which are imposed directly on any subscriber or user by the community or another governmental unit.
and which are collected by the franchisee on behalf of said governmental unit. A franchise fee is not such a tax.

Gross revenues shall not include (i) any consideration paid by the county to a franchisee for an institutional network ("i-net"), or any expense reimbursement paid by the county or its agents, or by peg users, to the franchisee; (ii) any compensation awarded to a franchisee based on the county's condemnation of property of the franchisee; (iii) any uncollected receipts (i.e., "bad debt"), provided, however, that all or any part of any such actual bad debt that is written off but subsequently collected shall be included in gross revenues in the period collected. Any amounts includable as gross revenues that are received by an affiliate or any other entity that is a cable operator of franchisee's cable system shall not be counted as gross revenues to the extent that such amounts are also received directly by the franchisee, to ensure that no such revenue is counted twice.

(24) Installation: The connection of system services to subscribers' television receivers or other subscriber-owned or provided terminal equipment.

(25) Leased access channel or commercial access channel: Any channel on a cable system designated or dedicated for use by a person unaffiliated with the franchisee.

(26) Net profit: The amount remaining after deducting from gross revenues all of the actual, direct and indirect, expenses associated with operating the cable system, including the franchise fee, interest, depreciation, and federal or state income taxes.

(27) Normal business hours: Those hours during which most similar businesses in the community are open to serve customers, including some evening hours at least one night per week and/or some weekend hours.

(28) Normal operating conditions: Those service conditions that are within the control of a franchisee. Conditions that are not within the control of a franchisee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe weather conditions. Conditions that are ordinarily within the control of a franchisee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of a cable system.

(29) OVS: An open video system that complies with 47 U.S.C. § 653, as amended.

(30) Peg: Public, educational and governmental.

(31) Person: An individual, partnership, association, joint stock company, organization, corporation, or any lawful successor thereto or transferee thereof, but such term does not include the City.

(32) Programmer: Any person or entity that produces or otherwise provides program material or information for transmission by video, audio, digital or other signals, either live or from recorded traces or other storage media, to users or subscribers by means of a cable system.

(33) Public access channel: Any channel on a cable system set aside by a franchisee for use by the general public, including groups and individuals, and which is available for such use on a non-discriminatory basis.

(34) Public rights-of-way: The surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, park, parkway, waterway, easement, or similar property within the City, which, consistent with the purposes for which it was dedicated, may be used for the purpose of installing and maintaining a cable system. No reference herein, or in any franchise agreement, to a "public right-of-way" shall be deemed to be a representation or guarantee by the City that its interest or other right to control the use of such property is sufficient to permit its use for such purposes, and a franchisee shall be deemed to gain only those rights to use as are properly in the city and as the City may have the undisputed right and power to give.

(35) Public service corporation: Any non-profit, tax exempt organization that has as its primary purpose the provision of services of education, health, civic, charitable, or similar nature on a city-wide basis.

(36) Security fund: A performance bond, letter of credit, or cash deposit, or any or all of these, to the extent required by a franchise agreement.
(37) Service interruption: Loss of picture or sound on one or more cable channels, as described in FCC regulations as of December 1, 1998.

(38) Subscriber: Any person who legally receives any service delivered over a cable system.

(39) Transfer: Any transaction in which:
(a) Any ownership or other right, title, or interest cognizable under FCC regulations of more than ten percent (10%) in a publicly-traded corporation controlling a franchisee, its cable system, or any person that is a cable operator of the cable system (or in the franchisee itself, if it is a publicly-traded corporation) is transferred, sold, assigned, leased, or sublet, directly or indirectly, to an entity that does not presently control the franchisee; or
(b) Any ownership or other right, title, or interest cognizable under FCC regulations of twenty percent (20%) or more in an entity other than a publicly-traded corporation controlling a franchisee, its cable system, or any person that is a cable operator of the cable system (or in the franchisee itself, if it is an entity other than a publicly-traded corporation) is transferred, sold, assigned, leased, or sublet, directly or indirectly, to an entity that does not presently control the franchisee; or
(c) There is any transfer of control of a franchisee; or
(d) A franchise is transferred to another entity; or
(e) Any change or substitution occurs in the managing general partners of a franchisee, where applicable; or
(f) A franchisee, or its corporate parents at any level, enter into any transaction that materially increases the debt that is to be borne by the system directly or indirectly, in a manner that creates a risk of an adverse effect on system rates or services.

"Transfer" shall not include transactions in which a franchisee is reorganized within another corporation owned, owning, or commonly controlled with the franchisee, if such transaction does not materially affect the ultimate control of the franchisee or the sources and amounts of funds available to the franchisee. The term "control" for purposes of this definition means the legal or practical ability to exert actual working control over the affairs of the franchisee, either directly or indirectly, whether by contractual agreement, majority ownership interest, any lesser ownership interest, or in any other manner.

(40) User: A person or organization using a channel or equipment and facilities for purposes of producing or transmitting material, as contrasted with the receipt thereof in the capacity of a subscriber. (Sec. 2-2 amended by O-8-09, adopted 10/5/09, effective 10/21/09).

12-3 Grant of franchise
A. Grant.
   (1) The City may grant one or more cable franchises, and each such franchise shall be awarded in accordance with and subject to the provisions of this Chapter.
   (2) Franchises shall be granted by action of the Council pursuant to applicable law.
   (3) No person may construct or operate a cable system without a franchise granted by the City. No person may be granted a franchise unless such person has entered into a franchise agreement with the City pursuant to this Chapter.
   (4) The definition of "cable system" contained in Section 12-2 of this Chapter shall not be deemed to circumscribe or limit the valid authority of the City to regulate or franchise the activities of any other communications system or provider of communications services to the full extent permitted by law.
   (5) Notwithstanding the definition of "cable system" contained in Section 12-2 of this Chapter, any franchise agreement shall define the services any franchisee is authorized to use the public rights-of-way to provide and that agreement shall supersede any inference to the contrary which may arise from the definition of "cable system" contained in Section 12-2 of this Chapter.
B. Term of franchise.
   No franchise shall be granted for a period of more than fifteen (15) years, except that a franchisee may apply for renewal or extension pursuant to applicable law.
C. Franchise characteristics.
   (1) A franchise authorizes use of public rights-of-way for installing cables, wires, lines, optical fiber, underground conduit, and other devices necessary and appurtenant to the operation of a cable system to provide cable service within a franchise area, but does not expressly or implicitly authorize a franchisee to provide service to, or install a cable system on, private property without owner consent (except for use of compatible easements pursuant to § 621 of the Cable Act, 47 U.S.C. § 541(a)(2) and common law), or to use publicly or privately owned conduits without a separate agreement with the owners.
   (2) A franchise shall constitute both a right and an obligation to provide the cable services regulated by the provisions of this Chapter and the franchise agreement.
   (3) A franchise is non-exclusive and will not explicitly or implicitly preclude the issuance of other franchises to operate cable systems within the City; affect the City's right to authorize use of public rights-of-way by other persons to operate cable systems or for other purposes as it determines appropriate; or affect the City's right to itself construct, operate, or maintain a cable system, with or without a franchise.
   (4) All privileges prescribed by a franchise shall be subordinate to (without limitation) the City's use and any prior lawful occupancy of the public rights-of-way.
   (5) The City reserves the right to designate where a franchisee's facilities are to be placed within the public rights-of-way and to resolve any disputes among users of the public rights-of-way.

D. Franchisee subject to other laws, police power.
   (1) A franchisee shall at all times be subject to and shall comply with all applicable federal, state, and local laws. A franchisee shall at all times be subject to all lawful exercise of the police power of the City, including all rights the City may have under 47 U.S.C. § 552. Nothing in a franchise agreement shall be deemed to waive the requirements of the various codes and ordinances of the City regarding permits, fees to be paid, or manner of construction.
   (2) No course of dealing between a franchisee and the City, or any delay on the part of the City in exercising any rights hereunder, or any acquiescence by the City in the actions of a franchisee that are in contravention of such rights (except to the extent such rights are expressly waived by the City) shall operate as a waiver of any such rights of the City.
   (3) The City may, from time to time, issue such reasonable rules and regulations concerning cable systems as are consistent with applicable law.

E. Interpretation of franchise terms.
   (1) The provisions of this Chapter and any franchise agreement will be liberally construed in favor of the City in order to effectuate their purposes and objectives and to promote the public interest.
   (2) Subject to federal law or regulation, a franchise agreement will be governed by and construed in accordance with the laws of the State of Maryland.

F. Operation of a cable system without a franchise.
   (1) Effect.
      Any person who occupies the public rights-of-way of the City for the purpose of operating or constructing a cable system or an OVS and who does not hold a valid franchise (or other authority allowing such entity to be in the public rights-of-way to provide video services) from the City shall nonetheless, to the extent allowable by law, be subject to all provisions of this Chapter, including but not limited to its provisions regarding construction and technical standards and franchise fees.
   (2) Remedy.
      Any person who occupies the public rights-of-way of the City for the purpose of operating or constructing a cable system or an OVS and who does not hold a valid franchise shall apply for a franchise within thirty (30) days of receipt of a written notice by the City that a franchise agreement is required. The City may, in its discretion, require such person to remove such person's property and restore the area to a condition satisfactory to the City within a reasonable time period, as the City shall determine; remove the property itself and restore the area to a satisfactory condition and charge the person the costs therefor; and/or take any other action it is entitled to take under applicable law, including filing for and seeking damages under trespass.

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no event shall a franchise be created unless it is issued by action of the City Council and subject to a written franchise agreement.

G. Acts at franchisee's expense.

Any act that a franchisee is or may be required to perform under this Chapter, a franchise agreement, or applicable law, including but not limited to removal, replacement, or modification of the installation of any of its facilities and restoration to City standards and specifications of any damage or disturbance caused to the public rights-of-way as a result of its operations or construction on its behalf, shall be performed at the franchisee's expense, unless expressly provided to the contrary in this Chapter, the franchise agreement, or applicable law.

H. Eminent domain.

Nothing in this Chapter shall be deemed or construed to impair or affect, in any way or to any extent, the City's rights of eminent domain to the extent to which they may apply to any public utility or cable system.

12-4 Franchise applications.

A. Application required.

(1) A written application shall be filed with the city for grant of an initial franchise or modification of a franchise agreement pursuant to 47 U.S.C. § 545.

(2) To be acceptable for filing, a signed original of the application shall be submitted together with twelve (12) copies. The application must be accompanied by any required application filing fee, conform to any applicable request for proposals, and contain all required information. All applications shall include the names and addresses of persons authorized to act on behalf of all applicants with respect to the application.

(3) All applications accepted for filing shall be made available by the City for public inspection.

B. Application for grant of an initial franchise.

(1) A person may apply for an initial franchise by submitting an application containing the information required in subsection (c) of this section. Upon receipt of such an application, the City may either:

(a) Evaluate the application pursuant to subsection B(3), conducting such investigations as it deems necessary; or

(b) Issue a request for proposals ("RFP"), after conducting, if necessary, a proceeding to identify the future cable-related needs and interests of the community. Any such RFP shall be mailed to the person requesting its issuance and made available to any other interested party. The RFP may contain a proposed franchise agreement.

(2) An applicant shall respond to an RFP by filing an application within the time directed by the City, providing the information and material set forth in subsection (c) of this section. The procedures, instructions, and requirements set forth in the RFP shall be followed by each applicant. Any applicant that has already filed materials pursuant to subsection B(1) of this section need not refile the same materials with its RFP response, but must amplify its application to include any additional or different materials required by the RFP. The City or its designee may seek additional information from any applicant and establish deadlines for the submission of such information.

(3) In evaluating an application for a franchise, the City shall consider, among other things, the following factors:

(a) Whether, and the extent to which, the applicant has substantially complied with the applicable law and the material terms of any existing cable franchise for the City;

(b) Whether the quality of the applicant's service under any existing franchise in the City, including signal quality, response to customer complaints, billing practices, and the like, has been reasonable in light of the needs and interests of the communities served;

(c) Whether the applicant has the financial, technical, and legal qualifications to provide cable service;

(d) Whether the application satisfies any minimum requirements established by the City and is otherwise reasonable and likely to meet the future cable-related needs of the community.
needs and interests of the community, taking into account the cost of meeting such needs and interests;

(e) Whether, to the extent not considered under subsection B(3)(d) of this section, the applicant will provide adequate peg access channel capacity, facilities, or financial support;

(f) Whether issuance of a franchise is warranted in the public interest, considering the immediate and future effect on the public rights-of-way and private property that would be used by the cable system, including the extent to which installation or maintenance as planned would require replacement of property or involve disruption of property, public services, or use of the public rights-of-way; the effect of granting a franchise on the ability of cable to meet the cable-related needs and interests of the community; and the comparative superiority or inferiority of competing applications.

(g) Whether, and to what extent, granting the application will have effects on competition in the delivery of cable service in the City.

(h) Whether an applicant has filed materially misleading information in its application or has intentionally withheld information that the applicant lawfully is required to provide.

(4) The City shall provide an opportunity to an applicant to show that it would be inappropriate to deny it a franchise by virtue of the particular circumstances surrounding the matter and the steps taken by the applicant to cure all harms flowing therefrom and prevent their recurrence, the lack of involvement of the applicant's principals, or the remoteness of the matter from the operation of cable systems.

(5) If the City finds that it is in the public interest to issue a franchise, considering without limitation the factors set forth in subsection B(3) of this section, and subject to the applicant's entry into an appropriate franchise agreement, it shall issue a franchise.

(6) If the City does not find that it is in the public interest to issue a franchise, considering without limitation the factors set forth in subsection B(3) of this section, it shall deny the franchise application, in which event the City shall issue a written decision explaining why the franchise was denied.

(7) Prior to deciding whether or not to issue a franchise, the City may hold one or more public hearings or implement other procedures under which comments from the public on an application may be received. The City also may grant or deny a request for a franchise based on its review of an application without further proceedings and may reject any application that is incomplete or fails to respond to an RFP.

(8) This Chapter is not intended and shall not be interpreted to grant any party standing to challenge the denial of an application or the issuance of a franchise unless such standing is necessary to enforce a party's rights under its franchise agreement or applicable law.

C. Contents of application.

An RFP for the grant of an initial franchise shall require, and any such application shall contain, at a minimum, the following information:

(1) Name and address of the applicant and identification of the ownership and control of the applicant, including: The names and addresses of the ten (10) largest holders of an ownership interest in the applicant and affiliates of the applicant, and all persons with five (5) percent or more ownership interest in the applicant and its affiliates; the persons who control the applicant and its affiliates; all officers and directors of the applicant and its affiliates; and any other business affiliation and cable system ownership interest of each named person.

(2) A demonstration of the applicant's technical ability to construct and/or operate the proposed cable system, including identification of key personnel.

(3) A demonstration of the applicant's legal qualifications to construct and/or operate the proposed cable system, including but not limited to representations, and factual documentation supporting such representations, regarding each of the following items:

(a) Whether an applicant has had previous requests for a franchise denied by the City or other franchising authorities.

(b) Whether the applicant has the necessary authority under Maryland law to operate a cable system.
(c) Whether the applicant has the necessary authority under federal law to hold the franchise and operate a cable system and that the applicant has, or is qualified to obtain, any necessary federal franchises or waivers required to operate the system proposed.

(d) Whether, at any time during the ten (10) years preceding the submission of the application, the applicant or any officer, director, partner or major shareholder thereof was convicted of any act or omission of such character that the applicant cannot be relied upon to deal truthfully with the City and the subscribers of the cable system, or to substantially comply with its lawful obligations under applicable law, including obligations under consumer protection laws and laws prohibiting anticompetitive acts, fraud, racketeering, or other similar conduct.

(e) Whether any elected official of the City holds a controlling interest in the applicant or an affiliate of the applicant.

(4) A demonstration of the applicant’s financial qualifications to complete the construction and operation of the cable system proposed.

(5) A description of any prior experience in cable system ownership, construction, and operation, and identification of communities in which the applicant or any of its principals have, or have had, a cable franchise or any interest therein.

(6) Identification of the area of the City to be served by the proposed cable system, including a description of the proposed franchise area's boundaries.

(7) A detailed description of the physical facilities proposed, including channel capacity, technical design, performance characteristics, headend, and access facilities.

(8) Where applicable, a description of the construction of the proposed system, including an estimate of plant mileage and its location; the proposed construction schedule; and a description, where appropriate, of how services will be converted from existing facilities to new facilities.

(9) A demonstration of how the applicant will reasonably meet the future cable-related needs and interests of the community, including peg access channel capacity, facilities, or financial support to meet the community's needs and interests.

(10) If necessary, at the City's discretion, pro forma financial projections for the proposed franchise term, including a statement of projected income, and a schedule of planned capital additions, with all significant assumptions explained in notes or supporting schedules.

(11) Any other information that may be reasonably necessary to demonstrate compliance with the requirements of this Chapter.

(12) Any additional information that the City may reasonably request of the applicant that is relevant to the City's consideration of the application.

(13) An affidavit or declaration of the applicant or authorized officer certifying the truth and accuracy of the information in the application, acknowledging the enforceability of application commitments, and certifying that the application meets all federal and state law requirements.

(14) The City may, in its discretion and upon request of an applicant, waive in writing the provision of any of the information required by this subsection C.

D. Application for grant of a renewal franchise.

The renewal of any franchise to provide cable service shall be conducted in a manner consistent with section 626 of the Cable Act, 47 U.S.C. § 546, as from time to time amended.

E. Application for modification of a franchise.

An application for modification of a franchise agreement shall include, at minimum, the following information:

(1) The specific modification requested;

(2) The justification for the requested modification, including the impact of the requested modification on subscribers and others, and the financial impact on the applicant if the modification is approved or disapproved, demonstrated through, inter alia, submission of financial pro formas;

(3) A statement as to whether the modification is sought pursuant to section 625 of the Cable Act, 47 U.S.C. § 545, and, if so, a demonstration that the requested modification meets the standards set forth in 47 U.S.C. § 545;
(4) Any other information that the applicant believes is necessary for the City to make an informed determination on the application for modification; and
(5) An affidavit or declaration of the applicant or authorized officer certifying the truth and accuracy of the information in the application, and certifying that the application is consistent with all federal and state law requirements.

F. Public hearings.
An applicant shall be notified of any public hearings held in connection with the evaluation of its application and shall be given an opportunity to be heard. In addition, prior to the issuance of a franchise, the City shall provide for the holding of a public hearing within the proposed franchise area, following reasonable notice to the public, at which every applicant and its applications shall be examined and the public and all interested parties afforded a reasonable opportunity to be heard.

G. Acceptance of franchise.
Following approval by the City, any franchise granted pursuant to this Chapter, and the rights, privileges and authority granted by a franchise agreement, shall take effect and be in force from and after the first date on which both the franchisee and the City have accepted and signed the franchise agreement.

12-5 Filing fees.
A. Amount of fee.
To be acceptable for filing, any application of a type listed in subsection B of this section submitted after the effective date of this Chapter shall be accompanied by a nonrefundable filing fee of five thousand dollars ($5,000), payable to the City, to cover costs incidental to the awarding or enforcement of the franchise, as appropriate.
B. Applications for which fee is required.
(1) Application for an initial franchise or for issuance of an RFP;
(2) Application for renewal of a franchise;
(3) Application for modification of a franchise agreement;
(4) Application for approval of a transfer.
C. Reimbursement of expenses, payments not deemed franchise fees.
To the extent consistent with applicable law:
(1) The City may require the franchisee, or, where applicable, a transferor or transferee, to reimburse the City for its reasonable out-of-pocket expenses in considering the application, including consultants' fees;
(2) No payments made hereunder shall be considered a franchise fee, but shall be deemed to fall within one or more of the exceptions in 47 U.S.C. § 542(g)(2).

12-6 Provision of cable service
A. Availability of cable service.
A franchisee shall construct and operate its system so as to provide service, if requested, to all residences within City boundaries as they exist on the date of the franchise agreement. With respect to residences in areas of the City annexed thereafter, a franchisee shall construct and operate its systems so as to provide service to all parts of its franchise area having a density of at least twenty (20) residences per mile of system. In addition, all areas which reach such density at any time during the franchise term shall be provided service upon reaching the minimum density.
B. Line extension requirement.
(1) Except as federal law may otherwise require, and subject to the universal service and minimum density requirements specified in subsection A of this section, a franchisee shall, upon request:
  (a) Extend its trunk and distribution system to any subscriber located within two hundred fifty feet of a main distribution cable located in the public rights-of-way at its standard installation charge, unless the franchisee demonstrates to the City’s satisfaction that extraordinary circumstances exist; and
  (b) Extend its trunk and distribution system to any potential subscriber outside the two hundred fifty foot limit, provided that the franchisee may charge the potential subscriber for the cost of the actual length of the installed drop, or the shortest distance
to the point where the franchisee would be required to extend its distribution system, whichever is shorter, except where the franchisee has demonstrated to the City's satisfaction that extraordinary circumstances exist.

(2) In areas where the minimum density requirement is not met, or where extraordinary circumstances exist, a franchisee shall, upon request, extend its cable system to a potential subscriber, provided that the subscriber shall pay the additional extension costs.

C. Cost sharing.
(1) “Additional extension costs” as used in subsection B(2) of this section shall mean a subscriber's pro rata share of a franchisee's total construction costs at the actual density of affected potential subscribers, less the total construction costs that the franchisee would incur if it were extending its system to make service available to the same number of potential subscribers at a density of twenty (20) residences per mile.

(2) “Total construction costs” are defined for purposes of this subsection as the actual turnkey cost to construct the entire extension including electronics, pole make-ready charges, and labor, but not the cost of the house drop.

D. Continuity of service
(1) It is the right of all subscribers in the franchise area to receive all available services from a franchisee, as those services become available, as long as their financial and other obligations to the franchisee are satisfied.

(2) A franchisee shall ensure that all subscribers receive continuous uninterrupted service. At the City's request, a franchisee shall, as trustee for its successor in interest, operate its system for a temporary period (the "transition period") following the termination, sale, or transfer of its franchise as necessary to maintain service to subscribers, and shall cooperate with the City to assure an orderly transition from it to another franchisee.

(3) During such transition period, a franchisee shall not sell any of the system assets, nor make any physical, material, administrative or operational change that would tend to reduce the quality of service to subscribers, decrease the system's income, or materially increase expenses without the express permission, in writing, of the City.

(4) The City may seek legal and/or equitable relief to enforce the provisions of this section.

(5) The transition period shall be no longer than the reasonable period required to ensure that cable service will be available to subscribers, and shall not be longer than thirty-six (36) months, unless extended by the City for good cause. During the transition period, a franchisee will continue to be obligated to comply with the terms and conditions of the agreement and applicable laws and regulations.

(6) If a franchisee abandons its system during the franchise term, or fails to operate its system in accordance with the terms of its franchise agreement during any transition period, the City, at its option, may operate the system, designate another entity to operate the system temporarily until the franchisee restores service under conditions acceptable to the City or until the franchise is revoked and a new franchisee selected by the City is providing service, or obtain an injunction requiring the franchisee to continue operations. If the City is required to operate or designate another entity to operate the cable system, the franchisee shall reimburse the City or its designee for all reasonable costs and damages incurred that are in excess of the revenues from the cable system.

(7) A franchisee shall forfeit its rights to notice and hearing, and the City Council may by resolution declare the franchisee's franchise immediately terminated, in addition to any other relief or remedies the City may have under its franchise agreement, this Chapter, or other applicable law, if:

(a) The franchisee fails to provide cable service in accordance with its franchise over a substantial portion of the franchise area for ninety-six (96) consecutive hours, unless the City authorizes a longer interruption of service or the failure is due to force majeure as characterized in its franchise agreement; or

(b) The franchisee, for any period, willfully and without cause refuses to provide cable service in accordance with its franchise over a substantial portion of the franchise area.
(8) The franchisee shall provide, without charge within the franchise territory, one service outlet to each fire station, public school building, police station, public library, and other such buildings used for municipal purposes as may be designated by the City; provided, however, that, if it is necessary to extend the franchisee's trunk or feeder lines more than one thousand (1,000) feet solely to provide service to any such school or public building, the city shall have the option either of paying the franchisee's direct costs for the portion in excess of one thousand (1,000) feet, or of releasing the franchisee from the obligation to provide service to such building. Furthermore, the franchisee shall be permitted to recover, from any public building owner entitled to free service the direct cost of installing, when requested to do so, more than one outlet, or concealed inside wiring, or a service outlet requiring more than two hundred fifty (250) feet of drop cable.

(9) No charge shall be made to the City or any board, bureau or department of the City, or any municipal government for use of the government access channels.

12-7 Design and construction

A. System construction schedule.  
Every franchise agreement shall specify the construction schedule that will apply to any required construction, upgrade, or rebuild of the cable system.

B. Construction procedures.  
(1) A franchisee shall construct, operate and maintain its cable system in strict compliance with all applicable laws, ordinances, rules and regulations, including but not limited to the national electrical safety code and the national fire protection association national electrical code, as such may be amended from time to time.

(2) The system, and all parts thereof, shall be subject to the right of periodic inspection by the City.

(3) No construction, reconstruction, installation, or relocation of the system or any part thereof within the public rights-of-way shall be commenced until all applicable written permits have been obtained from the proper City officials. In any permit so issued, such officials may impose such conditions and regulations as a condition of the granting of the permit as are necessary for the purpose of protecting any structures in the public rights-of-way and for the proper restoration of such public rights-of-way and structures, and for the protection of the public and the continuity of pedestrian and vehicular traffic.

(4) A franchisee shall, by a time specified by the City, protect, support, temporarily disconnect, relocate, or remove any of its property when required by the City by reason of traffic conditions; public safety; public right-of-way construction; public right-of-way maintenance or repair (including resurfacing or widening); change of public right-of-way grade; construction, installation or repair of sewers, drains, water pipes, power lines, signal lines, tracks, or any other type of government-owned communications system, public work or improvement or any government-owned utility; public-right-of-way vacation; or for any other purpose where the convenience of the City would be served thereby; provided, however, that a franchisee shall, in all such cases, have the privilege of abandoning any property in place, after obtaining permission from the City, such permission to be given or withheld in the City's sole discretion.

(5) If any removal, relaying, or relocation is required to accommodate the construction, operation, or repair of the facilities of another person that is authorized to use the public rights-of-way, a franchisee shall, after reasonable advance written notice, take action to effect the necessary changes requested by the responsible entity. The City may resolve disputes as to responsibility for costs associated with the removal, relaying, or relocation of facilities as among entities authorized to install facilities in the public rights-of-way if the parties are unable to do so themselves, and if the matter is not governed by a valid contract between the parties or a state or federal law or regulation.

(6) In the event of an emergency, or where a cable system creates or is contributing to an imminent danger to health, safety, or property, the City may remove, relay, or relocate any or all parts of that cable system without prior notice.

(7) A franchisee shall, on the request of any person holding a building moving permit issued by Prince George's County or the City, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal or raising or lowering of
wires shall be paid by the person requesting same, and a franchisee shall have the authority to require such payment in advance, except in the case where the requesting person is the City, in which case no such payment shall be required. A franchisee shall be given notice not less than seventy-two (72) hours in advance to arrange for such temporary wire changes.

(8) A franchisee shall participate in any "miss utility" program active in its franchise area with regard to giving and receiving notice of the location of facilities and excavations.

(9) Wherever all electrical and telephone utility wiring is located underground, either at the time of initial construction or subsequently, at the direction of Prince George's County or the City, the television cable shall also be located underground at no expense to the City. If the facilities of either the electric or the telephone utility are aerial, the television facilities may be located underground at the request of a property owner, provided that the difference in cost of the installation shall be paid by the property owner making the request to the franchisee.

(10) The franchisee shall utilize existing poles, conduits and other facilities whenever possible, and shall not construct or install any new, different, or additional poles, conduits or other facilities whether on public property or on privately-owned property until the written approval of the city is obtained. However, no location of any pole or wire-holding structure of the franchisee shall be a vested interest and such poles or structures shall be removed or modified by the franchisee at its own expense whenever the City Department of Public Works determines that the public convenience would be enhanced thereby.

(11) The franchisee shall have the authority to trim trees on public property at its own expense as may be necessary to protect its wires and facilities, subject to the supervision and direction of the city. Trimming of trees on private property shall require written consent of the property owner. All trimming or trees performed by the franchisee shall be done in accordance with the guidelines of the National Arborist Association.

(12) Notwithstanding any other provision of this subsection, a franchisee shall take all necessary steps to avoid damage to any trees, streets, and public or private driveways and any public right-of-way and whenever construction activity creates a risk, however slight, of such damage, a city engineer shall monitor such activity and may direct the franchisee to take whatever actions the engineer deems necessary to avoid such damage. Wherever necessary to protect and preserve trees, streets, or public or private driveways from damage, franchisee shall use standard or conventional boring techniques for laying cable.

C. Restoration.

Any and all public rights-of-way, public property or private property that is disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance or construction of a cable system shall be repaired, replaced and restored, as appropriate, in substantially the same condition and in a good workmanlike, timely manner, in accordance with the standards for such work set by the City. With respect to damage or disturbances to public rights-of-way, public property, or private property, all repairs and restoration shall be performed in accordance with any applicable State, County or City law or regulation. All repairs, replacements and restoration shall be undertaken within no more than ten (10) days after the damage is incurred, and shall be completed within thirty (30) days to the extent reasonably possible. A franchisee shall guarantee and maintain such restoration for at least one year against defective materials or workmanship or cuts or cracks in pavement surfaces or until such time as pavement is overlaid, whichever is longer.

D. Use of public property.

(1) Should the grades or lines of the public rights-of-way that the franchisee is authorized by a franchise to use and occupy be changed at any time during the term of a franchise, the franchisee shall, if necessary, relocate or change its system so as to conform with the new grades or lines at no cost or expense to the City.

(2) Any alteration to the water mains, sewerage or drainage system or to any City, County, State or other public structures in the public rights-of-way required on account of the presence of a franchisee's system in the public rights-of-way shall be made at the sole cost and expense of the franchisee. During any work of construction, operation or maintenance work on a system, the franchisee shall also protect any and all existing structures belonging to the City.
or to any other person. All work performed by the franchisee shall be done in the manner prescribed by the City or other officials having jurisdiction therein.

E. Interference with public projects.

Nothing in this chapter or any franchise agreement shall be in preference or hindrance to the right of the City and any board, authority, commission or public service corporation to perform or carry on any public works or public improvements of any description, and should a franchisee's system in any way interfere with the construction, maintenance or repair of such public works or public improvements, the franchisee shall protect or relocate its system, or part thereof, as reasonably directed by any city official, board, authority, commission or public service corporation.

F. Addressing two-way capacity.

A franchise shall address the cable system's two-way capacity and shall include provisions regarding nonvoice return communication.

G. Standby power equipment.

1. Franchisee shall maintain in constant readiness equipment capable of providing standby power for the cable television system.

2. Said equipment shall be constructed so as to revert automatically to a standby mode when alternating current power returns.

3. The franchisee shall comply with all utility and other safety regulations to prevent a standby generator from powering a "dead" utility line so as to cause injury to any person.

12-8 Test and performance monitoring

A. Performance tests required.

Unless otherwise provided in a cable operator's franchise agreement, not later than ninety (90) calendar days after any new or substantially rebuilt portion of the system is made available for service to subscribers, technical performance tests shall be conducted by the franchisee to demonstrate full compliance with the technical standards of the FCC. Such tests shall be performed by, or under the supervision of, a qualified registered professional engineer or an engineer with proper training and experience. A copy of the report shall be submitted to the City, describing test results, instrumentation, calibration, and test procedures, and the qualifications of the engineer responsible for the tests.

B. System monitor test points required.

System monitor test points shall be established at or near the output of the last amplifier in the longest feeder line, at or near the trunk line extremities, at not fewer than eight (8) widely scattered locations. Testing shall be carried out pursuant to FCC regulations.

C. Additional tests required.

At any time after commencement of service to subscribers, the City may require additional tests, full or partial repeat tests, different test procedures, or tests involving a specific subscriber's terminal. Requests for such additional tests will be made on the basis of complaints received or other evidence indicating an unresolved controversy or significant noncompliance, and such tests will be limited to the particular matter in controversy. The City will endeavor to so arrange its requests for such special tests so as to minimize hardship or inconvenience to the franchisee or to the subscriber.

D. Performance test report.

A copy of the annual performance tests report required by the FCC shall be simultaneously submitted to the City.

E. Consultants authorized.

The City shall have the right to employ qualified consultants if necessary or desirable to assist in the administration of this, or any other section of this Chapter.

12-9 Channels and facilities for public, educational and governmental use

A. Management of channels.

The City may designate one (1) or more entities, including a non-profit access management corporation, to perform any or all of the following functions:

1. To manage any necessary scheduling or allocation of capacity on the institutional network; and/or
(2) On the city’s behalf, to program any public, educational, or governmental access channel. Educational and public access channels shall not be managed by the same entity, provided, however, that until such entities have been designated, the City shall be responsible for these functions.

B. Public access programming rules.

For any public access channel, the entity managing such channel shall establish (i) rules that prohibit the presentation of any advertising material designed to promote the sale of commercial products or services (including advertising by or on behalf of candidates for public office), lottery information, and obscene matter; (ii) rules requiring first-come, nondiscriminatory access; and (iii) rules permitting public inspection of the complete record of the names and addresses of all persons and groups requesting access time. Such a record shall be retained for a period of two (2) years.

C. Use of access channels.

Peg access channel(s) shall be for the noncommercial use of the City and shall be available at no expense to the City and to peg access users.

12-10 Consumer protection.

A. General provisions.

A franchisee must satisfy the customer service standards set forth in this section. In addition, the franchisee shall at all times satisfy any additional or stricter requirements established by FCC regulations, or other applicable federal, state, or local law or regulation, as the same may be amended from time to time.

B. Construction of Chapter.

(1) Nothing in this Chapter may be construed to prevent or prohibit the City from the following:

(a) Agreeing with a franchisee on customer service requirements that exceed the standards set forth in this Chapter;

(b) Enforcing, through the end of a franchise term, pre-existing customer service requirements that exceed the standards set forth in this Chapter and are contained in current franchise agreements;

(c) Enacting or enforcing any customer service or consumer protection laws or regulations; or

(d) Waiving, for good cause, requirements established in this section.

(2) Nothing in this Chapter in any way relieves a franchisee of its obligation to comply with other applicable consumer protection laws and its franchise agreement.

C. Installations, connections, and other franchisee services.

(1) Installation of drops.

A subscriber’s preference as to the point of entry into a residence shall be observed whenever feasible. Runs in building interiors shall be as unobtrusive as possible. A franchisee shall use due care in the process of installation and shall repair any damage to a subscriber’s property caused by said installation. Such restoration shall be undertaken within thirty (30) days after the damage is incurred and shall be completed as soon as reasonably possible thereafter.

(2) Location of drops.

In locations where a franchisee’s system must be underground, drops must be placed underground as well. In all cases where new developments and subdivisions are to be constructed and to be served in whole or in part by underground power and telephone utilities, the owner or developer of such areas shall provide reasonable notice to the franchisee of the availability of trenches, backfill and specifications of all necessary substructures in order that the franchisee may install all necessary cable facilities. In no event shall such location of cable facilities underground be at any cost or expense to the City.

(3) Time for extension/installation.

Where a franchisee is required under section 12-6 of this Chapter to provide service to a person that resides within two hundred fifty (250) feet from the franchisee’s distribution system, the franchisee must provide such service within seven business days of the
person's request. If the person resides more than one hundred twenty-five (125) feet from the franchisee's distribution system, the City may waive this seven-day requirement upon a showing of good cause by the franchisee and provided the franchisee specifies the time period within which service will be provided. This standard shall be met 95% of the time, measured on a quarterly basis.

(4) Antennas and antenna switches.

A franchisee shall adhere to FCC regulations regarding antenna switches. A franchisee shall not, as a condition to providing cable service, require any subscriber or potential subscriber to remove any existing antenna structures for the receipt of over-the-air television signals.

(5) Delinquent accounts.

A franchisee shall use its best efforts to collect on delinquent subscriber accounts before terminating service. In all cases, the franchisee shall provide the customer with at least ten (10) working days written notice prior to disconnection.

(6) Notice of construction activity.

The franchisee shall notify the general public and the City prior to commencing any proposed construction that will significantly disturb or disrupt public property or public right rights-of-way, or have the potential to present a danger or affect the safety of the public generally. Where possible, the franchisee shall publicize proposed construction work at least one week prior to commencement of that work by notifying those residents and others in the immediate vicinity of where work is to be done and most likely to be affected by the work in at least one of the following ways: by telephone, in person, by mail, by distribution of door hangers or flyers to residences, by publication in local newspapers, or in any other manner reasonably calculated to provide adequate notice. Notice to affected persons must include the name and local telephone number of a franchisee representative who is qualified to answer questions concerning proposed construction. In addition, before entering any person's property for proposed construction work in connection with the rebuild for the system upgrade of franchisee's cable system, the franchisee must have permission of the property owner and shall contact the property owner or (in the case of residential property) the resident at least two (2) days in advance, when possible.

D. Telephone and office availability.

(1) Each franchisee shall maintain offices within the City of Bowie at locations convenient to subscribers or as specified in its franchise agreement, that shall be open during normal business hours to allow subscribers to request service, pay bills, and conduct other business.

(2) Each franchisee shall maintain at least one local, toll-free or collect call telephone access line which will be available to subscribers twenty-four (24) hours a day, seven (7) days a week. Trained representatives of a franchisee shall be available to respond to subscriber telephone inquiries during normal business hours.

(3) Each franchisee shall be subject to the following standards, except that such franchisee shall not be subject to penalty as long as it meets such standards under normal operating conditions at least ninety (90) percent of the time, measured quarterly.

(a) Telephone answering time shall not exceed thirty (30) seconds, and the time to transfer the call to a customer service representative (including hold time) shall not exceed an additional thirty (30) seconds.

(b) A customer will receive a busy signal less than three percent (3%) of the time.

(c) When the business office is closed, an answering service where a person receives and records service complaints and inquiries shall be employed. Inquiries received after hours must be responded to by a trained representative of a franchisee on the next business day. To the extent possible, the after-hours answering service shall comply with the same telephone answer time standard set forth in this section.

(4) In any case, at all times a franchisee shall provide an answering machine so that callers will have the option to leave messages.

(5) A franchisee must hire sufficient competent customer service representatives and repair technicians so that it can adequately respond to customer inquiries, complaints, and requests for service in its office, over the phone, and at a subscriber's residence;
provide prompt and effective service to subscribers; and, as a rule, complete repairs within a subscriber's home upon a single visit.

E. Scheduling and completing service.
Under normal operating conditions, each of the following standards shall be met by all franchisees at least ninety-five (95%) percent of the time, as measured on a quarterly basis:

(1) Prompt service.
Excluding conditions beyond the control of the franchisee, repairs and maintenance for service interruptions must begin promptly and in no event later than twenty-four (24) hours after the subscriber reports the problem to the franchisee or its representative or the interruption or need for repairs otherwise becomes known to the franchisee. All such work must be completed within three (3) days from the date of the initial request, except installation requests, provided that a franchisee shall complete the work in the shortest time possible where, for reasons beyond the franchisee's control, the work could not be completed in those time periods even with the exercise of all due diligence; the failure of a franchisee to hire sufficient staff or to properly train its staff shall not justify a franchisee's failure to comply with this provision.

(2) Service times.
A franchisee shall perform service calls, installations, and disconnects at least during normal business hours. In addition, maintenance service capability enabling the prompt location and correction of major system malfunctions shall be available Monday through Friday from the end of normal business hours until 12:30 a.m., and from 8:00 a.m. until 12:30 a.m. on Saturdays, Sundays, and Holidays.

(3) Appointments.
The appointment window for installations, service calls, and other installation activities shall be during normal business hours, either at a specific time or within a specified period of no longer than two (2) hours duration, or such greater duration as the City may authorize. Where a subscriber cannot conveniently arrange for a service call or installation during normal business hours, a franchisee shall also schedule service and installation calls outside normal business hours for the express convenience of the subscriber.

(4) Cancellations.
A franchisor may not cancel an appointment with a subscriber after the close of business on the business day preceding the appointment. If a franchisor's representative will be late for a scheduled appointment with a subscriber or will not be able to keep the appointment, the franchisor shall contact the subscriber, and reschedule the appointment, as necessary, at a time which is convenient for the subscriber.

(5) Emergency maintenance.
A franchisee shall keep an emergency system maintenance and repair staff, capable of responding to and repairing system malfunctions or interruptions, on a twenty-four (24) hour basis.

(6) Other inquiries.
Under normal operating conditions, billing inquiries and requests for service, repair, and maintenance not involving service interruptions must be acknowledged by a trained customer service representative within twenty-four (24) hours, or prior to the end of the next business day, whichever is earlier. A franchisee shall respond to all other inquiries within five (5) business days of the inquiry or complaint.

(7) Missed appointments.
If a subscriber experiences a missed appointment due to the fault of a franchisee, the franchisee shall credit the subscriber's account in the amount of twenty (20) dollars for each missed appointment, or grant the subscriber such other equivalent remedy as the subscriber and franchisee may agree upon. The credit or compensation required by this subsection is in addition to any other penalties or liquidated damages to which the franchisee may be subject.

(8) Pickup and replacement of equipment.
Upon subscriber request, a franchisee shall arrange for pickup and/or replacement of converters or other franchisee equipment at the subscriber's address or by a satisfactory equivalent (such as the provision of a postage-prepaid mailer). At a subscriber's
request, a franchisee shall make such pickup or replacement at the same time as any
disconnection or other related service call, so as to avoid an additional visit. If a franchised
charges a fee for such pickup or replacement, such fee shall be clearly disclosed at the time of
the subscriber’s request.

F. Interruptions of service.

(1) A franchisee shall, when practicable, schedule and conduct
maintenance on its cable system so that interruption of service is minimized and occurs during
periods of minimum subscriber use of the cable system. The franchisee shall provide
reasonable prior notice to subscribers and the City before interrupting service for planned
maintenance or construction, except where such interruption is expected to be one hour or less
in duration. Such notice shall be provided by methods reasonably calculated to give
subscribers actual notice of the planned interruption.

(2) A franchisee may intentionally interrupt service on the cable system after
7:00 a.m. and before 1:00 a.m. only with good cause and for the shortest time possible and,
except in emergency situations, only after publishing notice of service interruption at least twenty-
four (24) hours in advance of the service interruption. Service may be intentionally interrupted
between 1:00 a.m. and 7:00 a.m. for routine testing, maintenance, and repair, without notification,
on any night except Friday, Saturday, or Sunday, or the night preceding a Holiday.

G. Notice to subscribers.

(1) Unless otherwise provided for herein, a franchisee shall provide the
following materials to each subscriber at the time cable service is installed, at least annually
thereafter, and at any time upon request. Copies of all such materials provided to subscribers
shall also be provided to the City.

(a) A written description of products and services offered, including
a schedule of rates and charges, a list of channel positions, and a description of programming
services, options, and conditions;

(b) A written description of the franchisee’s installation and service
maintenance policies, delinquent subscriber disconnect and reconnect procedures, and any other
of its policies applicable to its subscribers;

(c) Written instructions on how to use the cable service;

(d) Written instructions for placing a service call;

(e) A written description of the franchisee’s billing and complaint
procedures, including the address and telephone number of the City office responsible for
receiving subscriber complaints;

(f) A copy of the service contract, if any (at installation or on
request, but need not be provided annually);

(g) Notice regarding subscribers’ privacy rights pursuant to 47
U.S.C. § 551;

(h) Notice of the availability of universal remote controls and other
compatible equipment (a list of which, specifying brands and models, shall be provided to any
subscriber upon request).

(2) Subscribers will be notified of any changes in rates, programming
services or channel positions, and any significant changes in any other information required to be
provided by this section, as soon as possible in writing, unless such notice is waived by operation
of applicable law. Notice must be given to subscribers a minimum of thirty (30) days in advance
of such changes if the change is within the control of the cable operator. Notwithstanding the
above, a cable operator shall not be required to provide prior notice of any rate change that is the
result of a regulatory fee, franchise fee, or any other fee, tax, assessment, or charge of any kind
imposed by any federal agency, state, or franchising authority on the transaction between the
operator and the subscriber.

(3) A franchisee promotional materials, announcements, and advertising
of residential cable service to subscribers and the general public, in which price information is
listed in any manner, shall clearly and accurately disclose price terms. In the case of pay-per-view
or pay-per-event programming, all promotional materials must clearly and accurately disclose
price terms and in the case of telephone orders, a franchisee shall take appropriate steps to
ensure that price terms are clearly and accurately disclosed to potential customers before the order is accepted.

(4) Copies of all notices provided to subscribers under these customer service standards, as well as all promotional or special offers made to subscribers, and of any agreements used with subscribers, shall be filed promptly with the city.

H. Billing.

(1) Bills shall be clear, concise, and understandable. Bills must be fully itemized with itemizations including, but not limited to, basic service, cable programming service, and premium service charges and all equipment charges. Bills shall clearly delineate all activity during the billing period, including optional charges, rebates, and credits.

(2) Refund checks to subscribers shall be issued promptly, but no later than the later of:

(a) The subscriber’s next billing cycle, or thirty (30) days, following resolution of the refund request, whichever is earlier; or

(b) The return of all equipment supplied by the franchisee, if service is terminated.

(3) Credits for service shall be issued no later than the subscriber’s next billing cycle following the determination that a credit is warranted.

(4) A franchisee’s first billing statement after a new installation or service change shall be prorated as appropriate and shall reflect any security deposit.

(5) Late fees will not be assessed for payments after the due date until forty-five (45) days after the beginning of the service period for which the payment is to be rendered. In addition, subscribers will receive the benefit of any change in the late fee amount, and of any increases in the time allowed before assessment of late fees, that may result from litigation over late fees pending as of the effective date of this Chapter.

(6) A franchisee must notify the subscriber that he or she can remit payment in person at the franchisee’s business office and inform the subscriber of the address of that office.

(7) Subscribers shall not be charged a late fee or otherwise penalized for any failure by a franchisee, including failure to timely or correctly bill the subscriber, or failure to properly credit the subscriber for a payment timely made.

(8) A subscriber who asks a franchisee for credit for an outage shall receive credit for the actual time period of the outage as a pro rata fraction of the monthly charges for any outage lasting between two (2) and six (6) hours, without reference to the time the subscriber contacts the franchisee. A subscriber shall receive credit for one full day’s monthly charges for any outage of between six (6) and twenty-four (24) hours, whether or not the subscriber reports such outages, if the franchisee becomes aware of such outages, either through reports by subscribers or otherwise. Each franchisee shall place a message in subscribers’ bills at least quarterly, explaining how to report an outage, how to obtain a credit, and under what conditions credits are available. A franchisee shall also establish a mechanism by which subscribers may reliably and immediately contact the franchisee by telephone and report an outage for credit purposes, either by ensuring that they can reliably and immediately reach a live person or by another method (for example, by leaving a voice message or entering the subscriber’s telephone number). Upon receiving such reports, the franchisee shall promptly contact the subscriber to confirm that the report has been received, and apply the credit to the subscriber’s bill unless the franchisee reasonably concludes that the subscriber’s report is false.

(9) Franchisee shall respond to all written billing complaints from subscribers within thirty (30) days.

I. Disconnection/downgrades.

(1) A subscriber may terminate service at any time.

(2) A franchisee shall promptly disconnect or downgrade any subscriber’s service at such subscriber’s request. No period of notice prior to voluntary termination or downgrade of service may be required of subscribers by any franchisee. So long as the subscriber returns, or permits the franchisee to retrieve, any equipment necessary to receive a
service within five (5) business days of the disconnection, no charge may be imposed by any franchisee for any cable service delivered after the date of the disconnect request.

(3) A subscriber may be asked, but not required, to disconnect a franchisee's equipment and return it to the business office.

(4) Any funds due a subscriber on disconnected accounts shall be refunded after any equipment provided by the franchisee has been recovered from the customer's premises by the franchisee. The refund must be made within thirty (30) days or by the end of the next billing cycle, whichever is earlier, from the date disconnection was requested (or, if later, the date on which any customer premises equipment provided by the franchisee is returned).

(5) If a subscriber fails to pay a monthly subscriber fee or other fee or charge, a franchisee may disconnect the subscriber's service; however, such disconnection shall not be effected until at least forty-five (45) days after the bill is due, plus at least ten (10) days' advance written notice to the subscriber of the franchisee's intent to disconnect the subscriber's service, but in no event before the date when the franchisee would be entitled to charge a late fee. If the subscriber pays all amounts due, including late charges, before the date scheduled for disconnection, the franchisee shall not disconnect service. After disconnection, upon payment by the subscriber in full of all proper fees or charges, including the payment of the reconnection charge, if any, the franchisee shall promptly reinstate service.

(6) A franchisee may immediately disconnect a subscriber's service if the subscriber is damaging or destroying the franchisee's cable system or equipment. After disconnection, the franchisee shall restore service if the subscriber provides adequate assurance that he or she has ceased the practices that led to disconnection and has paid all proper fees and charges, including any reconnection fees and amounts owed the franchisee for damage to its cable system or equipment.

(7) A franchisee may also disconnect service to a subscriber who causes signal leakage in excess of federal limits. A franchisee may disconnect a subscriber's service without notice to the subscriber where signal leakage is detected originating from the subscriber's premises in excess of federal limits, provided that the franchisee shall immediately notify the subscriber of the problem and, once the problem is corrected, reconnect the subscriber.

(8) The disposition of cable home wiring in residential single-family homes shall be governed by FCC rules regarding cable home wiring as of December 1, 1998.

(9) A franchisee shall reconnect service to customers wishing restoration of service, provided such a customer shall first satisfy any previous obligations owed.

J. Changes in service.

(1) At the time a franchisee alters the service it provides to a class of subscribers, it must provide notice to each subscriber thirty (30) days in advance, which notice shall explain the substance and full effect of the alteration and provide the subscriber the right to opt to receive any combination of services thereafter offered by franchisee.

(2) No charge may be made for any service or product that the subscriber has not affirmatively indicated he or she wishes to receive.

K. Program blocking option.

A franchisee shall make available to any subscriber, upon request, the option of blocking the video or audio portion of any channel or channels of programming entering the subscriber's home. The control option described herein shall be made available when any cable service is provided, or reasonably soon thereafter.

L. Enforcement.

(1) A franchisee shall keep such records as are necessary to show compliance with these customer service standards and FCC customer service standards.

(2) The city shall have the right to observe and inspect a franchisee's customer service procedures.

(3) Except as prohibited by federal law, a franchisee shall be subject to penalties, forfeitures and any other remedies or sanctions available under federal, state or local law, including without limitation this Chapter and a franchisee's franchise with the City, if it fails to comply with the standards herein.
(4) A franchisee shall not be subject to penalties or liquidated damages as a result of any violations of these customer service standards that are due to force majeure as characterized in its franchise agreement.

M. Anticompetitive acts prohibited

(1) No franchisee or OVS operator shall demand the exclusive right to provide cable service to a person or location as a condition of extending cable service or a cable system. This provision is not intended and shall not be interpreted;

(a) To prohibit voluntary exclusive agreements to provide cable service;

(b) To create any private cause of action for any person; or;

(c) To prohibit exclusive agreements permitted by federal law.

(2) No franchisee or OVS operator shall engage in unfair methods of competition or unfair or deceptive acts or practices, the purpose or effect of which is to hinder significantly or to prevent any multichannel video programming distributor, as defined in federal law, from providing cable service or services similar to cable service in the City. This provision does not apply to methods, acts or practices allowed by federal or state law. Any allegation that a franchisee has engaged in methods, acts or practices that would be prohibited by this paragraph will be considered by the city only after exhaustion of federal remedies. This paragraph is not intended to create a private cause of action.

12-11 Enforcement of consumer protection, customer service standards

A. Schedule of fees and charges.
A franchisee shall publish and make available to each potential subscriber a schedule of all applicable fees and charges for providing cable television service and must notify subscribers that basic cable service is available.

B. Waiver, reduction or suspension of fees.
A franchisee may, at its own discretion, waive, reduce, or suspend connection fees for specific or indeterminate periods and/or monthly service fees for periods not to exceed thirty (30) days for promotional purposes, where allowed by federal regulations. The franchisee shall not, with regard to fees, discriminate or grant any preference or advantage to any person, provided, however, that the franchisee may establish a uniform bulk discount rate structure for basic cable service and associated equipment provided to ten (10) or more dwelling units within an apartment building, condominium, garden apartment, or, townhouse complex under common ownership, or to ten (10) or more room units within hotels and motels, or to commercial establishments engaged in the sale of television receivers. The franchisee may offer reasonable discounts to senior citizens or other economically disadvantaged group discounts.

C. Nondiscrimination.

(1) Subject to applicable law, a franchisee shall establish rates that are nondiscriminatory within the same general class of subscribers and which must be applied fairly and uniformly to all subscribers in the franchise area for all services. Nothing contained herein shall prohibit a franchisee from offering, by way of illustration and not limitation; (a) discounts to senior citizens or economically disadvantaged groups; (b) discounts to commercial and multiple family dwelling, subscribers billed on a bulk basis; (c) promotional discounts; or (d) reduced installation rates for subscribers who have multiple services.

(2) The provisions of this section shall apply to all rates, whether or not they are otherwise subject to rate regulation, except to the extent specifically prohibited by law. (Sec. 2-11 amended by Ordinance O-8-09, adopted 10/5/09, effective 10/21/09).

12-12 Franchise fee

A. Finding.
The City finds that public rights-of-way of the City to be used by a franchisee for the operation of a cable system are valuable public property acquired and maintained by the City. The City further finds that the grant of a franchise to use public rights-of-way is a valuable property right without which a franchisee would be required to invest substantial capital.

B. Payment of franchise fee.
Each franchisee shall pay a franchise fee of five (5) percent of gross revenues.

C. Method of payment.

The franchisee shall file with the City, within thirty (30) days after the expiration of each of the franchisee's fiscal quarters, a financial statement clearly showing the gross revenues received by the franchisee during the preceding quarter. The quarterly portion of the franchise fee shall be payable to the City at the time such statement is filed.

D. Not a tax or in lieu of any other tax or fee.

(1) Payment of the franchise fee shall not be considered a tax or in lieu of other taxes or fees of general applicability imposed by the City. The franchise fee is in addition to all other taxes and payments that a franchisee may be required to pay under its franchise agreement or any federal, state, or local law, and to any other tax, fee, or assessment imposed by utilities and cable operators for use of their services, facilities, or equipment, including any applicable amusement taxes, except to the extent that such fees, taxes, or assessments must be treated as a franchise fee under Section 642 of the Cable Act, 47 U.S.C. § 522.

(2) No franchisee may designate the franchise fee as a tax in any communication to a subscriber.

E. Late payments.

In the event any franchise fee payment or recomputation amount is not made on or before the required date, the franchisee shall pay additional compensation and interest charges computed from such due date, at an annual rate equal to the commercial prime interest rate of the city's primary depository bank during the period such unpaid amount is owed, in addition to any applicable penalties or liquidated damages.

F. Audit.

(1) The City shall have the right to inspect records, to require a franchisee to provide copies of records at the franchisee's expense, and to audit and to recompute any amounts determined to be payable, whether the records are held by the franchisee, an affiliate, or any other entity that collects or receives funds related to the franchisee's operation in the City, including, but not limited to, any entity that sells advertising on the franchisee's behalf, for a period of five years from the date a payment was made or, if no payment was made, from the date on which the City believes payment was owed, after which time all payments are final.

(2) A franchisee shall be responsible for providing to the City all records necessary to confirm the accurate payment of franchise fees, without regard to who holds such records. Such records shall be made available pursuant to the requirements of this Chapter. The franchisee shall maintain such records for the term of its franchise agreement, and any renewals or extensions thereof.

(3) The City's audit expenses shall be borne by the City unless the audit discloses an underpayment of five (5) percent or more of the amount due, in which case the costs of the audit shall be borne by the franchisee as a cost incidental to the enforcement of the franchise. Any additional amounts due to the City as a result of the audit shall be paid within thirty (30) days following written notice to the franchisee by the City of the underpayment, which notice shall include a copy of the audit report. If recomputation results in additional fees to be paid to the City, such amount shall be subject to a ten (10) percent interest charge.

G. No accord or satisfaction.

No acceptance of any payment by the City shall be construed as a release or an accord and satisfaction of any claim the City may have for further or additional sums due or for the performance of any other obligation of a franchisee, or as an acknowledgement that the amount paid is the correct amount due.

12-13 Reports and records.

A. Open books and records.

(1) The City shall have the right to inspect records and to require a franchisee to provide copies of records at the franchisee's expense at any time during normal business hours at City Hall. The records to which this section refers shall include all books, receipts, maps, plans, contracts, service complaint logs, performance test results, records of requests for service, computer records, disks or other storage media and other like material which the City deems appropriate in order to monitor compliance with the terms of this Chapter, the
City's franchise agreement, or applicable law. The records include not only the books and records of a franchisee, but also any books and records which the City reasonably deems relevant which are held by an affiliate, a cable operator of the cable system, or any contractor, subcontractor or any person holding any form of management contract for the cable system. A franchisee is responsible for collecting the information and producing it at the location specified above, and by accepting its franchise it affirms that it can and will do so. A franchisee will be given reasonable advance written notice of any inspection request, which shall serve as notice that any or all of the above materials may be inspected.

(2) A franchisee shall maintain financial records that allow analysis and review of its operations in each individual franchise area.

(3) Access to a franchisee's records shall not be denied by such franchisee on the basis that said records contain "proprietary" information. Refusal to provide information required by this section to the City shall be grounds for revocation. All confidential information received by the City shall remain confidential insofar as permitted by law.

(4) A franchisee shall maintain a file of records open to public inspection in accordance with applicable FCC rules and regulations.

(5) Each report filed by a franchisee pursuant to this Chapter shall be certified by a corporate officer as accurate or complete.

B. Communication with regulatory agencies.

(1) A franchisee shall file with the City, in a form acceptable to the City, all reports and materials submitted to the FCC, the security and exchange commission, or any other federal or state regulatory commission or agency, including, but not limited to, any proof of performance tests and results, equal employment opportunity reports, and all petitions, applications, and communications of all types regarding the cable system, or a group of cable systems of which the franchisee's cable system is a part, submitted by the franchisee, an affiliate, or any other person on the behalf of the franchisee.

(2) Materials filed with the City pursuant to subsection B(1) of this section shall be filed with the City at the time they are submitted to the receiving agency.

(3) Upon accepting the franchise, the franchise shall, within sixty (60) days, file the documents required to obtain all necessary federal, state and local licenses, permits and authorizations required for the conduct of its business and shall submit monthly reports to the City Manager on progress in this respect until all such documents are in hand. Within three (3) months after receipt of a certificate of compliance from the FCC, the franchisee shall provide to the City Manager a construction schedule and map, setting forth target dates by area for commencement of service to subscribers. The schedule and map shall be updated whenever substantial changes become necessary. The franchisee shall complete construction of the system throughout the franchise territory within three (3) years, so that the system shall be capable of conforming with the availability of service requirements set forth in section 12-6 of this Chapter.

C. Annual report.

Unless this requirement is waived in whole or in part by the City, by April 1 of each year for the previous calendar year, a franchisee shall submit a written report to the City, in a form directed by the City, which shall include:

(1) A summary of the previous year's activities in development of the cable system, including but not limited to descriptions of services begun or discontinued, the number of subscribers gained or lost for each category of service, the number of pay units sold, the amount collected annually from users of the system, and the character and extent of the services rendered to such users, including leased access channel users;

(2) A summary of complaints, identifying both the number and nature of the complaints received and an explanation of their dispositions, to the extent such records are kept by the franchisee. Where complaints involve recurrent system problems, the nature of each problem and the corrective measures taken shall be identified;

(3) A report showing the number of service calls received by type during the prior quarter, and the percentage of service calls compared to the subscriber base by type of complaint;
(4) A certification of compliance with applicable customer service standards. If a franchisee is in non-compliance with any standard during any calendar quarter, it shall include in its annual filing a statement specifying the areas of non-compliance, the reason for the non-compliance, and a remedial plan;

(5) A copy of the franchisee’s rules and regulations applicable to subscribers of the cable system;

(6) An annual statement showing the yearly gross revenues, prepared and audited by a certified public accountant acceptable to the City;

(7) An annual financial report for the previous calendar year, audited and certified by an independent certified public accountant, including year-end balance sheet; income statement showing subscriber revenue from each category of service and every source of non-subscriber revenue, line item operating expenses, depreciation expense, interest expense, and taxes paid; statement of sources and applications of funds; capital expenditures; and depreciation schedule;

(8) An annual list of officers and members of the board of directors or similar controlling body of the franchisee and any affiliates;

(9) An organizational chart showing all corporations or partnerships with more than a five (5) percent ownership interest in the franchisee, and the nature of that ownership interest (such as, for example, limited partner, general partner, or preferred shareholder); and showing the same information for each corporation or partnership that holds such an interest in the corporations or partnerships so identified and continuing to identify such interests until the ultimate corporate and partnership interests of each corporation or partnership are identified;

(10) An annual report and securities and exchange commission 10(k) filing for each entity identified in subsection C(9) of this section that generates such documents;

(11) A summary of the results of, and/or, at the franchisee’s option, copies of the system’s technical tests and measurements performed during the past year;

(12) A detailed copy of updated maps depicting the location of all cable plant, showing areas served and locations of all trunk lines and feeder lines in the City, and including changes in all such items for the period covered by the report;

(13) A full schedule of all subscriber and other user rates, fees and charges;

(14) Such other information as the City may direct.

D. Semiannual report.

Unless this requirement is waived in whole or in part by the City, twice each year (by January 31 for the previous six months ending December 31 and by July 31 for the previous six months ending June 30) a franchisee shall submit written reports to the City, in a form acceptable to the City.

E. Monthly report.

Unless this requirement is waived in whole or in part by the City, no later than ten (10) days after the end of each month, a franchisee shall submit a written report to the City regarding the preceding month, in a form acceptable to the City, which shall include:

(1) The active system plant in miles, specifying aerial and underground mileage;

(2) The new system segments built, in miles, if any, specifying aerial and underground mileage;

(3) The number of subscribers and the penetration rate for each type of service and equipment offered;

(4) The number of subscriber service disconnections;

(5) The number of outages, identifying separately:
   (a) Each outage; whether planned or unplanned; the time it occurred, its duration, when the franchisee responded and when the outage was corrected; the estimated area and a description of the subscribers affected;
   (b) In addition, for each unplanned outage: its cause, the number of subscribers affected; and
   (c) The total hours of outages as a percentage of total hours of cable system operation;
(6) The number of cases in which installation was not provided within the time established in this Chapter;
(7) The average telephone answering and hold times, and the number of instances in which those telephone answering and hold times exceeded the time limits established in this Chapter;
(8) The percentage of customer calls that received a busy signal;
(9) The average and minimum number of customer service representatives on the franchisee’s staff for telephone answering purposes;
(10) The number of times in which interruptions of service under section 12-10E. of this Chapter was not in compliance with the times established in this Chapter;
(11) The number of times scheduling and completing customer service did not occur in accordance with section 12-10D.(3)

F. Special reports.

Unless this requirement is waived in whole or in part by the City, the franchisee shall deliver the following special reports to the City:

(1) A franchisee shall submit quarterly construction reports to the City after the franchise is awarded for any construction undertaken during the term of the franchise until such construction is complete, including any rebuild that may be specified in the franchise. The franchisee must submit to the City as part of the quarterly construction report, or make available for inspection with notice of their availability as part of the quarterly construction report, updated as-built system design maps depicting construction completed in the previous quarter. The maps shall be developed on the basis of post-construction inspection by the franchisee and construction personnel to assess compliance with system design. Any departures from design must be indicated on the as-built maps, to assist the City in assessing operator compliance with its obligations.

(2) A franchisee must submit to the City a copy of any notice of deficiency, forfeiture, or other document issued by any state, county or federal agency instituting any investigation or civil or criminal proceeding regarding the cable system, the franchisee, or any affiliate of the franchisee, to the extent the same may affect or bear on operations in the City. This material shall be submitted to the City within five (5) days of its receipt by the franchisee or its affiliate, as the case may be.

(3) The franchisee must submit to the City a copy of any request for protection under bankruptcy laws, or any judgment related to a declaration of bankruptcy by the franchisee or by any partnership or corporation that owns or controls the franchisee directly or indirectly. This material shall be submitted to the City within five (5) days of its receipt by the franchisee or related entity, as the case may be, whichever is sooner.

G. Additional reports.

A franchisee shall provide such other information or reports as the City may request for the purpose of enforcing any provision of the franchise agreement or this Chapter.

H. Records required.

(1) The franchisee shall at all times maintain:
   (a) Records of all complaints received. Complaints recorded may not be limited to complaints requiring an employee service call.
   (b) A full and complete set of plans, records, and "as built" maps showing the exact location of all system equipment installed or in use in the City, exclusive of subscriber service drops.
   (c) A comprehensive record of all personnel transactions and utilization of contractors, subcontractors, vendors, and suppliers.
   (d) Records of outages, indicating date, duration, area, and the subscribers affected, type of outage, and cause.
   (e) Records of service calls for repair and maintenance indicating the date and time service was required, the date of acknowledgement and date and time service was scheduled (if it was scheduled), and the date and time service was provided, and (if different) the date and time the problem was solved.
(f) Records of installation/reconnection and requests for service extension, indicating date of request, date of acknowledgment, and the date and time service was extended.

(g) A public file showing the franchisee’s plan and timetable for construction of the cable system.

I. Performance evaluation.

1) The City may, at its discretion, hold performance evaluation sessions. All such evaluation sessions shall be open to the public. The franchisee may be required by the City to notify subscribers of all such evaluation sessions by announcement on a designated local access channel on the system between the hours of 9:00 a.m. and 9:00 p.m. for five (5) consecutive days preceding each session.

2) Topics that may be discussed at any evaluation session may include, but are not limited to, system performance and construction, franchisee compliance with this chapter and its franchise agreement, customer service and complaint response, subscriber privacy, services provided, programming offered, service rate structures, franchise fees, penalties, free or discounted services, applications of new technologies, judicial and fcc filings, and line extensions.

3) During the evaluation process, the franchisee shall fully cooperate with the City and shall provide such information and documents as the City may need to reasonably perform its review, including information and documents that may be considered proprietary or confidential.

J. Voluminous materials.

If any books, records, maps or plans, or other requested documents are too voluminous, or for security reasons, cannot be copied and moved, then the franchisee may request that the inspection take place at some other location, provided that:

1) The franchisee must make necessary arrangements for copying documents selected by the City after review; and

2) The franchisee must pay all travel and additional copying expenses incurred by the City in inspecting those documents or having those documents inspected by its designee.

K. Retention of records; relation to privacy rights.

The franchisee shall take all steps that may be required to ensure that it is able to provide the City all information which must be provided or may be requested under this Chapter or its franchise agreement, including by providing appropriate subscriber privacy notices. Nothing in this section shall be read to require the franchisee to violate 47 U.S.C. § 551. Each franchisee shall be responsible for redacting any data that federal law prevents it from providing to the City. The City retains the right to question any such redaction and to challenge it in any forum having jurisdiction over such a challenge. Records shall be kept for at least five (5) years.

L. Waiver of reporting requirements.

The City may, at its discretion, waive in writing the requirement of any particular report specified in this section.

12-14 Insurance, surety, and indemnification.

A. Insurance required.

1) A franchisee shall maintain, and by its acceptance of a franchise specifically agrees that it will maintain, throughout the entire length of the franchise period, worker’s compensation and employer liability insurance meeting all requirements of Maryland law.

2) The franchisee shall maintain, and by its acceptance of the franchise specifically agrees that it will maintain, throughout the entire length of the franchise period comprehensive general liability insurance insuring the city and the franchisee with respect to the construction, operation, and maintenance of the cable system, and the conduct of the franchisee’s business in the city and including coverage for all risks from premises-operations, explosion and collapse hazard, underground hazard, products/completed operations hazard, contractual insurance, broad from property damage, and personal injury, in the following minimum amounts, but in any event no less than the liability limits specified by the local government tort claims act:

   a) $500,000 for property damage resulting from any one accident;

   b) $1,000,000 for property damage aggregate;
(b) $1,000,000 for personal bodily injury or death for one person; $2,000,000 for bodily aggregate per single accident and occurrence; and

c) $2,000,000 for all other types of liability.

(3) The franchisee shall maintain, and by its acceptance of the franchise specifically agrees that it will maintain, throughout the entire length of the franchise period general comprehensive public liability insurance indemnifying, defending and saving harmless the City, its officers, boards, commissions, agents or employees, from any and all claims by any person whatsoever on account of injury to or death of a person or persons occasioned by the operations of the franchisee under the franchise herein granted or alleged to have been so caused or occurred, all risks from premises-operations, explosion and collapse hazard, underground hazard, products/completed operations hazard, contractual insurance, broad form property damage, and personal injury, with a minimum liability of one million dollars ($1,000,000) per personal injury or death of any one person and two million dollars ($2,000,000) for personal injury or death of two or more persons in any one occurrence.

(4) The franchisee shall maintain, and by its acceptance of the franchise specifically agrees that it will maintain, throughout the entire length of the franchise period automobile liability insurance for owned or leased vehicles in the minimum amount of $2,000,000 for bodily injury and consequent death per occurrence, $1,000,000 for bodily injury and consequent death to any one person, and $500,000 for property damage per occurrence.

(5) In the event that the insurance requirements set forth in this section are increased by amendment during the term of an existing franchise, the franchisee shall increase its policy limits accordingly at the time of the next renewal of the franchisee's policy or policies.

B. Endorsements.

(1) All insurance policies and certificates maintained pursuant to a franchise agreement shall contain the following endorsement:

It is hereby understood and agreed that this insurance coverage may not be canceled by the insurance company nor the intention not to renew be stated by the insurance company until thirty (30) days after receipt by the City's secretary or clerk, by registered mail, of a written notice of such intention to cancel or not to renew.

(2) All contractual liability insurance policies and certificates maintained pursuant to a franchise agreement shall include the provision of the following hold harmless clause:

The company agrees to indemnify, save harmless and defend each municipality, its agents, servants, and employees, and each of them against and hold it and them harmless from any or all lawsuits, claims, demands, liabilities, losses and expenses, including court costs and reasonable attorney's fees for or on account of any injury to any person, or any death at any time resulting from such injury, or any damage to any property, which may arise or which may be alleged to have arisen out of or in connection with the work covered by this agreement. The foregoing indemnity shall apply except if such injury, death or damage is caused directly by the negligence or other fault of the city, its agents, servants, or employees or any other person indemnified hereunder.

C. Qualifications of sureties.

All insurance policies shall be with sureties qualified to do business in the State of Maryland, with an A-1 or better rating of insurance by best's key rating guide, property/casualty edition, and in a form acceptable to the City.

D. Policies available for review.

All insurance policies shall be available for review by the City, and the franchisee shall keep on file with the City certificates of insurance.

E. Additional insureds; prior notice of policy cancellation.

All liability insurance policies shall name the City, its officers, boards, commissions, commissioners, agents, and employees as additional insureds and shall further provide that any cancellation or reduction in coverage shall not be effective unless thirty (30) days' prior written notice thereof has been given to the City. A franchisee shall not cancel any required insurance policy without submission of proof that it has obtained alternative insurance satisfactory to the City which complies with its franchise agreement.

F. Failure constitutes material violation.
Failure to comply with the insurance requirements set forth in this section shall constitute a material violation of a franchise.

G. Indemnification.

(1) A franchisee shall, at its sole cost and expense, indemnify, hold harmless, and defend the City, its officials, boards, commissions, commissioners, agents, and employees, against any and all claims, suits, causes of action, proceedings, and judgments for damages arising out of the construction, maintenance, or operation of its cable system; copyright infringements or a failure by the franchisee to secure consents from the owners, authorized distributors, or franchisees of programs to be delivered by the cable system; the conduct of the franchisee's business in the City; or in any way arising out of the franchisee's enjoyment or exercise of the franchise, regardless of whether the act or omission complained of is authorized, allowed, or prohibited by this Chapter or its franchise agreement.

(2) Specifically, a franchisee shall fully indemnify, defend, and hold harmless the City, and in its capacity as such, the officers, agents, and employees thereof, from and against any and all claims, suits, actions, liability, and judgments for damages arising out of the installation, construction, operation, or maintenance of the system, including but not limited to any claim against the franchisee for invasion of the right of privacy, defamation of any person, firm or corporation, or the violation or infringement of any copyright, trade mark, trade name, service mark, or patent, or of any other right of any person, firm, or corporation. This indemnity does not apply to programming carried on any channel set aside for peg use, or channels leased pursuant to 47 U.S.C. § 532, except that this indemnity shall apply to any actions taken by a franchisee pursuant 47 U.S.C. § 531(e) or 47 U.S.C. § 532(c)(2) concerning the programming carried on peg or leased access channels or an institutional network.

(3) The indemnification required by this section shall include, but is not limited to, the City's reasonable attorneys' fees incurred in defending against any such claim, suit, or proceeding, in addition to the reasonable value of any services rendered by the City Attorney or City staff or employees.

H. No limit of liability.

Neither the provisions of this section nor any damages recovered by the City shall be construed to limit the liability of the franchisee for damages under the franchise.

12-15 Performance guarantees, penalties and revocation

A. Termination of franchise for failure to provide service.

Unless otherwise provided in a cable operator's franchise agreement:

(1) If, as a result of a dispute between the franchisee and the City and prior to a settlement of that dispute as provided for herein the franchisee arbitrarily or capriciously discontinues service to its subscribers, the franchisee shall forfeit its rights of notice and a hearing as provided for herein, and the City, by resolution, may declare the franchise immediately terminated, in which case the City shall forthwith seek appropriate judicial relief and shall proceed to exercise its rights and powers as provided for herein.

(2) If a renewal of a franchise held by a cable operator is denied, the City may take appropriate action to acquire ownership of the cable system or effect a transfer of ownership of the system to another person, in which event such acquisition or transfer shall be at fair market value, determined on the basis of the cable system valued as a going concern but with no value allocated to the franchise itself.

(3) If a franchise held by a cable operator is revoked for cause, the City may take appropriate action to acquire ownership of the cable system or effect a transfer of ownership of the system to another person, in which event such acquisition or transfer shall be at an equitable price.

(4) Upon payment of the purchase price, the franchisee shall immediately transfer to the City possession and title to all facilities and property, real and personal, related to its cable television system free from any and all liens and encumbrances not agreed to be assumed by the City in lieu of some portion of the purchase price.

(5) Until such time as the franchisee transfers to the City or to a new franchisee possession and title to all assets, real and personal, related to its cable television
system the franchisee shall, as trustee for its successor in interest, continue to operate the cable television system under the terms and conditions of this Chapter and the franchise and to provide the basic service and any and all of the services that may be provided at that time. During such interim period, the franchisee shall not sell any of the system assets nor shall the franchisee make any physical, material, administrative or operational change that would tend to degrade the quality of service to the subscribers, decrease income, or materially increase expenses without the express permission, in writing, of the City or its assignee. The City shall be permitted to seek legal and equitable relief to enforce the provisions of this section.

(6) For its management services during this interim period, the franchisee shall be entitled to receive as compensation the net profit, as defined herein, generated during the period between the date the franchisee received written notice from the City of its intent to purchase the franchisee's cable television system or the expiration date of the franchise, whichever is earlier, and the payment of the purchase price. Such management services shall not be continued for more than twelve (12) months without the franchisee's consent. However, if the City determines that the franchisee is responsible for any delay in transfer of ownership and control, the franchisee shall continue to operate the cable television system, as provided for in this Chapter, without compensation for its services until the sales agreement is executed and ownership and control passes to the City or its assignee. In addition, the City shall also have the further right to forthwith terminate the franchise or to purchase the assets of the franchisee's cable system at fair market value.

B. Penalties.

(1) For violation of provisions of this Chapter or a franchise agreement entered into pursuant to this Chapter, penalties shall be assessable against a franchisee and shall be chargeable to the franchisee's security fund in the amount set forth in the franchise agreement between the City and the franchisee.

C. Termination on account of certain assignments or appointments.

(1) Any franchise shall be deemed revoked one hundred twenty (120) calendar days after an assignment for the benefit of creditors or the appointment of a receiver or trustee to take over the business of a franchisee, whether in a receivership, reorganization, bankruptcy assignment for the benefit of creditors, or other action or proceeding. Provided, however, that a franchise may be reinstated at the City's sole discretion if, within that one hundred twenty-day period:

(a) Such assignment, receivership or trusteeship has been vacated; or

(b) Such assignee, receiver, or trustee has fully complied with the terms and conditions of this Chapter and the applicable franchise agreement and has executed an agreement, approved by a court of competent jurisdiction, under which it assumes and agrees to be bound by the terms and conditions of this Chapter and the applicable franchise agreement, and such other conditions as may be established or as are required by applicable law.

(2) Notwithstanding the foregoing, in the event of foreclosure or other judicial sale of any of the facilities, equipment, or property of a franchisee, the City may revoke the franchise, following a public hearing, by serving notice on the franchisee and the successful bidder, in which event the franchise and all rights and privileges of the franchise will be revoked and will terminate thirty calendar days after serving such notice, unless:

(a) The City has approved the transfer of the franchise to the successful bidder; and

(b) The successful bidder has covenanted and agreed with the City to assume and be bound by the terms and conditions of the franchise agreement and this Chapter, and such other conditions as may be established or as are required pursuant to this Chapter or a franchise agreement.

D. Remedies cumulative.

All remedies under this Chapter and the franchise agreement are cumulative unless otherwise expressly stated. The exercise of a remedy or the payment of liquidated damages or penalties shall not relieve a franchisee of its obligations to comply with its franchise or applicable law.
E. Relation to insurance and indemnity requirements.
Recovery by the City of any amounts under insurance, the security fund, the performance bond, or letter of credit, or otherwise does not limit a franchisee's duty to indemnify the City in any way; nor shall such recovery relieve a franchisee of its obligations under a franchise, limit the amounts owed to the City, or in any respect prevent the City from exercising any other right or remedy it may have.

F. Termination for other reasons.
Unless otherwise provided for in the franchise agreement:

(1) Whenever the franchisee shall willfully and/or repeatedly fail, refuse or neglect to conduct, operate or maintain its cable system in accordance with the terms of this Chapter and the franchise, or to comply with the conditions of street occupancy, or to make required extensions, or in other ways violate the terms and conditions of this Chapter, the City Manager may notify the franchisee in writing, setting forth the nature and facts of such noncompliance. If within thirty (30) calendar days following such written notification the franchisee has not furnished proof that corrective action has been taken or is being actively and expeditiously pursued, or evidence that the alleged violations did not occur, the City Manager shall place request for termination of the franchise on the agenda of the next meeting of the City Council.

(2) If, after considering the City Manager's request for termination of the franchise and hearing all interested parties, the City determines that the noncompliance of the franchisee was with just cause, it shall direct the franchisee to comply within such time and manner and on such terms and conditions as are reasonable.

(3) If the City determines that such noncompliance was without just cause, then the City may terminate the franchise.

(4) No revocation or termination shall be effected unless the City, at any regular or special public meeting at which all interested parties have been heard, shall set further the reasons for the termination, and in the event the termination of said franchise depends upon a finding of fact, such finding of fact as made by the City Council after said hearing shall be deemed to be conclusive unless modified by a court of law of appropriate jurisdiction.

(5) The franchisee shall not be declared in violation of or be subject to any sanction under provisions of this Chapter in any case where the performance of the cable service is prevented for reasons beyond the franchisee's control. A violation shall not be deemed to be beyond the franchisee's control if committed by a corporation or other business entity in which the franchisee holds a controlling interest, whether held directly or indirectly.

(6) The termination of the franchisee shall in no way affect any of the rights of the City under the franchise or any provision of law.
(Section 12-15 amended by O-2-06, effective 4/19/06).

12-16 Performance bond and letter of credit
Unless otherwise provided for in the franchise agreement, a franchisee shall maintain a performance bond at one hundred percent (100%) of the cost of construction. In addition, the franchisee shall maintain a letter of credit in a sum not less than fifty thousand dollars ($50,000.00). The letter of credit may be reduced in an amount up to twenty-five thousand dollars ($25,000.00) upon the completion of fifty percent (50%) of the construction, the franchisee shall file with the City Manager a duplicate copy of the performance bond and letter of credit which must be approved by the City Attorney.

12-17 Transfers
A. City approval required.

(1) A franchise granted under this Chapter shall be a privilege to be held in personal trust by the franchisee.

(2) No transfer (including by forced or voluntary sale, merger, consolidation, receivership or other means) shall occur unless prior application is made by a franchisee to the City and the City's prior written consent is obtained, pursuant to this Chapter and the franchise agreement, and only then upon such terms and conditions as the City deems necessary and proper. Any such transfer without the prior written consent of the City shall be considered to
impair the City's assurance of due performance. The granting of approval for a transfer in one instance shall not render unnecessary approval of any subsequent transfer.

B. Application.

(1) A franchisee shall notify the City as soon as possible of any proposed transfer.

(2) At least one hundred twenty (120) calendar days prior to the contemplated effective date of a transfer, a franchisee shall submit to the City a written application for approval of the transfer. Such an application shall provide complete information on the proposed transaction, including details on the legal, financial, technical, and other qualifications of the transferee, and on the potential impact of the transfer on subscriber rates and service. At a minimum, the following information must be included in the application, unless these requirements are waived, reduced, or modified by the City as stated herein:

(a) All information and forms required under federal law;

(b) A detailed statement of the corporate or other business entity organization of the proposed transferee, together with an explanation of how decisions regarding the system will be made if the proposed transaction is approved;

(c) Any contracts, financing documents, or other documents that relate to the proposed transaction, and all documents, schedules, exhibits, or the like referred to therein.

(3) At a franchisee's option, the franchisee may notify the City of the proposed transaction in general terms at least one hundred fifty (150) days prior to the contemplated effective date of a transfer, and request that the City waive some or all of the information requirements specified in section 12-4. To the extent consistent with applicable law, the City may waive in writing any such requirement that information be submitted as part of the initial application, without thereby waiving any rights the City may have to request such information after the initial application is filed.

(4) For the purposes of determining whether it shall consent to a transfer, the city or its agents may inquire into all qualifications of the prospective transferee and such other matters as the City may deem necessary to determine whether the transfer is in the public interest and should be approved, denied, or conditioned. A franchisee and any prospective transferees shall assist the City in any such inquiry, and if they fail to provide such reasonable assistance, the request for transfer may be denied.

C. Determination by City.

In making a determination as to whether to grant, deny, or grant subject to conditions an application for a transfer, the City may consider, without limitation, the legal, financial, and technical qualifications of the transferee to operate the system; any potential impact of the transfer on subscriber rates or services; and whether operation by the transferee or approval of the transfer would adversely affect subscribers, the City's interest under a franchise agreement, this Chapter, other applicable law, and is otherwise in the public interest.

D. Effect of transfer without approval.

Any transfer without the City's prior written approval shall be ineffective, and shall make the franchise subject to cancellation at the City's sole discretion, and to any other remedies available under this Chapter, a franchise agreement, or other applicable law.

E. Notification of certain transactions.

(1) A franchisee shall give the City reasonable advance notice of any change of ownership or other right, title, or interest of more than five percent (5%) but less than ten percent (10%) in a publicly-traded corporation controlling the franchisee, its cable system, or any person that is a cable operator of the cable system (or in the franchisee itself), or an interest of more than five percent (5%) but less than twenty percent (20%) in an entity other than a publicly-traded corporation controlling the franchisee, its cable system, or any person that is a cable operator of the cable system (or in the franchisee itself, if it is not a publicly-traded corporation), directly or indirectly, to an entity that does not presently control such entity other than a publicly-traded corporation. If the City does not have the right under a franchise agreement and applicable law to approve or deny a change of the type defined in the preceding sentence, the franchisee shall warrant to the City the legal, financial, and character qualifications of the entity acquiring such an interest.
(2) A franchisee will notify the City if at any time there is a mortgage or security interest granted on substantially all of the assets of a franchisee's cable system, and will provide the City with copies of all loan documents with respect to such transaction as soon as such documents become publicly available and, if such documents do not become publicly available within ten business days after loan closing, will make such documents available for inspection within ten (10) business days after loan closing.

F. Approval does not constitute waiver.

Approval by the City of a transfer does not constitute a waiver or release of any of the rights of the City under this Chapter or a franchise agreement, whether arising before or after the date of the transfer.

12-18 Open video systems
A. Applicability of chapter
   (1) This Chapter shall apply to open video systems that comply with 47 U.S.C. § 573, to the extent permitted by applicable law, except that the following sections shall not apply: Section 12-3A-12-3C (Regarding grant of franchise), Section 12-4 (Franchise applications), Section 12-5 (Filing fees), Section 12-6 (Provision of service), Section 12-7A (Construction schedule), Section 12-11 (Rate regulation), Section 12-12B-12-12C (Regarding franchise fees), Section 12-14F (Failure to comply with insurance requirements a material violation of franchise), Section 12-15B(1) B, C and H (Certain penalties), Section 12-15C (Franchise termination due to bankruptcy).
   (2) In applying this Chapter to an open video system, "franchisee" shall be taken to refer to the open video system operator, "cable system" to the open video system, and similar terms shall apply similarly.

B. Fee in lieu of franchise fee.
   An open video system operator shall pay to the City a fee in lieu of the franchise fee required in Section 12-12B of this Chapter, pursuant to the procedures and conditions specified in Section 12-12 and generally herein.

C. Peg access obligations.
   An open video system operator shall be subject to obligations pertaining to peg access pursuant to applicable law and to the requirements herein.

D. Right-of-way usage.
   An open video system operator shall be subject to all requirements of state and local law regarding authorization to use or occupy the public rights-of-way, except to the extent specifically prohibited by federal law. FCC approval of an open video system operator's certification pursuant to 47 U.S.C. § 573 shall not be taken to confer upon such operator any authority to use or occupy the public rights-of-way that such operator would not otherwise possess.

12-19 Rights of individuals protected
A. Discriminatory practices prohibited.
   (1) A franchisee shall not deny service, deny access, or otherwise discriminate against subscribers, programmers, or residents of the City on the basis of race, color, religion, national origin, gender, or age.
   (2) A franchisee shall not discriminate among persons or take any retaliatory action against a person because of that person's exercise of any right it may have under federal, state, or local law, nor may the franchisee require a person to waive such rights as a condition of receiving service.
   (3) A franchisee shall not deny access or levy different rates and charges on any group of potential residential cable subscribers because of the income of the residents of the local area in which such group resides.
   (4) Subject to applicable law and except to the extent the City may waive such a requirement, a franchisee is prohibited from discriminating in its rates or charges or from granting undue preferences to any subscriber, potential subscriber, or group of subscribers or potential subscribers; provided, however, that a franchisee may offer temporary, bona fide promotional discounts in order to attract or maintain subscribers, so long as such discounts are offered on a non-discriminatory basis to similar classes of subscribers throughout the City; and a
franchisee may offer discounts for the elderly, the handicapped, non-for-profit persons or organizations, or the economically-disadvantaged, and other discounts in conformance with federal law, if such discounts are applied in a consistent and nondiscriminatory manner, and provided that a franchisee may provide such other bulk discounts as are permitted by the cable uniform rate structure provisions of federal law as they may exist from time to time. A franchisee shall comply at all times with all applicable federal, state, and City laws, and all executive and administrative orders relating to non-discrimination.

B. Information accessibility.
Each document required to be maintained, filed or submitted under the provisions of this Chapter or a franchise agreement, except those specifically designated as confidential by a franchisee, subject to the City's review, pursuant to applicable law, is a public document, available for public inspection and copying at the requestor's expense, at the office of the franchisee or the City during normal business hours.

C. Equal employment opportunity.
A franchisee shall not refuse to employ, discharge from employment, or discriminate against any person in compensation or in terms, conditions, or privileges of employment because of race, color, religion, national origin, sex, or age. A franchisee shall comply with all federal, state, and local laws and regulations governing equal employment opportunities, as the same may be from time to time amended.

D. Subscriber privacy.
(1) A franchisee shall at all times protect the privacy rights of all subscribers, including but not limited to those rights secured by the provisions of Section 631 of the Cable Act, 47 U.S.C. § 551.

(2) The franchisee shall not permit the transmission of any signal, aural, visual or digital, including "polling" the channel selection, from any subscriber's premises without first obtaining such subscriber's prior voluntary affirmative authorization. Neither the franchisee nor any other person shall initiate in any form the discovery of any information on or about an individual subscriber's premises without prior voluntary affirmative authorization from the subscriber potentially affected. This provision is not intended to prohibit the transmission of signals useful only for the control or measurement of system performance or for detection of theft of service.

(3) The franchisee shall not permit the installation of any special terminal equipment in any subscriber's premises that will permit transmission from such subscriber's premises of two-way services utilizing aural, visual or digital signals without such subscriber's prior voluntary affirmative authorization.

(4) The franchisee shall strictly observe and protect the rights of privacy and property rights of subscribers and users at all times. Individual subscriber preferences of any kind, viewing habits, political, social or economic philosophies, beliefs, creeds, religions or names, addresses or telephone numbers shall not be revealed to any person, governmental unit, police department or investigating agency unless upon the authority of a court of law, a valid search warrant or subpoena, or upon prior voluntary affirmative authorization of the subscriber or as may be permitted by operation of law.

(5) The franchisee shall not tabulate any test results that would reveal the commercial product preferences or opinions of individual subscribers, members of their families or their invitees, licensees, or employees, nor permit the use of the system for such tabulation, without the subscriber's prior voluntary affirmative authorization.

(6) A subscriber may at any time revoke any prior voluntary affirmative authorization to release information by delivering to the franchisee in writing, by mail or otherwise, the subscriber's decision to revoke the authorization. Any such revocation shall be effective upon receipt by the franchisee.

(7) A franchisee shall not condition subscriber service on the subscriber's prior voluntary affirmative authorization or grant or denial of permission to collect, maintain or disclose personally identifiable information, except to the extent that such information is necessary for credit check or billing purposes.

12-20 Theft of service
It shall be unlawful for any person to attach or affix or to cause to be attached or affixed any equipment or device that allows access or use of the cable system without lawful payment to the franchise for same. A violation of this section shall be a municipal infraction punishable by a fine of two hundred fifty dollars ($250.00) for each offense.

12-21  Administration
Reserved for future legislation.

12-22  Miscellaneous provisions
A.  Compliance with laws.
   (1) Each franchisee shall comply with all federal, state, and local laws and regulations heretofore and hereafter adopted or established during the entire term of its franchise.
B.  No recourse against the City.
   Without limiting such immunities as the City or other persons may have under applicable law, a franchisee shall have no recourse whatsoever against the City or its officials, boards, commissions, agents or employees for any loss, costs, expense or damage arising out of any provision or requirement of this chapter or because of the enforcement of this Chapter or the City's exercise of its authority pursuant to this Chapter, a franchise agreement, or other applicable law, unless the same shall be caused by criminal acts or by willful or gross negligence.
C.  Rights and remedies.
   (1) The rights and remedies reserved to the City by this Chapter are cumulative and shall be in addition to and not in derogation of any other rights and remedies which the City may have with respect to the subject matter of this Chapter.
   (2) The City hereby reserves to itself the right to intervene in any suit, action or proceeding involving any provision of this Chapter or a franchise agreement.
   (3) Specific mention of the materiality of any of the provisions herein is not intended to be exclusive of any others for the purpose of determining whether any failure of compliance hereunder is material and substantial.
   (4) No franchisee shall be relieved of its obligation to comply with any of the provisions of this Chapter or a franchise agreement by reason of any failure of the City to enforce prompt compliance. Nor shall any inaction by the City be deemed to waive or void any provision of this Chapter or a franchise agreement.
   (5) The City expressly reserves the right to cause the franchisee fee percentage stated in this Chapter to be subject to negotiation in the event it is determined that the FCC lacks jurisdiction to impose percentage limitations on franchise fees, if the percentage limitation is revised by the FCC, or any other event occurs to permit negotiation or renegotiation.
D.  Amendments to this Chapter.
   Notwithstanding any other provision in this Chapter or a franchise agreement, nothing in this Chapter or a franchise agreement shall preclude the City from exercising its police powers to enact, amend or supplement any law or regulation governing cable communications within the City.
E.  Public emergency.
   In the event of a major public emergency or disaster as determined by the Mayor of the City or his designee, a franchisee shall immediately make the entire cable system, employees, and property, as may be necessary, available for use by the City or other civil defense or governmental agency designated by the city to operate the system for the term of such emergency or disaster for the emergency purposes. In the event of such use, a franchisee shall waive any claim that such use by the city constitutes a use of eminent domain, provided that the City shall return use of the entire system, employees, and property to the franchisee after the emergency or disaster has ended or has been dealt with.
F.  Connections to system; use of antennae.
   (1) Subscribers shall have the right to attach devices to a franchisee's system and the right to use their own remote control devices and converters and other similar equipment, consistent with fcc equipment compatibility rules and other applicable law, and a franchisee shall provide information to consumers which will allow them to adjust such devices so that they may be used with the franchisee's system.
(2) A franchisee shall not, as a condition of providing service, require a subscriber or potential subscriber to remove any existing antenna or disconnect an antenna, or prohibit or discourage a subscriber from installing an antenna switch, provided that such equipment and installations are consistent with applicable codes and technically able to shield the cable system from any interference.

G. Calculation of time.

Unless otherwise indicated, when the performance or doing of any act, duty, matter, or payment is required under this chapter or any franchise agreement, and a period of time or duration for the fulfillment of doing thereof is prescribed and is fixed herein, the time shall be computed so as to exclude the first and include the last day of the prescribed or fixed period of duration time.

H. Severability.

If any term, condition, or provision of this Chapter shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective. In the event of a subsequent change in applicable law so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding on the franchisee and the City.

Chapter 12 was repealed and reenacted by O-5-99, adopted 9/21/99, effective 9/21/99.
Without limiting such immunities as the City or other persons may have under applicable law, a franchisee shall have no recourse whatsoever against the City or its officials, boards, commissions, agents or employees for any loss, costs, expense or damage arising out of any provision or requirement of this chapter or because of the enforcement of this Chapter or the City's exercise of its authority pursuant to this Chapter, a franchise agreement, or other applicable law, unless the same shall be caused by criminal acts or by willful or gross negligence.

C. Rights and remedies.

(1) The rights and remedies reserved to the City by this Chapter are cumulative and shall be in addition to and not in derogation of any other rights and remedies which the City may have with respect to the subject matter of this Chapter.

(2) The City hereby reserves to itself the right to intervene in any suit, action or proceeding involving any provision of this Chapter or a franchise agreement.

(3) Specific mention of the materiality of any of the provisions herein is not intended to be exclusive of any others for the purpose of determining whether any failure of compliance hereunder is material and substantial.

(4) No franchisee shall be relieved of its obligation to comply with any of the provisions of this Chapter or a franchise agreement by reason of any failure of the City to enforce prompt compliance. Nor shall any inaction by the City be deemed to waive or void any provision of this Chapter or a franchise agreement.

(5) The City expressly reserves the right to cause the franchisee fee percentage stated in this Chapter to be subject to negotiation in the event it is determined that the FCC lacks jurisdiction to impose percentage limitations on franchise fees, if the percentage limitation is revised by the FCC, or any other event occurs to permit negotiation or renegotiation.

D. Amendments to this Chapter.

Notwithstanding any other provision in this Chapter or a franchise agreement, nothing in this Chapter or a franchise agreement shall preclude the City from exercising its police powers to enact, amend or supplement any law or regulation governing cable communications within the City.

E. Public emergency.

In the event of a major public emergency or disaster as determined by the Mayor of the City or his designee, a franchisee shall immediately make the entire cable system, employees, and property, as may be necessary, available for use by the City or other civil defense or governmental agency designated by the City to operate the system for the term of such emergency or disaster for the emergency purposes. In the event of such use, a franchisee shall waive any claim that such use by the City constitutes a use of eminent domain, provided that the City shall return use of the entire system, employees, and property to the franchisee after the emergency or disaster has ended or has been dealt with.

F. Connections to system; use of antennae.

(1) Subscribers shall have the right to attach devices to a franchisee's system and the right to use their own remote control devices and converters and other similar equipment, consistent with FCC equipment compatibility rules and other applicable law, and a franchisee shall provide information to consumers which will allow them to adjust such devices so that they may be used with the franchisee's system.

(2) A franchisee shall not, as a condition of providing service, require a subscriber or potential subscriber to remove any existing antenna or disconnect an antenna, or prohibit or discourage a subscriber from installing an antenna switch, provided that such equipment and installations are consistent with applicable codes and technically able to shield the cable system from any interference.

G. Calculation of time.

Unless otherwise indicated, when the performance or doing of any act, duty, matter, or franchise agreement, and a period of time or duration for the fulfillment of doing thereof is prescribed and is fixed herein, the time shall be computed so as to exclude the first and include the last day of the prescribed or fixed period of duration time.

H. Severability.
If any term, condition, or provision of this Chapter shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective. In the event of a subsequent change in applicable law so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding on the franchisee and the City.

Chapter 12 was repealed and reenacted by O-5-99, adopted 9/21/99, effective 9/21/99.
CHAPTER 13.

ENVIRONMENTAL NOISE CONTROL

13-1. Definitions.
13-2. Standards.
13-4. Exemptions.
13-5. Penalty.

Sec. 13-1. Definitions.

(a) "Commercial Land Use." Property zoned or used for the sale of goods or services or for office uses.
(b) "dBA." Abbreviation for the sound level in decibels determined by the A-weighting network of a sound level meter or by calculations from octave band or 1/3 octave band data.
(c) "Daytime." Between 7:00 a.m. and 10:00 p.m., local time.
(d) "Decibel (db)". A unit of measure equal to ten times the logarithm to the base ten of the ratio of a particular sound pressure squared to a standard reference pressure squared. For the purpose of this chapter, twenty (20) micropascals shall be the standard reference pressure.
(e) "Industrial Land Use." Property zoned or used for manufacturing or storing goods.
(f) "Nighttime." Between 10:00 p.m. and 7:00 a.m., local time.
(g) "Person." Any individual, group, firm, association, agency or other entity.
(h) "Residential Land Use." Property zoned or used for dwellings.
(i) "Sound." An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.
(j) "Sound Level." The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B, or C as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4-1971, or the latest approved revision thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.
(k) "Sound Level Meter." An instrument designed to measure noise levels, meeting American National Standards Institute S1-4-1971 - Specifications for Type 2 Sound Level Meters.

Sec. 13-2. Noise exceeding measurable standards.

(a) It is prohibited for any person located within the City to make any noise or operate any sound amplifier on any property owned or occupied by such person, or to permit any noise to be made or any sound amplifier to be operated on property owned or occupied by such person, so as to be clearly audible to any person located beyond the property line of such property at a level higher than those set forth in subsection (b) of this section, as such sound may be measured from (a) any point along the front line of the property or any part of the perimeter property line upon which the noise is being made or generated or (b) any place on adjacent property, provided that the person measuring the sound shall first obtain the permission of the adjacent property owner to enter upon said property.
(b) The noise prohibited in subsection (a) of this section shall include noise exceeding the following standards:

<table>
<thead>
<tr>
<th>Land Use of Receiving Property</th>
<th>Maximum Decibel Level</th>
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<tr>
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<tr>
<td>Category</td>
<td>Noise Level</td>
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</tr>
<tr>
<td>Industrial</td>
<td>75 dBA, daytime or nighttime</td>
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<tr>
<td>Commercial</td>
<td>67 dBA, daytime</td>
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<td></td>
<td>62 dBA, nighttime</td>
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<tr>
<td>Residential</td>
<td>60 dBA, daytime</td>
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<td>50 dBA, nighttime</td>
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(c) The equipment and techniques employed in the measurement of noise levels may be those recommended by the Maryland Department of the Environment, which may, but need not, refer to currently accepted standards or recognized organizations, included but not limited to, the American National Standards Institute (ANSI), American Society for Testing and Materials (ASTM), Society of Automotive Engineers (SAE), and the United States Environmental Protection Agency (EPA)

Sec. 13-3. Additional noise.

(a) In addition to the prohibition set forth in Section 13-2 of this Chapter, it shall be unlawful, at any hour during the daytime or nighttime, for any owner or occupant of real property located within the City to make or generate any loud or raucous sound on said property, or to permit any loud or raucous sound to be made or generated on said property, or for any person to make or generate any loud or raucous sound on public property, so as to cause unreasonable annoyance to or disturbance to others living or located nearby. The following, among others, are declared to be loud and unnecessary noises in violation of this ordinance, but said enumeration shall not be deemed to be exclusive, namely:

1. Horns, signaling devices, etc. The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle on any street or public place of the City, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time. The use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.

2. Loud speakers, amplifiers for advertising. The using, operating or permitting to be played, used, or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is broadcast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure, or for any other purpose so as to annoy the quiet, comfort or repose of persons in any office or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.

3. Yelling, shouting, etc. Yelling, shouting, hooting, whistling, using profanity or obscenence or unreasonably offensive language or singing so as to annoy or disturb the quiet, comfort, or repose of persons in any office or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.

4. Animals, birds, etc. The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the quiet, comfort or repose of any persons in the vicinity.

5. Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

6. Defect in vehicle or load. The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.

7. Loading, unloading, opening boxes. The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers.

8. Construction or repairing of buildings. The erection (including excavation), demolition, alteration or repair of any building or structure other than between the following hours:
Monday through Friday  
7:00 a.m. and 6:00 p.m.  
Saturday and Sunday  
9:00 a.m. and 6:00 p.m.

(9) Hawkers, peddlers. The shouting and crying of peddlers, hawkers and vendors and/or bells and music emanating from any vehicle or equipment used by a peddler, hawker or vendor, that disturb the peace and quiet of the neighborhood.

(10) Drums or other instruments. The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale or for any other purpose so as to annoy the quiet, comfort or repose of persons in the vicinity.

(11) Metal rails, pillars and columns, transportation thereof. The transportation of rails, pillars or columns of iron, steel or other material, over and along streets and other public places upon carts, trays, cars, trucks, or in any other manner so loaded as to cause loud noises or as to disturb the peace and quiet of such streets or other public places.

(12) Blowers. The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.

(13) Auto maintenance tools and equipment. The operation of any auto maintenance tools or equipment which causes noise due to the use of internal combustion or electric engines or pneumatic power so as unreasonably to annoy the quiet, comfort or repose of persons in the vicinity.

(b) The generation of noise prohibited by subsection (a) of the section is a municipal infraction subject to the penalty set forth in Section 13-5 of this Chapter; provided however that no municipal infraction citation shall be issued except upon the observation of circumstances constituting a violation of this section by a City Code Compliance Officer or upon the submission of written complaints to the City, on an affidavit form obtained from the City, by at least two witnesses residing in separate households, each of whom must be at least eighteen years of age and have personal knowledge of the alleged violation.

Sec. 13-4. Exemptions.

(a) This Chapter shall not apply to activities or events conducted or sponsored by the City, including, without limitation, the Ice Rink, the Allen Pond concerts, the 4th of July parade and fireworks, and the like including functions at the Belair Mansion and Belair Stables.

(b) The provisions of this Chapter shall not apply to sound equipment used by Public Service Companies as defined in Article 78 of the Annotated Code of Maryland, or to federal, state or local governmental agencies.

(c) This Chapter shall not apply to sound not electronically amplified by sporting, amusement, and entertainment events and other public gatherings operating according to terms and conditions of the appropriate local jurisdictional body. This includes but is not limited to athletic contests, amusement parks, carnivals, fairgrounds, sanctioned auto racing facilities, parades and public celebrations. This exemption only applies between the hours of 7:00 a.m. and 12:00 midnight. (Sec. 13-4 amended by Ordinance O-25-91, effective 11/20/91.)

(d) This Chapter shall not apply to the erection (including excavation), demolition, alteration or repair of any building or structure between the hours of 6:00 p.m. and 7:00 a.m. on Weekdays and 6:00 p.m. and 9:00 a.m. on weekends where it is necessary for public health and safety to allow such activity, and then only with prior written permission from the City Manager. Said permission may be granted by the City Manager for a period not to exceed three (3) days. If the emergency continues, said permission may be renewed for a period of three (3) days. If the City Manager determines that the public health or safety will not be impaired by the excavation of streets and highways at times other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays and 9:00 a.m. and 6:00 p.m. on weekends, and if the City Manager further determines that loss or inconvenience would result to any party in interest, the City Manager may grant permission for such work to be done at such times upon
written request being made at the time the permit for the work is awarded or during the progress of the work. (Sec. 13-4(d) added by O-1-96, adopted 4/14/96).

(e) This Chapter shall not apply to lawn care and snow removal equipment when maintained in accordance with the manufacturer’s specifications and used between the hours of 7:00 a.m. and 10:00 p.m. Monday through Friday, and between the hours of 9:00 a.m. and 10:00 p.m. Saturdays and Sundays.

(f) This Chapter shall not apply to household tools and portable appliances in normal usage between the hours of 7:00 a.m. and 10:00 p.m. Monday through Friday, and between 9:00 a.m. and 7:00 p.m. Saturdays and Sundays.

(g) This Chapter shall not apply to household generators used during an emergency or for which routine testing or maintenance is being performed between the hours of 9:00 a.m. and 7:00 p.m.

Sec. 13-5. Penalty.

(a) Violations of this Chapter are municipal infractions, subject to the penalty and enforcement provisions of Chapter 1, Section 1-6 and 2-6(a) of this Code, except that any violation of Section 13-3(a)(8) of this Chapter as a result of new residential or commercial development shall be subject to a fine of $250.00 for the first violation, $500.00 for a second violation, and $1000.00 for each subsequent violation.

(b) Each hour during which a violation of sections 13-2 and 13-3 of this Chapter shall continue to exist shall constitute a separate and additional violation.

(Chapter 13, Section 13-1, 13-2, 13-3, 13-5 amended by O-4-00, adopted 11/6/00, effective 12/6/00.)
(Chapter 13, Sections 13-3, 13-4 and 13-5 amended by Ordinance O-6-11, adopted 3/21/11, effective 4/20/11).
CHAPTER 14

MOTOR VEHICLES AND TRAFFIC

Article I. In General

14-1. Definitions.
14-2. Posting signs prerequisite to enforcement in certain instances.
14-3. Coasting, etc., prohibited; vehicles, etc., other than motor vehicles prohibited from using streets, etc.
14-4. Persons prohibited from storing or servicing vehicles in streets, etc.
14-5. Limitations on using automatic signal devices constructed for pedestrian, etc., use.
14-6. Authority of City Manager to issue regulation, etc.
14-7. Reserved.
14-8. Additional powers and duties of the City Manager or his designee.

Article II. Operation of Bicycles.


Article III. Stopping, Standing and Parking, and Traffic Offenses.

14-10. Parking, etc., prohibited in specified places.
14-10A. Additional parking regulations.
14-10B. Parking of cargo trailers, open watercraft, boat trailers and camping vehicles prohibited
14-12. Parking alongside of vehicle adjacent to curb.
14-13. Leaving vehicle on street, etc.; penalty.
14-15. Impoundment of vehicles from public property without prior notice.
14-16. Inoperative vehicles on private property.
14-17. Repossession of impounded vehicles.
14-17A. Operation of motor vehicles in contravention of traffic regulation devices or posted signs.
14-17B. Speed monitoring systems.

Article IV. Snow Emergencies.

14-19. Impoundment of vehicles obstructing, etc., street clearance.
14-20. Recoupment by city of costs of impounding, etc., obstructing vehicles.
14-21. Impoundment postponed when snow accumulates after 10:00 p.m.

Article V. Penalties.

14-22. Removal of snow and ice accumulation from sidewalks and driveways.
14-25. Penalty for violation of chapter.
Article I. In General.

Sec. 14-1. Definitions.

(a) The following words when used in this Chapter have the following meaning:
   (1) Abandoned vehicle: Any motor vehicle, trailer, or semi-trailer:
      (i) That is inoperative and left on public property;
      (ii) That has remained illegally on public property, including, but not limited to, those vehicles not displaying currently valid registration plates or displaying registration plates of another vehicle; or
      (iii) That has remained on private property for more than 48 hours without the consent of the owner or person in control of the property.
   (2) Impoundment: To seize and take into legal custody.
   (3) Commercial vehicle: Any motor vehicle, trailer, or semi-trailer, including but not limited to stake platform trucks, cranes and tow trucks, used for carrying freight, merchandise, passengers or tools of a trade for compensation or in furtherance of any commercial enterprise, that:
      (a) Has a manufacturer’s gross vehicle weight specification exceeding seventy-five hundred (7500) pounds; or
      (b) Contains advertising, except that a firm name or similar designation in lettering not exceeding four (4) inches in height shall not be deemed to be advertising; or
      (c) Exceeds three-hundred (300) cubic feet of load space; or
      (d) Has dual rear wheels.
   (4) Inoperative vehicle: A motor vehicle that is missing any of the following: its engine, tires, steering wheel, transmission, windows, fender, bumper, hood, or valid license plate or is partially dismantled or wrecked or having one or more flat tires or that is otherwise unable to be moved under its own power.
   (b) Words which are not specifically defined herein shall have the same meaning as those words defined in the Transportation Article of the Annotated Code of Maryland, Sections 11-101 through 11-177 and Sections 21-101, 25-101 and 25-201. (Sec. 14-1 amended by Ordinance O-8-05 effective 10/5/05; Sec. 14-1(a)(1)(ii) amended by O-12-12, adopted 12/3/12, effective 1/2/13).

Sec. 14-2. Posting signs prerequisite to enforcement in certain instances.

Provisions of this Chapter which relate to designation of one-way streets, establishment of speed limits and designation of stop intersections shall not be effective until appropriate signs are posted.

Sec. 14-3. Coastings, etc., prohibited; vehicles, etc., other than motor vehicles prohibited from using streets, etc.

Except on streets, which may be designated by the Council from time to time and roped off or protected by signs, it shall be unlawful for any person to coast, slide, or ride with or on any sled or sleigh along, over, upon, across, or on any street, alley, or highway within the City.

Sec. 14-4. Person prohibited from storing or servicing vehicles in streets.

No person shall repair or service any automobile or vehicle of any kind of description upon any street, avenue, road, highway, alley, or public space within the City, except emergency repairs.

Sec. 14-5. Limitations on using automatic signal devices constructed for pedestrian use.
No person shall tamper with, touch, press, or in any way contact the operating mechanism constructed for pedestrians or vehicular use so as to cause any automatic signal device erected in the City for the control of traffic, or to display a signal to interfere with, obstruct, or stop traffic unless such person has a bona fide intention in so operating such traffic signal mechanism for the purpose of bringing vehicular traffic to a stop to provide safe passage for pedestrians or vehicles across and over the streets, roads, and avenues of the City.

Sec. 14-6. Authority of City Manager to issue regulations, etc.

The City Manager is empowered to formulate written regulations in keeping with and in furtherance of the policies and requirements set forth in this Chapter. Such regulations shall have the same force and effect as the provisions set forth in this Chapter without further action of the Council. Such regulations may include but are not limited to regulations necessary to cover emergencies or special conditions.

Sec. 14-7. Reserved.

Sec. 14-8. Additional Powers and Duties of the City Manager or His Designee.

The City Manager or his designee shall have the following additional powers and duties:

(a) Traffic studies and recommendations. To study traffic matters, within the limits of funds provided for these purposes and to recommend to the Council or other City officials, ways and means for improving traffic conditions and the administration of this Chapter.

(b) Traffic planning. To determine the installation and proper timing and maintenance of traffic control devices on City streets, to conduct analyses of traffic accidents and to devise remedial measures, to plan the operation of traffic on the streets in this City, and to cooperate with other governmental officials in improving traffic conditions on streets and highways.

(c) Traffic control devices. To install signs, street markings and other traffic control devices on City streets after proper study as are found necessary for the regulation of traffic.

(d) Crosswalks, safety zones. To designate crosswalks, safety zones and traffic lanes where there is a particular danger to pedestrians or where a regular alignment of traffic is necessary, and that where such lanes have been marked it shall be unlawful for the operators of any vehicle to fail or refuse to keep such vehicle within the boundaries of such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

(e) Signs at intersections. To place turning markers or signs within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections and no driver of a vehicle shall disobey the directions of such indications.

(f) Stop signs. To determine intersections where vehicles should stop and to erect a stop sign at every such place where a stop sign is required.

(g) Parking restrictions. To erect signs indicating no parking upon either or both sides of any street where such parking would, in his judgment, interfere with traffic or create a hazardous situation.

(h) Commercial traffic regulations. To erect signs giving notice thereof that restrictions exist on certain streets and no person shall operate any commercial vehicle on such designated streets except for the purpose of delivering or picking up materials or merchandise and then only by entering such street at the intersection nearest the destination of the vehicle and proceeding thereon no farther than the nearest intersection thereafter.

(i) Records of traffic regulations. To maintain and publish a record of all traffic regulations and requirements made pursuant to this Chapter.

Article II. Operation of Bicycles.

No operator of any bicycle when upon any street, highway, or avenue within the City, shall carry any person upon the handlebars or the frame of such vehicle, nor shall any person so ride upon any such vehicle.

Article III. Stopping, Standing and Parking.

Sec. 14-10. Parking, etc., prohibited in specified places.

It shall be unlawful for any person to park or leave standing any vehicle at any time if such vehicle or any part thereof is parked:

(a) On a street or public way within fifteen (15) feet of a fire hydrant.
(b) Within a street or alley intersection.
(c) Within any crosswalk.
(d) On a street or public way within thirty (30) feet of the curb line of an intersecting street.
(e) On a street or public way within fifteen (15) feet in either direction from a bus stop sign.
(f) On a street or public way nearer than three (3) feet to the vehicle parked in front or in the rear thereof.
(g) On any bridge, viaduct, or approach thereto.
(h) On a street or public way within twenty-five (25) feet of, in the direction of the approach to, any "Stop" sign or official marker designating an arterial highway.
(i) On a street or public way within twenty (20) feet of, in either direction from, any treadle or vehicle operated control of any traffic signal on the side of the street on which the treadle or control is located.
(j) For the duration of an emergency, within twenty-five (25) feet of any sign or device posted by the City Manager or his designee or Prince George's County Police Department or Bowie Police Department indicating that parking is prohibited because of an emergency, unless such sign or device sets forth the area in which parking is prohibited because of an emergency, then, in such case, within the designated area.
(k) At a location contrary to directions given by any member of the Bowie Police Department or Prince George's County Police Department or Fire Department to keep clear fire lanes or police lanes, or to facilitate the flow of traffic at or near the scene of a fire, accident or other emergency, provided the prohibition of parking at such a location is made known to the person so parking.
(l) On any sidewalk or on any grass plot between a clearly defined curb line, where a curb exists, or the edge of the pavement, where a curb does not exist, and the adjacent property line. This subsection shall not be construed to prohibit the parking of bicycles on a sidewalk in such manner as not to obstruct pedestrian traffic.
(m) Alongside or opposite any street excavation or obstruction when such parking will interfere with traffic.
(n) In front of any barricade or sign that has been placed for the purpose of closing a street.
(o) At a location which will reduce the width of the open roadway to less than eight (8) feet along a street, or will obstruct a clear passageway along the same for fire apparatus or any other vehicle.
(p) On a street or public way at a location which obstructs the entrance to any driveway or the entrance to any building or garage or prevents passage over and upon any driveway or private vehicle entrance connecting private property with an abutting street.
(q) Other than on a street, upon any private driveway or upon any private property, unless with permission of the person in control thereof or an occupant thereof, under any of the following conditions:
(1) If such driveway or property is posted to indicate that parking thereon is prohibited; or
(2) After the person so parking is warned by a person in control of such driveway or occupying such property.
(r) Upon a cul-de-sac, unless said vehicle shall be stopped or parked with the right-hand wheel parallel to and within twelve (12) inches of the right-hand curb or edge of the roadway.
(s) On any street or public way or on public property where the City has posted signs restricting the parking or standing of vehicles.
(t) In a parking space designated as reserved for the disabled, unless (1) the vehicle bears either a valid set of special registration license plates or a valid special disability parking placard, issued by the Maryland Motor Vehicle Administration pursuant to Title 13, Subtitle 6, Part II, of the Transportation Article of the Maryland Annotated Code, and (2) the disabled person for whom the special registration Plates and/or parking placard have been issued is using the vehicle.
(u) In an area designated by signs or curb-painting as a fire or emergency lane.
(v) On a street or public way within three feet (3') of a driveway without the consent of the owner of the property to which the driveway provides access.

Sec. 14-10A. Additional parking regulations.

(a) Manner of parking generally. A vehicle that is stopped or parked on a two-way roadway shall be stopped or parked parallel to the right hand curb or edge of the roadway, with its right hand wheels within 12 inches of that curb or edge of the roadway.
(b) Parking on one-way roadway. A vehicle that is stopped or parked on a one-way roadway shall be stopped or parked parallel to the curb or edge of the roadway, in the direction of authorized traffic movement, with:
   (1) Its right hand wheels within 12 inches of the right hand curb or edge of the roadway; or
   (2) Its left hand wheels within 12 inches of the left hand curb or edge of the roadway.

Sec. 14-10B. Parking of cargo trailers, open watercraft, boat trailers and camping vehicles prohibited.

No person shall park any cargo trailer, open watercraft, trailer designed to carry open watercraft, or camping vehicles, as those terms are used and/or defined in City Code, Chapter 26 "Zoning", on any street or public way in the City of Bowie or on City owned property, except for the temporary purposes of loading and unloading thereof. (Sec. 14-10B enacted by O-12-12, adopted 12/3/12, effective 1/2/13)


(a) No person shall park any commercial vehicle, as defined in Section 14-1 of this Chapter, on any City street, or City owned property.
(b) This Section shall not apply to vehicles which are in the course of a commercial purpose.
(c) Any vehicle which is parked in violation of this Section shall immediately be subject to being towed from such street or City owned property, and impounded after it has been parked for a twenty-four (24) hour period. The impoundment of the vehicle shall be done pursuant to Section 14-14 of the Chapter.
(d) A vehicle parked in violation of this section is subject to immediate impoundment as described in Section 14-11(c) and/or a parking ticket as described in the penalty section of this Chapter. (Sec. 14-11 amended by Ordinance O-8-05 effective 10/5/05).

Sec. 14-12. Parking alongside of vehicle adjacent to curb.

No vehicle shall be parked or left standing in the street alongside of another vehicle parked adjacent to the curb, except to discharge or receive passengers or when prevented from moving by reason of traffic conditions.

Sec. 14-13. Leaving vehicle on street, etc.; penalty.

(a) No vehicle shall be left upon any City street or public space in the City for a continuous period longer than seventy-two (72) hours without being moved a distance of at least one full vehicle length. If the vehicle is a motor vehicle, vehicle must be moved under its own power. (b) No abandoned vehicle shall be left upon any City street for any period. (c) Any vehicle found parked upon any street or public space in the City in violation of this Section may be impounded by the City Manager or his designee after notice to the driver or owner of the vehicle. Such notice shall state that the vehicle is parked in violation of this Section of the Bowie Code and shall state the penalty therefor. The notice shall be attached to the vehicle and shall direct the owner or operator of the vehicle to remove the vehicle within forty-eight (48) hours. (Sec. 14-13 amended by Ordinance O-8-05 effective 10/5/05).


(a) Conformity with State law. The procedures to be followed for impoundment of vehicles are as set forth below and shall substantially conform to the MD. Code Ann., Transp. Sections 25-204 to 25-210 as amended from time to time. (b) Procedures following impoundment.

(1) The last known registered owner is presumed to be the owner of a vehicle at the time it is abandoned. (2) As soon as reasonably possible, and within 7 days of the City impounding a vehicle, the City Manager or his designee shall notify the owner and any secured parties by certified mail that the vehicle is in custody. The notice shall be in compliance with MD. Code Ann., Transp. Section 25-204 (b) and (c). (3) If the City Manager or his designee is unable to determine the identity of the owner or secured parties on the vehicle, he may provide notice of the impoundment by publication. (4) If a vehicle is not reclaimed within 3 weeks of the date of the notice of impoundment, the owner or secured party is deemed to have waived all of his right, title and interest in the vehicle and to have consented to its sale at public auction. (5) If the money collected from the public auction sale of the vehicle is not enough to reimburse the City for the cost of towing, preserving, and storing the vehicle, the last registered owner shall be liable to the City for the remaining amount up to $300. (Sec. 14-14 amended by Ordinance O-8-05 effective 10/5/05).

Sec. 14-15. Impoundment of vehicles from public property without prior notice.

(a) A vehicle is subject to impoundment, without prior notice, by the City Manager or his designee when it is on public property under the following circumstances:

(1) When the vehicle is impeding or is likely to impede the normal flow of vehicular or pedestrian traffic; (2) When the vehicle is parked where parking is prohibited during certain hours, on designated days or at all times, and where such vehicle is interfering with the proper and intended use of such zones; (3) When the vehicle imposes an immediate danger to the public safety;
(4) When the operator of the vehicle has been taken into custody and impoundment of the vehicle is reasonably necessary to provide for the safekeeping of the vehicle; or
(5) When the vehicle is found parked in a reserved parking space such as a handicapped space or a space reserved for City or County officials or law enforcement personnel.
(6) When the City has, within the previous sixty (60) days, issued a notice of intention to impound the vehicle for violation of Section 14-13 of this Chapter, the original notice period set forth in such notice has expired, and the vehicle has been parked again on public property and is inoperative or otherwise illegal.
(b) Procedures for impounding a vehicle shall be as set forth in Section 14-14 of this Chapter and shall substantially conform to the MD. Code Ann. Tr. Sections 25-204 to 25-210 as amended from time to time.
(Sec. 14-15 amended by Ordinance O-8-05 effective 10/5/05).

Sec. 14-16. Inoperative vehicles on private property.

(a) Any inoperative vehicle found parked or stored exposed to public view anywhere on any residential lot for a continuous period of ten (10) days, may be removed, conveyed, and impounded by or under the direction of the City Manager or his designee. Vehicles that may be impounded under this Section include, but are not limited to, any motor vehicle, trailers and semi-trailers. The charge for such removal, conveyance or impoundment shall be charged to the owner of the vehicle or the resident on whose property the vehicle was stored, in such amount as the City Manager shall have established by regulation hereunder. The procedures to be followed for impoundment of vehicles pursuant to this Section are set forth in Section 14-14 of the Code.
(b) Before the City shall impound a vehicle pursuant to this Section, it shall issue a notice to the property owner stating that this section of the Bowie City Code is being violated and providing seven days for the property owner to remove the offending vehicle.

Sec. 14-17. Repossession of impounded vehicle.

Any vehicle impounded under the provisions of this Chapter may be repossessed by the owner or any other person duly authorized upon the payment to the City Manager or designee of a fee of fifty dollars ($50.00) for impoundment processing fees and the payment of any outstanding fines for any parking citations issued by the City with respect to the vehicle, provided that judgment has been entered with respect to such citations by a court of appropriate jurisdiction or the time for the owner to request a trial with respect to such citations has expired. (Sec. 14-17 amended by Ordinance O-8-07 effective 9/4/07).

Sec. 14-17A. Operation of motor vehicles in contravention of traffic regulation devices or posted signs.

No person shall operate a motor vehicle on any City street or public way in contravention of any traffic regulation device or posted sign, including but not limited to any device or sign that restricts or prohibits the use of such street or public way by trucks. (Sec. 14-17A added by Ordinance O-11-07, adopted 9/17/07, effective 10/17/07.)

Sec. 14-17B. Speed Monitoring Systems.

(a) In this section, the following words have the meanings indicated.
(1) "Owner" means the registered owner of a motor vehicle or a lessee of a motor vehicle under a lease of 6 months or more, except that "owner" does not include:
   (a) A motor vehicle rental or leasing company; or
   (b) A holder of a special registration plate issued under MD. Code Ann., Transp. Art., Title 13, Subtitle 9, Part III.
(2) "Department" means the Bowie Police Department.
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(3) "Recorded Image" means an image recorded by a speed monitoring system on a photograph, a microphotograph, an electronic image, a videotape, or any other medium, and showing:
   (a) The rear of a motor vehicle;
   (b) At least two time-stamped images of the motor vehicle that include the same stationary object near the motor vehicle; and
   (c) On at least one image or portion of tape, a clear and legible identification of the entire registration plate number of the motor vehicle.
(4) "Speed Monitoring System" means a device with one or more motor vehicle sensors producing recorded images of motor vehicles traveling at speeds at least 12 miles per hour above the posted speed limit.
(5) "Speed Monitoring System Operator" means a representative of the Department or a contractor that operates a speed monitoring system.
(b) (1) The City Council, by Resolution, following reasonable notice to the public and a public hearing, may establish a school zone on any road under the City's jurisdiction within one-half mile of a school and, for any school zone so established, shall set a maximum speed limit, provided that the designation of such school zone and the maximum speed limit set for such zone shall not become effective until the City installs signs designating the school zone and indicating the maximum speed limit applicable in the school zone.
   (2) The City may install or erect traffic control devices in the designated school zone in addition to the signs required by Subsection (b)(1), including timed flashing warning lights and including a Speed Monitoring System as defined in Subsection (a) of this Section.
(c) Before activating an unmanned stationary speed monitoring system, the City Manager or his designee shall:
     (1) Publish notice of the location of the Speed Monitoring System on the City's website and in a newspaper of general circulation in the City; and
     (2) Ensure that each sign that designates a school zone indicates that a Speed Monitoring System is in use in the school zone.
(d) A Speed Monitoring System in a school zone may operate only Monday through Friday between 6:00 a.m. and 8:00 p.m.
(e) A Speed Monitoring System Operator shall:
     (1) Complete training by a manufacturer of Speed Monitoring Systems in the procedures for setting up and operating the Speed Monitoring System.
     (2) Fill out and sign a daily set-up log for a Speed Monitoring System that states that the Speed Monitoring System Operator successfully performed the manufacturer-specified self-test of the Speed Monitoring System prior to producing a recorded image.
     (3) The daily set-up log required by Paragraph (2) of this Subsection shall be kept on file and shall be admitted as evidence in any court proceeding for a violation of this Section.
(f) A Speed Monitoring System manufacturer shall issue a signed certificate to the Speed Monitoring System Operator on completion of the training, which certificate shall be admitted as evidence in any court proceeding for a violation of this Section.
(g) (1) A Speed Monitoring System shall undergo an annual calibration check performed by an independent calibration laboratory.
     (2) The independent calibration laboratory shall issue a signed certificate of calibration after the annual calibration check, which shall be kept on file and shall be admitted as evidence in any court proceeding for a violation of this Section.
     (h) (1) Unless a driver of a motor vehicle received a citation from a police officer at the time of a violation, the owner or, in accordance with Subsection (k)(4) of this Section, the driver of a motor vehicle is subject to a civil penalty if the motor vehicle is recorded by a Speed Monitoring System while being operated at least twelve miles per hour above the posted speed limit.
     (2) The penalty for a violation established by a Speed Monitoring System under this Subsection shall be forty dollars ($40).
(i) (1) Subject to the provisions of Paragraphs (2) through (4) of this Subsection, the Department shall mail to an owner liable under Subsection (h) of this Section a citation, upon a
form to be prescribed by the District Court of Maryland, that shall include the information

(2) The Department may mail a warning notice instead of a citation to the owner liable
under Subsection (h) of this Section and, for a period of thirty (30) days after the City installs
the first Speed Monitoring System, the Department shall mail only a warning notice and may
not issue a citation.

(3) Except as provided in Subsection (k)(4) of this Section, the City may not mail a
citation to a person who is not an owner.

(4) Except as provided in Subsection (k)(4) of this Section, a citation issued under this
Section shall be mailed no later than 2 weeks after the alleged violation if the vehicle is
registered in this State, and 30 days after the alleged violation if the vehicle is registered in
another state.

(5) A person who receives a citation under Paragraph (1) of this Subsection may:
(a) Pay the civil penalty, in accordance with instructions on the citation, directly to
the City; or
(b) Elect to stand trial in the District Court for the alleged violation.

(j) (1) A certificate alleging that the violation of this Section occurred and satisfying the
requirements of MD. Code Ann., Transp. Art., Section 21-809(e)(1) shall be evidence of the
facts contained in the certificate and shall be admissible in a proceeding alleging a violation
under this Section without the presence or testimony of the Speed Monitoring System
Operator.

(2) If a person who received a citation under Subsection (h) of this Section desires the
Speed Monitoring System Operator to be present and testify at trial, the person shall notify the
Court and the State in writing no later than 20 days before trial.

(3) Adjudication of liability shall be based on a preponderance of evidence.

(k) (1) Pursuant to MD. Code Ann., Transp. Art., Section 21-809, the District Court may
consider in defense of a violation:
(a) Subject to Subparagraph (k)(2) of this Subsection, that the motor vehicle or
the registration plates of the motor vehicle were stolen before the violation occurred and were
not under the control or possession of the owner at the time of violation;
(b) Subject to Subparagraph (k)(3) of this Subsection, evidence that the person
named in the citation was not operating the vehicle at the time of the violation; and
(c) Any other issues and evidence that the District Court deems pertinent.

(2) To demonstrate that the motor vehicle or the registration plates were stolen before
the violation occurred and were not under the control or possession of the owner at the time of
the violation, the owner shall submit proof that a police report regarding the stolen motor
vehicle or registration plates was filed in a timely manner.

(3) To satisfy the evidentiary burden under Subparagraph (k)(1)(b) of this Subsection,
the person named in the citation shall provide to the District Court a letter, sworn to or affirmed
by the person and mailed by certified mail, return receipt requested, that:
(a) States that the person named in the citation was not operating the vehicle at
the time of the violation; and
(b) Includes any other corroborating evidence.

(4) (a) If the District Court finds that the person named in the citation was not
operating the vehicle at the time of the violation or receives evidence under Subparagraph
(k)(3) of this Subsection identifying the person driving the vehicle at the time of the violation,
the Clerk of the Court shall provide to the Department a copy of any evidence substantiating
who was operating the vehicle at the time of the violation.
(b) On receipt of substantiating evidence from the District Court under
Subparagraph (4) of this Paragraph, the Department may issue a citation as provided in
Subsection (i) of this Section to the person who the evidence indicates was operating the
vehicle at the time of the violation.
(c) A citation issued under Subparagraph (k)(4) of this paragraph shall be mailed
no later than 2 weeks after receipt of the evidence from the District Court.
Pursuant to MD. Code Ann., Transp. Art., Section 21-108, if a person liable under this Section does not pay the civil penalty or contest the violation, the Maryland Motor Vehicle Administration:

1. May refuse to register or reregister the motor vehicle cited for the violation; or
2. May suspend the registration of the motor vehicle cited for the violation.

Pursuant to MD. Code Ann., Transp. Art., Section 21-108, a violation for which a civil penalty is imposed under this Section:

1. Is not a moving violation for the purpose of assessing points under MD. Code Ann., Transp. Art., Section 16-402;
2. May not be recorded by the Motor Vehicle Administration on the driving record of the owner or driver of the vehicle;
3. May be treated as a parking violation for purposes of MD. Code Ann., Transp. Art., Section 26-305; and
4. May not be considered in the provision of motor vehicle insurance coverage.

Article IV. Snow Emergency.


The accumulation of snow and ice on the streets of the City in a depth of two (2) or more inches constitutes a snow emergency. Parking of vehicles on the streets of the City is prohibited during snow emergencies. The snow emergency shall remain in effect until snow accumulation has been cleared.

Sec. 14-19. Impoundment of vehicles obstructing, etc., street clearance.

The City Manager or his designee may take possession of and/or to remove any parked vehicle or abandoned vehicles that obstruct traffic or interfere with the clearance of snow and ice on any street within the City.

Sec. 14-20. Recoupment by City of costs of impounding, etc., obstructing vehicles.

To defray the cost of removing or towing any vehicle obstructing clearance under Section 14-19, the City Manager is hereby authorized to charge and collect a sum equal to an amount charged the City for towing, removal and storage of such vehicle.

Sec. 14-21. Impoundment postponed when snow accumulates after 10:00 p.m.

If the accumulation of the snow and ice takes place after 10:00 p.m., no vehicle will be towed away until after 8:00 a.m. of the following day. (Sec. 14-21 amended by O-05-92 effective 6/3/92).

Sec. 14-22. Removal of snow and ice accumulation from sidewalks and driveways.

Every owner or lessor of residential and commercial property within the City fronting or abutting on a paved sidewalk or driveway which forms part of the public right-of-way shall remove and clear away, or cause to be removed and cleared away, snow and ice from said sidewalk or driveway.

1. "Commercial" for purposes of this Section shall mean any property that is used to conduct a trade or business that provides goods or services to the public.
2. Snow and ice shall be removed from the paved sidewalks or driveway public right-of-way within the City within forty eight (48) hours after the cessation of any fall of snow, sleet, or freezing rain.

The City Manager may waive the provisions of this section for those residential property owners or lessors who because of the totality of their circumstances, considering such factors as age, physical handicap or disability, are unable to comply with the forty eight (48) hour
requirement. Such waivers should be requested prior to November first and registered with the City Manager's office.

(c) Violations of this Section are municipal infractions subject to the penalty and enforcement provisions of Chapter 1, Sections 6 and 6A..

Sec. 14-23. Removal of vehicles interfering with street construction, reconstruction, maintenance and repair.

Parking of vehicles on streets of the City is prohibited during scheduled street construction, reconstruction, maintenance and repair activities where notice of such activities is posted and/or given in advance of said activities. The City Manager or his designee may remove any vehicle parked in violation of this Section.

Article V. Residential permit parking districts.

Sec. 14-24. Procedure for implementation and enforcement.

(a) Procedure for designating residential permit parking districts. There is established a residential permit parking district program which shall be available in all areas or neighborhoods of the City which are zoned residential. In order to qualify for the program, such areas or neighborhoods must meet the criteria set forth herein. Such areas shall be established only after completion of the procedure outlined herein. This procedure shall be as follows:

(1) Petition. In order to be considered for designation as a residential permit parking district, a neighborhood group, group of residents or community association must submit a petition to the City Council containing the signature of an adult member of at least eighty percent (80%) of the households in the residential area. The boundaries of and the streets within the proposed residential permit parking district must be clearly identified on each page of the petition. A cover letter explaining the reason for the request, suggesting the period in which parking will be restricted, and containing the boundaries of streets within the proposed residential permit parking district should accompany the petition.

(2) Public Hearing. Upon receipt of a valid petition, the City Council shall conduct a public hearing. The creation, alteration or elimination of a residential permit parking district shall take into account, among other things:

(a) The effect on the safety of residents of the area under consideration from intensive use by nonresidents for parking of vehicles;
(b) The need of the residents of the area to obtain adequate on-street parking adjacent to or close by their places of residence;
(c) The difficulty or inability of residents of the area to secure adequate on-street parking adjacent to or close by their places of residence because of widespread use of available parking spaces in that area by nonresident motorists;
(d) The impact of public facilities and programs on the health, safety and welfare of the residents of the area and any unreasonable burdens placed on those residents in securing adequate on-street parking and gaining access to their places of residence by virtue of such facilities and programs;
(e) The likelihood of alleviating, by the creation, alteration or elimination of a residential permit parking district, of any problem of nonavailability of residential parking spaces;
(f) The desire of the residents in the area for the creation, alteration or elimination of a residential permit parking district;
(g) The need for some parking spaces to be available in the area under consideration for use by visitors and the general public; and
(h) Such other factors as shall be deemed relevant.

(3) Adoption. The City Council may create, alter or eliminate a residential permit parking district by adoption of a resolution which identifies the boundaries of the district and
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establishes the times, locations and conditions under which parking is restricted to permit holder.

(b) Implementation and administration of the program.

(1) Qualifications for permits. Permits shall be issued to any resident of a residential permit parking district for the district in which the person resides. For the purposes of this section, a resident shall mean any licensed driver who lives or resides in a structure approved for residential occupancy and who is the owner of such a structure or a tenant therein, or who can demonstrate some other indication of right of occupancy.

(2) Application for permit.

(a) The application for a permit shall contain information to verify that the applicant is a bona fide resident of the district for which application has been made and has legal title to or the right of possession of the motor vehicle to be registered at that address.

(b) The City shall issue the parking permit upon find that the applicant meets the requirement specified herein.

(3) Display of permit. The permit shall be permanently affixed to the left side rear bumper of the vehicle.

(4) Expiration of permit; transfer of permit, replacement of permit. A permit shall expire and be void when the permit holder no longer resides within the district. When a vehicle to which a permit is affixed is sold, transferred, demolished or in any other manner rendered unusable to the permit holder, the permit holder shall notify the City of the change in status of the vehicle. An application for a replacement permit shall be made in accordance with the provisions for an application for an original permit.

(5) Temporary permits. The City shall issue a 30 day temporary residential parking permit for use by a bona fide visitor to a residence within a residential permit parking district upon request by a bona fide resident of the district. This temporary permit shall be displayed on the driver’s side dashboard of the visitor’s vehicle. Upon request by a resident of the district, a temporary permit of greater than 30 days shall be issued for a defined period not to exceed 90 days.

(6) Elimination of residential permit parking district. In order to eliminate a residential permit parking district previously established, a petition must be submitted to the City Council containing the signature of an adult member of at least eight percent (80%) of the households in the residential permit parking district. As required in Section 14-24(a)2, a public hearing by the City Council must be conducted to consider the elimination of a residential permit parking district previously created. As required in Section 14-24(a)3, the City Council may eliminate an established residential permit parking district by resolution.

(c) Enforcement. A parking ticket shall be issued by the City to any person whose vehicle is found parked in a designated residential permit parking area without a permit in contravention of the times, locations or conditions established with respect to said area. Violations of this Section shall be enforced in accordance with the provisions of Section 14-25 of this Chapter. In addition, in accordance with MD. Code Ann., Art. 23A, Sec. 2B(d), the City requests and authorizes police offices employed by Prince George's County to issue municipal infraction citations to persons violating the provisions of this Section. (Sec. 14-24(c) amended by O-4-99, effective 7/7/99).

Article VI. Penalties.

Sec. 14-25. Penalty for violation of this Chapter.

(a) If the City Manager or his designee discovers a vehicle parked in violation of any Section of this Chapter except Section 14-22, he shall:

(1) Deliver a citation to the driver, or, if the vehicle is unattended, attach a citation to the vehicle in a conspicuous place; and

(2) Keep a copy of the citation, bearing his certification under penalty of perjury that the facts stated in the citation are true. The form of citation shall also indicate: the section violated; the location, date and time of the violation; the tag number, state of registration, make and color of the vehicle; the amount of the fine; a notice that the fine will double if not paid
within thirty (30) calendar days after the citation is issued; the place where the payment may be made; a notice of a right to stand trial by giving notice to the City within five (5) calendar days after the citation is issued; a notice that failure to pay fine or appear in court may result in the vehicle registration not being renewed or transferred by the State Motor Vehicle Administration, and that a Two Dollar ($2.00) service charge will be added if State Motor Vehicle Department contact or service is required; and a notice of the right to request that the Code Enforcement Officer be present at trial.

(b) The fines for violations of this Chapter shall be as set forth in this subsection. All fines shall double if not paid within thirty (30) days after the citation is issued.

(1) The fine for a violation of Section 14-10, subsection (a) shall be one hundred dollars ($100.00).

(2) The fine for a violation of Section 14-10, subsections (t) and (u) shall be two hundred fifty dollars ($250.00).

(3) The fine for a violation of Section 14-10A, Section 14-10(v), Section 14-10B, Section 14-11, Section 14-13(a) and Section 14-18 shall be fifty dollars ($50.00).

(4) The fine for a violation of Section 14-13, subsection (b) shall be one hundred dollars ($100.00).

(5) The fine for violation of any other sections shall be twenty-five dollars ($25.00).

(c) The City Manager or his designee is directed to notify the State Motor Vehicle Administration of all unpaid citations as to which no timely notice of intention to stand trial was filed; thereupon a Two Dollar ($2.00) service charge shall be added to the fine due. The City Manager or his designee is authorized to pay a service charge to the State Motor Vehicle Administration when required by it to do so.

(d) The City of Bowie may cause to be impounded any vehicle, while parked in violation of any provision of the Bowie City Code, which vehicle has two (2) or more unsatisfied parking citations. (subsection (d) added by O-4-99, effective 7/7/99).

(e) A violation of Section 14-17A of this Chapter is a misdemeanor, punishable by a fine of $500 (Five Hundred Dollars) and imprisonment for six (6) months. (Sections 14-3, 14, 10, and 14-14 amended, and Sections 14-10 through 14-25 renumbered by O-6-9; Sections 14-1, 14-4, 14-5, 14-6, 14-7, 14-10, 14-13 through 14-24 amended by O-1-95; Sections 14-11 and 14-16 amended, 14-24 added and 14-24 renumbered as 14-25 by O-2-98, effective 2/19/98; Sec. 14-25(a) amended by Ordinance O-8-05 effective 10/5/05). (Sections 14-10, 14-13, and 14-25 amended by Ordinance O-8-07, effective 9/4/07.) (Sec. 14-17A added by Ordinance O-11-07, adopted 9/17/07, effective 10/17/07.) (Sec. 14-25(e) added by Ordinance O-11-07, adopted 9/17/07, effective 10/17/07.) (Sec. 14-17B added by Ordinance O-10-09, adopted 10/19/09, effective 11/18/09.) (Sec. 14-25(b)(3) amended by O-12-12, adopted 12/3/12, effective 1/2/13; Sec. 14-25(b)(4-7) renumbered by O-12-12, adopted 12/3/12, effective 1/2/13)
CHAPTER 15.

NUISANCES.

15-1. Defined generally.
15-3. Duty to remove after being notification.
15-4. Trash, waste material, weeds, etc.--Procedures for removal by City.
15-5. Throwing, dumping, of trash, junk, etc.--Prohibited.

Sec. 15-1. Defined generally.

Whatever is dangerous to life or health, whatever renders air, food, water and drink unwholesome or unfit for the use of man; whatever odors or exhalations are offensive to the inhabitants or dangerous to the public health; whatever accumulations of animal or vegetable matter, solid or liquid, which are dangerous or harmful to the neighborhood, or are likely to become so, are declared to be nuisances within the scope and meaning of this Chapter.

Sec. 15-2. Public nuisances.

Any trash, waste material, garbage, offensive and dirty material, or grass, weeds, briars and brush more than eight (8) inches tall, which may be allowed to accumulate or grow on any property adjoining any of the streets, alleys or lanes and within two hundred (200) feet thereof, in the City, are declared to be a public nuisance.

Sec. 15-3. Violation: Duty to remove after notification.

a) A person may not permit a public nuisance as defined in Section 15-1 or 15-2 of this Chapter to exist on any property.

b) It shall be the duty of the City Manager or his designee to notify the owner, tenant or person in possession of any property where a public nuisance exists to remove such public nuisance within seven (7) days, inclusive of Sundays and holidays, after the date of such notice which shall be given by posting same, on the front of the property where the public nuisance exists.

Sec. 15-4. Trash, waste material, weeds, etc.--Procedure for removal by City.

(a) If a public nuisance is not removed within the time specified in the notice required by Section 15-3 of this Chapter, and no written objections have been filed as hereinafter provided, the City Manager shall cause the public nuisance to be removed, incurring such expense as is reasonable and necessary in the removal. The costs of the removal shall be assessed against the property and shall constitute a lien collectable in the same manner as real property taxes. The City Manager may also file a suit at law to collect the costs of removal.

(b) Any person receiving a notice to remove a public nuisance may file written objections with the City Manager before the expiration date of such notice. Upon receipt of such written objections, it shall be the duty of such person to appear before the Administrative Review Board at its next regular meeting when a public hearing shall be conducted on the written
objections in accordance with the procedures established in Chapter 1A, Sec. 1A.4.C of the Bowie City Code.

(c) After the public hearing provided in Section 15-5(b) hereof, the Administrative Review Board may recommend to the City Manager that the notice to remove be sustained, dismissed or modified. The City Manager may accept or reject the recommendations of the Administrative Review Board. The City Council must be notified prior to action by the City Manager to reject the recommendations of the Administrative Review Board. Written notice of the City Manager’s decision will be provided to the person under order to remove a public nuisance. If the notice to remove a public nuisance is sustained, the City Manager will notify the person who received the notice that the nuisance must be removed within ten (10) days of the notice. The City Manager may cause the public nuisance to be removed and assess the costs as provided in Section 1A(a) of this Chapter, if the public nuisance is not removed within the time provided.

(Sections 5-1 through 5-4 amended by O-20-92, adopted 10/19/92, effective 11/18/92).

Sec. 15-5. Throwing, dumping of trash, junk, etc.--Prohibited.

It shall be unlawful for any person to throw, dump, or deposit any trash, junk or other refuse upon the land or property of another without the written consent first had and obtained of the owner thereof, or under the personal direction of such owner; or to throw, dump, or deposit any trash, junk or other refuse upon any public street of the City.

Sec. 15-6. Refrigerators and other lockable devices--Prohibited.

It shall be unlawful for any person to leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under his or its control, in a place accessible to children, any abandoned, unattended or discarded ice box, refrigerator or other container which has an air-tight door or lid, snaplock or other locking device which may not be released from the inside, without first removing such door or lid, snaplock or other locking device.

Sec. 15-7. Penalty.

Violations of this Article are municipal infractions, subject to the penalty and enforcement provisions of Chapter 1, Sections 6 and 6A of this Code.

Sec. 15-8. Definitions.

“Smoking” means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other lighted smoking device containing tobacco or any other plant material.

“City property” means any park, building, or other facility or real property owned or occupied by the City of Bowie as a tenant under a lease from a third party, including abutting sidewalks and parking lots, but for purposes of the Article does not include sidewalks or other rights-of-way abutting private property.

Sec. 15-9. Smoking prohibited.

(a) Smoking is prohibited in or on any City property, except that a person may smoke inside a vehicle parked in a parking lot on City property, provided that the doors and windows of the vehicle are completely closed and further provided that, notwithstanding the foregoing, smoking in city-owned vehicles is prohibited.

(b) Smoking is prohibited by City employees while on-duty in any capacity, whether on or off City property, except that City employees may smoke while on an authorized break from work in a place where smoking by members of the public is otherwise permitted.
(c) Nothing contained herein shall be construed to authorize smoking in violation of any other state or local law or regulation.

(d) The City Manager is authorized to post signs on City property notifying the public of the prohibitions set forth in this section and of the penalties for violations thereof, as set forth in Sec. 15-10 of this Article.

(e) Notwithstanding any provision of the Section to the contrary, smoking on a property owned by the City but leased to a third party shall be permitted in the discretion of the tenant for the period of any lease in effect on the date of enactment of this Chapter and during any extension term to which the tenant is entitled under the provisions of such lease.

Sec. 15-10. Penalties.

(a) A violation of Sec. 15-9 is declared to be a public nuisance and any person who violates Sec. 15-9 of this Article shall be subject to ejection from the public park, building or other facility where such violation has occurred.

(b) In addition to the ejection contemplated by subsection (a) of this Section, a violation of subsection (a) of Section 15-9 is a municipal infraction subject to a fine of fifty dollars ($50.00).

(c) A violation of subsection (b) of Section 15-10 shall subject the offending employee to disciplinary action in accordance with provisions of Chapter 2, Article II of this Code.

(Sec. 15-5, 15-6, 15-7 amended by Ordinance O-25-91, effective 11/20/91; Sec. 15-7 amended by O-17-94, adopted 10/3/94.)
(Sec. 15-2 and Sec. 15-3 amended by O-12-98, adopted 3/23/98, effective 4/22/98).
(Sec. 15-3 amended by O-05-07, adopted 5/29/07, effective 6/28/07).
(Sec. 15-7, 15-8, 15-9 and 15-10 added by Ordinance O-10-11, adopted April 4, 2011, effective 5/4/11).
CHAPTER 16.

OFFENSES-MISCELLANEOUS

16-1. License prerequisite to distribution, posting, etc. of bills, posters, circulars, etc.
16-2. License duration; fee; bond requirements.
16-3. Nonreturnable beverage containers - use prohibited; exceptions.
16-4. Disturbing the peace.
16-5. Prize fighting, cock fighting or animal fighting prohibited.
16-6. Discharging weapons prohibited; exceptions.
16-7. BB Guns, slingshots, bows and arrows, and similar devices.
16-8. Breaking, carrying away, etc. of public property prohibited.
16-9. Railroads prohibited from unauthorized operation on or across streets.
16-10. Railroads prohibited from unauthorized obstructing, etc., sidewalks, streets, etc., prohibited.
16-12. Penalties.

Sec. 16-1. License prerequisite to distribution, posting etc. of bills, posters, circulars, etc.

(a) No person shall distribute any bill, poster, circular, pamphlet or other advertising matter upon any of the streets of the City by handing the same to any person in any vehicle upon any streets without first obtaining a license to do so from the City Treasurer.

(b) No person shall carry on the business of a bill poster or erect or use any billboards on the streets, alleys, lanes or public squares of the City on which to post bills, without first obtaining a license to do so from the City Treasurer.

(c) This section does not apply to trustees, attorneys, auctioneers and printers, or to private parties having bills concerning their business distributed and posted in the City.

Sec. 16-2. License duration; fee; bond requirements.

(a) The license required by section 16-1 shall be for the period of one (1) year from the date of issuance. It shall be issued upon the payment by the applicant to the City Treasurer of a license fee of One Hundred Dollars ($100) a year, payable in advance, and upon the delivery to the City Treasurer of a penalty bond in the amount of Five Thousand Dollars ($5,000) executed by a surety to be approved by the City Attorney.

(b) The bond shall hold harmless and indemnify the City from any liability incurred in the distribution of such posters and circulars, including but not limited to: any and all damage, costs, loss or injury, including court costs and reasonable attorney fees, resulting from the handing of such advertisements to an occupant or occupants of a vehicle or vehicles by the licensee, its agent, agents, or employees, or from any unlawful act or acts of such licensee, its agent, agents, or employees.

(c) The license holder shall further keep the streets of the City upon which such advertisements may be distributed free and clear at all times from all such advertisements as may be thrown from vehicles by the occupants thereof or that may become scattered on the streets in any matter whatsoever.

Sec. 16-3. Nonreturnable beverage containers - use prohibited; exceptions.
(a) It shall be unlawful and an offense for any person to sell, offer for sale or attempt to sell any malt beverage or soft drink beverage in a container on which a deposit of at least five cents (5¢) is not charged at the retail level and on which the deposit is not returned when the container filled on order at the retail level.

(b) For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them below:

1. Beverage:
   (a) Soft Drink Beverage. Ginger ale, root beer, sarsparilla, pop, any mineral waters, soda waters, cola or other carbonated or noncarbonated beverages, artificial mineral waters in liquid form commonly known as soft drinks. Soft drink beverages does not include dairy products or fruit juices.
   (b) Malt Beverages. Any beverage obtained by alcoholic fermentation or an infusion or decoction of barley, malt and hops or other wholesome grain or cereal, and water. Examples shall include, but not be limited to, beverages commonly referred to as beer, ale, stout, porter or malt liquor.

2. City. The territory within the corporate limits of the City of Bowie.

3. City Manager. The City Manager of the City of Bowie or his designee.

4. Container. Any device made of glass, metal, plastic or other material which directly holds or contains malt beverages or soft drinks.

5. Sale. A commercial transaction by any person, firm, individual, corporation, partnership or vendor whereby beverages are sold directly to the public for a monetary consideration for the purpose of consumption.

(c) The City Manager, or his designee, shall have the authority to enter upon the premises of any firm, individual, corporation, partnership or vendor selling beverages and which is licensed to conduct a business under the laws of this state, for the purpose of performing inspections to determine if such firm, individual, corporation, partnership or vendor is in compliance with the provisions of this section.

(d) This Chapter shall take effect twenty (20) calendar days following the effective date of similar legislation enacted by the State of Maryland or Prince George's County.

Sec. 16-4. Disturbing the peace.

(a) No person shall operate a noise making, noise amplifying, or noise-producing instrument or device by which the peace and good order of the neighborhood is disturbed.

(b) No person shall operate any radio, television or music-producing device in any public place in a manner in which the peace and good order of the neighborhood or persons owning or occupying property in the neighborhood are disturbed or annoyed.

(c) Operation of the instruments described in subsections (a) and (b) shall be considered a nuisance.

Sec. 16-5. Prize fighting, cock fighting or animal fighting prohibited.

It shall be unlawful to hold any cock fight, dog fight, or any fight involving any other animal within the City.

Sec. 16-6. Discharging weapons prohibited; exceptions.

(a) No person shall discharge any firearms within the City. This subsection shall not apply to:

1. Rifle ranges or shooting galleries which have been inspected and approved in writing by the City Administrator;

2. Private grounds or premises under circumstances when such firearms can be fired, discharged or authorized in such a manner as to prevent the projectile from traversing any grounds or space outside the limits of such gallery, range, grounds or residence;

3. United States Marshalls, Sheriffs, Constables and their Deputies, and any regular, special or ex-officio police officer, or any other law enforcement officer or any member of the Armed Forces of the United States or the National Guard while such persons are engaged in the discharge of their duties; and
4. Persons exercising their right of self-defense, or defense of others.
   (b) No person shall hunt within the City.
   (c) No person shall transport any airgun, BB gun, gas operated gun or spring gun on any public way except when such weapon is unloaded and properly cased.

Sec. 16-7. BB guns, slingshots, bows and arrows, and similar devices.
   (a) A person may not discharge or use any BB gun, slingshot, bow and arrow or any similar device within the City except on private property with the express permission of the owner or other person entitled to possession of the property, and in a manner to prevent the discharged pellet or object from traversing any grounds or space outside the limits of the property, or except at an indoor or outdoor target range under the supervision of an adult.
   (b) For purposes of this section, "BB guns, slingshots, bows and arrows and similar devices" shall include any device, by whatever name or description known, designed to discharge a pellet or other object by force of a spring, elastic band, gas cylinder, air cylinder, gas cartridge or air cartridge.
   (c) Any person violating the provisions of this section shall be guilty of a misdemeanor and, upon conviction, subject to a penalty of One Hundred Dollars ($100.00) or a maximum of thirty (30) days imprisonment.
   (d) In addition to the criminal penalties listed in paragraph (c) of this section, a violation of this section constitutes a civil infraction and is subject to the penalty set forth in Chapter 13A of this Code.

Sec. 16-8. Breaking, carrying away, etc. of public property prohibited.
   No person shall break, damage, mutilate or carry away any lamp, barrier, street designation, fixture, road marker, official sign, flare, or any part of any public lamp or any official marker or designation, or any other City property erected for the regulation and control of traffic.

Sec. 16-9. Railroads prohibited from unauthorized operation on or across streets.
   No railroads shall be constructed, maintained, or operated upon, along, over, under, or across any of the streets, avenues, roads and alleys within the City, except upon written permission from the City Council and subject to such regulations as it may prescribe, including, but not limited to, the following:
   (a) The construction and maintenance of crosswalk in the area of a street within the intersection of a railroad and a street;
   (b) The paving of its roadbed to conform to the pavement of the street; and
   (c) The conformity of its roadbed and tracks with a change of grade or surface in the street.

Sec. 16-10. Railroads prohibited from unauthorized obstructing, etc., sidewalks, streets, etc., prohibited.
   No railroad locomotive, engine, or railroad car or train of cars shall encumber or obstruct any sidewalk, crosswalk or any street within the City for a longer continuous period than ten (10) minutes.

Sec. 16-11. Unauthorized removal of water from fire hydrants.
   (a) Unauthorized removal of water prohibited. It shall be unlawful for any person to remove water from any fire hydrant in the City except that members of the Prince George's County Fire Department and of any Volunteer Fire Department may remove water from fire hydrants in the City as may be necessary in connection with their fire fighting activities.
   (b) Notice of violation. Upon witnessing any violation of this Chapter the Code Enforcement Officer shall issue to the offender a notice of ordinance violation.
(c) Penalty imposed by notices. All notices of violation of this section shall impose upon the recipient a fine of Two Hundred Fifty Dollars ($250). The fine shall be paid to the City Office of Finance within seventy-two (72) hours of issuance. In the event such fine is not paid within the time allowed, a summons shall be initiated before a judicial officer and any person found to be guilty of violation of this section shall be guilty of a misdemeanor and shall be subject to a fine not exceeding Five Hundred Dollars ($500) and imprisonment not exceeding ninety (90) days or both such fine and imprisonment.

Sec. 16-12. Penalties.

Violations of Sections 16-1 through 16-7 and 16-10 are municipal infractions subject to the penalty and enforcement provisions of Chapter 1, Sections 6 and 6A of this Code. (Sec. 16-12 amended by O-17-94, adopted 10/3/94).
CHAPTER 17.

PARK RULES AND REGULATIONS.

17-1. Definitions.
17-2. Rules.
17-3. Permits, fees for permits.
17-4. Parking
17-5. Enforcement of chapter.

Sec. 17-1. Definitions.

"Park" means land or water in the City of Bowie (the "City") which the City owns or in which it holds a leasehold or easement interest and which is managed by the City for the use and benefit of the public for recreational purposes and/or the protection or maintenance of wildlife habitats or natural, scenic or historical properties.

Sec. 17-2. Rules.

The following are adopted as the City Park Rules:

(a) Persons in and on park property shall comply with official signs of a prohibitory or directory nature, and during emergencies, shall comply with the directions of authorized individuals.

(b) Fires.

(1) Fires are allowed in fireplaces only or in other authorized locations, as follows: Private grills may be used in designated family areas, without a City permit, and may be used in designated pavilions and group areas, upon the issuance of a City permit, provided, however, that no private grill with a cooking surface area exceeding 6 square feet and other specialized cooking equipment may be used except in designated pavilions and group areas and upon the issuance of a permit. The City manager or his designee shall establish standards for the issuance of a permit for private grills with cooking surface areas exceeding 6 square feet and other specialized cooking equipment. The use of oil fryers and steamers in City parks is prohibited except as allowed by permit.

(2) All fires must be extinguished upon departure.

(3) No person shall leave a fire, hot grill or hot ashes unattended for any reason. The term "unattended" as used in this subsection shall mean that there is no responsible person at least 18 years old within ten feet of the fire, hot grill or hot ashes.

(c) All trash shall be placed in appropriate containers.

(d) The use of, or carrying of, firearms and any other dangerous or deadly weapons by any person other than a duly authorized law enforcement officer, is prohibited.

(e) Abuse of animal life is prohibited.

(f) Unauthorized sales of tickets is prohibited. Authorization for sale of tickets, may be obtained by individuals, groups or organizations by completing, in writing, the special authorization form that is issued by the City upon request. The City manager has the authority to deny all requests if, in his opinion, the sale of tickets at the time or place or in the manner or circumstances specified in the permit application will impair the public health, safety or welfare.

(g) Alcoholic beverages.

(1) The consumption of alcoholic beverages without a valid City permit or in violation of permit conditions is prohibited.

(2) Unauthorized sale or consumption of alcoholic beverages in violation of applicable county, state and federal law is prohibited.

(3) Authorization for sale of alcoholic beverages or consumption in park areas of alcoholic beverages may be obtained by individuals, groups or organizations by completing, in writing, the special authorization form that is issued by the City upon request. The City
Manager has the authority to deny all requests if, in his opinion, the sale or consumption of alcoholic beverages at the time or place or in the manner or circumstances specified in the permit application will impair the public health, safety or welfare.

(h) A person may not act in a disorderly manner to the disturbance of the public in any City park or in any parking lot thereof, or in any vehicle thereon. Disorderly conduct, shall include but is not limited to, engaging in sexual intercourse, exposing oneself, urinating or defecating outside of City provided restrooms, abusive language or immoral or indecent acts.

(i) Unauthorized solicitation of money for any reason is prohibited. Authorization for solicitation of money may be obtained by individuals, groups, or organizations by completing, in writing, the special authorization form that is issued by the City upon request. The City Manager has the authority to deny all requests if, in his opinion, the solicitation of money at the time or place or in the manner or circumstances specified in the permit application will impair the public health, safety or welfare.

(j) Destruction of property, which includes but is not limited to, cutting down of trees and abuse of plants, the throwing of any type of missile for the purpose of destruction or possible destruction of property, or jeopardizing the safety and welfare of park users or park employees is prohibited.

(k) Unauthorized operation of concessions is prohibited. Authorization for the operation of concessions may be obtained by individuals, groups, or organizations by completing, in writing, the special authorization form that is issued by the City upon request. The City Manager has the authority to deny all requests if, in his opinion, the operation of a concession at the time or place or in the manner or circumstances specified in the permit application will impair the public health, safety or welfare.

(l) Pets. (1) Pets are permitted in City parks so long as they are kept on leashes or under similar restraints except in parks duly designated by the City Council as Dog Parks, in which dogs are permitted to be free of restraints; provided, however, that (2) Pets, other than dogs trained to assist the physically handicapped and dogs in police canine units, are prohibited at Allen Pond Park at the Fourth of July celebration and other celebrations where fireworks are present. Notice of a prohibition shall be given to the public not later than fourteen (14) days prior to an event or as soon as practicable in a newspaper of general circulation in the City and on Channel 10B, Bowie Cable Public Access Channel; and (3) Owners of pets are responsible for the immediate cleanup and removal, and disposal in a lawful manner of pet waste; in designated Dog Parks, no person shall deposit or throw any garbage, sewage, refuse, waste, foodstuffs, paper, bottles or other littler or obnoxious material, or things liquid or solid, except in receptacles provided for such purpose and the owner or custodian of every dog permitted in the park shall promptly remove and properly dispose, in a receptacle provided for such purpose, of all excrement deposited by such dog in the park.

(m) Trespassing in performance and athletic areas while events are in progress is prohibited.

(n) Drivers of all vehicles in or on park property shall drive in a safe and careful manner at all times and shall comply with the signals and directions of City staff and all posted traffic signs.

(o) There shall be no discrimination by segregation or otherwise against any person or persons because of race, creed, color, sex, or national origin, in furnishing or by refusing to furnish to such person or persons the use of any facility of a public nature, including all services, privileges, accommodations and activities provided thereby on property.

(p) The unauthorized erection of signs or billboards, and the posting or distribution of pamphlets, handbills and flyers is prohibited without the prior approval of the City Manager or his designee.

(q) Ballfields are available by permit only.
(r) Swimming, camping and horseback riding are prohibited.
(s) No powered model airplane, rocket, watercraft or similar device shall be flown or launched from on any park area.
(t) Use of sound amplification equipment (i.e. P. A. systems or loud car stereos, etc.) is prohibited, except by special permit.
(u) It is unlawful to ride a bicycle on other than a paved vehicular road or path designed for that purpose.
(v) Ice skating shall be prohibited except under conditions prescribed by the City Manager.
(w) No person shall be on park property from sunset to sunrise unless that park property facility is officially open for public use.
(x) No boat or watercraft is allowed on lakes, streams, or ponds on any park property except by permit. Operators and occupants of permitted watercraft shall comply with all local, state and federal regulations governing the use and operation of watercraft.
(y) Fishing is permitted only in designated areas and in compliance with Maryland State Angler’s License requirements.
(z) Golf practice is prohibited.
(aa) All use of specific park facilities, such as athletic fields, picnic areas, lakes, streams, rivers, amphitheaters, tennis courts, multipurpose courts, tot lots, zoos, gazebos, park shelters, parking lot and open space areas, by individuals, groups or organizations for the purpose of monopolizing all or part of the park facilities must be made in writing to the City Manager.
(bb) The unauthorized erection or construction of a canopy or tent on park property is prohibited. Authorization for the erection or construction of a canopy or tent on park property may be obtained by individuals, groups or organizations by completing, in writing, the specific authorization form that is issued by the City upon request. The City Manager has the authority to deny all requests if, in his opinion, the erection or construction of a canopy or tent at the time or place or in the manner specified in the permit application will impair the public health, safety or welfare.
(cc) Camping is prohibited in City parks.
(dd) Skateboards, inline skates and bicycles.
(1) The use of skateboards, inline skates, bicycles, scooters, and other similar equipment is prohibited on park benches, retaining walls, curbs, stairs, and the amphitheatre stage, except that skateboards and inline skates may be used in the City Skate Park in accordance with subsections (dd)(2) and (dd)(3) of this section. The application of skateboard wax, grind wax, or any similar substance on City property is prohibited.
(2) The use of skateboards, inline skates, bicycles, scooters, and other similar equipment is prohibited in park parking lots and upon park roadways in any manner so as to interfere with vehicular traffic or to cause unsafe conditions for park users and pedestrians.
(3) Skate Park Rules.
(a) Users of the Skate Park do so at their own risk; the City will not be responsible for injury to persons or property as a result of the use of or presence in the Skate Park of any person.
(b) All users of the Skate Park must wear helmets conforming to the standards set forth by the U.S. Consumer Produce Safety Commission. The City strongly encourages the use of elbow pads, kneepads, and wrist guards.
(c) No person may be in the Skate Park during hours that the park is closed. Specific hours shall be set by the City Manager or his designee and users are expected to inquire at City Hall if they are in doubt as to whether the facility is closed.
(d) No unauthorized ramps, grind rails, or other structures or objects may be placed in or on City park property, including in or on the Skate Park or its facilities. Unauthorized structures or equipment found in or on City park property shall be deemed abandoned and may be removed and immediately discarded by the City.
(e) Only non-motorized equipment shall be permitted in the Skate Park.
(ee) Nothing contained in this Chapter shall be construed to abrogate any other City laws or regulations, or any federal, state or local laws or regulations applicable to any area in which property is situated.
Sec. 17-3. Permits; fees for permits.

(a) Fees for use or activity permits required by Section 17-2 of this Chapter will be established in the City budget.

(b) All permits for use of facilities must be signed by an official or responsible member of the petitioning group and by the City Manager or his designee prior to issuance.

(c) A permit may be revoked and future permits denied if improper use of park facilities is determined.

(d) A permit for use of facilities may be revoked by the City Manager in the event of inclement weather if, in the opinion of the City Manager, the facilities to be used will be damaged in any way.

(e) Nothing contained in this Chapter shall be construed to abrogate any other City laws or regulations, or any federal, state or local laws or regulations applicable to any area in which property is situated.

Sec. 17-4. Parking.

The following are adopted as City of Bowie Parks Parking Rules and Regulations:

(a) Parking or standing motor vehicles in any City park area except in clearly designated parking locations, is prohibited.

(b) No person may stop, stand or park a motor vehicle on park property:

(1) Within an intersection;

(2) On or obstructing the entrance to, any bicycle path, hiker path, or access road;

(3) Any place an official sign prohibits, or regulates, stopping, standing, parking, or the manner or parking in general;

(4) Reserved by law for other persons;

(5) On the traveled portion of a roadway or public driveway;

(6) So as to obstruct another vehicle or traffic;

(7) So as to occupy more than one parking space or across painted parking lines;

(8) During those hours when City parks are not open to the public;

(9) On any grass area, unless specifically allowed;

(10) On City property other than designated for vehicular parking;

(11) In a fire lane;

(12) Within fifteen (15) feet of a fire hydrant.

(c) If City staff discovers a vehicle parked in violation of this Section he shall:

(1) Deliver a citation to the driver, or, if the vehicle is unattended, attach a citation to the vehicle in a conspicuous place; and

(2) Keep a copy of the citation, bearing a certification under penalty or perjury that the facts stated in the citation are true. The form of citation shall also indicate: The Section violated; the location, date and time of the violation; the tag number, State of registration, make and color of the vehicle; the amount of the fine; a notice that the fine will double if not paid ten (10) calendar days after the citation is issued; the place where the payment may be made; a notice of a right to stand trial by giving notice to the City within five (5) calendar days after the citation is issued; a notice that failure to pay the fine or appear in Court may result in the vehicle registration not being renewed or transferred by the State Motor Vehicle Administration, and that a two dollar ($2.00) service charge will be added if State Motor Vehicle Department contact or service is required; and a notice of the right to request that the issuing officer be present at the trial.

(3) The fine for a violation of this Section 17-4 shall be twenty-five dollars ($25.00). All such fines shall double if not paid within ten (10) calendar days after the citation is issued.

(4) The City Manager is directed to notify the State Motor Vehicle Administration of all unpaid citations as to which no timely notice of intention to stand trial was filed; thereupon a two dollar ($2.00) service charge shall be added to the fine due. The City Manager is
authorized to pay a service charge to the State Motor Vehicle Administration when required by it to do so.

(d) Notwithstanding the foregoing provisions of this Section, and in addition to the fines and procedures set forth therein, any vehicle stopped or parked so as to impede or to be likely to impede the normal flow of vehicular or pedestrian traffic in City parks may be immediately impounded, pursuant to the provisions of Section 14-15 of this Code.

Sec. 17-5. Enforcement of Chapter.

(a) Violations of any subsection of Section 17-2 of this Chapter, except subsections 17-2(e), 17-2(g)(1), and (g)(2), 17-2(h), and 17-2(m) are municipal infractions, subject to the penalty and enforcement provisions of Chapter 1, Sections 6 and 6A of this Code.

(b) Violations of Sections 17-2(e), 17-2(g)(1) and (g)(2), 17-2(h), and 17-2(m) of this Chapter are misdemeanors, punishable by a fine not exceeding Five Hundred Dollars ($500.00) or imprisonment for thirty (30) days or both.

(c) Violations of Section 17-4 of this Chapter are subject to the penalty and enforcement provisions contained in Section 17-4 of this Chapter.
CHAPTER 18

PEDDLERS, SOLICITORS, ETC.

18-1. Definition of "peddler," "solicitor."

For purposes of this Chapter, the terms "peddler" and "solicitor" shall include any person who hawks, peddles, or vends or takes orders for any wares or merchandise or service or anything of value upon the streets of the City or any person who goes from house to house to vend, sell, introduce, promote or describe any service, product or thing of value offered by any person or business entity with whom the individual is employed or with whom the individual has a contract or is associated or take orders for any wares or merchandise or service or anything of value either by sample or otherwise.

Sec. 18-2. License--Required.

It shall be unlawful for any person to engage within the city in the business of a peddler or a solicitor without first obtaining a license as provided in this Chapter.

Sec. 18-3. License--Exceptions.

The provisions of this Chapter shall not apply to:
(a) Persons selling merchandise to manufacturers, wholesalers, or retailers, for use in their business or for resale.
(b) Persons who take orders for or make delivery of newspapers, milk, ice, fuel, bakery goods or other dairy or bakery perishable food products.
(c) Persons selling such articles as may be produced, caught, or raised by them.
(d) Persons selling Christmas trees, cards, greens, holly, and wreaths.
(e) Fraternal, religious, charitable, patriotic, educational, benevolent, or civic organizations approved as such by the City Manager.
(f) Volunteer fire companies.
(g) Persons offering home pick-ups and deliveries of laundry and dry cleaning.

Sec. 18-4. License--Application.

Applicants for a license required by this Chapter shall file with the City Manager a signed application giving the following information:

(a) Name, local and permanent addresses, age, weight, height, color of hair and eyes, and other distinguishing physical characteristics.
(b) Name and local permanent addresses of the person by whom he is employed or with whom he is associated.
(c) Length of such employment or association.
(d) Brief description of the business and nature of the wares, merchandise, service or thing of value to be sold, or the service, product or thing of value to be introduced, promoted or described.
(e) Letters from two (2) persons who have known the applicant for at least two (2) years attesting to his moral character and at least two (2) references from persons whom the applicant is willing that inquiry be made to verify the facts stated by the applicant.
(f) Two (2) photographs two (2) inches by two (2) inches in size showing the head and shoulders of the applicant in a clear and distinguishing manner.
(g) If a vehicle is to be used, a description of same together with license number.
(h) A statement as to whether or not the applicant has been convicted of any crime, the nature of the offense, and the punishment or penalty assessed.
(i) Date and number of county permit, if required.

Sec. 18-5. License--Investigation of applicant.

Upon receipt of a license application, the City Manager shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public welfare.

Sec. 18-6. License--Issuance.

Upon completion of this investigation and upon receipt of a license fee of Twenty-five Dollars ($25.00), the City Manager is authorized to issue the license required by this Chapter.

Sec. 18-7. License--Appeal from action of City Manager upon failure to issue.

An appeal from the action of the City Manager in failing to approve the issuance of peddler's or solicitor's license may be taken to a regular meeting of the Mayor and Council, who shall thereafter affirm the action of the City Manager or overrule it and direct the City Manager to issue the license. The Mayor and Council shall render their decision within sixty (60) days of hearing such appeal.

Sec. 18-8. License--Duration, etc.

A license issued under this Chapter shall be good for one (1) year from the date of issuance, unless earlier suspended or revoked as provided in this Chapter. Every peddler or solicitor shall carry with him his license at all times while engaged in peddling or soliciting and shall display the same to any person who shall demand to see the same while he is so engaged. The license shall remain the property of the City, and shall be surrendered to the City Manager upon expiration, suspension, or revocation.
Sec. 18-9. License--Renewal.

The holder of any expiring license under this Chapter desiring a new license to be effective on the expiration of the existing license shall, not less than thirty (30) nor more than sixty (60) days before the expiration of the existing license, file a written application for renewal with the City Manager, giving the information set forth in Section 18.4, except, at the discretion of the City Manager, new photographs shall not be required if the existing photograph is a good likeness. There shall be filed with the application a renewal fee of Twenty-five Dollars ($25.00).

Sec. 18-10. License--Denial, revocation or suspension.

The City Manager may refuse to issue or renew a license or may revoke or suspend any license issued under this Chapter if he finds that the applicant or licensee has willfully withheld or falsified any information required for a license or has been convicted of crimes described in Section 18.4. The City Manager may suspend for a period of up to ninety (90) days, or revoke, or refuse to renew any license upon finding that the licensee, while peddling or soliciting and in connection therewith, has engaged in fraud or willful misrepresentation, has violated any provision of this Chapter, has committed any unlawful act, or has refused to leave the premises immediately when requested by the owner or occupant thereof to do so. Any revocation, suspension, or failure to renew shall be by written notice to the licensee delivered personally or sent by certified mail to the licensee's local address listed in his application. The notice shall contain a statement of the reason for the action taken.

Sec. 18-11. Separate license for each person engaged in hawking.

A separate license must be obtained for each person who will participate in the hawking, peddling, soliciting or vending or the taking of orders for any wares or merchandise or anything of value, or the introduction, promotion or description of the services, merchandise or thing of value promoted or offered.

Sec. 18-12. Locations where peddling or soliciting is prohibited.

No peddler or solicitor shall engage in said business within one hundred (100) feet of the intersection of any elementary or secondary school driveway at any public road, nor at any place between driveways if more than one driveway exists at any such school, while such school is in session or within one (1) hour before or after such school session.

Sec. 18-13. Time limitations on peddling and soliciting.

It shall be unlawful for anyone to engage in peddling or soliciting in the City of Bowie between the hours of 7:00 p.m. and 9:00 a.m.

Sec. 18-14. Distribution of free tobacco products on public property prohibited.

(a) No person in the business of selling or otherwise distributing cigarettes or other tobacco or smoking products for commercial purposes, or any agent or employee or any such person, shall in the course of such business, distribute any cigarettes or other tobacco or smoking products free to any person on any public street or sidewalk, or in any public park or playground, or any other public ground, or in any public building.

(b) Any violation of this section shall be an infraction punishable by a fine of One Hundred Dollars ($100.00) for each violation. Each act of distribution shall constitute a single and separate violation.
Sec 18-15. Penalty.

Violations of this Chapter are municipal infractions, subject to the penalty and enforcement provisions of Chapter 1, Section 6 and 6A of this Code. (Sec. 18-14 amended by O-17-94, adopted 10/3/94); (Sec. 18-4, 18-11 and 18-13 amended by Ordinance O-8-11, adopted 3/21/11; effective 4/20/11).
CHAPTER 18A.

PLANNING

Article I. In General.


Article II. Environmental Impact.

18A-10. Copy of article to be sent to applicant on zoning or subdivision matter; City Council hearing.
18A-12. City to provide environmental impact statements.
18A-13. Cooperation of other governmental units.

Article I. In General.

Sec. 18A-1 to 18A-5. Reserved for future legislation.

Article II. Environmental Impact.

Sec. 18A-6. Policy of city.

In concert with enhancing and preserving environmental quality, it is the policy of the City Government to use all practicable means and measures to create and maintain conditions under which man and nature can exist in productive harmony and fulfill the social, economic and other requirements of present and future generations. Every citizen has a responsibility to contribute to the preservation and enhancement of the quality of the environment. There is a need to understand the relationship between the maintenance of high-quality ecological systems and the general welfare of the people of the City, including their enjoyment of the natural resources of the City. It is the intent of the City that the protection and enhancement of the environment shall be given appropriate weight with social and with economic considerations in public policy. Social, economic, and environmental factors shall be considered together in reaching decisions on proposed activities. In order to carry out the provisions of this Chapter, it is the continuing responsibility of the City to use all practicable means, consistent with other essential considerations, to improve and coordinate plans, functions, programs, and resources to the end that the City may:

A. fulfill the responsibilities of each generation as trustee of the environment for succeeding generations.
B. assure for all citizens safe, healthful, productive, and aesthetically and culturally pleasing surroundings.
C. attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
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D. preserve important historic, cultural, and natural aspects of our heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice.
E. achieves a balance between growth and resource use which will permit high standards of living and a wide sharing of life's amenities; and
F. enhance the quality of renewable resources and approach the optimum attainable re-cycling of depletable resources.

Sec. 18A-7. Environmental impact statements-Required.

The City Manager may require an applicant whose zoning matter or subdivision matter over 10 acres, 50 dwelling units, or 25,000 sq. ft. of commercial/industrial floor space is referred to the City of Bowie, to file an environmental impact statement separately or as a part of the initial application with the City Manager.

Sec. 18A-8. Repealed.


Each environmental impact statement prepared in accordance with this Chapter should include at least (or be part of a document that includes) the following to comply with this ordinance.
(a) A description of the proposed action;
(b) A description of the existing environmental setting;
(c) The favorable and adverse environmental impacts of the proposed action;
(d) The means and estimated costs necessary to minimize the adverse impacts;
The City Manager may issue further guidelines clarifying the above as directed by the City Council.
The City Manager shall determine whether any impact statement received conforms to the guidelines, and if it does not substantially conform shall so notify the applicant, the City Council and the Bowie Advisory Planning Board (BAPB).

Sec. 18A-10. Same-Copy of article to be sent to applicant on zoning or subdivision matter-City Council Hearing.

Upon formal inquiry by the applicant or initial referral to the City of a zoning or subdivision matter, involving property over 10 acres, 50 dwelling units or 25,000 sq. ft., the City Manager may immediately send the applicant a copy of this Chapter and a letter of instructions.
A Council hearing will be held no less than 21 days after the receipt of six copies of the environmental impact statement by the City Manager.
Whenever the due date of the City of Bowie's response to the County Council or the Park and Planning Commission requires it, the City Council may schedule its hearing even if it has not received the impact statement and/or the BAPB report of same called for hereunder.

Sec. 18A-11. Notification of the public.

The City Manager, upon receiving an environmental impact statement from an applicant, will send two copies of the document within two working days to the BAPB, and make a copy of the document available for review by any concerned citizen at the City Hall or other convenient place. Notice of the public hearings of the Bowie Advisory Planning Board and of the City Council for the formal review of the proposed action shall be given in accordance with the City of Bowie policy re-zoning hearing notices.
Sec. 18A-12. City to provide environmental impact statements.

The City of Bowie declares its intention to subject its own designated actions to scrutiny on environmental considerations by providing a public environmental impact statement for review by the BAPB and citizens. The City Manager shall determine which actions have environmental considerations requiring the preparation of an environmental impact statement by the City.

Sec. 18A-13. Cooperation of other governmental units.

The City Manager is hereby directed to contact any state or local governmental unit proposing to engage in any activity having substantial environmental relevance in or near the City of Bowie, and to request that unit to cooperate fully with the City in carrying out the intent of this Chapter.
CHAPTER 19.

PLUMBING.

19-1. Sanitary toilets connected with sewer line prerequisite to occupying, renting, of business establishments, dwellings.

Sec. 19-1. Sanitary toilets connected with sewer line prerequisite to occupying, renting, of business establishments, dwellings.

It shall be unlawful for the owner or tenant in possession of any business establishment, dwelling, or place of habitation within the City to maintain, use, occupy, rent, or reside in, or permit the use, maintenance, occupancy, rental, or residence of any business establishment, dwelling or place of habitation within the City unless the same be provided with a sanitary toilet connected with a sewer if and where a sewer is available, and such toilet shall be placed and erected inside of the business establishment, dwelling, or place of habitation.
CHAPTER 19A
PROCUREMENT PROCEDURES

ARTICLE I. PROCUREMENTS GENERALLY

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ARTICLE I. PROCUREMENTS GENERALLY

Sec. 19A-1. Purposes, Intent, and Definitions.

A. The purposes of this chapter are to provide for an efficient, cost-effective and equitable system of public purchasing by the city; to obtain the maximum purchasing value of public funds in procurement; to provide for a procurement system of quality and integrity; and to permit the continued development of procurement policies and practices.

B. The provisions of this chapter are intended to supersede in their entirety any procurement policy promulgated by the City prior to July 1, 2013.

(Sec. 19A-1 amended by O-4-21, adopted 9/20/21, effective 10/20/21)

Sec. 19A-2. Scope.

A. Except as otherwise provided, this chapter applies to every expenditure of public funds by the city for public purchasing irrespective of its source.

B. When a procurement or disposition involves federal assistance or state funds or is subject to federal or state regulations for any reason, the procurement or disposition shall be conducted in accordance with any applicable mandatory federal and/or state laws or regulations.

C. Nothing in this chapter shall be construed as prohibiting or limiting the City Council’s right to make appointments under the City’s Charter or to authorize any procurement it deems to be in the best interest of the city, or the city’s right to employ its own personnel for the construction or reconstruction of public improvements or for any other purpose without competitive solicitation.

Sec. 19A-3. Procurement, generally.

A. The City Manager is authorized to purchase or contract for all, materials, supplies, equipment, services, and construction required by the city in accordance with purchasing procedures prescribed by the City Charter, this Chapter and such procedures and policies as he
shall adopt for the internal management and operation of city procurement, and such other rules and regulations which are from time to time prescribed by the City Council.

B. In addition to any powers and duties prescribed by this chapter, the City Manager shall:

1. Act to procure for the city the highest quality in supplies and contractual services at the lowest expense to the city;
2. Endeavor to obtain as full and open competition as possible on all purchases and sales;
3. Prescribe and maintain such forms as he shall find reasonably necessary to the operation of this chapter;
4. Take advantage of the possibilities of buying “in bulk”, so as to take full advantage of discounts;
5. Act so as to procure for the city all federal and state exemptions to which it is entitled;
6. Have the authority to declare vendors who default on their quotations, irresponsible bidders, and to disqualify them from receiving any business from the city for a stated period of time; and
7. Sign all contracts.

C. The City Manager is authorized to adopt procedures and policies consistent with the City Charter and this chapter governing procurement of all materials, supplies, services, equipment and construction required by the city.

D. The City Manager is authorized to delegate the responsibilities outlined in this section with respect to the administration of a procurement and making a written determination with respect to the award thereof to any city department head or other city employee if such delegation is deemed appropriate for an effective procurement.

Sec. 19A-4. Competitive bidding.

A. Any purchase of materials, supplies, equipment, services or construction, when the estimated or known cost thereof exceeds twenty five thousand dollars ($25,000.00) shall be authorized by the City Council and such purchases shall be made after a competitive bidding process, unless a competitive bidding process is not required by the City Charter.

B. Public notice of all required bidding shall be given by posting information relating thereto on the city’s website, and, where appropriate in the judgement of the City Manager or his or her designee, on the City’s social media accounts and/or in an electronic news service that reports regularly on City news. Where required by law, public notice shall also be given by posting the request for proposals on eMaryland Marketplace. Such public notice shall be published not less than ten (10) days prior to the opening of bids. The notice required herein shall include a general description of the item or service sought to be purchased, shall state where bid specifications may be obtained, and the time and place for opening bids.

C. Bid security if required by the invitation to bid or the request for proposals shall accompany each bid. In no event shall the amount of the bid security exceed five percent (5%) of the total amount of the bid or proposal.

D. The closing date and time for receiving bids shall be during normal business hours of the city. Bids shall be identified as bids on the envelope. Bids for materials or equipment only and bid for services where the contract is to be awarded primarily based on the bid price shall be opened publicly at the time set forth in the request for bids. In such cases, bids shall be opened at a City facility designated in the request for bids in a room of sufficient size to accommodate a representative of each bidder or via a videoconference or both. All such bids received shall be tabulated and, upon request, a copy of the tabulation shall be furnished to each vendor. Bids for services or for other contracts for which an award is to be made based in whole or in part on subjective evaluations of the contents of a bid or proposal or of the experience or attributes of the bidder or proposer need not be publicly opened.

E. The City Manager or the City Council shall have the right to reject any or all bids, parts of all bids, or all bids for any one or more supplies or contractual services included in the proposed contract, when such action would be in the best interests of the city.
F. For purchases or contracts for which the taking of competitive bids is required, the City Manager shall furnish the City Council a tabulation of all bids, the City Manager’s recommendation as to award of the bid and such other information as the City Council may need or shall require. The City Council shall award the purchase and authorize the City Manager to enter into a contract with that bidder offering the best bid.

G. In determining the best bid, the City Manager and the City Council shall give consideration to those items set forth in City Charter, Sec. 61(b)(1) and those items included in the bid documents.

H. When the City Manager recommends award to other than the lowest bidder, he shall have caused to be prepared for the City Council a full and complete statement of the reasons for placing the order elsewhere.

(Sec. 19A-4(b)(d) amended by O-4-21, adopted 9/20/21, effective 10/20/21)

Sec. 19A-5. Same—Exceptions to requirements.

Subject to the approval of the purchase by the City Council, the requirements for the taking of competitive bids shall not be required if:

1. The City Council, by resolution, in accordance with City Charter, Sec. 61 waives the requirement for the taking of competitive bids and authorizes a negotiated purchase or contract upon its determination that it is in the best interests of the city or that an emergency exists.

2. A competitive bid procedure is not required by the City Charter because the purchase is for professional services.

3. The purchase is to be made as provided for in City Charter, Sec. 62 “Cooperative Bidding”.

Sec. 19A-6. Open market procedures.

All Purchases of materials, equipment, supplies, services and construction, the estimated or known value of which is such that the approval of the City Council is not required may be made in the open market upon the authorization of the City Manager. All open market purchases shall, whenever possible, be made from the supplier offering the best quotation and opportunity shall be given to at least three (3) suppliers, when possible, to furnish the city with product or service and price information and to be considered in the making of purchases.

(Sec. 19A-6 amended by O-4-21, adopted 9/20/21, effective 10/20/21)


A contract for goods, insurance, construction, equipment or services may be entered into for any period of time deemed to be in the best interest of the city provided the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of contracting. Contracts, the term of which spans more than one fiscal year, shall be subject to the appropriation of funds therefore in subsequent fiscal years. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled with no penalty to the city.


A. The City Manager may authorize emergency procurements of supplies, materials, equipment, services, insurance, or construction in an amount not to exceed one hundred thousand dollars ($100,000.00) in accordance with the provisions of City Charter, Sec. 61(b)(5).

B. Emergency procurements shall be made with such competition as is practical under the circumstances.
C. As soon as practicable, a record of each emergency procurement shall be made containing the following:

   (1) A written explanation of the circumstances of the emergency;
   (2) A tabulation of bids or quotes received, if any;
   (3) The contractor’s name, the amount and type of contract, a listing of the items procured under the contract.


A. When a construction contract is awarded, the following bonds or other security, in a form satisfactory to the city, shall be delivered to the city and shall become binding on the parties upon the execution of the contract:

   (1) A Performance Bond payable to the City, executed by a surety company authorized to do business in this state, or the equivalent in cash or other security, conditioned upon the faithful performance of the contract, including all warranties and guarantees. The bond or other security shall be in an amount equal to one hundred percent (100%) of the price specified in the contract; and
   (2) A Payment Bond, executed by a surety company authorized to do business in this state, or the equivalent in cash, letter of credit, or other security satisfactory to the city, for the protection of all persons supplying labor and materials, including lessees of equipment to the extent of the fair rental value thereof, to the contractor or its subcontractors for the performance of the work provided for in the contract.

   (a) For a contract exceeding one hundred thousand dollars ($100,000.00) the bond or other security shall be in an amount equal to one hundred percent (100%) of the price specified in the contract.
   (b) For a contract exceeding twenty-five thousand dollars ($25,000.00) but not exceeding one hundred thousand dollars ($100,000.00) the bond or other security shall be in an amount equal to fifty percent (50%) of the price specified in the contract.
   (c) No payment bond is required for a contract not exceeding twenty-five thousand dollars ($25,000.00) unless required by the request for proposals or invitation for bids. Such a bond shall be in an amount not to exceed fifty percent (50%) of the contract price.

B. Any contractor, prior to receiving a progress or final payment under a contract covered hereunder, shall certify in writing that such contractor has made payment from the proceeds of prior payments, and that such contractor will make timely payments from the proceeds of the progress or final payment then due such contractor, to such contractor’s subcontractors and suppliers in accordance with such contractor’s contractual arrangement with them.

C. The City Manager may waive or reduce, in writing, the requirement for performance bonds for construction contracts under twenty-five thousand dollars ($25,000.00).

D. Contract specifications may require security in an amount determined by the City Manager to adequately cover reasonable maintenance, repair, or replacement costs during the contract warranty or guarantee period.

Sections 19A-10 through 19A-14. Reserved.

ARTICLE II. PROCUREMENTS INVOLVING FEDERAL FUNDS.


A. Protests may be filed by an actual or prospective bidder, offeror or contractor who is aggrieved in connection with a solicitation or award of a formal contract the payment for which involves federal funds. The term “solicitation” as used herein shall refer to requests for proposals and requests for bids issued by the City of Bowie for goods and/or services to be provided to the city, the payment for which involves the use of federal funds. In the event that a
mandatory pre-bid meeting is part of a solicitation, anyone who does not attend the mandatory pre-bid meeting will not be considered to be a prospective bidder, offeror or contractor.

B. All protests must be filed in strict conformance with the provisions of this article. Protests not conforming to the requirements set forth herein will not be considered. Failure of a protestor to respond in a timely manner to requests for information shall result in the dismissal of the protest. In no event shall a protest be submitted or accepted by the city subsequent to the execution of a binding contract with the successful bidder. The Director of the City Office of Grant Development and Administration shall notify all affected bidders or offerors of the filing of the protest.

Sec. 19A-16. Solicitation protests.

A. Protests regarding solicitation or specification documents must be received by the city in writing no later than fifteen (15) calendar days prior to the closing date of the solicitation. The protester is responsible for obtaining proof of timely delivery. The envelope must be labeled “Attention: Bid Protest”, along with the name of the solicitation. The protest must be mailed or hand-delivered to the Director of the Office of Grant Development and Administration, City of Bowie, 15901 Excalibur Road, Bowie, Maryland 20716, with a copy to the person identified in the legal notice for the request for proposals or bids as being the person to contact for further information concerning the request for proposals or bids.

B. Protests must be fully supported with adequate technical data, test results or other pertinent information to support the protest. At a minimum, the information shall include the name, address, and telephone number of the protester; identification number of the project as to which the protest is being filed; a statement of the reasons for the protest with supporting documents substantiating the allegations; and a description of the desired relief from the city.

C. The city’s response to protests will be issued by the Director of the Office of Grant Development and Administration at least seven (7) calendar days prior to the closing date for the receipt of proposals. The bidder who filed the protests may appeal the decision of the Director of the City Office of Grant Development and Administration to the City Manager. An appeal of the director’s decision by a bidder or an adversely-affected subcontractor must be in writing and be received no later than five (5) calendar days prior to the closing date for receipt of proposals. The protestor is responsible for obtaining proof of timely delivery. The notice of the appeal must specifically state that an appeal is being made and identify the decision(s) being appealed. The envelope must be labeled “Attention: Bid Protest”, along with the name of the solicitation. The protest appeal must be mailed to the City Manager, City of Bowie, 15901 Excalibur Road, Bowie, Maryland 20716, with a copy to the Director of the City Office of Grant Development and Administration. The City Manager will render a final decision on the appeal within thirty (30) calendar days after receipt of appeal. No further appeals are authorized.


A. Protests of contract awards must be received by the city in writing no later than seven (7) calendar days after the city mails formal notice to all bidders of the contract award. The envelope must be labeled “Attention: Contract Award Protest”, along with the name of the solicitation. The contract award protest shall be mailed to the Director of the Office of Grant Development and Administration, City of Bowie, 15901 Excalibur Road, Bowie, Maryland 20716, with a copy to the person identified in the legal notice for the request for proposals or bids as being the person to contact for further information concerning the request for proposals or bids.

B. Contract award protests must be fully supported with adequate technical data, test results, or other pertinent information to support the protest. At a minimum, the information submitted must include name, address and telephone number of the protester; identification of the project for which the protest is being filed; a statement of reasons for the protest; any supporting exhibits, evidence or documents to substantiate the protest; and a statement of the ruling desired from the city.
C. The city’s response to protests will be postmarked by certified mail no later than thirty (30) calendar days after the receipt of the written protest.

D. The decision of the Director of the Office of Grant Development and Administration shall be final except in instances of violations of state and federal law or regulations. If there is an allegation that such a violation exists, the bidder may appeal the decision of the Director to the City Manager. An appeal of a decision of the Director must be in writing and received by certified mail no later than seven (7) calendar days after the receipt of the decision. The Notice of Appeal must specifically state that an appeal is being made and identify which decision(s) is being appealed. The envelope must be labeled “Attention: Contract Award Protest”, along with the name of the solicitation. The protest appeal must be mailed to City Manager, City of Bowie, 15901 Excalibur Road, Bowie, Maryland 20716. The City Manager will render a final decision on the appeal within thirty (30) calendar days after receipt of the appeal. No further appeals will be considered.

E. If a timely protest or appeal of the award occurs as described in these procedures, the procurement or contract shall not be executed until the review process is completed and a final decision is rendered or until the review process is completed and a final decision is rendered or until a determination is made by the City Manager that a contract award is required to protect the interests of the city. All affected vendors shall be notified promptly in the event that a protest or appeal has been filed.

F. All protests must be filed in strict conformance with the provisions of these bid protest procedures. Protests not conforming to the requirements set forth therein will not be considered. Failure of a protestor to respond in a timely manner to requests for information shall result in the dismissal of the protest. In no event shall a protest be submitted or accepted by the city subsequent to the execution of a binding contract with the successful bidder. The Director of the Office of Grant Development and Administration shall notify all affected bidders or offerors of the filing of a protest.

(Chapter 19A enacted by O-5-13, adopted 7/1/13, effective 7/31/13)
20-1. Prerequisites to establishment and operation generally.

Sec. 20-1. Prerequisites to establishment and operation generally.

No restaurant, oyster house, cook shop, ice cream parlor, dairy lunch, or eating house by whatsoever name designated, where food, meals, or refreshments are served to be eaten on the premises where sold, shall be established, maintained, or continued without a certificate from the City or County health officer that the premises are in a proper sanitary condition in which to conduct such business and without a permit from the Council, and without being conducted in a building, frame, or structure which conforms to the existing building regulations.
CHAPTER 21.

SEWERS.

21-1. Water closets, etc., to be installed in Belair by owners of property adjacent to water and sewage systems.

21-2. Privy vaults, cesspools, etc.

Sec. 21-1. Water closets, etc., to be installed in Belair by owners of property adjacent to water and sewage systems.

All owners of premises adjacent to the water distribution and sewage collection systems within that portion of the City which was annexed thereto by ordinance dated the 15th day of April, 1959, and known as Belair shall install satisfactory equipment for the reception of water service and the disposal of sewage, such equipment to consist of at least one (1) water closet and one (1) sink or wash basin, and all cesspools, sink drains and privies located on properties connected to sewers shall be abandoned, closed and left in a sanitary condition so that no odor or nuisance shall arise therefrom.

Sec. 21-2. Privy vaults, cesspools, etc.

No privy vault, cesspool, or reservoir shall be constructed, erected, used, or maintained within the City, unless such privy vault, cesspool, or reservoir shall be constructed, erected, used, and maintained in conformity with the regulations of the State and County boards of health.
CHAPTER 21A.

ARTICLE I. SOIL EROSION AND SEDIMENTATION CONTROL.

21A-1. Purpose and authority.
21A-5. Erosion and sediment control plans—review and approval.
21A-8. Approved erosion and sediment control plans—modifications to.
21A-10. Permit fee.
21A-12. Permit conditions.
21A-17. Inspection—modifications to approved erosion and sediment control plans.

ARTICLE II. MUNICIPAL GRADING PERMITS.

21A-23. Municipal grading permits—approval or denial.
21A-29. Municipal grading permits—fee.
21A-31. Inspections.
21A-32. Penalties; remedies; notice of violation.

ARTICLE I. SOIL EROSION AND SEDIMENT CONTROL.

Sec. 21A-1. Purpose and authority.

A. The purpose of this chapter is to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to control the adverse impacts associated with land disturbances. The goal is to minimize soil erosion and prevent off-site sedimentation by using soil erosion and sediment control practices designed in accordance with the Code of Maryland Regulations (COMAR) 26.17.01, the 2011 Maryland Standards and Specifications (Standards and Specifications) – and as amended by the Maryland Department of the Environment, and the Stormwater Management Act of 2007 (Act). Implementing this chapter will help reduce the negative impacts of land development on water resources, maintain the chemical, physical, and biological integrity of streams, and minimize damage to public and private property.
B. The provisions of this article pursuant to Title 4, Environment Article, Subtitle 1, Annotated Code of Maryland are adopted under the authority of the City of Bowie code and shall apply to all land grading occurring within the City of Bowie. The application of this article and the provisions expressed herein shall be the minimum erosion and sediment control requirements and shall not be deemed a limitation or repeal of any other powers granted by state statute.

Sec. 21A-2. Standards and specifications adopted.

The City, for purposes of this Chapter, hereby adopts by reference the Maryland Standards and Specifications for soil erosion and sediment control.

Sec. 21A-3. Definitions.

For purposes of this Chapter, the following words and phrases shall have the meanings respectively assigned to them in this section:

A. “Administration” means the Maryland Department of the Environment (MDE) Water Management Administration (WMA).

B. “Adverse impact” means any deleterious effect on waters or wetlands, including their quality, quantity, surface area, species composition, aesthetics, or usefulness for human or natural uses, that are or may potentially be harmful or injurious to human health, welfare, safety or property, biological productivity, diversity, or stability or that unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

C. “Agricultural land management practices” means those methods and procedures used in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources. Logging and timber removal operations are not to be considered a part of this definition.

D. “Applicant” means any person, firm, or government agency that executes the necessary forms to apply for a permit or approval to carry out construction of a project.

E. “Approval authority” means the Prince George’s Soil Conservation District.

F. “Best management practice” (BMP) means a structural device or nonstructural practice designed to temporarily store or treat stormwater runoff in order to mitigate flooding, reduce pollution, and provide other amenities.

G. “City” means the City of Bowie.

H. “Clear” means to remove the vegetative ground cover while leaving the root mat intact.

I. “Concept plan” means the first of three plans submitted under the comprehensive review and approval process required by the act and described in COMAR 26.17.02 and shall include the information necessary to allow an initial evaluation of a proposed project.

J. “Department” means the Maryland Department of the Environment.

K. “Developer” means a person undertaking, or for whose benefit any or all activities covered by this ordinance are commenced or carried on. General contractors or subcontractors, or both, without a proprietary interest in a project are not included within the definition.

L. “District” means the Prince George’s Soil Conservation District.

M. “Drainage area” means that area contributing runoff to a single point measured in a horizontal plane that is enclosed by a ridge line.

N. “Environmental site design” (ESD) means using small-scale stormwater management practices, nonstructural techniques, and better site planning to mimic natural hydrologic runoff characteristics and minimize the impact of land development on water resources.

O. “Erosion” means the process by which the land surface is worn away by the action of wind, water, ice, or gravity.

P. “Erosion and sediment control” means a system of structural and vegetative measures that minimizes soil erosion and off-site sedimentation.
Q. “Erosion and sediment control plan” means an erosion and sediment control strategy or plan designed to minimize erosion and prevent off-site sedimentation.

R. “Exemption” means those land development activities that are not subject to the erosion and sediment control requirements contained in this Chapter.

S. “Final erosion and sediment control plan” means, along with the final stormwater management plan, the last of three plans submitted under the comprehensive review and approval process required by the act and described in COMAR 26.17.02. Final erosion and sediment control plans shall be prepared and approved in accordance with the specific requirements of the Prince George’s Soil Conservation District and this Chapter and designed in accordance with the Standards and Specifications.

T. “Grade” means to disturb earth by, including but not limited to, excavating, filling, stockpiling, grubbing, removing root mat or topsoil, or any combination thereof.

U. “Grading unit” means the maximum contiguous area allowed to be graded at a given time. For the purposes of this chapter, a grading unit is 20 acres or less.

V. “Highly erodible soils” means those soils with a slope greater than 15 percent or those soils with a soil erodability factor, K, greater than 0.35 and with slopes greater than 5 percent.

W. “Inspection agency” means the City of Bowie.

X. “Maximum extent practicable” (MEP) means designing stormwater management systems so that all reasonable opportunities for using ESD planning techniques and treatment practices are exhausted and only where absolutely necessary is a structural BMP implemented.

Y. “Owner/developer” means a person undertaking, or for whose benefit, activities covered by this chapter are carried on. General contractors or subcontractors, or both, without a proprietary interest in a project are not included within this definition.

Z. “Permittee” means any person to whom a building permit, an erosion and sediment control permit or grading permit has been issued, as applicable.

AA. “Person” includes the federal government, the state, any county, municipal corporation, or other political subdivision of the state, or any of their units, or an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any of their affiliates, or any other entity.

BB. “Responsible personnel” means any foreman, superintendent, or project engineer who is in charge of on-site clearing and grading operations or the implementation and maintenance of an erosion and sediment control plan.

CC. “Sediment” means soils or other surficial materials transported or deposited by the action of wind, water, ice, gravity, or artificial means.

DD. “Site” means any tract, lot, or parcel of land, or combination of tracts, lots or parcels of land that are in one ownership, or are contiguous and in diverse ownership, where development is to be performed as part of a unit, subdivision, or project.

EE. “Site development plan” means the second of three plans submitted under the comprehensive review and approval process required by the act and described in COMAR 26.17.02. A site development plan shall include the information necessary to allow a detailed evaluation of a proposed project.

FF. “Stabilization” means the protection of exposed soils from erosion by the application of seed and mulch, seed and matting, sod, other vegetative measurers, and/or structural means.

GG. “Standards and specifications” means the “2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control” or any subsequent revisions.

HH. “Stormwater” means water that originates from a precipitation event.

II. “Stormwater management system” means natural areas, ESD practices, stormwater management measures, and any other structure through which stormwater flows, infiltrates, or discharges from a site.

JJ. “Variance” means the modification of the minimum erosion and sediment control requirements for exceptional circumstances such that strict adherence to the requirements would result in unnecessary hardship and not fulfill the intent of this chapter.

KK. “Watershed” means the total drainage area contributing runoff to a single point.
THE CODE

LL. “Wetlands” means any area that has saturated soils for periodic high groundwater levels and vegetation adapted to wet conditions and periodic flooding, as defined in the Annotated Code of Maryland Natural Resources, Article, Title 9 and COMAR 08.05.04.

Sec. 21A-4. Applicability--exemptions and variances.

A. No person shall disturb land without implementing soil erosion and sediment controls in accordance with the requirements of this chapter and the standards and specifications except as provided within this section. Sediment control devices utilized in accordance with an approved soil erosion and sediment control plan shall not be removed until complete stabilization has been established.

B. Exemptions:

1. Agricultural land management practices and agricultural BMPs.
2. Clearing or grading activities that disturb less than 5,000 square feet of land area and disturb less than 100 cubic yards of earth.
3. Clearing or grading activities that are subject exclusively to state approval and enforcement under state law and regulations.

C. Variances. The District may only grant a variance from the requirements of the standards and specifications when strict adherence will result in exceptional hardship and not fulfill the intent of this chapter. The owner/developer shall submit a written request for a variance to the District. The request must state the specific variance sought and the reasons for the request. The District shall not grant a variance unless and until sufficient information is provided describing the unique circumstances of the site to justify the variance.

Sec. 21A-5. Erosion and sediment control plans--review and approval.

A. A person may not grade land within the City without an erosion and sediment control plan approved by the District, except as provided for in Section 21A-4(B) of this chapter.

B. The applicant shall submit an erosion and sediment control plan and any supporting computations to the District for review and approval. The erosion and sediment control plan shall contain sufficient information, drawings, and notes to describe how soil erosion and off-site sedimentation will be minimized.

C. In approving the plan, the District may impose such conditions that may be deemed necessary to ensure compliance with the provisions of this chapter, COMAR 26.17.01, the standards and specifications, and the preservation of public health and safety.

D. The review and approval process shall be in accordance with the comprehensive and integrated plan approval process described in the standards and specifications, the City’s stormwater ordinance, and the act.

E. At a minimum, a concept plan must include the mapping of natural resources and sensitive areas including highly erodible soils and slopes greater than fifteen percent, as well as information required under the City’s stormwater ordinance. These areas are to remain undisturbed or an explanation must be included with either the concept or site development plan describing enhanced protection strategies for these areas during construction.

F. A site development plan submittal must include all concept plan information and indicate how proposed erosion and sediment control practices will be integrated with proposed stormwater management practices. The latter is to be done through a narrative and an overlay plan showing both ESD and erosion and sediment control practices. An initial sequence of construction and proposed project phasing to achieve the grading unit restriction should be submitted at this time.

G. An applicant shall submit a final erosion and sediment control plan to the District for review and approval. The plan must include all of the information required by the concept and site development plans as well as any information in Section 21A-6 not already submitted.

H. A final erosion and sediment control plan shall not be considered approved without the inclusion of the signature and date of signature of the District on the plan.
THE CODE

I. Approved plans remain valid for two (2) years from the date of approval unless extended or renewed by the District.

Sec. 21A-6. Erosion and sediment control plans--contents of.

A. An applicant is responsible for submitting erosion and sediment control plans that meet the requirements of the District, this Chapter, the Standards and Specifications, and the Act. The plans shall include sufficient information to evaluate the environmental characteristics of the affected areas, the potential impacts of the proposed grading on water resources, and the effectiveness and acceptability of measures proposed to minimize soil erosion and off-site sedimentation.

B. At a minimum, an applicant shall submit the following information:
   1. A letter of transmittal and/or application known as a site analysis, as applicable;
   2. Name, address, and telephone number of:
      i. The owner of the property where the grading is proposed;
      ii. The developer; and
      iii. The applicant;
   3. A vicinity map indicating north arrow, scale, site location, and other information necessary to easily locate the property;
   4. Drainage area map(s) at a 1” = 200’ minimum scale showing existing, interim, and proposed topography, proposed improvements standard symbols for proposed sediment control features, and pertinent drainage information including provisions to protect downstream areas from erosion for a minimum of 200 feet downstream or to the next conveyance system;
   5. The location of natural resources, wetlands, floodplains, highly erodible soils, slopes 15 percent and steeper, and any other sensitive areas;
   6. A general description of the predominant soil types on the site, as described by the appropriate soil survey information available through the local Soil Conservation District or the USDA Natural Resources Soil Conservation Service;
   7. Proposed stormwater management practices;
   8. Erosion and sediment control plans including:
      i. The existing topography and improvements as well as proposed topography and improvements at a scale between 1” = 10’ and 1” = 50’ with 2 foot contours or other approved contour interval. For projects with more than minor grading, interim contours may also be required;
      ii. Scale, project and sheet title, and north arrow on each plan sheet;
      iii. The limit of disturbance (LOD) including:
         1. Limit of grading (grading units, if applicable); and
         2. Initial, interim, and final phases;
      iv. The proposed grading and earth disturbance including:
         1. Total disturbed area;
         2. Volume of cut and fill quantities; and
         3. Volume of borrow and spoil quantities;
      v. Storm drainage features, including:
         1. Existing and proposed bridges, storm drains, culverts, outfalls, etc.;
         2. Velocities and peak flow rates at outfalls for the two-year and ten-year frequency storm events; and
         3. Site conditions around points of all surface water discharge from the site;
      vi. Erosion and sediment control practices to minimize on-site erosion and prevent off-site sedimentation including:
         1. The salvage and reuse of topsoil;
2. Phased construction and implementation of grading unit(s) to minimize disturbances, both in extent and duration;
3. Location and type of all proposed sediment control practices;
4. Design details and data for all erosion and sediment control practices; and
5. Specifications for temporary and permanent stabilization measures including, at a minimum:
   a. The “Standards Stabilization Note” on the plan stating: “Following initial soil disturbance or re-disturbance, permanent or temporary stabilization must be completed within:
      i. Three (3) calendar days as to the surface of all perimeter dikes, swales, ditches, perimeter slopes, and all slopes steeper than 3 horizontal to 1 vertical (3:1); and
      ii. Seven (7) calendar days as to all other disturbed or graded areas on the project site not under active grading.
   b. Details for areas requiring accelerated stabilization; and
   c. Maintenance requirements as defined in the Standards and Specifications;
vi. A sequence of construction describing the relationship between the implementation and maintenance of controls, including permanent and temporary stabilization, and the various stages or phases of earth disturbance and construction. Any changes or revisions to the sequence of construction must be approved by the district prior to proceeding with construction. The sequence of construction, at a minimum, must include the following:
   1. Request for a pre-construction meeting with the appropriate enforcement authority;
   2. Clearing and grubbing as necessary for the installation of perimeter controls;
   3. Construction and stabilization of perimeter controls;
   4. Remaining clearing and grubbing within installed perimeter controls;
   5. Road grading;
   6. Grading for the remainder of the site;
   7. Utility installation and connections to existing structures;
   8. Construction of buildings, roads, and other construction;
   9. Final grading, landscaping, and stabilization;
   10. Installation of stormwater management measures;
   11. Approval of the appropriate enforcement authority prior to removal of sediment controls; and
   12. Removal of controls and stabilization of areas that are disturbed by removal of sediment controls.
vi. A Statement requiring the owner/developer or representative to contact the city inspector at the following stages of the project or in accordance with the approved erosion and sediment control plan, grading permit, or building permit:
   1. Prior to the start of earth disturbance;
   2. Upon completion of the installation of perimeter erosion and sediment controls, but before proceeding with any other earth disturbance or grading;
   3. Prior to the start of another phase of construction or opening of another grading unit; and
4. Prior to the removal of sediment control practices;
ix. Certification by the owner/developer that any clearing, grading, construction, or development will be done pursuant to the approved erosion and sediment control plan. The certification must also require that the responsible personnel involved in the construction project have a certificate of training at an MDE approved training program for the control of erosion and sediment prior to beginning the project. The certificate of training for responsible personnel may be waived by the District on any project involving four or fewer residential lots. Additionally, the owner/developer shall allow right of entry for periodic on-site evaluation by the District, the City, and MDE; and
x. Certification by a professional engineer, land surveyor, landscape architect, architect, or forester (for forest harvest operations only) registered in the state that the plans have been designed in accordance with erosion and sediment control laws, regulations, and standards, if required by the District or the administration. Certification by a licensed and registered (State of Maryland) professional engineer is required for all plans preparations requiring hydraulic and hydrologic calculations.

9. Any additional information or data deemed appropriate by the City of Bowie and the District.

Sec. 21A-7. Standard erosion and sediment control plan.

A. The District may adopt a standard erosion and sediment control plan for activities with minor earth disturbances, such as single-family residences, small commercial and other similar building sites, minor maintenance grading, and minor utility construction.
B. A standard erosion and sediment control plan must meet the requirements of this chapter and the Standards and Specifications.
C. MDE shall review and approve a standard plan process prior to its adoption.

Sec. 21A-8. Approved erosion and sediment control plans--modifications to.

A. The District may require the revision of approved plans as necessary to meet the intent of this chapter. Modifications may also be requested by the owner/developer, the inspection agency, or the City of Bowie in accordance with COMAR 26.17.01.09(H) plan modifications.
B. The District shall develop a list of minor modifications that may be approved as field revisions by the inspection agency. The department must approve any field modification list prior to its implementation.

Sec. 21A-9. Permits--requirements, expiration and renewal.

A. Permit requirements. A Prince George’s County Grading Permit and a City Erosion and Sediment Control Permit must be obtained prior to the commencement of any grading, clearing, or other earth changing activities within the city, if not otherwise exempt. Application forms for a City of Bowie Soil Erosion and Sediment Control Permit will be available in the office of the City Public Works Department. Before an erosion and sediment control permit for any lot or parcel is issued by the City, the District must review and approve an erosion and sediment control plan for the site.
B. Permit expiration and renewal. An erosion and sediment control permit shall expire 2 years from the date of its issuance unless extended or renewed by the City prior to the date of expiration. Upon request and adequate justification by the permittee, including revalidation of the erosion and sediment control plan by the District, the City Manager may renew the original permit for 12 months. Application for permit renewal shall be made at least 30 days prior to the permit expiration date.
Sec. 21A-10. Permit fee.

A permit fee is established in the City’s annual adopted budget for the administration and management of the erosion and sediment control program.

Sec. 21A-11. Permit suspension and revocation.

The City may suspend or revoke a sediment and erosion control permit after providing written notification to the permittee based on any of the following reasons:
A. Any violation(s) of the terms or conditions of the approved erosion and sediment control plan or permit.
B. Noncompliance with violation notice(s) or stop work order(s) issued.
C. Changes in the site characteristics upon which plan approval and permit issuance were based.
D. Any violation(s) of this or any other City of Bowie, Prince George’s County, or Maryland State Law or regulation, ordinance(s) or any rules and regulations adopted under it.

Sec. 21A-12. Permit conditions.

In issuing an erosion and sediment control permit, the City of Bowie may impose such conditions as may be deemed necessary to ensure compliance with the provisions of this article and the preservation of the public health and safety.


On any property located within the City on which grading or other work has been done pursuant to a permit granted under the provisions of this article, the permittee or owner, or agent, contractor and employees of the permittee or owner shall continuously maintain and repair all graded surfaces or means and other protective devices, plantings, and ground cover installed or completed as required by District approved plans and the permit issued by the Prince George’s County.


An applicant shall furnish a surety or cash bond, irrevocable letter of credit, or other means of security acceptable to the City in an amount equal to 125% of the cost of construction and maintenance of erosion and sediment control devices. Said bond shall guarantee satisfactory completion of all work covered by the permit and maintenance of the erosion and sediment control devices, including restoration of the property in accordance with applicable city, county and state requirements. All construction cost estimates for bonding and permit fees must be approved by the city.

Sec. 21A-15. Inspection.

A. The City’s Department of Public Works shall be responsible for the inspection of sites within the corporate limits of the city to enforce compliance with the approved erosion and sediment control plans. The permittee shall maintain a copy of the approved erosion and sediment control plan and all approved revised plans on site.
B. On all sites with disturbed areas in excess of ½ acre, the permittee shall request that the inspection agency inspect the work completed at the stages of construction specified below to ensure construction in accordance with the approved erosion and sediment control plan, the grading or building permit, and this article:
   a. Upon completion of installation of perimeter erosion and sediment controls, prior to proceeding with any other earth disturbance or grading. Other building or grading inspection approvals may not be authorized until initial approval by the inspection agency is made; and
b. Upon final stabilization before removal of sediment controls.

C. Every active site having a designed erosion and sediment control plan should be inspected for compliance with the plan on the average of once every 2 weeks, and after every runoff generating event (rain, snow, etc.).

D. An inspector shall prepare a written report after every inspection. The inspection report shall describe:
   a. The date and location of the site inspection;
   b. Whether or not the approved plan has been properly implemented and maintained;
   c. Any practice or erosion and sediment control plan deficiencies;
   d. If a violation exists, the type of enforcement action taken; and
   e. If applicable, a description of any modification to the plan.

If work is in process on the site pursuant to a permit issued by another governmental agency, the inspector shall file a copy of the report with that agency.

E. The City’s Department of Public Works shall notify the on-site personnel or the owner/developer in writing when violations are being observed, describing:
   a. The nature of the violation;
   b. The required corrected action; and
   c. The time period in which to have the violation corrected.

Sec. 21A-16. Inspection—right of entry.

It shall be a condition of every erosion and sediment control permit that authorized personnel of the City have the right to enter the property periodically to inspect for compliance with this article.

Sec. 21A-17. Inspection—modifications to approved erosion and sediment control plans.

When inspection of the site indicates the approved erosion and sediment control plan needs modification, the modification shall be made in compliance with the erosion and sediment control criteria contained in the standards and specifications, and the District’s requirements as follows:

A. The permittee shall submit requests for major modifications to approved erosion and sediment control plans, such as the addition or deletion of a sediment basin, to the District to be processed appropriately. This processing includes modifications due to plan inadequacies at controlling erosion and sediment as revealed through inspection; and

B. The inspector may approve minor modifications to approved erosion and sediment control plans in the field if documented on a field inspection report, and shown in red on an approved set of active construction drawings for erosion and sediment control. The District shall, in conjunction with the City, develop a list of allowable field modifications for use by the inspector. The department must approve any field modification list prior to its implementation.

Sec. 21A-18. Inspection—complaints.

The City shall receive complaints and initiate enforcement procedures when violations are confirmed. Any complaint received shall be acted upon routinely within 3 working days and the complainant shall be notified of any action or proposed action routinely within 7 working days of receipt of the complaint. All complaints shall have a written report produced outlining the nature of complaint and actions taken.

Sec. 21A-19. Enforcement.

A. When the City determines that a violation of the approved erosion and sediment control plan has occurred, the inspector shall notify the on-site personnel or the permittee in writing of the violation, describe the required corrective action and the time period in which to have the
violation corrected which time shall not exceed ten (10) days. If an imminent hazard exists the
inspector may require that corrective work begin immediately.

B. If the violation persists after the date specified for corrective action in the notice of the
violation, the City is hereby authorized to stop all work on the site except that work which is
necessary to correct the violation by issuing a stop work order on any and all storm drain,
paving, grading and building permits applicable to the particular site.

C. A violation of an approved erosion and sediment control plan shall be deemed a
misdemeanor.

D. If reasonable efforts to correct the violation are not undertaken by the permittee, the
inspection agency shall refer the violation for legal action.

E. The City and Prince George's County may deny the issuance of any permits to an
applicant when it determines the applicant is not in compliance with the provisions of a building
or grading permit or approved erosion and sediment control plan.

F. Any step in the enforcement process may be taken at any time, depending upon the
severity of the violation.

G. If a person is working without a permit, the inspection agency shall stop all work on the
site except that activity that is necessary to stabilize the disturbed area and to provide erosion
and sediment control.

Sec. 21A-20. Emergency measures.

A. When, in the opinion of the inspector, there is actual and immediate danger of failure or
collapse of a sediment control device or any part thereof which would endanger life or property,
the inspector is hereby authorized and empowered to order and require that no one enter upon
the property. The inspector shall cause to be posted a notice reading as follows: "This site is
unsafe and entry upon the property is prohibited as ordered by the City of Bowie pursuant to
Sec. 21A-20 of the Code of the City of Bowie." It shall be unlawful for anyone to enter the
property except for the purpose of making the required repairs. The inspector shall further
cause the necessary work to be done to render the structure and site safe.

B. Costs incurred in the performance of emergency work shall be charged back to the
permittee. If such costs are left unpaid, the City shall enforce collection thereof through
establishing a lien against the property.

Sec. 21A-21. Penalties.

A. Any person who violates any provision of this article shall be guilty of a misdemeanor,
and upon conviction in a court of competent jurisdiction is subject to a fine not exceeding
$10,000 and/or imprisonment not exceeding 1 year for each violation with costs imposed in the
discretion of court. Each day upon which the violation continues constitutes a separate offense.

B. Any agency whose approval is required under this article or any interested person may
seek an injunction against any person who violates or threatens to violate any provision of this
article.

C. In addition to any other sanction under this article, a person who fails to install or to
maintain erosion and sediment controls in accordance with an approved plan shall be liable to
the City or the state in a civil action, for damages in an amount equal to double all costs of
installing or maintaining the controls.

D. Any governing authority that recovers damages in accordance with subsection (C) shall
deposit them in a special fund to be used solely for:
   a. Correcting to the extent possible the failure to implement or maintain erosion
      and sediment controls; and
   b. Administration of the sediment control program.

ARTICLE II. MUNICIPAL GRADING PERMITS.

Sec. 21A-22. Municipal grading permits--required.
A. A municipal grading permit must be obtained prior to the start of any grading, clearing, filling or other earth change which may:
   a. Introduce sediment into any watercourse of the municipality, or
   b. Move more than one hundred cubic yards of earth, or
   c. Involve an equivalent project cost of One Hundred Dollars ($100.00) or more.

B. Notwithstanding the provisions of subsection (A) of this section, the following activities are expected:
   a. Agricultural land management practices approved by the Prince George’s Soil Conservation District, hereinafter “District”.
   b. Construction of agricultural structures or the construction of single-family residences or their accessory buildings on lots of two (2) acres or more, and
   c. Maintenance of roads for which an erosion and sediment control plan has been approved by the Prince George’s Soil Conservation District and for which a soil erosion and sediment control permit has been issued by the City.

C. All provisions of this Chapter pertaining to application for an approval and granting of a grading permit must be satisfied prior to the issuance of a building permit.

Sec. 21A-23. Municipal grading permits--approval or denial.

The City reserves the right to impose such conditions on the grading permit as may be reasonable to prevent creation of a nuisance or dangerous conditions and to deny the issuance of a grading permit where the proposed work would cause hazards adverse to the public safety and welfare. A condition of approval of a municipal grading permit shall be that the applicant obtain a soil erosion and sediment control permit where applicable.

Sec. 21A-24. Municipal grading permits--application.

Application forms for a grading permit will be available in the office of the City Public Works Department. The form, when completed, shall provide sufficient information to identify the applicant, the place and nature of the work to be done and the steps or procedures to be taken to control erosion and sedimentation. Standards and specifications for soil erosion and sediment control are available online at the Maryland Department of Environment website. Where developments are involved which consists of commercial, industrial or two (2) or more residential units, the developer shall include in the application a grading and an erosion and sediment control plan designed by a professional engineer, land surveyor, landscape architect or architect registered in the state of Maryland, as applicable, and a certificate that all land clearing, construction and development will be done pursuant to the plan.

Sec. 21A-25. Municipal grading permits--issuance.

Soil erosion and sediment control plans must be approved by the District prior to the issuance of a municipal grading permit. Issuance of a municipal grading permit does not eliminate the requirements for obtaining a county permit as required by county ordinance or a Maryland Department of the Environment permit required by state law.

Sec. 21A-26. Municipal grading permits--suspension.

In the event that work performed does not conform to the provisions of the permit or to the approved plans and specifications, or to any written instructions of the City Manager or his designee, a written notice to comply shall be given to the permittee. Such notice shall set forth the nature of the corrections required and the time within which corrections shall be made. Failure to comply with such written notice shall be deemed justification for suspension of the permit, which will require that all work stop except that necessary for correction of the violation. Upon correction of the violation, the permittee may apply for removal of the suspension. In the event that work performed is not in conformance with the approved soil erosion and sediment
control permit, the municipal grading permit may be suspended in accordance with Article I Sec. 21A-19 of this Chapter.

Sec. 21A-27. Municipal grading permits--cancellation.

After suspension of a grading permit, if corrections required are not completed within the time period specified as provided in section 21A-26, the permit shall be cancelled. In event of cancellation, any bonds or cash deposits posted with the municipality shall be forfeit and used for work on the site to prevent erosion.


A grading permit shall be valid for a period of one (1) year from the date of issuance. Upon request and adequate justification of a permittee, the City Manager may grant a six (6) month extension of validity.

Sec. 21A-29. Municipal grading permits--fee.

A nominal fee will be fixed for the granting of grading permits by resolution of the Council.

Sec. 21A-30. Guarantee of completion.

When deemed necessary by the City Manager or his designee, the permittee shall be required, prior to the issuance of a grading permit, to post with the municipality a cash deposit, performance bond from an approved corporate surety, or other collateral acceptable to the municipality. The amount posted shall be sufficient to guarantee that, in the event provisions of the permit are not completed satisfactorily or that the permit is cancelled, the site can be restored to a condition meeting the minimum requirements of the standards for erosion control.

Sec. 21A-31. Inspections.

A. The City Manager or his designee shall be responsible for determining and investigating violations of this Chapter requiring compliance with provision of approved grading permits and initiating appropriate action against offenders. The City Manager or his designee shall make a final on-site inspection when the work covered by an application is reported completed and shall forward his report to the District.

B. The permittee shall request the City Manager or his designee to make inspections at the following stages of work:
   a. Prior to initiating any grading operations, to inspect the natural site and to approve a written description of the supervision and construction control program.
   b. Prior to installation of sediment control devices in accordance with the approved soil erosion and sediment control plan to issue a notice to proceed.
   c. Upon completion of the installation of sediment control devices pursuant to an approved soil erosion and sediment control plan. All sediment control devices shall be inspected in accordance with Article I of this Chapter.
   d. Upon completion of final grading, permanent drainage and erosion control facilities but prior to any seeding, sodding or planting.
   e. Upon completion of installation of all vegetative measures and all work in accordance with the grading permit. The City Manager or his designee may make any additional inspections deemed necessary and may waive any of the inspections listed above except the final on-site inspection. Inspections requested shall be completed within two (2) working days.

Sec. 21A-32. Penalties; remedies; notice of violation.
A. Any person who violates any provision of this Article is guilty of a misdemeanor, and upon conviction in a court of competent jurisdiction is subject to a fine not exceeding One Thousand Dollars ($1,000) or imprisonment not to exceed six (6) months, or both, for each violation. Each day the violation occurs constitutes a separate offense.

B. Any agency whose approval is required under this Article or any interested person may seek an injunction against any person who violates or threatens to violate any provision of this Article.

C. In addition to any other sanction under this Article, a person is liable for a civil penalty as provided in this subsection if the person:
   a. Clears, grades, transports or otherwise disturbs land without first installing erosion and sediment controls in accordance with an approved plan and a City of Bowie soil erosion and sediment control permit; or
   b. Fails to establish erosion and sediment controls in accordance with an approved plan within a time specified by any state, county or municipal order, or to maintain those erosion and sediment controls.

D. The City may recover a civil penalty under this section in an amount equal to double the cost of:
   a. Installation of the erosion and sediment controls in accordance with an approved plan;
   b. Maintaining erosion and sediment controls in accordance with an approved plan; and
   c. The permanent restoration of the disturbed land to stable condition.

E. The City may recover a civil penalty under this Section on proof of cost so specified in subsection (d) of this section without the necessity of proving that the City performed work or incurred expenses. However, if any person responsible has made the required corrections within the time specified by a state, county or City order, the City may recover a civil penalty in an amount equal to not more than fifty percent (50%) of the costs specified in subsection (d) of this section.

F. The City will deposit any civil penalties recovered in accordance with this Chapter in a special fund to be used solely for:
   a. Correcting to the extent possible the failure to implement or maintain erosion and sediment control; and
   b. Administration of the City's erosion and sediment control program.

(Chap. 21A amended by O-06-92, adopted 3/16/92, effective, 4/15/92)
(Chapter 21A repealed and re-enacted by Ordinance O-11-15, adopted 8/3/15, effective 9/2/15)
CHAPTER 21B

STORMWATER MANAGEMENT CONTROL

21B.1. Purpose and authority.
21B.2. Incorporation by reference.
21B.5. Applicability.
21B.8. Stormwater management criteria.
21B.11. Permit fee.
21B.12. Permit suspension and revocation.
21B.16. Inspections.
21B.17. Maintenance.
21B.18. Approval and acceptance.
21B.19. Appeals.
21B.20. Penalties.

Section 21B-1. Purpose and Authority

A. The purpose of this Chapter is to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures that control the adverse impacts associated with increased stormwater runoff. The goal of this Chapter is to manage stormwater by using Environmental Site Design (ESD) to the maximum extent practicable (MEP) to maintain after development, as nearly as possible, the predevelopment runoff characteristics, and to reduce stream channel erosion, pollution, siltation and sedimentation, and local flooding, and use appropriate structural Best Management Practices (BMPs) only when necessary.

B. It is the intent of this Chapter to restore, enhance, and maintain the chemical, physical, and biological integrity of streams, minimize damage to public and private property, and reduce the impacts of land development.

C. The application of this Chapter and provisions expressed herein shall be the minimum stormwater management requirements and shall not be deemed a limitation or repeal of any other powers granted by state statute. The City of Bowie shall be responsible for the coordination and enforcement of the provisions of this Chapter.

D. This Chapter applies to all new and redevelopment projects that have not received final approval for erosion and sediment control and stormwater management plans by May 3, 2010. Final approval shall mean document signature on the final technical stormwater management plans by the City Manager of the City of Bowie. Final stormwater management plans receiving approval on or before May 3, 2010, shall not be required to comply with this

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Chapter unless the development pursuant to the plans has not been completed with the approval periods set forth in section 21b-3 of this Chapter.

**Section 21B-2. Incorporation by reference**

For the purpose of this Chapter, the following documents are incorporated by reference:

A. The Design Manual.


**Section 21B-3. Grandfathering**

A. In this Section, the following terms have the meanings indicated:

1. "Administrative Waiver" means a decision by the City pursuant to this Chapter to allow the construction of a development to be governed by the Stormwater Management Ordinance in effect as of May 4, 2009, but does not include a waiver granted pursuant to subsection 5.c. of Section 21B-5 of this Chapter.

2. "Approval" means a determination, documented in writing, by the City that the materials submitted by or on behalf of the property owner in support of the property owner’s request for approval of a development plan, including a stormwater management plan, comply with the requirements of a specified stage in the City’s development review process, and a mere acknowledgement by the City that submitted material has been received for review does not constitute an approval.

3. "Final project approval" means approval of the final stormwater management plan and erosion and sediment control plan required to construct a project's stormwater management facilities.

4. "Preliminary project approval" means an approval as part of the City's preliminary development or planning review process.

B. Preliminary project approval will not be granted until the property owner has submitted information to the City that includes, at a minimum:

1. The number of planned dwelling units or lots;

2. The proposed project density;

3. The proposed size and location of all land uses for the project;

4. An approved stormwater management concept plan pursuant to Subsection B.1. of Section 21B-9 of this Chapter; and

5. Any other information required by the city including, but not limited to:

   (a) The proposed alignment, location, and construction type and standard for all roads, access ways, and areas of vehicular traffic;

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(b) A demonstration that the methods by which the development will be supplied with water and wastewater service are adequate; and

(c) The size, type, and general location of all proposed wastewater and water system infrastructure.

C. A project will not be deemed to have obtained a final project approval until the property owner has secured bonding and/or financing for final development plans if either is required by law or by agreement between the City and the property owner.

D. The City may grant an administrative waiver to a development that received a preliminary project approval prior to May 4, 2010.

E. Except as provided for in 21B-3.d of this Chapter, an administrative waiver shall expire on:

1. May 4, 2013, if the development does not receive final project approval prior to that date; or


F. All construction authorized pursuant to an administrative waiver must be completed by May 4, 2017 or, if the waiver is extended as provided in Subsection g. of this Section, by the expiration date of the waiver extension.

G. An administrative waiver shall only be extended if, by May 4, 2010, the development:

1. Has received a preliminary project approval; and

2. Was subject to a development rights and responsibilities agreement, a tax increment financing approval, or an annexation agreement that provides a date for completion of development that is after the date on which the administrative waiver would otherwise expire.

H. Administrative waivers extended pursuant to subsection g of this section shall expire upon the date set forth for completion of the development in the development rights and responsibilities agreement, the tax increment financing approval, or the annexation agreement.

Section 21B-4. Definitions

The following definitions are provided for the terms used in this Chapter:

A. “Administration” means the Maryland Department of the Environment (MDE) Water Management Administration (WMA).
B. “Adverse impact” means any deleterious effect on waters or wetlands, including their quality, quantity, surface area, species composition, aesthetics or usefulness for human or natural uses which are or may potentially be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity, or stability or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

C. “Agricultural land management practices” means those methods and procedures used in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources.

D. “Applicant” means any person, firm, or governmental agency who executes the necessary forms to procure official approval of a project or a permit to carry out construction of a project.

E. “Approved plan” means a set of representational drawings or other documents submitted by an applicant as a prerequisite to obtaining a stormwater management permit, which has been determined by the City of Bowie Department of Public Works (Department) to contain sufficient evidence and information to satisfy the requirements of this Chapter.

F. “Aquifer” means a porous water-bearing geologic formation generally restricted to materials capable of yielding an appreciable supply of water.

G. “As-built plan” means a set of approved plans and other documents submitted by the engineer-in-charge, which have been noted with actual construction information for approval by the Department and are sealed and signed by the engineer-in-charge.

H. “Beneficial user” means a lot or parcel, the runoff from which was considered in designing a stormwater management facility to satisfy the requirements of this Chapter for developing land.

I. “Best management practice (BMP)” means a structural device or nonstructural practice designed to temporarily store or treat stormwater runoff in order to mitigate flooding, reduce pollution, and provide other amenities.

J. “Bond” means a cash bond, corporate bond, irrevocable letter of credit or other security approved by the city and required of the applicant by the Department before issuance of any stormwater management permit or grading permit.

K. “Building permit” means an official document or certificate issued by the City authorizing construction of a structure as provided for in the Bowie City Code.

L. “Clearing” means the removal of trees and brush from the land but shall not include the ordinary mowing of grass.

M. “COMAR” means the Code of Maryland regulations.

N. “Concept plan” means the first of three required plan approvals that includes the information necessary to allow an initial evaluation of a proposed project.
O. “Department” means the City of Bowie Department of Public Works represented by the Director.

P. “Design Manual” means the 2000 Maryland Stormwater Design Manual, and all subsequent revisions, that serve as the official guide for stormwater management principles, methods, and practices.

Q. “Detention structure” means a permanent structure for the temporary storage of runoff which is designed so as not to create a permanent pool of water.

R. “Development” means the construction of any residential, commercial, industrial, recreational, or institutional building, structure, roadway or paving; any mining or landfill; or any land-disturbing activities in preparation for the above.

S. “Direct discharge” means the concentrated release of stormwater to tidal waters or vegetated tidal wetlands from new development or redevelopment projects in the critical area.

T. “Director” means the Director of Public Works of the City.

U. “District” means the Prince George's Soil Conservation District.

V. “Drainage area” means that area contributing runoff to a single point measured in a horizontal plane, which is enclosed by a ridge line.

W. “Easement” means a grant or reservation by the owner of land for the use of such land by others for a specific purpose or purposes, and which must be included in the conveyance of land affected by such easement.

X. “Engineer-in-charge” means the professional engineer who is responsible for assuring that stormwater management facilities are built in accordance with the approved plans and in accordance with the assumptions made during the design and certified same to the Department.

Y. “Environmental site design (ESD)” means using small-scale stormwater management practices, nonstructural techniques, and better site planning to mimic natural hydrologic runoff characteristics and minimize the impact of land development on water resources. Methods for designing ESD practices are specified in the Design Manual.

Z. “Erosion” means the process by which the land surface is worn by the action of wind, water, ice or gravity.

AA. “Excavation” means any act by which soil is cut, dug, quarried, uncovered, removed, displaced or relocated.

BB. “Exemption” means those land development activities that are not subject to the requirements of the Stormwater Management Ordinance of the City Code.
CC. “Filling” means an act except agricultural tilling operations by which soil is deposited, dropped, placed, pushed, pulled or transported to a location different from its original position, and shall include the conditions resulting therefrom.

DD. “Final grading” means the grading of a site to the approved finished grade.

EE. “Final stormwater management plan” means the last of three required plan approvals that includes the information necessary to allow all approvals and permits to be issued by the City. This definition applies only to those final stormwater management plans receiving technical approval after the end of business, May 3, 2010.

FF. “Finished grade” means the final grade or elevation of the ground surface as shown on the approved plans.

GG. “Floodplain (100 year)” means that land which is theoretically inundated by the stormwater runoff created by a 100-year frequency rainfall event (which is an event having a one percent chance of occurrence in any year) calculated using current standards approved by the administration and adopted by the department based on the maximum development of the watershed as currently zoned.

HH. “Forest harvest operation” means the commercial logging or harvesting of timber by cutting trees at or above ground level including but not limited to the associated haul road, skid trails and staging areas. The removal of stumps or roots is not considered a forest harvest operation.

II. “Grading” means any act by which soil is cleared, stripped, stockpiled, excavated, scarified, filled, or any combination thereof.

JJ. “Grading permit holder” means any person to whom a grading permit is issued.

KK. “Impervious area” means any surface that does not allow stormwater to infiltrate into the ground. Gravel surfaces, grass pavers or similar surfaces are not considered impervious surfaces.

LL. “Infiltration” means the passage or movement of water into the soil surface.

MM. “Land-disturbing activity” means any tilling, clearing, grubbing, or grading of the land, or any artificial movement of the soil, or the covering of land surfaces with an impermeable layer. Land-disturbing activity shall also include the disturbance or removal of existing pavement or other hard surface that results in the exposure of the aggregate or soil subbase or subgrade. Milling of pavement surface that does not expose the soil subbase or subgrade shall not be considered a land-disturbing activity.

NN. “Limit of disturbance” or “LOD” means the outward limit of any land-disturbing activity. Such limit shall include all contiguous land-disturbing activities proposed for a particular project or phase of a project regardless of whether they are to occur at different times.

OO. “Maintenance bond” means a cash bond, corporate bond, irrevocable letter of credit or other security approved by the City of Bowie and required of the applicant by the
department for the maintenance period. Each permit will require a separate individual and independent maintenance bond.


QQ. “Maximum extent practicable (MEP)” means designing stormwater management systems so that all reasonable opportunities for using ESD planning techniques and treatment practices are exhausted and only where absolutely necessary, a structural bmp is implemented.

RR. “Nonpoint source pollution” means pollution that is generated by diffuse land use activities rather than from an identifiable or discrete source and is conveyed to waterways through natural processes, such as rainfall, stormwater runoff or groundwater seepage rather than by direct discharge.

SS. “Off-site stormwater management” means the design and construction of a facility necessary to control stormwater from more than one development.

TT. “On-site stormwater management” means the design and construction of systems necessary to control stormwater within one development, and which systems are located within the boundaries of that development.

UU. “Permanent stabilization” means a practice where vegetative cover and/or structural methods are applied to a site per requirements of the standards and specifications for soil erosion and sediment control, of the administration which will result in a permanent cover to prevent erosion or other adverse impacts from occurring.

VV. “Person” means any governmental entity with jurisdiction over or a legal interest in a property to which the terms of this chapter are applied, or an individual receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any other entity.

WW. “Planning techniques” means a combination of strategies employed early in project design to reduce the impact from development and to incorporate natural features into a stormwater management plan.

XX. “Point source pollution” means pollution discharged through any discernable, confined, and discrete conveyance, including any pipe, ditch, channel, tunnel, conduit, well, or discrete fissure.

YY. “Professional engineer” means an engineer duly licensed by in the State of Maryland to practice professional engineering in accordance with the provisions of the Annotated Code of Maryland, business occupations and professions Article, Title 14, as amended.

ZZ. “Professional landscape architect” means a landscape architect duly licensed in the State of Maryland to practice professional landscape architecture in accordance with the provisions of the Annotated Code of Maryland, Business Occupations and Professions Article, Title 9, as amended.
AAA. “Professional land surveyor” means a land surveyor duly licensed in the State of Maryland to practice professional land surveying in accordance with the provisions of the Annotated Code of Maryland, Business Occupations and Professions Article, Title 15, as amended.

BBB. “Recharge volume (REV)” means that portion of the water quality volume used to maintain groundwater recharge rates at development sites. Methods for calculating the recharge volume are specified in the design manual.

CCC. “Redevelopment” means any construction, alteration, or improvement performed on sites where existing land use is commercial, industrial, institutional, or multifamily residential and existing site impervious area exceeds 40 percent.

DDD. “Retention structure” means a permanent structure that provides for the storage of runoff by means of a permanent pool of water.

EEE. “Retrofitting” means the implementation of ESD practices, the construction of a structural bmp, or the modification of an existing structural bmp in a previously developed area to improve water quality over current conditions.

FFF. “Sediment” means soils or other surficial materials transported or deposited by the action of wind, water, ice, or gravity as a product of erosion.

GGG. “Sensitive areas” means tidal and non-tidal wetland areas, natural resource districts, and the buffers associated with each.

HHH. “Site” means any tract, lot, or parcel of land, or combination of tracts, lots, parcels of land that are in one ownership, or are contiguous and in diverse ownership, where development is to be performed as part of a unit, subdivision, or project. For “redevelopment”, any developed tract, lot or parcel or land or combination of contiguous tracts, lots or parcels of land which are in one ownership, or are contiguous and in diverse ownership where development is to be performed as part of a subdivision or project, the area of new construction shown on an approved site plan. (Final determination of the applicable site area shall be made by the Department.)

III. “Site development plan” means the second of three required plan approvals that includes the information necessary to allow a detailed evaluation of a proposed project.

JJJ. “Slope” means the deviation of the land surface from the horizontal expressed either as a ratio of horizontal distance to vertical distance or as a percentage (vertical distance divided by horizontal distance multiplied by one hundred).

KKK. “Soil” means earth, sand, gravel, rock or other surficial material.

LLL. “Stabilization” means the prevention of soil movement by any of various vegetative and/or structural means.

MMM. “Stop work order” means an order issued by the Department, due to the existence of a violation of this Chapter on a site, to cease all work with the exception of work required to correct the violation until the violation is corrected to the satisfaction of the Department.
NNN. “Stormwater” means water that originates from a precipitation event.

OOO. “Stormwater management maintenance agreement” means a signed agreement between the City and the property owner(s) recorded in the land records of the Prince George’s County to ensure maintenance of privately owned stormwater management facilities.

PPP. “Stormwater management permit” means the stormwater management permit issued by the city authorizing the installation of stormwater management measure(s).

QQQ. “Stormwater management system” means natural areas, ESD practices, stormwater management measures, and any other structure through which stormwater flows, infiltrates, or discharges from a site.

RRR. “Stream” means those perennial and intermittent watercourses identified through site inspection. The most recent Prince George’s County photogrammetric maps may be used as a guide for the establishment of possible watercourses.

SSS. “Stream system” means a watercourse together with the 100-hundred year floodplain and/or hydrologically connected nontidal wetlands.

TTT. “Stripping” means any activity that removes the vegetative surface cover, including tree removal, clearing, grubbing, and storage or removal of topsoil.

UUU. “Temporary stabilization” means a practice where vegetative cover and/or structural methods are applied per requirements of the standards and specifications for soil erosion and sediment control, of the Maryland Department of the Environment which results in a temporary cover to prevent erosion or other adverse impacts.

VVV. “Use and occupancy permit” means an official document or certificate issued by Prince George’s County authorizing the use of a structure for the purpose for which it was intended.

WWW. “Variance” means the modification of the minimum stormwater management requirements for specific circumstances such that strict adherence to the requirements would result in unnecessary hardship and not fulfill the intent of this Chapter.

XXX. “Waiver” means the partial or complete reduction from the requirements of this Chapter by the City Manager for a site when requested by the applicant. The review for a waiver for each article is independent of the remaining Chapter.

YYY. “Wastewater” means liquid waste substances derived from industrial, commercial, municipal, residential, agricultural, recreational, or other operations or establishments; or other liquid substance containing liquid, gaseous, or solid matter and having characteristics which may cause pollution.

ZZZ. “Watercourse” means any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash, in and including any adjacent area that is subject to inundation from overflow or flood water.
AAAA. “Water quality volume (WQV)” means the volume needed to capture and treat 90 percent of the average annual rainfall events at a development site. Methods for calculating the water quality volume are specified in the Design Manual.

BBBBB. “Watershed” means the total drainage area contributing runoff to a single point.

CCCCC. “Waters of the state” means both surface and underground watercourses within the boundaries of the State of Maryland subject to its jurisdiction, including that part of the Atlantic Ocean within the boundaries of the State, the Chesapeake Bay and its tributaries, and all ponds, lakes, watercourses, tidal and nontidal wetlands, and public drainage systems within this State, other than those designed and used to collect, convey, or disposed of sanitary sewage; and the floodplain of free-flowing waters determined by the State Department of the Environment on the basis of the 100-hundred year floodplain.

Section 21B-5. Applicability

A. Scope.

No person shall develop any land for residential, commercial, industrial, or institutional uses without providing stormwater management measures that control or manage runoff from such developments, except as provided within this section. Stormwater management measures must be designed in a manner consistent with the design manual and constructed according to an approved plan for new development or for redevelopment in accordance with section 21B-6 of this Chapter.

B. Exemptions.

The following development activities are exempt from the provisions of this Chapter and the requirements relating to the provision of stormwater management facilities:

1. Agricultural land management practices;

2. Additions or modifications to existing single family detached residential structures if they comply with Subsection B.3 of this Section;

3. Any development that does not disturb over 5,000 square feet of land area; and

4. Land development activities that the administration determines will be regulated under specific state laws that provide for managing stormwater runoff.

C. Waivers/watershed management plans.

1. Except as provided in Subsection C.2 and C.4 of this Section, the City shall grant stormwater management quantitative control waivers only to those projects that are within areas in which watershed management plans have been developed consistent with Subsection C.7 of this Section. Written requests for quantitative stormwater management
waivers shall contain sufficient descriptions, drawings, and any other information that is necessary to demonstrate that ESD has been implemented to the MEP. A separate written waiver request shall be submitted meeting the requirements of this Section if there are subsequent additions, extensions, or modifications to a development receiving a waiver.

2. Except as provided in Subsection C.4 of this Section, if watershed management plans consistent with Subsection C.7 of this Section have not been developed, stormwater management quantitative control waivers may be granted with respect to the following projects, provided that the property owner demonstrates that ESD has been implemented to the MEP:

(a) Projects that have direct discharges to tidally influenced receiving waters; or

(b) Projects that are in-fill development located in a priority funding area where the economic feasibility of the project is tied to the planned density, and where implementation of the 2009 regulatory requirements would result in a loss of the planned development density provided that:

(1) Public water and sewer and stormwater conveyance exist;

(2) The quantitative waiver is applied to the project for the impervious cover that previously existed on the site only;

(3) ESD to the MEP is used to meet the full water quality treatment requirements for the entire development; and

(4) ESD to the MEP is used to provide full quantity control for all new impervious surfaces; or

(c) Projects as to which the City determines that circumstances exist that prevent the reasonable implementation of quantity control practices.

3. Except as provided in Subsection C.4 of this Section, stormwater management qualitative control waivers apply only to:

(a) In-fill development projects where ESD has been implemented to the MEP, and it has been demonstrated that other BMPs are not feasible; or

(b) Redevelopment projects, if the requirements of Section 21B-6 of this Chapter are satisfied; or

(c) Sites as to which the City determines that circumstances exist that prevent the reasonable implementation of ESD to the MEP.

4. Stormwater management quantitative and qualitative control waivers may be granted for phased development projects if a system designed to meet the 2000 regulatory requirements and the City ordinance for multiple phases has been constructed by May 4, 2010. If the 2009 regulatory requirements cannot be met for future phases
constructed after May 4, 2010, all reasonable efforts to incorporate ESD in future phases must be demonstrated.

5. Waivers shall only be granted when the property owner has demonstrated that ESD has been implemented to the MEP and a decision by the Department to grant a waiver must:

(a) Take into consideration the cumulative effects of the City's waiver policy; and

(b) Reasonably ensure the development will not adversely impact stream quality.

6. If the city has established an overall watershed management plan for a specific watershed, then the city may develop quantitative waiver and redevelopment provisions that differ from Subsection C.2 of this Section and Section 21B-6 of this Chapter.

7. A watershed management plan developed for the purpose of implementing different stormwater management policies for waivers and redevelopment shall:

(a) Include detailed hydrologic and hydraulic analyses to determine hydrograph timing;

(b) Evaluate both quantity and quality management and opportunities for ESD implementation;

(c) Include a cumulative impact assessment of current and proposed watershed development;

(d) Identify existing flooding and receiving stream channel conditions;

(e) Be conducted at a reasonable scale;

(f) Specify where on-site or off-site quantitative and qualitative stormwater management practices are to be implemented;

(g) Be consistent with the general performance standards for stormwater management in Maryland found in the Design Manual; and

(h) Be approved by the administration.

8. If the property owner satisfactorily demonstrates to the City that ESD has been implemented to the MEP on site and stormwater management requirements have not been addressed, practical alternatives to quantitative and qualitative stormwater management may be considered, including but not limited to:

(a) Fees in lieu of compliance, in the amount of $1.00 per square foot of impervious area that are dedicated exclusively to provide stormwater management and/or stream restoration;
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(b) Off-site ESD/BMP implementation for a drainage area comparable in size and percent of increased imperviousness to that of the project;

(c) Watershed or stream restoration and/or

(d) Other practices approved by the department and the administration.

Section 21B-6. Redevelopment.

A. Subject to the exemptions set forth in Subsection B.3. or B.4. of Section 21B-5 of this Chapter, stormwater management plans are required by the City for all redevelopment, unless otherwise specified by watershed management plans developed according to Subsection C.7. of Section 21B-5 of this Chapter. Stormwater management measures must be consistent with the Design Manual.

B. All redevelopment designs shall:

1. Reduce impervious area within the limit of disturbance (LOD) by at least 50 percent according to the Design Manual;

2. Implement ESD to the MEP to provide water quality treatment for at least 50 percent of the existing impervious area within the LOD; or

3. Use a combination of the methods set forth in Subsections B.1 and B.2 of this Section for at least 50 percent of the existing impervious area within the LOD.

C. Alternative stormwater management measures may be used to meet the requirements in Subsection B. of this Section, if the property owner satisfactorily demonstrates to the City that impervious area reduction has been maximized and ESD has been implemented to the MEP. Alternative stormwater management measures include, but are not limited to:

1. An on-site structural BMP;

2. An off-site structural BMP to provide water quality treatment for an area equal to or greater than 50 percent of the existing impervious area; or

3. A combination of impervious area reduction, ESD implementation, and an on-site or off-site structural BMP for an area equal to or greater than 50 percent of the existing site impervious area within the LOD.

D. Notwithstanding the requirements of Subsections a. and b. of this Section, the City may consider, at its sole discretion, separate policies for providing equivalent water quality treatment for redevelopment projects if the property owner satisfactorily demonstrates, with approval by the department, that the requirements of Subsections a. and b. of this Section cannot be met. Any separate redevelopment policy shall be reviewed and approved by the administration and may include, but not be limited to:

1. A combination of ESD and an on-site or off-site structural BMP;

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2. Retrofitting including existing BMP upgrades, filtering practices, and off-site ESD implementation;

3. Participation in a stream restoration project;

4. Pollution trading with another entity;

5. Payment of a fee-in-lieu; or

6. A partial waiver of the treatment requirements if ESD is not practicable.

E. The determination of the availability of alternative stormwater management measures may be made by the City at the appropriate point in the development review process. The City shall consider the prioritization of alternatives in Subsection d. of this Section after the City determines that it is not practicable to meet the regulatory requirements in effect at the time of the application using ESD. In deciding what alternatives may be permitted, the City may consider factors including, but not limited to:

1. Whether the project is in an area targeted for development incentives such as a priority funding area or a designated transit oriented development area;

2. Whether the project is necessary to accommodate growth consistent with comprehensive plans; or

3. Whether bonding and financing have already been secured based on an approved development plan.

F. Stormwater management shall be addressed according to the new development requirements in the design manual for any net increase in impervious area.

Section 21B-7. Variance.

The City may grant a written variance from any requirement of Section 21B-8 stormwater management criteria, if there are exceptional circumstances applicable to the site such that strict adherence will result in unnecessary hardship and will not fulfill the intent of this Chapter. A written request for variance shall be provided to the City and shall state the specific variances sought and justification for granting such variances.

Section 21B-8. Stormwater Management Criteria.

A. Minimum control requirements

1. The minimum control requirements established in this Section and the Design Manual are as follows:

   (a) The planning techniques, nonstructural practices, and design methods specified in the Design Manual shall be used to implement ESD to the MEP. The use of ESD planning techniques and treatment practices shall be exhausted before any structural BMP is implemented. Stormwater management plans for development projects
subject to this Chapter shall be designed using ESD sizing criteria, recharge volume, water quality volume, and channel protection storage volume criteria according to the Design Manual. The MEP standard is met when channel stability is maintained, predevelopment groundwater recharge is replicated, nonpoint source pollution is minimized, and structural stormwater management practices are used only if determined to be absolutely necessary.

(b) Control of the 10-year frequency storm event is required in accordance with the design manual and all subsequent revisions.

(c) The city may require more than the minimum control requirements specified in this Chapter if hydrologic or topographic conditions warrant or if flooding, stream channel erosion, or water quality problems exist downstream from a proposed project.

2. Alternate minimum control requirements may be adopted subject to administration approval, upon a demonstration that alternative requirements will implement ESD to the MEP and control flood damages, accelerated stream erosion, water quality, and sedimentation. Comprehensive watershed studies may also be required.

3. Stormwater management and development plans, where applicable, shall be consistent with adopted and approved watershed management plans or flood management plans as approved by the Maryland Department of the Environment in accordance with the Flood Hazard Management Act of 1976.

B. Stormwater management measures

The ESD planning techniques and practices and structural stormwater management measures established in this Chapter and the Design Manual shall be used, either alone or in combination in a stormwater management plan. A developer shall demonstrate that ESD has been implemented to the MEP before the use of a structural BMP is considered in developing the stormwater management plan.

1. ESD planning techniques and practices.

(a) The following planning techniques shall be applied according to the Design Manual to satisfy the applicable minimum control requirements established in Subsection a. of this Section:

(1) Preserving and protecting natural resources;

(2) Conserving natural drainage patterns;

(3) Minimizing impervious area;

(4) Reducing runoff volume;

(5) Using ESD practices to maintain 100 percent of the annual predevelopment groundwater recharge volume;

(6) Using green roofs, permeable pavement, reinforced turf, and other alternative surfaces;
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(7) Limiting soil disturbance, mass grading, and compaction;

(8) Clustering development; and/or

(9) Any practices approved by the administration.

(b) The following ESD treatment practices shall be designed according to the Design Manual to satisfy the applicable minimum control requirements established in Subsection a. of this Section:

(1) Disconnection of rooftop runoff;

(2) Disconnection of non-rooftop runoff;

(3) Sheetflow to conservation areas;

(4) Rainwater harvesting;

(5) Submerged gravel wetlands;

(6) Landscape infiltration;

(7) Infiltration berms;

(8) Dry wells;

(9) Micro-bioretention;

(10) Rain gardens;

(11) Swales;

(12) Enhanced filters; and

(13) Any practices approved by the administration.

(c) The use of ESD planning techniques and treatment practices specified in this section shall not conflict with existing state law or local ordinances, regulations, or policies.

2. Structural stormwater management measures.

(a) The following structural stormwater management practices shall be designed according to the Design Manual to satisfy the applicable minimum control requirements established in Subsection a. of this Section:

(1) Stormwater management ponds;

(2) Stormwater management wetlands;

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(3) Stormwater management infiltration;

(4) Stormwater management filtering systems; and

(5) Stormwater management open channel systems.

(b) The performance criteria specified in the Design Manual with regard to general feasibility, conveyance, pretreatment, treatment and geometry, environment and landscaping, and maintenance shall be considered when selecting structural stormwater management practices.

(c) Structural stormwater management practices shall be selected to accommodate the unique hydrologic or geologic regions of the State.

3. ESD planning techniques and treatment practices and structural stormwater management measures used to satisfy the minimum requirements in Subsection a. of this Section must be recorded in the land records of Prince George's County and remain unaltered by subsequent property owners. Prior approval from the City shall be obtained before any stormwater management practice is altered.

4. Alternative ESD planning techniques and treatment practices and structural stormwater measures may be used for new development runoff control if they meet the performance criteria established in the Design Manual and all subsequent revisions, and are approved by the administration. Practices used for redevelopment projects shall be approved by the City.

5. For the purposes of modifying the minimum control requirements or design criteria, the property owner shall submit to the City an analysis of the impacts of stormwater flows downstream in the watershed. The analysis shall include hydrologic and hydraulic calculations necessary to determine the impact of hydrograph timing modifications of the proposed development upon a dam, highway, structure, or natural point of restricted streamflow. The point of investigation is to be established with the concurrence of the city downstream of the first downstream tributary the drainage area of which equals or exceeds the contributing area to the project or stormwater management facility.

C. Basic design criteria

The basic design criteria, methodologies, and construction specifications, subject to the approval of the City, shall be those of the Design Manual.

Section 21B-9. Stormwater management plans

A. Review and approval of stormwater management plans

1. For any proposed development, the owner/developer shall submit phased stormwater management plans to the City for review and approval. At a minimum, plans shall be submitted for the concept, site development, and final stormwater management construction phases of project design. Each plan submittal shall include the minimum
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content specified in Subsection b. of this Section and meet the requirements of the Design Manual and Section 21B-8 of this Chapter.

2. The City shall perform a comprehensive review of the stormwater management plans for each phase of site design. Coordinated comments will be provided for each plan phase that reflect input from all appropriate agencies including, but not limited to the district and the Departments of Planning and Public Works of the City. All comments from the City and other appropriate agencies shall be addressed and approval received at each phase of project design before subsequent submissions.

B. Contents and submission of stormwater management plans:

1. The owner/developer shall submit a concept plan that provides sufficient information for an initial assessment of the proposed project and whether stormwater management can be provided according to Subsection B. of Section 21B-8 of this Chapter and the Design Manual. Plans submitted for concept approval shall include, but are not limited to:

(a) A map at a maximum scale of 1” = 100’ scale showing site location, existing natural features, water and other sensitive resources, topography, existing water quality BMPs, and natural drainage patterns;

(b) The anticipated location of all proposed impervious areas, buildings, roadways, parking, sidewalks, utilities, and other site improvements;

(c) The location of the proposed limit of disturbance, erodible soils, steep slopes, and areas to be protected during construction;

(d) Preliminary estimates of stormwater management requirements, the selection and location of ESD practices to be used, and the location of all points of discharge from the site;

(e) A narrative that supports the concept design and describes how ESD will be implemented to the MEP; and

(f) Any other information required by the City.

2. Following concept plan approval by the City, the owner/developer shall submit site development plans that reflect comments received during the previous review phase. Plans submitted for site development approval shall be of sufficient detail to allow site development to be reviewed and include but not be limited to:

(a) All information provided during the concept plan review phase;

(b) Final site layout, exact impervious area locations and acreages, proposed topography, delineated drainage areas at all points of discharge from the site, and stormwater volume computations for ESD practices and quantity control structures;

(c) A proposed erosion and sediment control plan that contains the construction sequence, any phasing necessary to limit earth disturbances and impacts to
natural resources and an overlay plan showing the types and locations of ESD and erosion and sediment control practices to be used;

(d) A narrative that supports the site development design, describes how ESD will be used to meet the minimum control requirements, and justifies any proposed structural stormwater management measure; and

(e) Any other information required by the City.

3. Following site development approval by the City, the owner/developer shall submit final erosion and sediment control and stormwater management plans that reflect the comments received during the previous review phase. Plans submitted for final approval shall be of sufficient detail to allow all approvals and permits to be issued according to the following:

(a) Final erosion and sediment control plans shall be submitted according to COMAR 26.17.01.05; and

(b) Final stormwater management plans shall be submitted for approval in the form of construction drawings and be accompanied by a report that includes sufficient information to evaluate the effectiveness of the proposed runoff control design.

4. Reports submitted for final stormwater management plan approval shall include, but are not limited to:

(a) Geotechnical investigations including soil maps, borings, site specific recommendations, and any additional information necessary for the final stormwater management design;

(b) Drainage area maps depicting predevelopment and post development runoff flow path segmentation and land use;

(c) Hydrologic computations of the applicable ESD and unified sizing criteria according to the design manual for all points of discharge from the site;

(d) Hydraulic and structural computations for all ESD practices and structural stormwater management measures to be used;

(e) A narrative that supports the final stormwater management design; and

(f) Any other information required by the City.

5. Construction drawings submitted for final stormwater management plan approval shall include, but are not limited to:

(a) A vicinity map;
(b) Existing and proposed topography and proposed drainage areas, including areas necessary to determine downstream analysis for proposed stormwater management facilities;

(c) Any proposed improvements including location of buildings or other structures, impervious surfaces, storm drainage facilities, and all grading;

(d) The location of existing and proposed structures and utilities;

(e) Any easements and rights-of-way;

(f) The delineation, if applicable, of the 100-year floodplain and any on-site wetlands;

(g) Structural and construction details including representative cross sections for all components of the proposed drainage system or systems, and stormwater management facilities;

(h) All necessary construction specifications;

(i) A sequence of construction;

(j) Data for total site area, disturbed area, new impervious area, and total impervious area;

(k) A table showing the ESD and unified sizing criteria volumes required in the design manual;

(l) A table of materials to be used for stormwater management facility planting;

(m) All soil boring logs and locations;

(n) An inspection and maintenance schedule;

(o) Certification by the owner/developer that all stormwater management construction will be done according to this plan;

(p) An as-built certification signature block to be executed after project completion; and

(q) Any other information required by the city.

6. If a stormwater management plan involves direction of some or all runoff off of the site, it is the responsibility of the developer to obtain from adjacent property owners any easements or other necessary property interests concerning flowage of water. Approval of a stormwater management plan does not create or affect any right to direct runoff onto adjacent property without that property owner's permission.

C. Preparation of stormwater management plans
1. The design of stormwater management plans shall be prepared by any individual whose qualifications are acceptable to the City. The City may require that the design be prepared by either a professional engineer, professional land surveyor, or landscape architect licensed in the state, as necessary to protect the public or the environment.

2. If a stormwater bmp requires either a dam safety permit from the administration or small pond approval from the district, the City shall require that the design be prepared by a professional engineer.

3. An agreement approved by the department allowing use of any off-site stormwater management facility shall be executed between the developer and the owner of the off-site facility shall be recorded in the land records of Prince George's County.

4. Final stormwater management plan approval shall be valid for a period of twenty-four (24) consecutive months. If no work has been initiated within twenty-four (24) months of final plan approval, the plan shall be subject to an update review and re-approval. If construction has been initiated within twenty-four (24) months of plan approval but has not been completed, the property owner may request in writing, within thirty (30) days prior to the end of the initial approval period an extension of the approval for one additional twelve (12) month period. An additional extension of plan approval may be granted when such an extension of time is required by a substantial modification of the stormwater management plan, for such time period as the department deems necessary to accomplish the modifications or where an administrative waiver has been granted pursuant to Section 12B-3 of this Chapter. A concept plan approval shall expire at the time of expiration of a final plan approval.

5. Stormwater management plans that specify the design and construction of retention or detention structures and that are required by state law to have district approval and/or approval from the administration, dam safety division, must receive district and/or dam safety approval prior to receiving approval from the City.

D. Plan modification

1. Modifications of the approved plans may be approved by the Department when:

   (a) Inspection has revealed the inadequacy of the plan to accomplish the stormwater management objectives of the plan. The cost for modification shall be borne by the permittee. Further development of the site shall be prohibited until the modifications are made.

   (b) The property owner determines that the approved plan cannot be effectively executed and proposes revisions to the plan that are consistent with the requirements of this chapter and the design manual, and department and, where required, the district approve the proposed revisions.
2. The Department may, in emergency situations and at its discretion, order repairs or modifications in order to protect watercourses, other properties or the general public from damage, to remain in effect until such modifications or revisions to the plan shall have been approved and implemented. Further development of the site shall be prohibited until the modifications are made.

3. Requests for modification shall be submitted to the department and, when applicable, the district, and shall be processed in the same manner as the original stormwater management plan.

Section 21B-10. Permits.

A. Upon approval by the Department and, where required, the district, of a stormwater management plan meeting the requirements of this Chapter, and subject to the requirements of this Section, the City shall issue a stormwater management permit. The permit shall not be issued unless the property owner has submitted to the City:

1. An application for a stormwater management permit.

2. For commercial, institutional, and industrial sites, recorded easements for the stormwater management facility and easements to provide adequate access for inspection and maintenance from a public right-of-way, unless a special tax district has been established pursuant to Chapter 23 of the City Code.

3. For residential projects, dedication of lands to the City for all quantitative control measures, with an agreement to provide clear fee simple title upon satisfactory completion of the facilities and for all qualitative control measures, either dedication to the city with an agreement to provide clear fee simple title upon satisfactory completion or recorded easements sufficient to provide unimpeded access to the facility for inspection and maintenance purposes, as determined by the City.

4. Where a stormwater management facility is constructed off-site, an easement or dedication of land to the city sufficient to provide unimpeded access to the facility for inspection and maintenance purposes, as determined by the City.

5. Where a stormwater management system includes property located in the one hundred (100) year floodplain, an easement or dedication of land sufficient to prevent grading or other construction activities from occurring therein.

6. A stormwater management maintenance agreement that complies with the requirements of Subsection b. of Section 21B-17 of this Chapter, which agreement may be recorded by the City.

7. Performance and payment bonds as required by Section 21B-13 of this Chapter.
8. Evidence of permission to discharge by the adjoining land owner(s) as necessary.

9. The permit fee required by Section 21B-11 of this Chapter.

10. Evidence of any insurance required by Section 21B-14 of this Chapter.

11. If the proposed stormwater management facility requires a permit from the administration, or any other state or federal agency, evidence of that the property owner has obtained such approval.

B. Stormwater management permits shall remain valid for the duration of the stormwater management plan approval and any extension of the approval which may be granted.

C. The approved plan shall be a part of the permit.

D. If the proposed stormwater management facility requires a permit from the administration, or any other state or federal agency, the City stormwater management permit required under this section will not be issued until the necessary state and/or federal permits pertaining to the site have been approved and forwarded to the Department.

E. The Department may attach any conditions to the permit as may be deemed reasonably necessary to ensure public health and safety and the mitigation of environmental impact.

F. Unless the property is exempt from the requirements of this Chapter or its provisions have been waived, no other permits relating to the development, including building permits, may be issued until the property owner has obtained a stormwater management permit. If a stormwater management plan or permit expires prior to completion of development, any other permit issued by the City relating to the development shall be revoked.

Section 21B-11. Permit fee

A permit fee in accordance with the adopted City budget shall be charged to the developer for technical and engineering review of plats, concept plans, preliminary plans, site plans, and stormwater management plans, stormwater management computations associated with applications for a waiver of stormwater management requirements, for review of information and documentation associated with applications for a stormwater management exemption, for inspection of stormwater management facilities, and the time spent for the inspection and enforcement of rules and regulations. The permit fee shall be based on a percentage of the estimated value of the construction of the stormwater management facility as approved by the Department. The fee is nonrefundable.

Section 21B-12. Permit suspension and revocation

Supp. 33, Revision, Chapter 21B
A. Any stormwater management permit, street and storm drain permit, sediment control permit, building permit or stormwater management waiver issued by the City may be suspended or revoked for the reasons set forth in this section upon ten (10) days written notice, sent by certified mail. The property owner must correct the identified violations within the time frame specified in the notice.

B. A permit may be suspended or revoked for:

1. Any violation(s) of the conditions of the stormwater management plan approval;

2. Changes in site runoff characteristics upon which an approval or waiver was granted;

3. Site runoff characteristics on the final grading plans, which contradict characteristics on the approved stormwater management plans;

4. Construction not in accordance with the approved plans and permits;

5. Noncompliance with correction notice(s) or stop-work order(s) issued for the construction of the stormwater management facility;

6. Noncompliance with correction notice(s) or stop work order(s) issued for sediment control or grading where the noncompliance may cause detrimental effects to the stormwater management facility; or

7. Revocation of a county or state grading or access permit or state/federal permit or letter of authorization to disturb wetlands or waters of the united states.

C. Nothing in this section shall be interpreted as prohibiting the Department from immediately suspending or revoking any permit, exemption, variance or waiver issued by the City without written notice, if in the sole discretion of the department, it is determined that an immediate danger to person or property exists as a result of the development for which the permit was issued or that the action is warranted by the frequency or severity of the violation(s).

D. In addition to the authority set forth in Subsection a. of this Section, the Director may post a site with an order directing the permittee to cease immediately all land-disturbing activity being performed under permits required by this Chapter when such activity does not conform to the specifications, including modifications thereof, of an approved plan or other conditions of the permit issued hereunder, provided that:

1. Written notice to comply will be furnished immediately to the engineer-in-charge and owner of the site; or

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2. Written notice to comply will be furnished within seven (7) days to the permittee by certified mail and addressed to the address of the permittee as stated on the application for a permit.

3. Such notice will include the type of violation and the nature of the corrective measures required and the time within which corrections shall be made.

E. Nothing contained in this section shall be interpreted as restricting the Department from proceeding directly with a stop-work order or with alternative enforcement procedures established by law.

Section 21B-13. Performance and payment bond

A. A property owner shall provide to the City a cash or corporate bond or other approved security, in a form and manner prescribed by the city attorney, conditioned upon faithful performance of the conditions and time limits of the stormwater management permit.

B. The security required by Subsection a. of this Section shall be equal to 175% (125% performance bond plus 50% payment bond) of the approved estimated cost of construction of the stormwater management facility as determined by the Department, unless a reduced amount is approved in accordance with Subsection i. of this Section. A corporate bond shall be maintained and renewed annually and shall be executed by a surety or guaranty company qualified to transact business in the State of Maryland. A cash bond shall be deposited with the Director of Finance of the City, who shall give a receipt stating that the cash has been deposited in compliance with and subject to the provisions of this section. The approved security shall obligate the principal and the principal's executors, administrators, successors and assigns, jointly and severally, with the surety and shall inure to the benefit of the City. The principal and the surety shall, under the bond or other approved security, continue to be firmly bound under a continuing obligation for the payment of all necessary costs and expenses or liabilities which may be incurred or expended by the Department to meet the minimum requirements of this Chapter.

C. Whenever the Department finds that a default has occurred in the performance of any term or condition of the permit or approved security, written notice thereof shall be given to the principal and to the surety of the bond or security. Such notice shall identify the work to be done, the estimated cost thereof and the period of time deemed by the department to be reasonably necessary for the completion of such work.

D. If a cash bond has been posted, notice of default as provided by the preceding subsections shall be given to the principal. If compliance is not obtained within the time specified, the Department shall proceed, without delay and without further notice or proceedings whatsoever, to use the cash deposited or any portion of such deposit to cause the required work to be completed by contract or otherwise at the discretion of the Department.

E. In the event of any default in the performance of any term or condition of the permit or bond or other approved security, the City, the surety or any person employed or engaged on its behalf, shall have the right to go upon the site to complete the required work

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necessary to control stormwater runoff or to make the site safe. The property owner’s acceptance of a stormwater management permit from the City shall be deemed to constitute permission for the entry upon the property of the City, the surety, or the surety’s agents in the event of default.

F. In the event that the Department undertakes the required or corrective work or makes the site safe with the funds from the forfeited cash or corporate bond or security, such funds shall be used to pay the cost of contracting, complete construction per the approved plans, including engineering and administration, for necessary restoration of the site to control stormwater runoff within the requirements of the plan, permit, bond, security or this Chapter. If the cost of the work necessary to complete the required or corrective work exceeds the amount of the cash or corporate bond or security, the permittee shall continue to be firmly bound under a continuing obligation for payment of all excess costs and expenses incurred by the City. The cost and expenses shall be a lien upon all property and all rights to property, real or personal, or any person liable to pay the same from and after the time said cost is due and payable. The cost shall be listed on the tax bill and shall be collected in the manner of ordinary taxes, plus interest at 8% of the unpaid amount from the date of violation.

G. No person shall interfere with or obstruct the ingress or egress to or from any such site or premises by an authorized representative or agent of any surety or of the department engaged in completing the work required to be performed under the permit or in complying with the terms or conditions.

H. The posted bond or other security shall remain in full force and effect until final inspection of the facility or facilities has been conducted and as-built plans, where required, have been approved by the department. The bond or other security shall be returned to the depositor of the depositor's successors or assigns within one hundred twenty (120) days of the approval, except for any portion of the bond, which may have been used. Failure to maintain the required surety shall automatically cause a temporary revocation of any and all permits issued by the City to the permittee or the permittee’s successors and assigns in interest.

I. When stormwater management facilities are 80% complete, the performance bond may be reduced to an amount not less than fifty percent (50%) of the approved estimated cost of construction provided the following conditions are met:

1. An active grading permit is in force for the site.

2. The department has approved a preliminary as-built plan, which has been submitted by the engineer-in-charge, certifying that the construction of the embankment, spillways, and excavated volume meet the requirements of the approved plan.

Section 21B-14. Liability insurance

A. If, in the opinion of the Department, the nature of the work is such that it may create a hazard to human life or endanger adjoining property, property at a higher or lower elevation, streets, street improvements or any other property, then, before authorizing
issuance of the stormwater management permit, the Department may require that the applicant for a permit file a certificate of insurance showing insurance against claims for damages that may arise from or out of the performance of the work, whether such performance is by the applicant, the applicant's subcontractor or any person directly or indirectly employed by the applicant. The certificate shall demonstrate that a policy has been issued covering property damage in the amount of the approved construction cost estimate, but no less than twenty-five thousand dollars ($25,000), and covering personal injury in an amount to be prescribed by the Department in accordance with the nature of the risks involved. Failure to maintain the required liability insurance shall automatically operate as a temporary revocation of any and all permits issued by the City to the permittee or the permittee's predecessors or successors and assigns in interest.

B. Neither issuance of a permit nor compliance with the provisions of this Chapter or with any condition imposed by the Department shall relieve any person from any responsibility for damage to persons or property otherwise imposed by law nor impose any liability upon the City for damages to persons or property.

Section 21B-15. Maintenance bond

A. A maintenance bond or other approved security in a form and manner prescribed by the City Attorney shall be retained from date of release of the performance and payment bonds for a minimum period of twelve (12) months following the approval of the as-built plan, except that a maintenance bond relating to wetlands shall be maintained for a minimum of twenty-four (24) months. The bond or other security shall cover latent defects in labor and/or material required to maintain all grade surfaces, walls, drains, dams, structures, slopes, vegetation, stormwater control measures and other protective devices and/or damages resulting from construction equipment and vehicles doing work in that portion of the area covered by the terms of the permit. The amount of the bond or security shall be determined by the Department and be not less than five percent (5%) of the construction costs.

B. No more than ten (10) days, prior to the end of the period covered by the maintenance bond, the Department will perform a final inspection of the facility.

1. Should this inspection determine that the facility is in good working order and repair, the bond shall be returned.

2. Should this inspection find fault with any of the work, the bond shall remain in force. Notice shall be given to the permit holder as to the remedial work required and the time frame allotted for completion.

3. If compliance is not made within the time specified, the Department shall proceed, without delay and without further notice or proceeding whatsoever, to use the maintenance bond or any portion thereof to complete the required work by contract or otherwise at the discretion of the Department.

Section 21B-16. Inspections

A. Inspection by the City

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1. The property owner shall notify the City at least 48 hours before commencing any work in conjunction with site development, the stormwater management plan, and upon completion of the project.

2. Regular inspections shall be made and documented by the City or its authorized representative for each ESD planning technique and practice at the stages of construction specified in the Design Manual. At a minimum, all ESD and other nonstructural practices shall be inspected upon completion of final grading, the establishment of permanent stabilization, and before issuance of use and occupancy approval.

3. Written inspection reports shall identify:
   (a) The date and location of the inspection;
   (b) Whether construction is in compliance with the approved stormwater management plan;
   (c) Any variations from the approved construction specifications; and
   (d) Any violations that exist.

4. The property owner shall be notified in writing when violations are observed. Written notification shall describe the nature of the violation and the required corrective action.

5. If a foreperson, superintendent, or professional engineer is present on the site at the time deficiencies or violations are observed by the inspector, and he provides identification to the inspector and evidence that he is the property owner’s designated representative, the inspector will provide a copy of the inspection report to such person.

6. No work shall proceed on the next phase of development until the City inspects and approves the work previously completed.

B. Inspection requirements by the property owner

1. At a minimum, regular inspections shall be made by a professional engineer retained by the property owner and documented at the following specified stages of construction:
   (a) For ponds:
      (1) Upon completion of excavation to sub-foundation and when required, installation of structural supports or reinforcement for structures, including but not limited to:
         (i) Core trenches for structural embankments;
         (ii) Inlet and outlet structures, anti-seep collars or diaphragms, and watertight connectors on pipes; and

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(iii) Trenches for enclosed storm drainage facilities;

(2) During placement of structural fill, concrete, and installation of piping and catch basins;

(3) During backfill of foundations and trenches;

(4) During embankment construction; and

(5) Upon completion of final grading and establishment of permanent stabilization.

(b) Wetlands:

(1) At the stages specified for pond construction in Subsection b.1.a of this Section,

(2) During and after wetland reservoir area planting, and

(3) During the second growing season to verify a vegetation survival rate of at least 50 percent (50%).

c) For infiltration trenches:

(1) During excavation to subgrade;

(2) During placement and backfill of under drain systems and observation wells;

(3) During placement of geotextiles and all filter media;

(4) During construction of appurtenant conveyance systems such as diversion structures, pre-filters and filters, inlets, outlets, and flow distribution structures; and

(5) Upon completion of final grading and establishment of permanent stabilization.

d) For infiltration basins:

(1) At the stages specified for pond construction in subsection b.1.a of this section and

(2) During placement and backfill of under drain systems.

e) For filtering systems:

(1) During excavation to subgrade;
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(2) During placement and backfill of under drain systems;

(3) During placement of geotextiles and all filter media;

(4) During construction of appurtenant conveyance systems such as flow diversion structures, pre-filters and filters, inlets, outlets, orifices, and flow distribution structures; and

(5) Upon completion of final grading and establishment of permanent stabilization.

(f) For open channel systems:

(1) During excavation to subgrade;

(2) During placement and backfill of under drain systems for dry swales;

(3) During installation of diaphragms, check dams, or weirs; and

(4) Upon completion of final grading and establishment of permanent stabilization.

C. Enforcement.

1. The City may, for enforcement purposes, use any one or a combination of the following actions:

   (a) A notice of violation shall be issued specifying the need for corrective action if stormwater management plan noncompliance is identified;

   (b) A stop work order shall be issued for the site by the City if a violation persists;

   (c) Bonds or securities shall be withheld or the case may be referred for legal action if reasonable efforts to correct the violation have not been undertaken; or

   (d) In addition to any other sanctions, a civil action or criminal prosecution may be brought against any person in violation of the stormwater management subtitle, the design manual, or this Chapter.

2. Any step in the enforcement process may be taken at any time, depending on the severity of the violation.

D. Requirements upon completion:

1. Once construction is complete, “as-built” plan certification shall be submitted by either a professional engineer or professional land surveyor licensed in the State of
Maryland to ensure that ESD planning techniques, treatment practices, and structural stormwater management measures and conveyance systems comply with the specifications contained in the approved plans. At a minimum, “as-built” certification shall include a set of drawings comparing the approved stormwater management plan with what was constructed. The City may require additional information.

2. The City shall submit notice of construction completion to the administration on a form supplied by the administration for each structural stormwater management practice within 45 days of construction completion. The type, number, total drainage area, and total impervious area treated by all ESD techniques and practices shall be reported to the administration on a site by site basis.

Section 21B-17. Maintenance

A. Maintenance inspection

1. The City shall ensure that preventive maintenance is performed by the property owner through inspections of all ESD treatment systems and structural stormwater management measures. Inspection shall occur during the first year of operation and at least once every three (3) years thereafter for city-owned facilities and privately-owned facilities on residential lots or properties. For privately-owned commercial, industrial, institutional, or multifamily residential properties, inspection shall occur during the first year of operation and at least once every year thereafter. In addition, a maintenance agreement between the owner and the city as set forth in Subsection b. of this Section shall be executed for privately-owned ESD treatment systems and structural stormwater management measures.

2. Inspection reports shall be maintained by the City for all ESD treatment systems and structural stormwater management measures for at least three (3) years, except that inspection reports showing the existence of deficiencies or violations shall be maintained by the City for at least five years after the property is brought into compliance.

3. Inspection reports for ESD treatment practices and structural stormwater management measures shall include the following:

   (a) The date of inspection;

   (b) Name of inspector;

   (c) An assessment of the quality of the stormwater management system related to ESD treatment practice efficiency and the control of runoff to the MEP;

   (d) The condition of:

      (1) Vegetation or filter media;

      (2) Fences or other safety devices;

      (3) Spillways, valves, or other control structures;

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(4) Embankments, slopes, and safety benches;
(5) Reservoir or treatment areas;
(6) Inlet and outlet channels or structures;
(7) Underground drainage;
(8) Sediment and debris accumulation in storage and forebay areas;
(9) Any nonstructural practices to the extent practicable; and
(10) Any other item that could affect the proper function of the stormwater management system.

(e) Description of needed maintenance.

4. Upon notification by the City of a violation observed during inspection, a property owner shall have thirty (30) days, or such longer period as the City in its discretion determines is necessary in consideration of the magnitude of the required work or weather conditions or other circumstances beyond the control of the property owner, to correct the deficiencies discovered. The City shall conduct a subsequent inspection to ensure completion of the repairs.

5. If repairs are not properly undertaken and completed within the time prescribed by the City, the City may take enforcement action as set forth in Subsection c. of Section 21B-16 of this Chapter.

6. If, after an inspection by the City, the condition of a stormwater management facility is determined to present an immediate danger to public health or safety because of an unsafe condition, improper construction, or poor maintenance, the City may take such action as may be necessary to protect the public and make the facility safe. Any cost incurred by the City shall be assessed against the owner(s), as provided in Subsection b.3 of this Section.

B. Maintenance agreement

1. Prior to the issuance of any stormwater management permit, the City shall require the applicant or owner to execute an inspection and maintenance agreement binding on all subsequent owners of the property that is the subject of the plan or any portion thereof. Such agreement shall provide for access to the facility at reasonable times for regular inspections by the City to ensure that the facility is maintained in proper working condition to meet design standards.

2. The agreement shall be recorded by the City in the land records of Prince George’s County.

3. The agreement shall provide that, if after notice by the City to correct a violation requiring maintenance work, satisfactory corrections are not made by the owner(s)
within the time prescribed by the City, the City may perform all necessary work to place the facility in proper working condition. The owner(s) of the facility shall be assessed the cost of the work and any penalties. This may be accomplished by placing a lien on the property, which may be placed on the property tax bill and collected by the City in the same manner as property taxes.

C. Maintenance responsibilities

1. The owner(s) of all stormwater management facilities, including all structural and nonstructural facilities and BMPs, completed pursuant to this Chapter that are to be privately maintained shall execute a maintenance agreement with the City, setting forth the owner’s responsibilities to the City to maintain all facilities in good working order, which shall be recorded among the land records of Prince George’s County and shall bind all present and subsequent owner(s) of the property that is the subject of the approved plan and any portion thereof.

2. The owner of any property on which work has been done pursuant to this Chapter shall maintain in good condition and promptly repair or restore all grade surfaces, walls, drains, dams and structures, plants vegetation, erosion and sediment control measures and other protective devices. Such repairs or restorations and maintenance shall be in accordance with approved plans. The City may conduct periodic inspections of stormwater management facilities at any time.

3. The City will assume the maintenance of:

   (a) Selected residential stormwater management facilities upon the City Council’s acceptance of the facilities in accordance with Section 21B-18 of this Chapter; or

   (b) For multi-use facilities owned by another public entity, upon execution of an agreement that allocates maintenance responsibilities between the City and the public entity that owns the stormwater management facility. However, the City will not accept maintenance responsibility, either by transfer of ownership or by agreement, for Prince George’s County regional stormwater management facilities.

4. Stormwater controls that are associated with commercial, industrial or institutional property will not be dedicated to the City for maintenance, except as provided in Subsection c.5. of this Section

5. Stormwater control facilities associated with commercial and industrial, or institutional property and contained within a special taxing district that supports the facility may be dedicated to the City and accepted by the City in its sole discretion. Such dedication and/or acceptance shall not be affected by any determination by the City to continue or to abolish such special taxing district.

6. Any stormwater management BMPs that are constructed on a privately-owned residential lot shall be maintained by the owner and triennially inspected at the owner's expense in accordance with Subsection c.8 of this Section. A property owner is required to notify a contract purchaser of the existence of the private stormwater
management facility prior to the transfer of the property and a copy of the notification shall be delivered to the department by certified mail.

7. A maintenance schedule shall be developed for the life of any stormwater management structure and shall be printed on the approved plan. This schedule shall contain:

(a) The dates by which maintenance activities will be performed.

(b) A description of the specific maintenance activities that will be performed.

(c) An estimated sediment loading and dredging schedule; and

(d) Any other information the Department deems necessary to ensuring that the structure is properly maintained for the duration of its existence.

8. An inspection shall be performed once every three years for residential properties and annually for commercial properties by a professional engineer, professional land surveyor or landscape architect retained by the property owner. A copy of the inspection report shall be delivered to the department. The report shall contain, at a minimum:

(a) A description of the condition of vegetation, fences, principal spillway; emergency spillway, embankment, reservoir area, outlet channel, filtration devices, underground drainage, sediment load or any other item which could affect the proper function of the stormwater management structure system, including all nonstructural and structural stormwater management BMPs.

(b) A description of needed maintenance or repairs.

(c) A date by which any necessary the repairs are to be completed.

9. An inspection report form will be made available by the City to fulfill the requirements of this Section.

10. If any maintenance or inspection required by this Chapter is not performed, the department shall notify the property owner. The required work shall be performed within a reasonable time not to exceed thirty (30) days. In the event of an immediate danger or nuisance to the public health, safety or welfare of the community, a violation notice shall be given by the most expeditious means, and the violations shall be corrected immediately. In the event that the person responsible fails to take corrective action, the City may do the required work. The cost of such work by the City shall be paid to the City by the person who failed to take corrective action and shall be a debt due the City. Failure of the person responsible to honor the demands of the City for the costs incurred shall automatically terminate all permits issued by the city to the permittee, his predecessors, successors, and assigns in interest until the debt is paid in full. Furthermore, said assessment shall be a lien
against all properties served by the system whose owners have received notice of their maintenance obligations pursuant to a maintenance agreement and/or declaration of covenants executed and recorded in accordance with this Chapter. Said lien may be placed on the real property tax bill of the properties subject to the assessment and collected as ordinary tax from the City.

Section 21B-18. Approval and acceptance

A. The City Manager shall give final approval of stormwater management facilities after a field inspection is completed to verify that the work conforms in all respects with the approved plans and terms of the permit.

B. The City Manager shall certify final approval to the City Council. No specific application for acceptance by the City shall be necessary. The City Manager's certification to the Council shall constitute a recommendation for actual acceptance by the City for perpetual maintenance.

C. The City Council's acceptance of a stormwater management facility for perpetual maintenance shall be accomplished by enactment of a resolution which finds that:

1. The stormwater management facility has been constructed to City standards and in accordance with the approved plans.

2. Title to the stormwater management facility and its supporting appurtenances, including required access roads, easements for all storm drains, access easements, or additional rights-of-way has been transferred to the City, or the City will assume maintenance responsibilities pursuant to an agreement with another public entity or submission of a recorded private stormwater management agreement.

3. The developer has provided the City with a maintenance bond in the amount of five percent (5%) of the total cost of the stormwater management facility to guarantee the correction of any deficiencies in the facility which develop within one (1) year from the date of the City's acceptance.

4. Fully completed “as-built” plans approved by the City are on file with the department.

Section 21B-19. Appeals

Any person aggrieved by an action of the City Manager under this Chapter shall be entitled to bring an appeal of such action to the Circuit Court for Prince George's County, Maryland, pursuant to the rules for appeals from decisions of administrative agencies, within thirty (30) days of the action.

Section 21B-20. Penalties

Supp. 33, Revision, Chapter 21B
A. Any person convicted of violating the provisions of this Chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not more than five thousand dollars ($5,000) or imprisonment not exceeding one (1) year or both for each violation. Each day that the violation continues shall be a separate offense.

B. In addition to penalties presented in Subsection a. of this Section, the City may institute injunctive or any other appropriate action or proceedings at law or equity for the enforcement of this Chapter or to correct violations of this Chapter, and any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctive or other appropriate forms of remedy or relief.

C. In addition to the penalties and other remedies set forth in this section, the City may, if it finds a violation of this Chapter, issue stop-work orders with respect to work being performed pursuant to a City permit.

Section 21B-21. Transition provisions

Developments with final stormwater management and erosion and sediment control plans approved as of the end of business may 3, 2010 shall be exempted from the revised design requirements of this Chapter provided that:

A. Construction is progressing at the site in accordance with the approved stormwater management plan and erosion and sediment control plan, and

B. The stormwater management and erosion and sediment control plans remain active and all necessary permits and approvals for updates and revisions are obtained through the City and the district, and

C. After the expiration of the first two-year approval period of the stormwater management plan, any extension of the plan approval by the property owner shall be limited to one 1-year period.

(Chapter 21B Repealed and reenacted by Ordinance O-4-10, adopted 6/21/10, effective 7/21/10)
CHAPTER 21C
BEAUTIFICATION AND TREE PRESERVATION

21C-1. Purpose.
21C-2. Definitions.
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Sec. 21C-1. Purpose.

The Council recognizes the ecological, economic and amenity value and benefit of trees, forests, and natural vegetation in the City. The purpose of this Chapter is to provide for the beautification of the City through the planting, preservation and protection of trees, forests, and natural vegetation within the corporate limits of the City through various methods which shall include but are not limited to landscaping, preservation/conservation or reforestation efforts.

Sec. 21C-2. Definitions.

(a) "Street trees" are defined as trees, shrubs and bushes on land lying between property lines on either side of all streets, avenues, or, right-of-ways within the City or within landscape easements dedicated to the City to provide a location for street trees.
(b) "Park trees" are defined as trees, shrubs, bushes and all other woody vegetation in public and private parks within the City having individual names, or to which the public has free access as a park.
(c) "Public trees" are defined as trees, shrubs, bushes and all other woody vegetation on all other publicly owned City land within the City limits which do not fit the street trees or park trees definitions.
(d) "Forests" are defined as a biological community dominated by trees and other woody plants covering a land area of 10,000 square feet or greater. This includes areas that have at least 100 trees per acre with at least 50% of those trees having a 2-inch or greater diameter at 4.5 feet above ground level. This includes areas that have been cut but not cleared.
(e) "Specimen trees" are defined as particularly impressive or unusual examples of a species due to size, shape, age or any other trait that defines the unique character of the species. This shall include historic and unique trees over 100 years of age located in forested and environmentally sensitive areas or trees judged to be unique by the Maryland Department of Natural Resources Forest, Park and Wildlife Service or Maryland-National Capital Park and Planning Commission.

Sec. 21C-3. Creation and establishment of a City Beautification and Tree Preservation Committee.

There is hereby created and established a Beautification and Tree Preservation Committee for the City of Bowie which shall consist of twelve members who are registered voters in the City of Bowie who shall be appointed by the City Council. The Committee may divide its responsibility and establish such subcommittees as it may deem appropriate to focus on the issues of beautification and tree preservation.

Sec. 21C-4. Duties and responsibilities.

(a) It shall be the responsibility of the Beautification and Tree Preservation Committee to study, investigate, propose and/or revise annually a written plan for the care, preservation, pruning, planting,
replanting, removal or disposition of trees and shrubs in parks, along City streets and in other City
owned areas or areas maintained by the City, including plans for additional beautification of the City.
(b) The written plan shall include, but is not limited to, the following:
(1) A description of the plans and implementation of projects undertaken by the Committee for
the beautification of the City.
(2) A statement of the City's annual progress in meeting the City's commitment to its re-leaf
program.
(3) Identification of important and critical areas in which trees are to be saved.
(4) A statement of goals for a continuous net increase of forest cover within the City.
(5) Identification of specimen trees and areas for reforestation and possible acquisition by the
City for perpetual conservation within the City.
(6) Identification of priority sites for mitigation activities resulting from or caused by
development or construction activity.
(7) Recommendations for future opportunities to expand tree growth in City parks and to
develop street tree planting concepts within the City.
(8) Recommendations as to criteria to be used by the City staff with regard to tree preservation
during the process of reviewing development projects.
(c) The plan will coordinate its recommendations with the tree preservation, protection and
reforestation efforts conducted by the State of Maryland and Prince George's County.
(d) The Committee will advise citizens and the City on such issues as
(1) Tree preservation on private property;
(2) Means of encouraging public awareness of the value of community trees and forest
preservation. The Committee shall work with the Beautification Committee, the Heritage Committee
and the Advisory Planning Board as appropriate. The Committee may assist in environmental
assessment activities, as appropriate, upon request from the City Council.
(e) The plan will be presented annually to the City Council and upon the Council's acceptance and
approval shall constitute the official comprehensive City tree plan for the City of Bowie.
(f) The Committee may consider, investigate, make findings, report and recommend to the City
Council upon any special matter or question coming within the scope of its work.
(g) The City Council may consider mutual assistance agreements in instances where specimen trees
are located on private property.
(h) To aid in the preservation of forests and environmentally sensitive areas, the Committee may
consider such recommendations as creating preservation easement with the consent of the owner.
(i) Action and input by the City and this Committee is not intended, unless specifically provided in
this section, to change the maintenance responsibilities for landscaped or other areas within the City.

Sec. 21C-5. Purposes and functions for beautification.

The Beautification and Tree Preservation Committee shall set goals and objectives for the beautifi-
cation of the City of Bowie and its vicinity which shall include recommendations concerning:
(a) The aesthetics of entrance routes to the City.
(b) Small publicly owned areas along various travel routes, including landscaping, planting of
appropriate types of shrubbery and other improvements the Committee may recommend from time to
time.
(c) To provide a channel of communication between residents and business leaders of the “Greater
Bowie Area” and the Bowie City Council regarding concerns for the beautification of the community.
(d) To offer advice to the City Council in matters affecting beautification of the City and the
planting of trees in public areas.
(e) To review and make recommendations concerning matters assigned to the Committee by action
of the City Council.

Sec. 21C-6. Rules of Procedure.

The Beautification and Tree Preservation Committee shall be governed by the provisions of R-65-
86, as amended, from time to time, establishing the Rules and Regulations of City Committees. The
Committee shall keep minutes of its proceedings and all findings and recommendations shall be reduced to writing and entered as a matter of public record in the Office of the City Clerk. In matters concerning the procedure for meetings not covered by R-65-86 or this Chapter, the Committee may establish its own rules subject to approval by the City Council, and by the City Attorney for legal sufficiency.

**Sec. 21C-7. Street tree planting guidelines.**

Street tree planting guidelines shall be as specified in the City of Bowie General Specifications and Standards for Storm Drain and Street Design and Construction.

**Sec. 21C-8. Park tree guidelines.**

The Beautification and Tree Preservation Committee may recommend in writing to the City Council the planting, replanting and enhancement of existing park tree designs for all public and private parks within the City. The scope of such recommendations may include the enhancement of common spaces within residential developments that are dedicated to and maintained by homeowners' associations. Specific enhancement plans should strive to create and/or recapture treed, park-like settings.

**Sec. 21C-9. Public tree care.**

The City Beautification and Tree Preservation Committee may recommend in writing to the City Manager, removal of any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements or is affected with any injurious fungus, insect or other pest.

**Sec. 21C-10. Rights of adjacent property owners.**

This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of said trees is in accordance with Section 21C-7 of this Chapter.

(Chapter 21C is amended by Ordinance O-2-97, adopted 3/3/97, effective 4/3/97).
THE CODE

CHAPTER 22.

STREETS AND SIDEWALKS.

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Article I. In General.

Sec. 22-1. Procedure for making excavations in driveways or parking spaces on streets.

No person shall make any excavation in any driveway or parking space on any street without a permit issued and authorized by the Council and subject to such terms and conditions as may be imposed by it for refilling and reconstructing such street, alley, or sidewalk in the condition it was prior to such excavation.

Sec. 22-2. Spilling, materials, on streets, prohibited.

It shall be unlawful to cause or permit any earth, clay, dirt, sand, gravel, broken stone, mortar, hay, straw, manure, shavings, sawdust, coal, ashes, paper, rubbish, or any loose material of any kind to be scattered, dropped, leaked, spilled, or let fall from any cart, wagon, dray, truck, or other vehicle in which the same may be carried upon any of the streets or roadways within the city.

Sec. 22-3. Depositing excavated material upon streets, prohibited.

It shall be unlawful to deposit upon any sidewalk, crosswalk, gutter, or improved roadway or street within the city any earth, clay, sand, gravel, or other excavated material by spilling, dropping, or placing the same thereon or by tracking the same thereon by the wheels of vehicles or feet of animals, either in process of conveying such excavated material from the place where the excavation is being made, or in returning from the place where the excavated material shall have been deposited and this prohibition shall apply to the owner of the land
where the excavation is being made, the owner of the land where the excavated material shall have been deposited, and every person engaged in making every excavation.

Sec. 22-4. Storing materials on streets, etc.--Generally.

It shall be unlawful for any person to use the streets, roads, or sidewalks within the City to store or place materials therein without permission of the City Administrator.

Sec. 22-5. Storing materials on streets, etc.--Warning lights.

Every person using a street, road or highway within the City to store or place materials therein shall exhibit or display one or more amber lanterns as necessary at night, placed thereon in such manner as to warn the public of the obstruction of the road, highway, or sidewalk, and so as to show distinctly the unobstructed passageway remaining in the road, highway, or sidewalk.

Sec. 22-6. Storing materials on streets, etc.--Removal.

Every person having charge of any building operations, either as owner or contractor, shall remove at the expiration of each working day, from the sidewalks, gutters, and roadways adjacent to such building operations, all earth, sand, gravel, dirt, mortar, stones, broken bricks, shavings, rubbish and all other litter that may have been deposited or accumulated thereon as a result of such building operations.

Sec. 22-7. Gates not to swing over public ways, etc.

It shall be unlawful for any person, whether such person may be the owner or tenant of property, to permit any gate on the property to swing outward on any public road, sidewalk, or public passageway within the City.

Sec. 22-8. Signs or boards projecting over sidewalks prohibited.

It shall be unlawful for any sign or board to project over any public way.

Sec. 22-9. Stretching flags, banners, across streets.

No person shall stretch any flag, banner or any other manner of display across any City street without permission of the City Manager.

Sec. 22-10. Obstructing sidewalks with merchandise, prohibited.

It shall be unlawful for any person to obstruct any sidewalk of the City with merchandise, wares or other materials or objects of any kind.

Sec. 22-11. Erecting, buildings or obstructions in streets or alleys prohibited.

Except as otherwise specifically provided by this Chapter and permitted by the City Manager, no person shall erect or maintain any building, facility, equipment or other obstruction on, under or over any alley, street, road, sidewalk or right-of-way within the City.
(Sec. 22-11 amended by O-6-16; adopted 11/21/16, effective 12/21/16)
(Sec. 22-11 amended by EO-2-19, adopted 4/1/19, effective 4/1/19)

Sec. 22-11A. Permit limitations.

Nothing in this Chapter shall affect or limit the City's right to charge a separate fee for access to or the use or occupancy of City-owned property or facilities. Any permit granted
pursuant to this Chapter shall be in addition to, and not in lieu of, any fee, rent, lease, license, agreement or franchise required to occupy, or place facilities or equipment on, under, over or attached to, City property, facilities or rights-of-way.
(Sec. 22-11A added by O-6-16, adopted 11/21/16, effective 12/21/16)
(Sec. 22-11A amended by EO-2-19, adopted 4/1/19, effective 4/1/19)

Sec. 22-12. Extinguishing or obstructing street lights prohibited.

It shall be unlawful for any person to extinguish or obstruct the light in any public lamp or street light.

Sec. 22-13. Pouring, etc., kerosene, etc., upon sidewalks, prohibited.

No person shall pour, spill, or permit to drip upon any sidewalk within the City, any kerosene, gasoline, benzene, or any similar oil or oily substance or liquid.

Sec. 22-14. Permit prerequisite to paving, etc., parking spaces or spaces between sidewalk and curb.

No person, without the permission in writing of the Council, shall pave or cover with any permanent cover any parking space or the space between the sidewalks and curb, or any part thereof.

Sec. 22-15. Letters or advertising on sidewalks prohibited.

No persons shall place upon any sidewalk in any manner whatever any letters or advertising device.

Sec. 22-16. Permit prerequisite to laying drain, etc., pipe or to constructing artificial drains, etc., across sidewalks.

No person shall lay any pipe, or similar device, intended for drainage purposes, in any gutter, or construct any artificial drain, trench, or indentation in or across any sidewalk within the City, without a permit so to do from the City.

Sec. 22-17. Trees and shrubbery - Injuring, etc.

No person shall cut, belt, destroy or injure any tree or shrubbery on any of the streets, parks or other public places of the city, or on private property, without consent of the owner thereof.

Sec. 22-18. Trees and shrubbery -- Trimming and removal required.

(a) It shall be unlawful for a person owning any real property within the City to permit any tree or shrub growing on the person’s property or within the public right-of-way abutting the person’s property, to hang over or branch in such a manner as to impair or inhibit passage along a sidewalk or street or obscure street signs, traffic control signs or street lights. All such trees and shrubs shall be trimmed by the owners of the property on which they are located so that the limbs, branches and/or foliage, thereof shall not be less than nine (9) feet in height of clear space above a sidewalk or less than fourteen feet (14”) above a street or vehicular right-of-way. Whenever any such tree or shrub, or the branches thereof, shall, in the opinion of the City Manager or his designee, become dangerous or damaging to the traveling public or to property in the neighborhood, the same shall be removed by the owner of the premises, as hereinafter directed.

(b) Any tree growing or standing on private property in such a manner that creates an imminent danger to city property, a public right-of-way or the public, as determined by the City
of Bowie Community Forester or Parks & Grounds Superintendent, shall constitute a public nuisance. Whenever in the opinion of the City Manager or his designee any such tree or the branches thereof constitutes a public nuisance, the City shall give written notice to the property owner, in accordance with Subsection (c) below, that said nuisance exists and advise the property owner to trim, remove or otherwise control the tree in such a manner as will abate the nuisance. The owner of the property on which the tree is located shall trim, remove or otherwise control the tree as provided for herein.

(c) In all cases where any tree or shrub is, or the branches thereof are, required to be removed in accordance with the provisions of Subsections (a) or (b) above, and whenever any such tree is required to be trimmed as herein provided, the City Manager and/or his designee shall notify the owner to remove such tree or shrub or the branches thereof or to trim such tree or shrub, as the case may be, and such owner shall, within thirty (30) days after receipt of any such notice issued pursuant to Subsection (a) above or within the timeframe provided in any notice issued pursuant to Subsection (b) above, remove any such tree or shrub, or the branches thereof or trim such tree or shrub as directed in the notice; provided however, that if any such tree or shrub is in such a dangerous condition that it is liable to fall at any time, the same shall be removed by the owner of the property on which it is located upon receipt of notice from the City to remove the tree or shrub within the timeframe provided within the notice. In the event the owner does not reside within the City, the occupant or person in charge of any such premises shall comply with the requirements set forth in this section to the same extent as if he were the owner thereof, and in all such cases the City shall give the notice herein provided to any such occupant or person in charge of such premises in addition to the owner of the property. Failure to remove a tree or shrub or to trim the branches thereof in accordance with a notice issued pursuant to this section shall constitute a violation of this section. The City Manager or his designee may then enter the property and remove the tree or shrub or trim the branches thereof in accordance with Subsection (d) below.

(d) In the event the owner shall fail to remove such tree or shrub, or the branches thereof or trim such tree or shrub as the case may be after proper notification from the City Manager and/or his designee, and within the time specified in such notification, such tree, shrub or the branches thereof shall be removed or such tree or shrub trimmed as the case may be by the City, under the direction of the City Manager and/or his designee. The City Manager shall submit a bill for the costs of such removal to the aforesaid owner for payment, and such bill shall be due and payable within thirty (30) days from its date. In the event such bill is not paid within thirty (30) days from its date, the City Manager shall proceed to collect the costs of the removal or trimming by entering same on the tax records as a tax upon such real estate the City Manager, and/or his designee, may alternatively issue a municipal infraction for failure to comply with a notice issued pursuant to this section as set forth in Section 22-19A.

In the event the owner, after notification from the City Manager and/or his agent, shall request the City Manager and/or his designee to remove such tree, shrub, or the branches thereof or trim such tree or shrub as the case may be the City may perform such work under the direction of the City Manager and/or his designee. The bill for the costs of the same shall be submitted in the manner above provided and in the event of nonpayment, shall be entered on the tax records as above provided. (Sec. 22-18 amended by O-13-12, adopted 12/3/12, effective 1/2/13)

Sec. 22-18.1. Removal of obstruction to vision of driver of a motor vehicle.

(a) It shall be the duty of the owner of real property to remove from such property any tree, plant, shrub, fence or other obstruction, or part thereof, which, by obstructing the view of any driver of a motor vehicle constitutes a traffic hazard. On a corner lot, no visual obstruction more than three (3) feet high above the curb level or the edge of the pavement where a curb does not exist shall be located within the triangle formed by the intersection of the curb lines or the edge of pavement and points on the curb lines or the edge of pavement twenty-five (25) feet from the intersection. See Diagram below.
(b) When the City Manager or his designee determines that a traffic hazard exists, he shall notify the owner by mail and order that the hazard be removed within fifteen (15) days.
(c) Failure of the owner to remove the traffic hazard or corner lot obstruction within the time prescribed shall constitute a municipal infraction as set forth in Section 22-19A.
(Chapter 22, Sec. 22-18-1 amended by O-9-11, adopted 3/7/11, effective 4/6/11)

Sec. 22-18.2. Grass and weeds - Trimming and removal.

(a) It shall be unlawful for any person owning any real property in the City to permit grass or weeds to grow to a height greater than eight inches (8") within the public right-of-way adjoining their property. Grass or weeds which grow to a height greater than eight inches in violation hereof must be trimmed and removed by the owner, tenant or responsible party within seven (7) days of being notified by the City Manager or his designee to do so. Such notification shall be made by posting a notice on the front door of the house or posting a sign on the property and, in the case of a known rental property, by sending a copy thereof via first class mail to the owner of record of the property. If the violation is not corrected within the time specified in the notice and no written objection is filed within the City within the timeframe specified in the notice, then the City Manager is authorized to incur the necessary expense in abating the violation, and shall place a charge against the property for such cost and proceed to collect the same by entering same on the tax records as a tax upon such property or by suit for injunction or other relief if deemed necessary, or both.
(b) It shall be unlawful for any person owning real property in the City to permit grass or weeds to grow onto the sidewalk, curb or street pavement abutting their property.
(Chapter 22, Sec. 22-18-2 amended by O-9-11, adopted 3/7/11, effective 4/6/11)

Sec. 22-19. Riding, etc., horses, etc., over sidewalks prohibited; exception.

It shall be unlawful for any person to ride, drive, or lead any horse, cow, or other like animal upon or over, or cause or permit any wagon or other vehicle, automotive or otherwise, to pass upon or over any of the sidewalks in the City, except at alleys or other well-defined and intended crossings.

Sec. 22-19A. Penalty.

Violations of this Chapter are municipal infractions, subject to the penalty and enforcement provisions of Chapter 1, Sections 6 and 6A of this Code.
(Sec. 22-19A amended by O-17-94, adopted 10/3/94)
(Sec. 22-19A amended by EO-2-19, adopted 4/1/19, effective 4/1/19)
Sec. 22-19B. Procedures for City to permanently vacate and temporarily close streets.

(a) Definitions. Words and phrases used in this section shall have their usual meanings, except words and phrases defined below:

1. Petition -- A petition filed with the Council to vacate or relocate a road, street or alley in the City of Bowie.

2. Relocation -- Any permanent improvement or permanent alteration to a public road within the City of Bowie where a part or all of the new public road does not overlap or is not contiguous with the previously existing public road.

3. Road -- Any road, right-of-way, lane, street, alley, highway, avenue, appurtenant structure, including bridges, culverts, catch basins, stormwater drainage facilities, sidewalks or any other construction in any public right-of-way, whether acquired by dedication or public use. Such term shall not include any road under the jurisdiction of the Federal Government, State Highway Administration, or Prince George's County. In addition, such term shall not include any road shown on a plat of subdivision approved by the Maryland National Capital Park and Planning Commission.

4. Vacate/Vacating -- Permanent abandonment of the public's right to use a platted or otherwise publicly dedicated road, street or alley within the City of Bowie. "Vacating" does not include prohibiting use of a portion of a roadway if motorized vehicles can continue to use or have access to or from the remainder of the roadway.

(b) Authority to vacate roads.

1. No road within the City of Bowie may be vacated or relocated unless the Council has approved the vacating or relocation.

2. When the vacating of a road is in connection with the construction of a new road and users of the road or a portion of the road to be vacated will not be denied access to any property or area which was previously accessible, the Council may authorize the vacating without public hearing, upon the certification of such facts as to access by the developer and upon the submission of any other documentation requested by the Council, including but not limited to copies of plans or studies required by and approved by Prince George's County, Maryland.

3. Where the vacating of the road will deny access to public users to areas or properties accessible from the road to be vacated the Council shall act by ordinance enacted after a public hearing. The purpose of the hearing shall be to take testimony to determine that reasonable or alternative means of access exist to property formerly accessible by the road to be vacated and that the road is not needed as a public way. Each property owner as shown on the assessment books of the City of Bowie and/or Prince George's County abutting a portion of the road to be vacated shall be notified, in writing, of the proposed vacating and of the date, time and place a hearing will be held. A notice shall be posted in such manner and size to give reasonable notice to the users of the road of the proposed vacating and time and place of hearing. Notification is the responsibility of the Council.

4. This Chapter shall have no effect on roads which are under the jurisdiction of Prince George's County or the State of Maryland.

(c) Effect of vacating. Vacating of a road shall constitute the termination of the general public's right to use the right-of-way but shall have no effect on private rights of ownership or express or implied easements in the roadway.

(d) Barricades. When a road, street or alley has been vacated the City of Bowie may cause the road to be barricaded in such a manner as not to deny individual property rights.

(e) Prohibited acts. No person shall drive any vehicle across or over any public road in the City of Bowie at which there is any barrier, sign, lantern or flare or authorized person indicating that the road is vacated.

(f) Abandonment of subdivision. This Chapter shall have no effect on the procedure for abandonment or vacation of a subdivision approved by the Maryland-National Capital Park and Planning Commission.

(g) Procedure for initiating a road vacating.

1. A road vacating may be initiated as follows:
a. By petition. An individual, group of individuals, corporation, partnership or association may initiate the vacating or relocation of a road within the City of Bowie by petitioning the Council to introduce an ordinance approving the vacating or relocation. The petitioner shall supply the information required in Subsection (g) 2. below with the petition.
b. The Council may initiate the vacation or relocation of a road when it is deemed to be in the best interest of the City of Bowie.

2. Information to be provided. The following information shall be supplied in order to prepare an ordinance to vacate or relocate a road:
   a. A detailed description of the road to be vacated or relocated which may include, at the City's discretion, a certified plat signed and sealed by a professional land surveyor or property line surveyor particularly describing the road to be vacated or relocated.
   b. Identification of ownership of the roadbed and rights-of-way, including any easements which may exist.
   c. A plan for changes to traffic control which may result from the proposed vacation or relocation.
   d. Any additional information which may be required by the Council.

3. Fees. An individual, group of individuals, corporation, partnership or association who files a petition to vacate or relocate a road shall pay fees which have been set by the Council. These fees shall be set so as to cover the costs associated with processing the road-vacating petition, including but not limited to the costs of advertising the proposed vacating or relocation, notifying persons whose property adjoins the road and posting the road.

(h) Review and recommendation. The Council shall review petitions to vacate or relocate a road. The Council shall consider the effect that vacation or relocation will have on zoning, police, fire or rescue services, public safety, traffic and public convenience. To assist its review, the Council may request recommendations from appropriate City, County or State agencies.

(i) Ownership of roadbed.
   1. The vacation or relocation of a road does not affect the legal ownership of the roadbed.
   2. If fee simple ownership of the roadbed is in the abutting property owner(s), that interest shall stand unencumbered by any public easement of passage upon the effective date of an ordinance that vacates or relocates a road.
   3. If the City of Bowie is the owner, in fee, of the roadbed, and the Council determines it to be in the best interest of the City to sell or otherwise transfer the roadbed, of a vacated or relocated road, the Council may provide for such sale, lease, transfer or other disposition by ordinance.

(j) Tampering with barriers. It shall be unlawful for any person to remove, tamper, damage or destroy any barrier, barricade, lantern or flare or sign indicating that a street is closed. (Sec. 22-19B added by O-3-93, adopted 4/19/93, effective 5/19/93.)

Article II. Road and Street Improvements.

Division I. Permits.

Sec. 22-20. Definitions.

As used in this Article:

(1) "Construction specifications" shall mean the construction specifications of the City adopted by this Article as revised and amended from time to time by the City Manager, in accordance with good engineering principles, and described in "General Specifications and Standards for Highway and Street Construction". The construction specifications indicate requirements for construction methods and work quality.
(2) "Default" shall mean the condition in which a permittee has failed to complete the work covered within the scope of the permit, within the time prescribed in the permit or the time prescribed by this Chapter if not stated in the permit.

(3) "Design and construction standards" of the City, adopted by this Article, as revised shall mean design and construction standards amended from time to time by the City Manager, in accordance with good engineering principles, and described in "General Specifications and Standards for Highway and Street Construction." The design and construction standards indicate dimensions and materials to be used for various items of work.

(4) "Developer" shall mean the person or organization proposing to develop, developing or obtaining a building permit for a previously undeveloped parcel of property; or any person or organization undertaking any building, alteration, reconstruction or other development or redevelopment activity.

(5) "Improve" shall mean to open, grade, construct, maintain or repair.

(6) "Other public roads" shall mean any road within the jurisdiction of the City over which no public agency, including the City, has assumed the responsibility for maintenance.

(7) "Outlot" shall mean a remnant of a subdivision which, because of size, shape or location, is not immediately developable.

(8) "Permit" shall mean an official document or certificate issued by the City Manager authorizing the performance of specified construction at a specified location and within a specified time, together with all supporting documents, agreements, conditions, plans and specifications.

(9) "Permittee" shall mean a person or organization who has obtained a permit for street improvement.

(10) "Road" shall mean any road, right-of-way, lane, street, alley, highway, avenue, appurtenant structure, including bridges, culverts, catch basins, stormwater drainage facilities, sidewalks or any other construction in any public right-of-way, whether acquired by dedication or by public use. Such term shall not include any road under the jurisdiction of the federal government, State Highway Administration, or Prince George's County.

(11) "Road Construction" shall mean any act of opening, cutting into, clearing, grading, cultivating, excavating, maintaining, repairing, building, constructing, improving or otherwise altering any road or any part thereof; also, placing any structure, plant, or other permanent object in a road, whether authorized by permit or not; also, any act of establishing or creating an entrance into any road.

(12) "Sanitary Commission" shall mean the Washington Suburban Sanitary Commission.

(13) "Sanitary District" shall mean the Washington Suburban Sanitary District.

(14) "Subdivision" shall mean a duly recorded subdivision in the City, the subdivision of a lot, tract or parcel of land into two (2) or more lots, plats, sites or other divisions of land into five (5) acres or less for the purpose, whether immediate or future, of sale or of building development. Such term also includes a resubdivision.

(15) "Small Wireless Facilities" shall have the meaning set forth in the Rules of the Federal Communications Commission, 47 CFR § 1.6002(L).

(Sec. 22-20 amended by EO-2-19, adopted 4/1/19, effective 4/1/19)

Sec. 22-21. Applicability of Article.

The rules and regulations set out in this Article shall govern the opening, grading, construction, improvement, maintenance, and repair of public roads, including sidewalks, curbs and gutters and storm drainage facilities, in the City and this Article shall also apply to roads and parking improvements in townhouse or other developments where the roads and/or parking improvements will not be dedicated to the City, nor maintained by the City.

Sec. 22-22. Compliance with article required.

(a) All building permits for the construction of new buildings shall be submitted to the City Manager for certification that acceptable provisions have been made for the improvement of
adjacent or abutting roads and other improvements covered by this Article to the requirements
and approved standards specified in this Article.

(b) In old subdivisions where construction of road improvements abutting a specific lot is
impractical because of scattered ownership of lots in the area, inadequate rights-of-way or
other factors determined to be a hardship to the builder by the City, the City Manager may
waive the requirements of this Article and release the building permit for this location.

(c) Where the City Manager has waived or deferred requirements for improvements to
other public roads, any further improvements to the roadway shall be at the sole expense of
the owners of the abutting properties. The City shall not be obligated to assume responsibility
for the maintenance, repair, or improvement of the road or portion of the road where road
construction requirements have been waived.

Sec. 22-23. Road improvement; permit; application.

(a) No person shall improve or construct any road, seek to undertake building, alteration,
reconstruction, or other development or redevelopment on land which fronts an existing or
proposed public road, or other improvement covered by this Article, without first obtaining a
permit from the City Manager. Such permit shall be nontransferable and it may be revoked if
any provisions thereof or of this Article are violated. Willful refusal of any permittee to stop
construction after receiving notice of such revocation shall be deemed a violation of this Article.
Before a permit is issued, the requirements of this Article for application, bond, fee, plans and
right-of-way shall be met.

Sec. 22-23A. Other types of permits.

(a) Utility permits shall be required from the City Manager for all work performed within the
public right-of-way related to the repair or modification of public facilities. A separate permit
may be required for each new installation, major repair or modification to the system located
within the paved portion of the right-of-way.

(b) Overhead structures shall not be constructed over a public right-of-way without a
permit issued by the City Manager.

(c) Driveway entrance/access permit.

(d) Permits for wireless communications facilities and support structures shall be required
from the City as provided in Article II, Division 3 of this Chapter.

(Sec. 22-23A amended by O-6-16, adopted 11/21/16, effective 12/21/16)

Sec. 22-23B. Permit application.

Application for a permit for road improvement or construction shall be made on forms
provided by the City Manager. The application shall include a filing fee equal to one-third (1/3)
of the permit fee, but in no event less than twenty-five dollars ($25.00), for each application,
the estimated cost of the work, and the signature of the owner or authorized agent;
additionally, when required by the City Manager, the application shall be accompanied by
specifications applicable to the scope of work covered by the permit and suitable tracings of
detailed plans of the work. The City Manager may refuse to accept an application for a road
construction permit from any applicant, as principal, who is or was in default on a previously
issued permit, or who is the permittee listed on the expired permit which is not currently in the
process of being extended.

Sec. 22-23C. Review of application for permit.

(a) If the City Manager or his designee, upon review of the application, determines that the
proposed work conforms with the design and construction standards, he shall notify the
applicant of the amount of the permit fee and the amount and types of bond(s) required.

(b) If the City Manager, upon review of the application, determines that the proposed work
does not conform to the design and construction standards, he shall notify the applicant of his
objection to the proposed work, and inform the applicant of the actions which shall be required to bring the plans into compliance, so that the applicant may amend his application.

(c) If the applicant does not post bond and pay the required permit fee within six (6) months from the date the application is filed, and such failure is not created by governmental action or inaction, the permit application shall be void and the filing fee will be forfeited at the discretion of the City Manager.

Sec. 22-24. Conveyance or dedication of right-of-way or easement; variances.

(a) No permit shall be issued for construction unless the right-of-way or easements for roads, sidewalks, storm drains and utilities to be publicly maintained have been conveyed to the City or have been dedicated to public use; and such acquisition or dedication has been duly recorded among the land records of the County. If building permits are applied for abutting road rights-of-way which are less than standard width for the proposed type of roadway, the developer will be required to supply the additional right-of-way and slope easements necessary to obtain the necessary width.

(b) Upon a finding by the City Manager that the standards and specifications are not feasible or practicable for a particular project, he may require such alternate or additional standards and specifications in accordance with good engineering principles as may be deemed necessary. Such alternate or additional requirements shall be part of and a condition of the permit.

Sec. 22-25. Permit fee.

(a) The fee for the issuance of a permit for road improvements, or other improvements covered by this Article, and the inspection of work, shall be seven and one half percent (7 1/2%) of the estimated cost of the work, with a minimum fee of Twenty-five Dollars ($25.00). In the event an applicant proposes to undertake a project using materials, standards or specifications superior to the minimum requirements of this Article, then the fee will be computed upon the estimated cost of the project as if it were done according to the minimum requirements. The duration of each permit shall be based on the cost of construction as follows:

<table>
<thead>
<tr>
<th>Cost Range</th>
<th>Duration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to $50,000.00</td>
<td>1 year</td>
</tr>
<tr>
<td>$50,001.00 to $100,000.00</td>
<td>18 months</td>
</tr>
<tr>
<td>$100,000.00 to $500,000.00</td>
<td>2 years</td>
</tr>
<tr>
<td>Over $500,000.00</td>
<td>3 years</td>
</tr>
</tbody>
</table>

(Sec. 22-25(a) amended by O-02-92, adopted 1/21/92, effective 2/20/92.)

(b) If after review of the application, it appears to the City Manager that the proposed work conforms with requirements, he shall notify the applicant that the application has been "approved for issuance". The notice shall state the amount of permit fee and the amount of bond to be required.

Sec. 22-26. Authority of the City Manager.

(a) The City Manager, or his designee, shall administer and enforce this Chapter. In addition, the City Manager is authorized to make, adopt and amend such rules and regulations as are reasonably necessary to implement the requirements and purpose of this Chapter.

(b) The City Manager, or his designee, shall review the design and construction standards and recommend amendments or revisions as he deems necessary from time to time.

(c) The City Manager, or his designee, may disapprove the issuance of a permit for all or part of the proposed road construction where the work will interfere with access to adjacent properties or abutting lots, will not provide adequate traffic safety or circulation or continuation of the road construction may have an adverse effect on the public road or nearby properties.
(d) Where the City Manager finds that road construction has been performed by an owner, occupant or developer of property abutting a road, or by any other person, whether the work was under a permit or not, and a situation has been created which constitutes a hazard or interference to the users of the road, and results in a nuisance, or is otherwise not in compliance with this Chapter or the design and construction standards, the City Manager may order that the situation be corrected within a specific period of time. If the person fails to take the corrective action prescribed by the City Manager, the City Manager may cause the necessary corrections to be made and the costs of the action are to be assessed to the owner or person who created the situation.

(e) The City Manager is authorized to waive, defer, or accept payment in lieu of compliance with the Chapter, in whole or in part, where construction of road improvements is not practicable or desirable due to scattered ownership of lots in the area, insufficient right-of-way or other factors determined by the City Manager to constitute an unreasonable hardship to the applicant, or hazard or nuisance to the public.

Sec. 22-27. Commencement of work; extension.

(a) No permit shall be issued until plans have been submitted to the City Manager and approved by the City Manager as conforming to the requirements of this Chapter and the City Manager has determined that all required fees have been paid.

(b) The developer under this Article shall have prepared and submitted to the City Manager suitable plans of the proposed work, on tracing cloth, mylar, or equal quality material of twenty-four (24) inch by thirty-six (36) inch size, conforming to the following:

(1) Proposed grade. The proposed street profile shall be on plan and profile sheets showing the adjacent properties with lot and block designations and topography on the plan view and, on the profile section, the computed proposed grade with vertical curve information, curb fillet profiles and existing ground lines at the center line, both right-of-way lines and at the building restriction lines. All ground lines shall be extended a minimum of five hundred (500) linear feet past the requested grade approval limit or the distance required to assure proper grade design elements. All existing and/or proposed utilities shall be shown on the plans and profiles submitted to the City Manager for approval. Where SHA or WSSC facilities may be affected by the proposed grade, the permittee must obtain the approval of the respective agencies prior to approval by the City Manager.

(2) Storm drainage. The storm drainage plan shall show all storm drainage facilities in plan and profile, as well as property lines, curb lines, utilities, ground profiles and other pertinent features. Complete design data shall be submitted for all storm drainage.

(3) Paving plans. Paving plans shall show right-of-way, road names, dimensions, topography, location map, north point, scale, coordinates, datum, survey controls, property lines, curb and gutter, sidewalks, hiker-biker trails, driveways, types of paving, traffic signals and street lights, location of present and proposed stormdrain inlets and their gutter elevations and sufficient elevations at all street intersections on the curb, gutter and paving to assure adequate drainage of the intersection. Profiles of the curb and gutter intersections may be required. The plan shall also show proposed tree locations and a schedule of the type of tree for each location and street lighting. Approval of governmental agencies affected must be reflected where applicable. Additionally, no work on road pavement shall be started until written certification is received from all utility companies that their utilities are completely installed from curb to curb.

(c) Other information which may be required is typical pavement cross-sections, grading plan, driveway profiles and cross sections. The paving plan information may, at the discretion of the City Manager, be shown on the storm drainage plan.

(d) The City Manager may require any necessary additional data pertinent to the scope of the work covered by the permit, including but not limited to supporting documentation, calculations, drawings and correspondence as required to establish the suitability and correctness of design.

(e) Approval of the plans by the City Manager shall be indicated by the signature of an authorized representative on an approval stamp on the plan sheet. Prior to review and
approval by the City Manager, it will be required that all plans display evidence that all utility companies have checked the plan for utility conflict and affixed their certification and date on the original plan drawing indicating concurrence and/or approval of utility location. Further, it will be required, in the form of a certification by the Engineer or Land Surveyor, that all existing and/or proposed utilities are shown on the plans.

(3) Sediment Control Plans shall be required prior to the issuance of any permit. These plans will be submitted to the Prince George’s County Soil Conservation District office for review and approval and shall conform to the standards and specifications for soil erosion and sediment control in urbanizing areas. All existing and/or proposed utilities shall be shown on the sediment control plan.

Sec. 22-27A. Validity of prior ordinance limited.

Any valid permit issued in conformance with this Chapter prior to the effective date of this ordinance and in force on that date shall continue in force subject to the requirements in effect at the time of its issuance; however, such permit shall be subject to the requirements of the fee schedule and bond requirements in force at the time of any request for extension.

Sec. 22-28. Plans required; contents; approval.

(a) Except sediment control, plans for construction may be approved, permitted and bonded in phases, at the sole discretion of the City Manager. Separate approval, permitting and bonding is generally not available for construction phases encompassing less than twenty-five (25) acres and/or in excess of eight (8) phases per subdivision.

(b) When a permit has been issued, work under such permit shall be commenced within sixty (60) days, unless cause to the contrary is shown, and thereafter continued to conclusion of all work pursuant to the permit.

(c) Prior to or during construction, the City Manager may require additional data and design revisions pertinent to the scope of work covered by the permit, and/or require such work changes as are deemed necessary to provide a completed facility in accordance with the design and construction standards or as determined to be necessary by the City Manager for the general safety of the public. The revisions may require the permittee to obtain associated approvals from other governmental agencies.

(d) A permit shall automatically expire in accordance with the permitting schedule contained in Section 22-25, unless extended, in writing, by the City Manager. It shall be the responsibility of the permittee to apply for a renewal of the permit at least thirty (30) days prior to the expiration of the permit which application shall contain the reasons for the requested renewal. Prior to the renewal of a permit, the permittee shall pay a renewal fee of twenty-five percent (25%) of the original permit fee, unless waived or reduced by the City Manager. Permits will be renewed in accordance with the original permitting schedule, except for projects which meet the bond reduction requirements set forth in Section 22-30 of this Chapter and are eligible for a reduced permit renewal fee of twelve and one-half percent (12 1/2%) of the original permit fee. The renewal period of a permit which has met the bond reduction requirements will be calculated in accordance with the original permitting schedule using a construction cost which represents twenty percent (20%) of the original cost of construction. (Sec. 22-28 (d) amended by O-02-92, adopted 1/21/92, effective 2/20/92.)

(e) Where the City Manager determines that an additional bond amount is necessary because of inflation or other factors, the permittee shall be required to post the additional bond in an amount determined by the City Manager before the extension of time is granted.

Sec. 22-29. Professional engineer's signature required; permit exceptions.

(a) All plans submitted for approval shall be prepared and signed by a professional engineer or land surveyor registered to practice in the State. The use of a rubber stamp replica or impression seal is required on all plans. All plans submitted for approval shall
conform to the standards and specifications and this Article, unless prior approval has been given for exceptions.

(b) Where application is made for minor maintenance work to be done on other public roads, the type and number of plans shall be specified by the City Manager.

(c) Irrespective of the plans and specifications submitted, the actual construction shall conform to this Article and to the minimum requirements for a road of its class.

(d) The engineer or land surveyor shall certify that all public utilities have reviewed the plans for conflicts with their systems and have approved the plans.

Sec. 22-30. Bonds, Letters of Credit or Three-Party Bank Deposit Agreements required; amounts; reduction.

(a) No permit for the construction of a road and the associated public improvements, facilities and amenities shall be issued until the applicant, as principal, has posted:

(1) A performance security in favor of the City of Bowie as required herein. The amount of the performance security shall be equal to the total cost of the project as estimated by the City Manager, including an additional twenty-five percent (25%) of the cost for contingencies, and shall be conditioned upon the satisfactory completion of all work covered by the permit; and

(2) Payment security, for an amount not less than fifty percent (50%) of the total cost of the project as estimated by the City Manager, for the protection of all persons performing labor or furnishing material or leasing equipment (to the extent of the fair rental value thereof) in the prosecution of the work defined in the construction permit. The payment security shall be held until one (1) year after the date of final acceptance of the permit or earlier upon receipt of a release.

(b) Security may be provided by means of:

(1) Bonds executed by surety or guarantee company qualified to transact business in the state and acceptable to the City;

(2) Irrevocable Letters of Credit issued by a bank qualified to transact business in the State and acceptable to the City;

(3) A three-party bank deposit agreement executed by a bank qualified to transact business in the State and acceptable to the City and evidencing the deposit of the required sums and that the funds may not be withdrawn without the written consent of the City.

(c) Reduction of bonds.

(1) Upon completion of eighty percent (80%) of the work authorized by a permit an applicant may make application to the City for reduction in the performance security pending completion of the work authorized by that permit.

(2) The City Manager may authorize a fifty percent (50%) reduction in the performance security upon a determination that eighty percent (80%) of the work authorized by that permit has been completed in accordance with City standards.

(3) There shall be no reduction or release in the payment security required until all claims by laborers and material suppliers have been paid and a release of claims covering the work completed has been filed with the City.

(4) Reduction of the bond may be made by return of cash, letters of credit, or other instruments which have been posted by the applicant upon substitution of security in the lesser amount, provided that the security substituted is in compliance with Section 22-30(b) above.

(d) Release of bonds or other security

(1) Bonds or other security to guarantee completion of a public improvement, facility or amenity shall not be released until the construction covered by such bonds has been finally approved by the City.

(2) If the construction includes roads, or storm water management facilities, prior to obtaining final approval from the City the applicant must post a maintenance bond or other security with the City in the amount of five percent (5%) of the total cost of the work covered by the permit for which the applicant is seeking final approval to guarantee the correction of any deficiencies in the roads and all associated public improvements, facilities and amenities, and
stormwater management facilities and associated improvements and amenities which develop within one (1) year after acceptance of the work.

(3) Such maintenance security must be in compliance with Section 22-30(b) above and must be for a period of one (1) year from the date of the City Council's acceptance of the road, stormwater management facility or other public improvement, facility or amenity.

(Sec. 22-30 amended by O-34-90, adopted 12/17/90, effective 1/16/91).

Sec. 22-31. Security approval.

Before acceptance, all securities shall be approved by the City Manager and the City Attorney.

Sec. 22-32. Notice of construction; posting.

A copy of the permit shall be posted by a permittee under this Article in a conspicuous place on each project site.

Sec. 22-33. Inspections required.

(a) Inspection services will be maintained at all times by the City Manager to assure compliance with a road construction permit issued pursuant to this Article.

(b) The holder of such a permit shall notify the City Manager of the time of commencement of work at least forty-eight (48) hours before commencement of any construction thereunder. In the event that there is an interruption of the work for a period of more than five (5) days, the permittee shall notify the City Manager at the end of each interruption of his intent to actively resume operations.

(c) Where water and sewer utilities are involved, the permittee shall notify the provider of water and sewer service immediately after base paving to obtain a preliminary paving clearance and certificate and again after final paving to obtain a final paving clearance certificate.

(d) No paving, curb or gutter or sidewalk construction shall be started unless there has been a final inspection and approval of the subgrade and concrete form work.

(e) The permittee and his agents, servants and subcontractors shall comply with all requirements of the City Manager directed to the permittee (either before or during the course of construction) which are deemed necessary in the interest of public safety, to avoid unnecessary inconvenience to the public during construction, or to insure compliance with the specifications.

(f) The construction work, materials, plans and specifications shall at all times be open to and available for inspection by duly authorized officials and employees of the City.

(g) Where the permittee performs any work under the permit without an inspection, such work shall be considered improper and such conduct on the part of the permittee may result in removal and replacement of all uninspected construction at the permittee’s expense.

(h) Where the permittee performs any work under a permit (with or without an inspection), and the work does not comply with this Chapter, the inspector is empowered to issue written notice to require the work to be removed and replaced by the permittee at his expense.

(i) Notice of violation. Whenever the City Manager finds and determines that the requirements of the Chapter have been violated, he shall notify the responsible person, owner or permittee, in writing, and detail the corrective action required and the amount of time within which the corrective work must be performed. Such notice may be delivered in person, or by United States Postal Service regular mail and addressed to the responsible person, owner or permittee at the last known address or the address shown on the real property tax records in the Treasurer's office for Prince George's County. Such notice, when delivered in person or so addressed and deposited with the postal service with proper postage paid, shall be deemed complete and sufficient.

(j) Compliance; penalties.
(1) The permittee, including public utilities, agents, contractors and subcontractors shall comply with all requirements of the permit, including sediment and erosion control, either before or during the course of construction.

(2) Where the permittee fails to comply with the requirements cited in the notice of violation, the following actions may result:

(A) A stop-work order may be issued by the City Manager. Such stop-work order shall constitute a suspension of the applicable permit, and shall prohibit the violator from doing any further work under the permit except such work as shall bring any previous work into compliance. When the permittee corrects the work to the satisfaction of the City Manager in accordance with the applicable requirements, the City Manager shall rescind the stop-work order in writing at which time the permittee may resume further work under the permit; or

(B) The City may complete the required work and charge the permittee on a cost basis, including the costs of administration and overhead.

(k) Safety hazards; work in noncompliance. Safety hazards, or work which is determined not to be in compliance with the provisions of this Chapter, which occurs within the right-of-way as a result of the work performed by the permittee and the correction of which is considered urgent by the City manager, shall be resolved by contacting the permittee. If that person cannot be contacted within twenty-four (24) hours, then the City Manager shall be authorized to proceed with the necessary corrective action and bill the permittee accordingly for all costs incurred. Failure of the permittee to pay the amount billed within thirty (30) days may be sufficient grounds for suspension or revocation of the permit.

Sec. 22-34. Approval and acceptance of work.

(a) Final approval of construction work under any permit shall be given by the City Manager after a field inspection shows to his satisfaction that the work conforms in all respects with the permit, and included all work required thereby.

(b) Final approval shall be certified to the Council by the City Manager. No application for acceptance into the City road system shall be necessary. The City Manager's certification to the Council of final approval of the work shall constitute a recommendation for acceptance into the City road system. Actual acceptance into the City road system for perpetual maintenance shall be only by order of the Council in each individual case.

(c) Final approval of a part, less than all, of the work covered by a permit under this Article may be given, and such approved part may be accepted by the Council. No bond shall be released before all work called for by the permit is completed, and the construction covered by such bond is finally approved by the City Manager, unless another bond is posted to cover the remaining work. This bond will only be accepted on work that cannot be completed due to extenuating circumstances as determined by the Council.

(d) Final approval shall not be given and acceptance by the City into the City road system shall not occur until the applicant has provided the City with a maintenance bond or other security in the amount of five percent (5%) of the total cost of work covered by the permit for which the applicant is seeking final approval to guarantee the correction of any deficiencies in the road, and the associated public improvements, facilities and amenities which develop within one (1) year from the date of the City Council's acceptance of the work covered by the permit. (Sec. 22-34(d) added by O-34-90, adopted 12/17/90, effective 1/16/91).

Sec. 22-35. Special conditions.

No attempt has been made to standardize any construction on rights-of-way other than those mentioned in this Article. Each problem will be studied by the City Manager as an individual case and solution will be given for the special conditions. This applies to bridges, culverts and other structures and their appurtenances, or such conditions encountered contiguous to the project.
Sec. 22-35A. Penalty.

(a) Any person who does any road construction in a public right-of-way without a valid permit, or performs work in conflict with the detailed plans submitted and approved for work to be performed under the permit, or creates a situation within the right-of-way which requires corrective action, shall immediately take those actions necessary to reinstate a pre-existing permit where the permit has expired or been suspended, or obtain a permit where none existed, and then correct or remove the work or correct the situation to bring it into conformance with established requirements or standards, within the time specified in a written notice of violation from the City Manager. Noncompliance on the part of the responsible person shall be a violation of this Chapter.

(b) Any person, required by this Chapter to have a permit, who performs work which is in violation of the provisions of this Chapter, approved permit plans, or a lawful order issued thereunder, or creates a situation in the right-of-way which constitutes a hazard to public safety, shall be guilty of a misdemeanor punishable by a fine or not more than one thousand dollars ($1000.00), by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment, for each offense. Each day that a violation continues shall be deemed a separate offense.

(c) The application of such penalty shall not preclude the enforced removal, abatement or correction of the conditions which were found to be in noncompliance, through appropriate proceedings in a court of competent jurisdiction. In addition, the City may take those actions necessary to correct the situation, and all costs therefor shall be billed to the responsible person or be recovered through legal recourse.

Sec. 22-35B. Enforcement; recorded statement; lien.

(a) Whenever the City Manager has provided notice to a person and instructed the person to perform corrective action within or adjacent to a public right-of-way, or to perform construction which has been deferred in accordance with the terms of an agreement or covenant, which the person fails to perform within the amount of time specified by the City Manager, the City Manager may cause the necessary corrective action or construction to be made at City expense and initiate the procedure for reimbursement of the cost as set forth herein.

(b) When the City has effected the removal of a hazard, or taken necessary corrective action to correct a problem within or adjacent to a public right-of-way, or has paid for the removal or corrective action, or has performed construction which was the responsibility of the permittee, adjacent property owner or other responsible person, the actual cost thereof, if not paid by the permittee, owner or person within thirty (30) days, shall be collected by initiating one or more of the following courses of action:

1. The recordation of a statement from the City Manager creating a lien against the adjacent property to be collected through a supplemental tax bill where the owner is responsible; or
2. Action against any bonds posted by the responsible party where the permittee is responsible; or
3. Legal action including action for injunctive relief, in a court of competent jurisdiction.

(c) Where the full amount due the City is not paid by such owner within thirty (30) days after notice of the charges for the removal of a hazard or correction of a problem, the City Manager shall cause to be recorded within the Office of Finance for Prince George's County a sworn statement showing the cost and expense incurred for the work, the date the work was done and the location of the property on which, or adjacent to which the work was done. The sworn statement shall be available for public inspection. Recordation of such a statement shall constitute a lien on the subject property, and the amount of such lien shall be collected in the same manner as the City tax on real property.
Division 2. Design and Construction Specifications

Sec. 22-36. Specifications; revisions; copies.

(a) All construction under this Article shall conform to the requirements of the Article and to the "General Specifications and Standards for Highway and Street Construction" for the City.

(b) Copies of this Article prescribing the rules and regulations and the design and construction standards currently in effect shall at all times be available for inspection in the City Hall, and copies shall be for sale at cost.

Sec. 22-37. Construction requirements.

(a) All roads to be constructed shall conform to this Article.

(b) All roads to be constructed shall be graded to the full width of the right-of-way.

(c) Earthwork shall include clearing and grubbing, the removal and replacement of all unsuitable material and the proper preparation of subgrade.

(d) Where necessary, adequate underdrains shall be installed as directed.

(e) No work on road pavement shall be started until all underground utilities have been installed and properly backfilled, in accordance with accepted standards, and the City Manager notified in writing.

(f) All materials used in construction shall conform in every detail to City standards and specifications or as approved and accepted by the City Manager.

(g) Where applicable, the permittee shall be responsible for the maintenance of vehicular and pedestrian traffic on the roadway within the permit limits of work, and shall provide materials, labor and equipment in accordance with accepted standards as necessary to properly maintain traffic including construction of warning signs, flagmen, lights and barricades. Excavations or other hazards shall be properly barricaded at all times and lighted at night, and proper connections shall be made to drives and walks at occupied residences. Dust conditions shall be controlled by placing calcium chloride or water, or both. The permittee is required to keep the roadway shaped up by blading, as necessary, and to correct muddy or soft subgrade by placing temporary gravel or stone. The permittee is responsible for plowing snow sufficiently to maintain access to inhabited residences or other facilities until the road is finally accepted by the City. It shall be the responsibility of the permittee to remove any dirt and debris deposited on streets in and adjacent to the work area during the construction period.

(h) A thick stand of permanent grass shall be obtained by seeding or sodding. For seeding areas there shall be at least three (3) inches of topsoil.

(i) Street signs shall be erected at all intersections. These signs shall show the names of intersecting streets and be of durable metal construction conforming to the City standards. Street signs may be obtained from the City at cost.

(j) Maintenance standards for other public roads shall be established by the City Manager after consideration of each individual case.

(k) Barricades shall be erected of an approved design.

(l) Utility cuts.

(1) No public utility, person, or organization shall cut into any road under the jurisdiction of the City until a permit for same has been issued and essential notice has been given in writing to the City Manager indicating the location, nature, and extent of the cut. Certification will be required from the permittee that all utility companies have been contacted and have given their approval for the proposed work. This certification does not release the permittee from the responsibility of contacting the "Miss Utility" and nonmember utilities requesting that utilities locate underground lines prior to any excavation on site.

(2) Persons or permittee(s) shall determine, prior to opening an excavation whether underground installations, i.e., sewer, water, fuel, electric, telephone lines, etc. will be encountered and if so, where such underground installations are located. When the excavation approaches the estimated location of such an installation, the excavation shall be
determined by careful hand probing and/or hand digging. When utility lines are uncovered, proper supports will be provided for the existing installation. All utility companies shall be contacted and advised of proposed work prior to the start of actual excavation, by contacting the "Miss Utility" and nonmember utilities. Emergencies shall be processed as promptly as possible. In case of an emergency cut, the "Miss Utility" and nonmember utilities are to be contacted immediately, and a written notice shall be sent to the Department of Public Works indicating the type and nature of emergency.

(3) In case of any cut, the permittee shall be responsible for installing the road base and surface to its former condition or better through proper backfill of suitable material and compaction to meet City standards and specifications and repairing pavement failures and settlements due to the utility cut. Repairs and permanent patches to the cut area shall be made to the conformance of the applicable standards and specifications. The protection of the general public, as well as adjacent properties, sidewalks, driveways, shrubbery trees, buildings, lawns or any other objects within and adjacent to the area to be cut shall be the sole responsibility of the permittee. In the event that any existing utility is disturbed or damaged due to the cut, it shall be considered a violation of this Section and subject to the penalties indicated herein. The permittee shall also be responsible for all future repairs to the cut area which are the result of consolidation, subsidence or inadequate compaction of the subgrade or any other type of failure of the patch.

(4) It shall be the responsibility of the permittee to have on the job detailed plans showing the location of all existing utilities within the area of the cut. This information will be given to the inspector on the job. A copy of the permit will be kept on site by the permittee. This requirement does not release the permittee from the responsibility of contacting the "Miss Utility" and nonmember utilities requesting that utilities locate underground lines prior to any excavation on site. Provided, however, that in the event the individual utility company(ies) fail to furnish the requisite information to the permittee within a reasonable period of time, as determined by the building official under all of the circumstances, then, in such event the foregoing revocation provisions shall not apply.

Sec. 22-37A. Right-of-Way.

No permit shall be issued for road construction unless all rights-of-way and easements necessary for the work are dedicated, or otherwise lawfully conveyed for public use, and have been duly recorded among the land records for Prince George's County.

Sec. 22-38. Road widths, table of classes.

(a) Widths of roads shall be consistent with recorded plats, and shall conform with tables agreed upon by the City Manager and other agencies for various widths and classes of roads, which table is set forth in this Section. Where the City Manager finds that the right-of-way is not compatible with traffic requirements, he shall specify the appropriate roadway width which shall meet the standards and specifications herein defined.

(b) Roads shall conform to the requirements of width, curb and gutter and sidewalk as shown on the following tabulation:
### Sec. 22-39. Storm drainage required.

(a) The construction of an adequate storm water drainage system and facilities shall be required in all cases. Plans for the proposed storm drainage system shall be submitted to and approved by the City Manager.

(b) A storm drainage system covered by a specific permit shall be completed within the limits of work established for the permit, including facilities in storm drainage easements lying in, or partially in, lots or parcels abutting the proposed street dedications to be improved. Storm drainage easements lying at the rear of abutting lots shall be improved or bonded for future construction at the discretion of the City Manager.

(c) Where a preliminary drainage study indicates that a minimum right-of-way width as herein established is inadequate for proper drainage of a particular road, additional right-of-way may be required as is found necessary for such drainage purposes.
Sec. 22-40. Curb, gutter and sidewalk required.

Curb, gutters, and sidewalks shall be required along any road where the majority of the individual lots abutting on such road have a frontage of ninety (90) feet or less, or where any road abuts property being developed for multi-dwelling residential, commercial or industrial use which is not being subdivided into individual lots, or where urban construction is required by traffic conditions, as determined by the City Manager.

Sec. 22-41. Partial road construction; exceptions.

(a) No partial road construction shall be permitted in any dedicated public right-of-way where there is sufficient width to construct a full road in accordance with City standards, unless the applicant is developing property on only one (1) side of the road, in which case the City Manager may waive the requirement for construction of curb and gutter, sidewalk, storm drainage and a portion of the paving adjacent to the opposite property if such construction is not necessary to accommodate traffic or to provide proper maintenance of the road.

(b) Where there is insufficient right-of-way to construct a full road, a partial road of a minimum width of twenty (20) feet of finished paving may be constructed; provided, that protective shoulders or temporary curbing and adequate drainage are installed in accordance with such requirements as may be deemed necessary. Paving widths, greater than twenty (20) feet may be required if found necessary.

Sec. 22-42. Connecting roads.

No road separated from a City maintained road or a road maintained by any other public agency shall be approved and accepted by the City Council unless a suitable connecting road to the existing road is improved as required by this Article.

Sec. 22-43. Limits of work.

(a) The limits of work within rights-of-way in a subdivision area will generally be set at the furthest property lines of the abutting lots which are being developed or for which building permits are requested. Intersecting roads shall be improved to the furthest lot line of the corner building site. If the limit of work extends to an outlot or an intersecting alley, it shall be extended to the far line of the outlot or past the alley right-of-way. If the proposed construction shall be completed, and if there are no such existing or dedicated roads, temporary or permanent turnarounds in accordance with approved standards shall be provided, if directed. All dedicated walkways, paths or alleys lying in or adjacent to property abutting roads within the permit limit of work shall be improved by grading, construction of sidewalks or alleys and sodding.

(b) The City Manager may determine that the limits of work as requested by the developer do not provide proper access to the abutting lots, proper circulation of traffic or proper storm drainage facilities, and for these or other reasons may extend or reduce the limits of work requested, or may disapprove the issuance of a permit for all or a portion of the proposed work.

Sec. 22-44. Grades.

Approved grades shall be established by the Planning Commission when within the limits of the regional district. Only such grades shall be used that meet the approval of the City Manager. No grade shall be less than one percent (1%) nor more than ten percent (10%) except under unusual conditions, as determined by the City Manager.

Sec. 22-45. Alignment.
Roads shall be centered in the dedicated public right-of-way wherever possible and as directed by the City Manager. If the established right-of-way is not of sufficient width to construct the roadway in accordance with the design and construction standards currently in effect, the applicant may be required to obtain and dedicate to public use additional right-of-way and/or easements, as needed to construct the road to the approved standard.

Sec. 22-46. City streets and roads, requirements of developer.

(a) The developer is responsible for constructing curb and gutter, sidewalks, storm drainage, pavement widening, driveway aprons and sod adjacent to existing unimproved City roads if he proposes development of the adjacent property.

(b) If the development property abuts a City road which has been built to final line and grade, the developer will be responsible for providing all urban facilities such as pavement widening, curb and gutter, sidewalk, storm drainage, street lights, etc., adjacent to his property, except as provided in this Article.

(c) If the development property adjacent to the City road is less than three hundred (300) feet, the road has not been built to final line and grade, and construction of the urban facilities on the ultimate line and grade would create a traffic hazard, the developer may be required to widen the existing shoulders, provide adequate side ditches and temporary driveways and grade and sod the dedicated area adjacent to his development.

(d) If the City Manager finds that urban facilities can be constructed without creating a traffic hazard, they may be required with a temporary paved tie-in between the curb and gutter and the existing paving.

(e) If the development property abuts the City road for more than three hundred (300) feet, and the road is not to final line and grade, the developer may be required to regrade the road and do all construction except the surface course to obtain thirty (30) feet of pavement for major roads and primary residential streets or twenty-four (24) feet of pavement for secondary residential streets, unless the City Manager finds that a temporary paved tie-in can be made from the existing paving to the proposed curb and gutter. If it is necessary for the developer to regrade the City road, the City will be responsible for the surface course construction and obtaining necessary rights-of-way.

(f) In all cases, where developing adjacent to an existing unimproved City road, the developer will be responsible for urban improvements such as curb and gutter, sidewalk, street lights, etc., only on the side of the road adjacent to his property.

Sec. 22-47. Driveway entrances.

Driveway entrances shall be placed across the parkway strip in accordance with City standards, and in accordance with the following requirements:

(1) Driveway entrances shall be designed in accordance with the City’s general specifications for storm drain and street construction. No residential driveway entrance shall be less than ten (10) feet in width or be in, or partially in, any intersection curb fillet.

(2) Driveway entrances to commercial or industrial property shall be limited to two (2) on each street on which the property has frontage; except that additional entrances may be permitted by the City Manager in writing if they are feasible and necessary. Driveway entrances to commercial or industrial property shall be no wider than thirty (30) feet, exclusive of the curb return fillets, unless additional width or dualization is necessary.

(3) There shall be at least twenty-five (25) feet at the property line between driveway entrances. No driveway entrance shall be closer than seven (7) feet to the next building line, or closer than twenty-five (25) feet to the end of the curb fillet.

(4) On lots that are less than 30,000 feet in size, one (1) standard driveway entrance shall be provided for each detached, semi-detached and triple-detached residential dwelling abutting the permit limit and driveway entrances shall be limited to one (1) entrance per residential lot. On lots that are 30,000 square feet or greater in size, there may be circular driveways with one (1) standard driveway entrance at each end of said driveway.
(5) Driveway entrances to properties abutting on streets with rights-of-way eighty (80) feet in width or greater, shall be prohibited unless the City Manager issues a permit for such driveway upon a finding that access to the property is otherwise unavailable or cannot be obtained without substantial practical difficulty or hardship to the owner or developer of such property. (Sec. 22-47 amended by O-7-02, adopted 8/1/02, effective 9/3/02).

Sec. 22-48. Planting of trees.

The developer shall be required to plant trees within the limits of the permit area and shall be responsible for all costs associated with such plantings. Planting shall conform to the approved standards as adopted by the Council.

Sec. 22-49. Street lights; specifications.

(a) The developer shall provide and install street lights ready for the service within the permit area when underground electrical distribution service is being provided, and shall be responsible for the cost thereof.
(b) Street lights shall be provided in sufficient quantity to provide adequate illumination in accordance with light level standards established by the Illuminating Engineering Society and approved by the American Standards Association and the General Specifications and Standards for Highway and Street Construction, for the City, as amended from time to time.
(c) Plans showing the location, size, spacing and type of street lights shall be drawn to scale and submitted to the City Manager for review and approval in accordance with this Code. The developer shall exercise special care to ensure that sufficient illumination is provided consistent with tree planting required under Sections 22-48 and all references therein.
(d) Close coordination between developer and the electrical utility company providing service will be required. Such coordination shall be the responsibility of the developer.
(e) Approval and acceptance of street lights and luminaries, provided and installed by the developer shall be in accordance with this Article.
(f) The City Manager may waive, in writing, the required standard of illumination on residential streets where the developer or resident of the area so request and there is a showing that the variation from the standards will have no harmful effect on pedestrian or automobile traffic in the neighborhood.

Sec. 22-50. Hiker-biker trails.

The developer may be required by the City Manager, upon approval of the Council, to provide hiker-biker trails with appropriate ramps within the limits of the permit area. Hiker-biker trails shall conform to the approved standards contained in the design-construction standards adopted by the Council.

Sec. 22-51. Cooperation with cable television franchisee(s).

Every applicant for a road permit hereunder shall be required to cooperate with the holders of any cable television franchise in the City. The applicant shall notify such franchisee(s) of the proposed new construction and allow the franchisee an opportunity to install cable in conjunction with the construction of the road, at the franchisee(s) expense. No street cuts will be permitted by the City for the purpose of installing cable once the street has been accepted by the City.

Sec. 22-52. Cul-de-sacs.

Cul-de-sac roadways shall be constructed with a length no greater than nine hundred (900) feet. Islands shall be prohibited in the center of cul-de-sacs. (Sec. 22-1 through 22-52 amended by O-12-90, 5/14/90, effective 6/13/90).
Division 3. Wireless facilities and support structures.

Sec. 22-53. Application for permit.

(a) Only small wireless facilities are eligible to be installed in the City right-of-way. Installation of wireless facilities that do not fall within the definition of small wireless facilities will not be allowed in the right-of-way.

(b) The installation of small wireless facilities and support structures in a City right-of-way shall require a permit under this chapter. No permit shall be issued with respect to the installation of small wireless facilities or support structures in, on or over any City street, sidewalk, or right-of-way unless and until the permit applicant and the City have executed a franchise or right-of-way use agreement setting forth the terms and conditions, including fair compensation to the City, for applicants’ use of City right-of-way, and where applicable, lease payments for the use of any city-owned poles or facilities, which agreement or agreements shall be in a form substantially similar to the City’s model agreement, which shall be made available by the Department of Public Works upon request.

(c) In addition to the other information required by this article, an application for such a permit shall submit the following information pertaining to particular sites or a proposed deployment:
   1. A technical description of the proposed small wireless facilities, along with detailed diagrams accurately depicting all proposed facilities and support structures;
   2. A detailed deployment plan describing construction planned for the 12-month period following the issuance of the permit, and a description of the completed deployment;
   3. An engineering certification relating to the proposed construction;
   4. A statement describing the applicant’s intentions with respect to collocation;
   5. A statement demonstrating the permittee’s duty to comply with applicable safety standards for the proposed activities in the City rights-of-way;
   6. In the case of a proposed attachment to a City-owned facility located in the City rights-of-way, an executed attachment agreement with the City;
   7. In the case of a proposed attachment to an investor-owned utility pole in the rights-of-way, an executed attachment agreement with the utility pole owner; and
   8. Such other information as the City Manager may require.

(d) The applicant shall pay a processing fee to the City, not to exceed a reasonable approximation of the City’s costs, at the time any application to install small wireless facilities in a public right-of-way is made, in addition to any other fees required by this chapter or by this code generally, in an amount to be set by the City Council in the City’s annual budget.

(Sec. 22-53(a)(b)(c) amended by EO-2-19, adopted 4/1/19, effective 4/1/19)

Sec. 22-54. Requirements and findings.

(a) Small wireless facilities and support structures proposed to be located on streets, sidewalks or other rights-of-way in the City shall meet the following requirements:
   1. Absent a special finding by the City Manager;
      a. Small wireless facilities may only be installed on existing utility poles or light poles; and
      b. Only entities authorized by the Maryland Public Service Commission pursuant to MD. Code Ann., Public Utilities Art., §§ 5-410, 8-103, as amended from time to time, may erect new poles in the City’s right-of-way, and only then for the purpose of supporting telephone lines to provide telephone service.
   2. Any new, pole including a replacement pole, installed in City rights-of-way to support small wireless facilities shall;
      a. Comply with all structural and safety standards specified by the City Manager;
      b. Not obstruct pedestrian or vehicular traffic flow, sight lines, or clear zones;
c. Not exceed the lesser of fifty-five (55) feet above grade, or the average height of the existing street light poles or utility poles within the area extending one thousand (1,000) feet in any direction of the proposed structure;
   d. Shall be designed to accommodate the collocation of at least three (3) different small wireless providers’ antennas and related equipment;
   e. If metal, be treated or painted with non-reflective paint, and in a way to conform to or blend into the surroundings; and
   f. Comply with such other requirements and conditions as the City Manager may conclude are appropriate to impose.

3. Any small wireless facilities installed on a pole or any other structure in the rights-of-way shall:
   a. Have any above-ground equipment box or boxes no greater in collective size than 15 cubic feet in volume with no one side/dimension exceeding four (4) feet;
   b. Have panel antennas no greater than two (2) feet in height, and omni/dome antennas no greater than four (4) feet in height and no wider than three (3) feet in diameter;
   c. Have no more than three (3) panel antennas per pole, and no more than one omni/dome antennas per pole;
   d. Have microwave dishes no greater than two (2) feet in diameter, with no more than three (3) microwave dishes per pole;
   e. Be located and designed, including materials, color, and texture, so as to minimize visual impact on surrounding properties and as seen from the streets and sidewalks;
   f. Comply with such other requirements and conditions as the City Manager may conclude are appropriate to impose; and
   g. Be co-located on an existing pole wherever technologically possible, to the extent such co-location does not have the effect of prohibiting the provision of service.

4. Any equipment box associated with small wireless facilities shall be placed underground unless the applicant can demonstrate to the satisfaction of the director of the Department of Public Works that the undergrounding of the equipment box would not be technically possible.

(b) Small wireless facilities and support structures proposed to be located on streets, sidewalks or other rights-of-way in the City may be permitted upon a finding by the City Manager that:
1. The application, and the small wireless facilities it relates to, comply with all standards and requirements set forth in Section 22-54(a);
2. The location selected in the application is not in an area where there is an over-concentration of poles or other facilities in, on or over the streets, sidewalks or other rights-of-way that could pose a risk to public safety or the efficient movement of vehicular or pedestrian traffic;
3. The location selected, scale, and appearance of the small wireless facilities and support structures to be installed, are consistent with the general character of the neighborhood, and consistent with the City’s Small Wireless Facilities Design Guidelines as may be developed by the City Manager;
4. The applicant has agreed to and provided adequate insurance, bonding and indemnification to protect the City and its residents from injury or liability relating to or arising from the proposed small wireless facilities and support structures;
5. The applicant has entered into the franchise or right-of-way use agreement with the City required by Section 22-53(a);
6. The small wireless facilities, if located in a residential area, do not generate any appreciable noise; and
7. The use of a public right-of-way or the attachment of small wireless facilities to public assets by a small wireless provider may not obstruct or hinder the legal use of the public right-of-way or public assets by others.

(Sec. 22-54(a)(b) amended by EO-2-19, adopted 4/1/19, effective 4/1/19)

Sec. 22-55. Exceptions.
CHAPTER 23

SPECIAL TAXING DISTRICTS

Sec. 23-1. Special Taxing District Defined.

(a) Definition. A Special Taxing District is an area within the corporate limits of the City of Bowie, Maryland for which a district is created by City ordinance for the purpose of financing projects, systems, facilities, programs or activities of special benefit to the district, through an ad valorem tax levied on real and/or personal property located within the special district.

(b) Authority. Pursuant to Article 23A ss 44 of the Annotated Code of Maryland and Section 89.1 of the City Charter, a Special Taxing District may be created for purpose of financing the design, construction, establishment, extension, alteration or acquisition of adequate storm drainage systems, for the purpose of financing the design, acquisition, est ablishment, extension, improvement, establishment, improvement, extension, operation, alteration or maintenance of street and area lighting and for the purpose of financing the design, acquisition, establishment, improvement, extension, operation, alteration, or maintenance of a ride sharing or bus system and levy on all real and personal property within the district an ad valorem tax at a rate sufficient to provide adequate annual revenues to pay the principal and interest on obligations incurred for the district and the costs of operating and maintaining district facilities and activities.

(c) District Administration. The City Manager shall administer the districts and systems, facilities, programs and activities operated and maintained as a part thereof, and may take all actions necessary for the effective and efficient management of the districts including, without limitation:

1. Establishing policies and issuing regulations;
2. Proposing an annual budget and tax levy which shall provide sufficient revenues to pay the costs as they come due of any bonds or obligations, and the costs of operating and maintaining the facilities or activities, including reserves for restoration, repair and replacement;
3. Contracting for the provision of materials and services in accordance with City Charter and subject to the availability of budgeted and appropriated funds for the district; and
4. Providing for the consolidation of programs and activities and the sharing of systems, facilities and funds among the districts and the City for the benefit of the district or districts involved.

(d) Budget and Appropriation. The Council shall adopt annual budgets for the districts which shall include the costs of paying the principal and interest on obligations incurred for the district as they become due and the costs of designing, constructing, acquiring, establishing, extending, altering, operating and maintaining district facilities, including land acquisition costs, the cost of administrative, professional or support services provided by the City, and any other item of cost which may reasonably be attributed to the district. Funds for the districts shall be budgeted and appropriated in the same manner as for the City generally and may be done concurrently with the City's budget and appropriation process.
(e) **Tax Levy.** As provided in the ordinance establishing the district's annual budget, an *ad valorem* tax shall be levied annually on all the real and/or personal property in the district at a rate sufficient to provide adequate revenues to pay for the budgeted costs of the district. The tax shall be levied in the same manner, upon the same assessments, and for the same periods, and shall be collected and enforced as other City taxes.

**Sec. 23-2. Special Stormwater Management Taxing Districts.**

(a) **Purpose:**

1. The purpose of a Special Storm Water Management Taxing District is to establish a means of alleviating, at least partially, increased storm water and drainage management problems such as flooding, erosion and water pollution due to increased development in certain portions of the City which may thereafter affect the health, safety and welfare of the inhabitants of the City of Bowie.

2. Chapter 21B of the Code limits City responsibility for the costs of stormwater management maintenance to residential properties. Special stormwater management districts may be established and taxes levied therein to provide off-site stormwater management facilities for commercial, industrial or institutional properties, as defined in Chapter 21B, and to pay the costs of operating and maintaining such facilities.

(b) The following are the Special Stormwater Management Taxing Districts within the City of Bowie:

I. **University of Maryland Science and Technology Center**
   Established by Ordinance No. O-19-87, dated May 4, 1987. The Special Taxing District encompasses 481.273 acres located in the University of Maryland Science and Technology Center, Seventh Election District, Prince George's County, Maryland, and more fully described in O-19-87 on file in the City Clerk-Treasurer's Office.

II. **Bowie New Town Center**
   Established by Ordinance No. O-20-87 dated December 21, 1987, and amended by O-11-91, dated May 20, 1991, O-4-96 dated May 20, 1996 and O-20-98 dated November 16, 1998. The Special Taxing District encompasses a 180.023 acre parcel, more or less, of land located in the Bowie New Town Center, Seventh Election District, Prince George's County, Maryland and more fully described in O-20-98 on file with the City Clerk's Office.

III. **Highbridge**
   Established by Ordinance No. O-28-88 dated October 17, 1988. The Special Taxing District encompasses 11.794 acres located in the Highbridge area of the City of Bowie, Seventh Election District, Prince George's County, Maryland, and more fully described in O-28-88 on file in the City Clerk-Treasurer's Office.

IV. **International Renaissance Center**
   Established by Ordinance No. O-2-89 dated March 20, 1989, and amended by O-11-91, dated May 20, 1991 and O-22-98, dated November 16, 1998. The Special Taxing District Encompasses 113.6811 acres, more or less, located in the International Renaissance Center, Seventh Election District, Prince George's County, Maryland, and more fully described in O-22-98 on file with the City Clerk's Office.

V. **Pin Oak Plaza**
   Established by Ordinance O-16-90. The Special Taxing District encompasses a 14.2384 acre tract in the seventh election district of Prince George's County, Maryland, located east of Mitchellville Road and south of Maryland Route 197, and is more fully described in O-16-90 on file in the City Clerk-treasurer's office.
VI. Elder Oaks Apartments  
Established by Ordinance O-17-90. The Special Taxing District encompasses a 15.3105 acre tract in the seventh election district of Prince George's County, Maryland, located east and south of Pin Oak Village, and is more fully described in O-17-90 on file in the City Clerk-treasurer’s office.

VII. Collington Plaza  
Established by Ordinance O-7-95. The Special Taxing District encompasses a 12.7094 acre tract in the seventh election district of Prince George’s County, Maryland, as described in Attachment “A” attached to O-7-95 on file in the City Clerk’s-treasurer’s office.

(c) Administration. The City Manager, in consultation with the City Engineer, shall determine for each stormwater management district the percentage of the facility maintenance costs attributable to the district. The percentage shall be based on the area of development draining into the facility, the area of the district draining into the facility, and relative demand placed on the facility, based on run-off coefficients for type of development and soil cover, by the properties within the district. The City Manager shall further determine the estimated cost of operating and maintaining the facility over its useful life, adjusted for the staged development of the district, and provide for an annual tax levy sufficient to meet these long-term costs.  
(Sec. 23-2 VII added by O-5-95, adopted 6/5/95; Sec. 23-2 amended by O-5-96, adopted 5/20/96).

Sec. 23-3. Public Bus and Ride Share Systems Special Taxing Districts.

(a) Purpose: To establish a means of alleviating, at least partially, the effects of increased growth such as the need for new roadways, the replacement and/or rehabilitation of existing roadways and the provision of parking areas, and the establishment of a means by which citizens and visitors of the City may acquire better access to certain commercial and residential areas of the City.

(b) The following are the special bus and ride share systems public taxing districts:

I. The University of Maryland Science and Technology Center  
Established by Ordinance No. O-47-87 enacted 12-21-87. The Special Taxing District encompasses a 481.273 acre tract located in the University of Maryland Science and Technology Center, Seventh Election District, Prince George’s County, Maryland, and more fully described in O-47-87 on file in the City Clerk-Treasurer’s Office.

II. Bowie New Town Center  
Originally established by Ordinance No. O-47-87 enacted 12-21-87 and subsequently enlarged by O-17-88, enacted 4-18-88. The Special Taxing District encompasses a 335.5702 acre parcel of land located in the Bowie New Town Center, Seventh Election District, Prince George’s County, Maryland, and more fully described in O-17-88 on file in the City Clerk-Treasurer’s Office.

III. Pin Oak Village  
Established by Ordinance No. O-28-90. The Special Taxing District encompasses 97.9057 acres, more or less, in the Seventh Election District of Prince George’s County, Maryland, located east of Mitchellville Road and south of Maryland Route 197, and more fully described in Ordinance O-28-90 on file in the City Clerk office.

IV. Jenkins
Established by Ordinance No. O-29-90, the Special Taxing District compasses 113.7974 acres, more or less, the Seventh Election District of Prince George's County, Maryland, south of Pin Oak Village, and more fully described in O-29-90 on file in the City Clerk-Treasurer's office.

(c) Administration.

(1) The public bus and ride sharing system project or projects to be undertaken may include car pool formation and organization, van pool formation and organization, the acquisition, lease, operation and maintenance of buses and other public conveyances for the transportation of the public, and the operation of buses and other conveyances along such routes and at such schedules as are required for the prudent service of the public need, all in conjunction with the sound fiscal policy limitations determined by the Council and set forth in the annual budget of the district.

(2) The City Manager is hereby authorized and directed to enter into any agreement to determine the level and type of transportation services to be provided under this chapter, and to adopt regulations for the operation of the ride sharing and bus system. Such regulations may provide, among other things for equipment and/or services to be shared by two or more of the districts established under this section.

ARTICLE I. PENALTIES FOR DELINQUENT TAXES

Sec. 24-1. Penalties for delinquent taxes.

Pursuant to Md. Code Ann., Tax-Property Article, §14-703 there is hereby imposed on all taxes that are overdue and in arrears, a penalty of the rate of one percent (1%) of the amount overdue and in arrears for each month or fraction thereof until paid. This section shall apply to all such taxes based upon assessments made by either the State Department of Assessments and Taxation or any other authority, and applies to taxes upon tangible personal property by whomsoever assessed and subject to taxation in the City.

ARTICLE II. LOCAL SUPPLEMENT TO THE STATE HOMEOWNERS’ PROPERTY TAX CREDIT PROGRAM

Sec. 24-2. Definitions.

(a) Except as otherwise provided herein, the terms used in this article shall have the same meaning as set forth in Md. Code Ann., Tax-Property Article, §9-104, as amended or re-codified from time to time.

(b) “Eligible Homeowner” means a taxpayer within the City who has qualified for the State of Maryland Homeowners’ Tax Credit Program.

(c) “Program” means the City of Bowie Homeowners’ Tax Credit Local Supplement Program authorized by Md. Code Ann., Tax-Property Article, §9-215.1.

(d) “State Homeowners’ Property Tax Credit Program” means the tax credit program established by Md. Code Ann., Tax-Property Article, §9-104, as amended or re-codified from time to time.

(e) “Taxable Year” means July 1 to June 30, both inclusive, for which the City computes, imposes, and collects real property tax.

(f) “Total City Real Property Tax” and “City Property Tax Imposed on Residential Real Property” mean the sum of all City real property taxes for which an eligible homeowner has
property tax liability for a taxable year, but does not include City special assessments and charges or interest and penalties on overdue real property taxes.

Sec. 24-3. City homeowners' supplemental property tax credit.

(a) Eligible City homeowners automatically shall receive a property tax credit, as provided in this section, as a supplement to the State Homeowners' Property Tax Credit established by Md. Code Ann., Tax-Property Article, §9-104, as amended or re-codified from time to time. 
(b) The City Manager or his/her designee shall administer the Homeowners' Supplemental Tax Credit established by this section and is authorized to promulgate such additional rules and regulations as may be necessary for the efficient administration of the program, provided that such regulations shall comply with the provisions of this section.
(c) Except as otherwise expressly stated in this section or in the rules and regulations promulgated by the City Manager or the City Manager's designee pursuant to subsection (b) of this section, all eligibility requirements, restrictions, applications or other procedures that apply to the State Homeowners' Property Tax Credit Program shall also apply to the supplemental property tax credit established in this section.
(d) The amount of the homeowners' supplemental property tax credit established by this section for a given taxable year shall be twenty-five percent (25%) of the amount of the state homeowners' property tax credit.
(e) Notwithstanding the foregoing, the amount of the homeowners' supplemental tax credit established by this section shall not exceed the total City real property tax liability of the eligible homeowner for the taxable year in which the homeowners' supplemental tax credit is sought.
(f) The submission of a false or fraudulent application or the withholding of information by any person in order to obtain a homeowners' supplemental property tax credit under this section is a misdemeanor, and a person convicted of said offense shall be subject to a fine of not more than $1,000 or imprisonment for not more than one year or both for each violation.
(g) In addition to the criminal penalties set forth in subsection (f) of this section, if any, a person who has wrongfully obtained a homeowners' supplemental tax credit from the City shall repay the City for all amounts credited and all accrued interest and penalties that would apply to those amounts as overdue taxes, together with all court costs and expenses of the City incurred in any civil action initiated to collect said sums.

ARTICLE III. MISCELLANEOUS LOCAL TAX CREDITS.

Sec. 24-4. Tax Credits for manufacturing, fabrication, assembling, research and development facilities.

(a) In accordance with the provisions of Md. Code Ann., Tax-Property Article, §9-205, there is a tax credit against the real property tax imposed on real property that is used as the premises of manufacturing, fabricating, or assembling facilities that locate or expand in the County and meet the qualifications herein.
(b) As used in this section, "high technology" means any business entity that is primarily involved with the applications of engineering, life sciences, computer sciences, research and development, or produces materials, parts, or equipment used in the type of applications noted above.
(c) This article shall not apply to the portion of real property taxes imposed pursuant to the provisions of Chapter 23 of the City Code “Special Taxing Districts”.
(d) To qualify for real property tax credit under this section, a business entity must:
(1) Be primarily involved in high technology manufacturing, fabrication, assembling, or research and development, as determined by the County Executive applying the criteria set forth in the County regulations; and
(2) Construct, expand, or cause to be constructed or expanded, a building or buildings within the County, to include at least 5,000 square feet of gross floor area (as defined in Subtitle 27 of the County Code) to be occupied by said business entity; and
(3) Invest at least $500,000 in construction or expansion of said building or buildings; and

(4) Create at least ten (10) new permanent, full-time positions for said business entity to be located within said building or buildings. Neither the relocation of an existing position from any other location within the City to the new or expanded building or buildings nor the reclassification of a preexisting position shall constitute new positions for the purpose of this section.

(5) Determinations of qualifications and eligibility by the County shall be subject to review by the City Council for purposes of determining eligibility for tax credits under this section.

(e) For the first tax year immediately following the year in which the construction or expansion is completed and assessed, the tax credit shall be in an amount equal to one hundred percent (100%) of the amount of the City property tax imposed on the increased assessment attributable to the construction or expansion as determined by the Supervisor of Assessment. The tax credit shall be reduced to eighty percent (80%) in the second taxable year, sixty percent (60%) in the third taxable year, forty percent (40%) in the fourth taxable year, twenty percent (20%) in the fifth taxable year, and zero percent (0%) each taxable year thereafter. If the subject new or expanded building or buildings are leased to an eligible business entity, the lessor shall reduce by the amount of the tax credit computed under this section the taxes which the eligible business entity is contractually liable under a lease agreement. A property tax granted hereunder may not be granted for more than five (5) consecutive years. The total value of the tax credit over five (5) years may not exceed an amount equal to one hundred percent (100%) of the cost of the construction or expansion.

(f) A real property tax credit, except that granted by the County pursuant to Md. Code Ann., Tax-Property Article, §9-205, shall not be granted under this section if the new or expanded premises have otherwise been granted a tax credit or exemption under the Tax-Property Article of the Annotated Code of Maryland or the County Code for the taxable year.

(g) Application for the City tax credit established herein shall be made under oath on an application provided by the City Manager and shall include a copy of the application filed with the Director of Finance for the County. The application shall provide a legal description of the property, proof of a properly issued Use and Occupancy Permit applicable to the eligible improvements, and such other information or documentation as the City Manager may require to establish that the applicant can qualify for the tax credit.

(h) The City Manager, upon a determination by the City Council of the eligibility of the taxpayer for the tax credit, shall make such arrangements as may be required through notification to the State Department of Assessments and Taxation that a taxpayer has been approved for a property tax credit and the assessed value of the new or expanded premises.

(i) The City Manager shall verify that the taxpayer continues to satisfy the applicable thresholds to qualify for the property tax credit by requiring submission of reports by the taxpayer, as the City Manager deems necessary.

(j) A taxpayer that fails to satisfy the applicable threshold to qualify for a property tax credit required under this section during any year in which a credit was earned must repay the tax credit to the City.

(1) The City Manager shall notify the taxpayer of the failure to qualify, that the credit must be repaid and take such action as may be necessary to cause the repayment of the tax credit.

(2) Interest accrues on the tax credit repayment at the rate established for delinquent property taxes in Section 24-1 from 30 days after the date of notification by the City Manager.

(k) The City shall adopt such regulations as may be necessary to implement this section.

(l) A determination of qualifications and/or eligibility by the County shall not be binding on the City. The City shall have the right to consider covenants and agreements to which the City is a party with individual land owners in determining the qualification and eligibility of business entities applying for a tax credit under this section.

Sec. 24-5. Tax credit for certain law enforcement officers and rescue workers or surviving spouses.
(a) Definitions. In this section, the following words have the meanings indicated:

(1) "Correctional Officer" has the meaning described in Md. Code Ann., Correctional Services Article, §§8-201(e).

(2) "Disabled law enforcement officer or rescue worker" means a law enforcement officer, correctional worker, or rescue worker with a disability that arises out of and in the course of employment or service as a rescue worker and who has been found to be permanently and totally disabled by an administrative body or court of competent jurisdiction authorized to make such a determination.

(3) "Dwelling" means real property that is the legal residence of a disabled law enforcement officer or rescue worker or a surviving spouse and occupied by not more than two families, and the term includes the lot or curtilage and structures necessary to use the real property as a residence.

(4) "Eligible dwelling" means a dwelling located within the City that is eligible for the tax credit created by subsection (c) of this section.

(5) "Fallen law enforcement officer or rescue worker" means a law enforcement officer, correctional officer, or rescue worker who has died and whose death arises out of and in the course of the individual's service as a law enforcement officer or rescue worker.

(6) "Law enforcement officer" has the meaning described in Md. Code Ann., Public Safety Article, §3-101(e).

(7) "Rescue worker" means a volunteer or professional (career) firefighter or a volunteer or professional (career) emergency medical services provider licensed or certified by the State Emergency Medical Services Board as a cardiac rescue technician, an emergency medical dispatcher, an emergency medical technician-basic, an emergency medical technician-paramedic; or a first responder.

(b) Exclusion. Notwithstanding any provision in subsection (a) to the contrary, "disabled law enforcement officer or rescue worker" or "fallen law enforcement officer or rescue worker" does not include an individual whose disability or death is the result of the individual's own willful misconduct, or abuse of alcohol or drugs, or the result of an occupational disease which did not result from an accidental injury within the meaning of those terms under the Maryland Workers' Compensation Act.

(c) Creation. Pursuant to Md. Code Ann., Tax-Property Article, §9-210, there is a tax credit against City real property taxes levied on a dwelling located within the City that is owned and occupied by a disabled law enforcement officer or rescue worker or a surviving spouse if:

(1) The dwelling was owned by the disabled law enforcement officer or rescue worker at the time the law enforcement officer or rescue worker was adjudged to be permanently and totally disabled or by the fallen law enforcement officer or rescue worker, either individually or jointly with a surviving spouse, at the time of the fallen law enforcement officer's or rescue worker's death; or

(2) The disabled law enforcement officer or rescue worker, the fallen law enforcement officer or rescue worker, or the surviving spouse was domiciled in the State as of the date of the law enforcement officer or rescue worker was adjudged to be permanently and totally disabled or as of the date of the fallen law enforcement officer's or rescue worker's death and the dwelling was acquired by the disabled law enforcement officer or rescue worker or the surviving spouse within two years of the date the law enforcement officer or rescue worker was adjudged to be permanently and totally disabled or the date of the fallen law enforcement officer or rescue worker's death; or

(3) The dwelling was acquired after the disabled law enforcement officer or rescue worker or the surviving spouse qualified for a credit for a former dwelling under subsections (c)(1) or (c)(2), to the extent of the previous credit.

(d) Calculation. The tax credit provided in this section shall be equal to 100% of the total tax due to the City on an eligible dwelling based on the real property assessment made by the Prince George's County Supervisor of Assessments.

(e) Cessation. The tax credit provided by this Section shall cease upon:
(1) A determination that the law enforcement officer or rescue worker is no longer permanently and totally disabled by the administrative body or court of competent jurisdiction authorized to make such a determination; or
(2) The remarriage of a surviving spouse of a fallen law enforcement officer or rescue worker; or
(3) The sale or other transfer of the eligible dwelling to someone other than a disabled law enforcement officer or rescue worker or to someone other than the surviving spouse of a fallen law enforcement officer or rescue worker.

(f) Application, implementation, verification, and repayment.
(1) Application. Application for the City tax credit established herein shall be made under oath on an application provided by the City Manager. The application shall provide a legal description of the property and proof that the dwelling is owned by a disabled law enforcement officer or rescue worker or the surviving spouse of a fallen law enforcement officer or rescue worker and such other information or documentation as the City Manager may require to establish that the applicant is qualified for the tax credit.
(2) Implementation. The City Manager, upon a determination of the eligibility of the taxpayer for the tax credit, shall make such arrangements as may be required through notification to the Prince George’s County Supervisor of Assessments that the taxpayer has been approved for a property tax credit in the amount of 100% of the City property tax imposed thereon.
(3) Verification and repayment.
   (i) Verification. The City Manager shall verify that the taxpayer continues to be qualified for the property tax credit authorized by this Section by requiring submission of such appropriate annual certifications by the taxpayer, accompanied by such proof of eligibility as the City Manager deems necessary.
   (ii) Repayment. A taxpayer who fails to satisfy the applicable qualifications for a property tax credit under the section during any year in which a credit is applied to a dwelling must repay the tax credit to the City. The City Manager shall notify the taxpayer of the failure to qualify and that the credit must be repaid and shall take such action as may be necessary to accomplish the repayment of the tax credit. Interest shall accrue on the tax credit repayment at the rate established for delinquent property taxes in section 24-1 from 30 days after the date of notification by the City Manager.

Sec. 24-6. Tax credit for nonprofit swim clubs.

(a) In accordance with the provisions of Md. Code Ann., Tax-Property Article, §9-244, as amended from time to time, and the terms defined therein, there is a tax credit against the real property tax imposed on a nonprofit swim club that uses its facility exclusively to provide a recreational outlet for a local community.
(b) The amount of the tax credit shall be the full amount of the real property tax imposed pursuant to Md. Code Ann., Tax-Property Article, §6-203 by the City of Bowie. Tax credits shall be available on an annual tax year basis.
(c) An application for the tax credit shall be submitted to the Director of Finance no later than April 1 prior to the tax year for which the credit is being requested.
(d) The Director of Finance shall determine the amount of the tax credit and place a credit on the appropriate account.
(e) The Director of Finance is authorized to develop an application form and establish procedures to administer the tax credit established in this section.
(f) An owner of real property who has applied for the tax credit established in this section may appeal to the Maryland Tax Court the denial of the tax credit if notice of the appeal is made on or before thirty (30) days from the date that the Director of Finance mails the notice of the determination.
(Chapter 24 repealed and re-enacted by Ordinance O-15-15, adopted 11/23/15, effective 12/23/15)
CHAPTER 24A

REFUND OF EXCESS SPECIAL TAXING

DISTRICT REVENUES


Section 24A-1: Definitions.

(a) "Excess special taxing district revenues." Revenues produced from an annual levy within a special taxing district in excess of one hundred fifteen percent (115%) of the amount budgeted and appropriated in the Annual Budget Ordinance to retire the debt on bonds, notes or other evidences of indebtedness and to maintain and operate the activities and facilities funded by the special district taxes.

(b) "Special Taxing District." A special district created by Ordinance of the Council of the City of Bowie, Maryland in accordance with the authority contained in Sections 88 and 89 of the Charter of the City of Bowie, Maryland, and Article 23A, Section 44 of the Annotated Code of Maryland.

Section 24A-2. Refund of Special Assessment Tax Levies.

The Council shall authorize the refund of excess special taxing district revenues upon making the following findings:

1. An application for a refund has been submitted to the Director of Finance.
2. The revenues produced by the special district tax levy exceed One Hundred Fifteen Percent (115%) of the budgeted and appropriated expenditures for the facilities and activities financed by the special district tax.
3. The refund of excess special taxing district revenues will not impair the fiscal stability and integrity of the special taxing district and the facilities and activities funded thereby.
4. The refund to be made is from tax payments actually received by the City.
5. The taxpayer who has applied for the refund has paid all sums owed by that taxpayer to the City for any reason, including interest and penalties, if any.
6. The City Manager and City Director of Finance have recommended that the refund be made.

Section 24A-3. Interest.

No interest shall be paid on any refund authorized for excess special district taxes.

Section 24A-4. Calculation of Refund.

The Director of Finance will calculate the refund authorized by this Chapter so that, upon proper application and approval, each taxpayer entitled to a refund will receive an amount which bears the same proportion to the total special taxing district excess revenues as the taxpayer's assessable base bears to the total assessable base of the special taxing district.
CHAPTER 25.

WATER AND SEWER SYSTEM.

Article I. In General


Article II. Connections.

25-7A. Water and Sewer Service Areas.
25-8. Applications—Required; content, order of review.

Article III. Use of Sewer System.


Article I. In General.

Sec. 25-1. Water Wells and Water Conservation.

The provisions of this Chapter shall apply to all persons using water in the City.

(a) The City Manager, shall develop regulations that will conserve and, if necessary, prohibit or restrict certain uses of water in the City including, but not limited to, the prohibition or restricted use of water for watering yards, washing of automobiles, trucks or campers, washing of sidewalks, operation of ornamental fountains and the filling of swimming pools which regulations within the City may apply to the use of all water emanating from City and private wells which affect the amount of water available for public use.

(b) The City Manager, after consultation with appropriate health officials, shall have the authority to permit a reasonable exemption from the regulations in any case necessary to the health of the residents of the City.

(c) The regulations developed by the City Manager shall be publicly posted and advertised at least ten (10) days prior to their effective date and shall remain publicly posted for the duration of any conservation or periods of limitations.

(d) Violations of regulations developed by the City Manager under this section, or of any provisions of this Chapter, are municipal infractions, subject to the penalty and enforcement provisions of Chapter 1, Section 6 of this Code. (Sec. 25-1(d) amended by O-17-94, adopted 10/3/94).

Sec. 25-2 to 25-5. Reserved for future legislation.
Article II. Connections.


In estimating the quantity of water use or sewer discharge the criteria shall be a publication entitled "Design Guidelines for Sewerage Facilities" Technical Bulletin M-DHMH-EHA-S-001 prepared by the Environmental Health Administration Department of Health and Mental Hygiene State of Maryland-1978 Edition.

Sec. 25-7. Definitions.

As used in this Article, the following definitions shall apply unless a contrary meaning is clearly intended from the context in which the term appears.

"City's engineer." A licensed engineer retained by the City.

"Standards." Descriptions which establish engineering or technical limitations or applications for materials, processes, methods, designs and other engineering practices.

Sec. 25-7A. Water and sewer service areas.

(A) Defined.

(1) Service area: Indicates availability of extending water and sewerage service to properties.

(2) Water and sewer category 1: Areas that abut a public right of way in which a sanitary sewer or water main is located and which may be adequately serviced without improvements or upgrades to the existing system or for which fully approved and funded plans exist for any off-site improvements determined necessary by the City Engineer.

(3) Water and sewer category 2: Areas which require extensions of a sanitary sewer or water main or off-site improvements in order to be adequately served.

(4) Water and sewer category 3:

(a) Areas where there is no planned service; and
(b) Areas which have been reclassified to Water and Sewer Category 3 status pursuant to Section 25-10(d)(4) of this Chapter.

(B) Requirements applicable to each water and sewer service area.

1. Water and sewer category 1: No request for category 1 designation shall be considered or approved unless the property proposed for service is located within the corporate limits of the City and applicant has submitted the following items or information with the application:

a) Approved Preliminary Subdivision Plan or Comprehensive Design Plan.

b) Approved Conceptual Site Plan (where Preliminary Subdivision Plans are not mandatory).

c) Approved Stormwater Management Concept Plan for the project.

d) Identification of builder.

e) Architectural renderings.

f) Detailed Staging Plan for implementation of the project.

g) Water and sewer category 2 conditional approval.

2. Water and Sewer Category 2: No request for category 2 designation shall be considered approved unless the applicant has submitted the following items or information with the application.

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a) Verification that the applicant has filed a Preliminary Subdivision Plan or Comprehensive Design Plan which has been accepted by the M-NCPPC.
b) Identification of the potential builders.
c) Verification that the applicant has filed a Conceptual Site Plan (where Preliminary Subdivision Plans are not mandatory) which has been accepted by the M-NCPPC.
d) A description of the proposed Staging Plan for the development.
e) Verification that the proper zoning exists for the use proposed.
f) Verification of conceptual approval of any off-site improvements to the City Water and Sewer System determined by the City Engineer to be necessary to accommodate the requested connection.

3. Water and sewer category 3: Water and sewer category 3 consists of all areas not included in water and sewer categories 1 and 2. (Sec. 25-7A(B)1. amended by O-10-95, adopted 6/26/95).

Sec. 25-8. Applications-Required; contents; order of review.

(a) Every property owner desiring to connect to the Bowie Water and Sewer System shall apply to the City of Bowie for permission to connect. The application shall be dated and signed by the owner, and contract purchaser if applicable, and shall include:

1) The estimated gallonage of sewer discharge per day.
2) The estimated gallonage of water consumed per day.
3) The statement of the quantities and characteristics of expected wastes.
4) An accurate description of the location and size including an approved subdivision record plat of the property to be served; and
5) Project name and description of project including:

(a) If residential property:
   i) Acreage
   ii) Types of units proposed
   iii) Number of each type of unit
   iv) Minimum floor area for each type of unit
   v) Minimum sale/rent value per unit
   vi) Tree conservation plan in accordance with the County Woodland Conservation/Tree Preservation law or other applicable City ordinances.

(b) If commercial, office or industrial property:
   i) Acreage
   ii) Type of buildings proposed
   iii) Number of each type of building
   iv) Number of floors in each building
   v) Total floor area
   vi) Minimum sale/rent value per square foot
   vii) Tree Conservation Plan in accordance with the County Woodland Conservation/Tree Preservation Law or other applicable City ordinances.
   viii) Specific proposed uses.

6) Current and/or proposed zoning of the property to be served.
7) An 8-1/2" x 11" copy of the tax map on which the property appears with the property lines clearly delineated.
8) Architectural renderings.
9) Identification of the builders.
10) A designation of the water and sewer category requested in the application.
(11) Engineering plans showing alignment of proposed facilities and points of connection to existing water and/or sewer system.

(b) The applicant shall furnish such additional information as may be required in writing by the City Manager or City's engineer.

(c) The application will be numbered sequentially immediately upon a determination by the City Manager that the submission is complete. Unless assigned a priority status by the City Council as hereinafter provided, applications will be reviewed by staff and scheduled for public hearing in chronological order based upon the numerical assignment issued by the City Manager.

Applications in the categories set forth below may be assigned a priority status after public hearing and only upon an affirmative finding by the City Council that the public health, welfare or safety will be served by according priority status and expedited processing to a particular application:

(i) An application filed by a public agency.
(ii) An application for property with a failing septic system or well water which is not potable.
(iii) An application for a property which is the subject of an executed agreement whereby the applicant agrees to fund an expansion of the water and sewer system.
(iv) An application for a property whose development will confer a significant benefit to the citizens of Bowie and to the economic, educational, or cultural development of the City of Bowie and its environs.

The assignment of a priority status will result in an expedited review and scheduling for public hearing for designation of water and sewer categories 2 and 1.

(d) The applicant shall advise the City of any changes in the information submitted with the application including changes in the proposed use(s) for the property by submitting a supplemental statement or revised application to the City. The City Manager may require the supplemental statement or revised application to undergo additional review. If the City Manager determines, upon the City Engineer's recommendation, that the proposed amendment to an application for water and sewer category 2 designation constitutes a substantial and material change from an original application, the amended application will be given a new numerical assignment. A substantial and material amendment to an application for water and sewer category 1 designation may also result in a new review number but shall not affect the capacity allocated pursuant to a conditional approval.

(e) The City Council may establish a non-refundable application review fee.

Sec. 25-9. Same--Administrative review.

(a) The application shall be reviewed by the City Manager, who shall refer the application to the City's engineer for a recommendation. The recommendation shall include sufficient justification, based on the engineer's expertise, to enable the City Manager to determine the specific reasons for a positive or negative recommendation. The City Engineer shall submit his report and recommendations to the City Manager within sixty (60) days of filing. Any amendments, changes, or revisions to the application submitted by the applicant will be reviewed by the City Engineer in a timely manner.

(b) The City's engineer shall review the application and any amendments, changes or revisions thereto to assure its compatibility with the system and shall make the following determination:

(1) The amount of charges which would be incurred on the property subsequent to its connection with the system.
(2) The amount of additional load requested by the application.
(3) The total load which the system would service if the application were approved.
(4) The percentage of system capacity which would be utilized if the application were approved.
(5) The effect of approving this connection in terms of possible future overloads of the system. The City's engineer shall evaluate and report to the City Manager on the system's capacity to service future requests for connections as computed by generally accepted standards.
(6) Whether the proposed alignment for service connections is the most effective means of preserving trees, and other environmentally sensitive or historically significant land characteristics, taking into consideration the engineering requirements of the proposed connection and the disruption, if any, to existing public or private facilities.

(7) Whether the proposed connection requires an extension or upgrade to the existing City of Bowie Water and Sewer System.

(8) Whether the total load which the System would service if the application were approved leaves sufficient remaining capacity to accommodate public safety emergencies.

(c) The City Manager shall also refer the application to the City Planning Director who shall review the application and any amendments, changes, or revisions thereto to evaluate the development's compatibility with adopted and approved master plans, the zoning of the affected property and adopted City policies. The City Planning Director shall submit his report and recommendations on the original application to the City Manager within thirty (30) days of filing and shall submit recommendations on any amendments, changes, or revisions in a timely manner. The recommendations shall include sufficient justification to enable the City Manager to make a positive or negative recommendation to the City Council.

(d) The City Manager shall refer the application to such other agencies as may be required by law, or whose review will assist the City Manager in formulating a recommendation, for review and comment prior to the public hearing held pursuant to Section 25-10 of the Code of the City of Bowie.

(e) After the receipt of all required reports, the City Manager shall prepare his report for submission to the City Council and shall include a recommendation for approval or denial of the requested category designation, based upon the facts and recommendations of the City Engineer, City Planning Director and any other applicable reviewing agencies.

(f) The applicant shall pay the following costs:

(1) On-site plumbing inspection fees levied by the Washington Suburban Sanitary Commission.

(2) Any engineering services performed by the City's engineer to evaluate the feasibility of a proposed connection.

(3) All other costs imposed by other law or ordinance of the City.

(4) All other costs imposed by any other public body having jurisdiction.

(g) The applicant shall be responsible for any needed extension of the system to his property according to specifications acceptable to the City, subject to inspection during construction by the City and approval of construction when completed in conformity with said specifications and any building codes or other applicable laws, all at the sole cost and expense of the applicant.

Sec. 25-10. Procedure for approval.

(a) Public hearing. The Council shall hold a public hearing within sixty (60) days of receipt of the report from the City Manager giving not less than ten (10) days prior notice, published in one or more newspapers, as may be necessary to assure general circulation throughout the City.

(b) Consideration for decision. In arriving at a decision after hearing to approve or reject an application the Council may consider the following:

(1) Whether or not the system can handle the quality and quantity of the proposed added load.

(2) Whether or not the added service will give rise to or eliminate a public health hazard.

(3) Whether or not the added service will give rise to a nuisance due to odor or unsightly appearance.

(4) Whether or not the applicant meets the requirements of such other agencies that may be empowered to pass on the application.

(5) The City Manager's report.

(c) Notice of decision. All applicants shall be notified, in writing, of approval or denial, with stated reasons for denial of the application.

(d) Approval.

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1. Amendment.
A conditional or final approval is subject to review and reevaluation if there is a material amendment, change or revision to any of the information, facts or circumstances contained in the original application.

2. Conditional Approval.
A property which has received a water and sewer category 2 designation will receive an allocation of reserved capacity and will be given priority consideration for final approval to connect to the City Water and Sewer System when the criteria for a water and sewer category 1 designation have been met and the applicant has made arrangements which are satisfactory to the City for the required extensions or improvements, if any, to the existing system. Prior to conditional approval, the City Manager or his designee shall confirm that the applicant has met all of the requirements set forth in the law.

3. Final Approval.
Final approval of an application to connect to the City Water and Sewer System may only be given for properties having a water and sewer category 1 designation. Prior to final approval, the City Manager or his designee shall confirm that the applicant has met all of the requirements set forth in the law.

4. Expiration of Approval.
   (a) Conditional approval will expire and thereafter become null and void if applicant has not received or applied for final approval within two (2) years from the date conditional approval was received, unless the failure is caused by a governmentally imposed service moratorium, in which case the two (2) year conditional approval period will be automatically extended for a period equal to the length of the delay caused by the moratorium. Upon expiration of a conditional approval, an applicant will be required to reapply for conditional approval in the manner provided herein for an original application. An applicant's failure to apply for final approval prior to the expiration of the original conditional approval period will result in automatic reclassification of the property to a water and sewer category 3 status and capacity reserved for the property shall be released and available for allocation to other applicants. Applicant is responsible for making a timely application for final approval.
   (b) A final approval given pursuant to this chapter shall expire and thereafter become null and void if connection to the City Water and Sewer System has not occurred within two (2) years from the date of original final approval unless:
      (i) The applicant has reapplied for an extension of the original final approval prior to its expiration; or
      (ii) The failure to connect is caused by a governmentally imposed service moratorium in which case the final approval period will be automatically extended for a period equal to the length of the delay caused by the moratorium. An original final approval will be automatically extended one time only for a one (1) year period if the applicant applies for the extension prior to the expiration of the original approval period. An applicant's failure to apply for an extension of the original final approval prior to its expiration will result in an automatic reclassification of the property to a water and sewer category 3 status and the capacity reserved for the property shall be released and available for allocation to other applicants. It is the applicant's responsibility to make a timely application for an extension of an original final approval.
   (c) No building permit shall be issued by the City without a final approval issued pursuant to this chapter and payment of all connection fees and other charges imposed pursuant to this chapter.
   (d) No subdivision plans, maps or plats which provide for connection to City facilities shall be recommended for approval by the City Council unless the applicant has obtained conditional approval pursuant to this chapter.
   (e) Applicability of common law and rules of evidence. The Council, in hearings conducted under this section, shall not be bound by common law or statutory rules of evidence.

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(h) Judicial review. All final determinations of the council shall be reviewable by the Circuit Court for Prince George's County in accordance with Chapter 1100, Subtitle B, "Administrative Agencies-Appeal From" of the Maryland Rules, provided that notwithstanding the provisions of Subtitle B, Chapter 1100 the decision of the circuit court for the county shall be final and no further appeal will be filed with the State Court of Appeals or any other state appellate court, either by way of mandamus, injunction, certiorari or otherwise.

Sec. 25-11. Exemptions.

(a) Where the Council finds that compliance with all requirements of this Chapter would result in undue hardship or be contrary to the public interest, an exception from one or more such requirements may be granted by the Council to ameliorate such undue hardship or detriment to the public interest to the extent such exemption can be granted without impairing the intent and purpose of this chapter.

(b) The Council maintains the right to reserve sufficient utility connections required for public use.

Article III. Use of Sewer System.

Sec. 25-12. Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this Chapter shall be as follows:

1. "BOD" (denoting Biochemical Oxygen Demand). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20°C, expressed in milligrams per liter.

2. "Industrial Wastes." The liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.


4. "Slug." Any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour Concentration or flows during normal operation.

5. "Suspended Solids." Solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

6. "Building Drain." The part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the inner face of the building wall.

7. "Building Sewer." The extension from the building drain to the public sewer or other place of disposal.

8. "Garbage." Solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, or sale of produce.


10. "Wastewater." A combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and storm waters as may be present.

11. "Properly Shredded Garbage." The wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension.

13. "Public Sewer." A sewer in which all owners of abutting properties have equal rights, and is controlled by the City.

14. "Sanitary Sewer." A sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

15. "Sewage." A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments.


17. "Sewage Works." All facilities and pipe lines for collecting, pumping, treating, and disposing of sewage.

18. "Sewer." A pipe or conduit for carrying sewage.

19. "Shall" is mandatory; "May" is permissive.

20. "Storm Drain" (sometimes termed "Storm Sewer"). A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

21. "Natural Outlet." Any outlet into a water-course, pond, ditch, lake, or other body of surface or groundwater.

22. "Person." Any individual, firm, company, association, society, corporation, or group.

23. "Owner" shall mean the City.

24. All terms not defined in this article shall have the same meaning as that defined in "Glossary Water and Wastewater Control Engineering", prepared by a joint editorial board representing the American Public Health Association, the American Society of Civil Engineers, the American Water Works Association, and the Water Pollution Control Federation, copyright 1969.

Sec. 25-13. Use of Public Sewers.

(a) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City Manager.

(b) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

(c) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

1. Any gasoline, benzene, naptha, fuel oil, or other flammable or explosive liquid, solid, or gas.

2. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) mg/l as CN in the wastes as discharged to the public sewer.

3. Any waters or wastes having a pH lower than six (6.0), or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

4. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags feathers, tar, plastics, wood, ringround garbage, whole blood, paunch, manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc. either whole or ground by garbage grinders.

(d) No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the City Manager that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the City Manager will give consideration to such factors.

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as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

1. Any liquid or vapor having a temperature higher than one hundred (100) F (38 C).
2. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of fifty (50) mg/1 or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred (100) F (0 and 38 C).
3. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the City Manager. "Properly shredded" means that no solids shall have a maximum dimension of more than two (2) inches.
4. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
5. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the City Manager for such materials.
6. Any waters or wastes containing phenols or other taste or odor-producing substances, in such concentrations exceeding limits which may be established by the City Manager as necessary, after treatment of the composite sewage, to meet the requirements of the State, Federal, or other public agencies of jurisdiction for such discharge to the receiving waters.
7. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the City Manager in compliance with applicable State or Federal regulations.
8. Any waters or wastes having a pH in excess of eight and one half (8.5).
9. Materials which exert or cause:
   (1) Unusual concentrations of inert suspended solids such as, but not limited to, Fullers earth, lime slurries, and lime residues or of dissolved solids such as, but not limited to, sodium chloride and sodium sulfate.
   (2) Excessive discoloration such as, but not limited to, dye wastes and vegetable tanning solutions.
   (3) BOD or chemical oxygen demand in excess of 300 mg/1, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
   (4) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
10. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
11. Suspended solids in excess of 300 mg/1 or dissolved solids in excess of 700 mg/1.

(e) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in paragraph (f) of this Section, and which in the judgment of the City Manager, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the City Manager may:
   1. Reject the wastes.
   2. Require pretreatment to an acceptable condition for discharge to the public sewers.
   3. Require control over the quantities and rates of discharge, and/or
   4. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of paragraph (j) of this Section.

If the City Manager permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the City Manager, and subject to the requirements of all applicable codes, resolutions and laws.

(f) Grease, oil, and sand interceptors shall be provided when, in the opinion of the City Manager, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or
any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Administrator, and shall be located as to be readily and easily accessible for cleaning and inspection.

(g) Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

(h) When required by the City Manager, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the City Manager. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

(i) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this resolution shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from twenty-four (24) hour composites of all outfalls whereas pH's are determined from periodic grab samples.

(j) No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the City of Bowie and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefore, by the industrial concern.

Sec. 25-14. Protection from Damage.

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works.

Sec. 25-15. Powers and Authority of Inspectors.

(a) The City Manager and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Chapter. The City Manager or his representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

(b) While performing the necessary work on private properties referred to in paragraph (a) above, the City Manager or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company. The company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in paragraph (a).

(c) The City Manager and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purpose of, but not limited to, inspection, observation, measurement,
sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

**Sec. 25-16. Enforcement.**

(a) Any person found to be violating any provisions of this Chapter except Section 25-14 shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(b) Any person violating any of the provisions of this Chapter shall become liable to the City for any expense, loss or damage occasioned the City by reason of such violation.

(c) Water and sewer service may be denied any person refusing to allow admission or testing by a City Inspector as provided by this Chapter, subject to thirty (30) days advance notice before discontinuance of service and to the opportunity for a hearing before the City Manager within said thirty (30) days to show that such admission and testing has been allowed.

(Chapter 25 amended by O-4-91, adopted 3/18/91, effective 4/17/91)
CHAPTER 26.

ZONING.

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Article I. In General.

Sec. 26-1. Definitions.

1. "Fence." Any structure, barrier or partition having the effect of or erected for the purpose of enclosing a piece of land, dividing a piece of land into distinct portions, separating two contiguous estates, or stopping and/or creating an obstacle to pedestrian crossings; and consisting of a section or sections of any type of fencing material, chain, railing, arbor, trellis, blocks, bricks, stones, wood, iron wire, plastics, concrete or any other building or construction material; provided, however, that a
structure which is solely for decorative purposes shall not constitute a fence, as long as such structure does not exceed four (4) feet in height, and provided that such structures on any residential lot do not, in total, consist of more than four (4) eight (8) foot sections, with no more than two (2) such sections being connected or located within twelve (12) feet of each other. The length of the materials shall be measured at their longest point. Such decorative structures shall be landscaped along their total length with bushes, shrubs, plants or flowers.

2. "Inoperative Vehicle." A motor vehicle that is missing any of the following: its engine, tires, steering wheel, transmission, windows, fender, bumper, hood, or not displaying valid license plates for that vehicle or is partially dismantled or wrecked or having one or more flat tires or that is otherwise unable to be moved under its own power.

3. "Vehicle, commercial." Any motor vehicle not qualifying as a camping vehicle or passenger vehicle as defined in this Section designed or used for carrying freight, merchandise, passengers or tools of a trade for compensation or in furtherance of any commercial enterprise.

4. "Vehicle, passenger." Any motor vehicle licensed by the State of Maryland as a Class A or Class D motor vehicle, or an panel van under three hundred (300) cubic foot load space capacity, and any pick up truck with a capacity of three-quarters (3/4) of a ton or less, which has no lettering on the vehicle exceeding four (4) inches in height.

5. "Camping Vehicle." A vehicle, originally sold to the consumer by a manufacturer or dealer for recreational purposes, which is self-propelled or capable of being towed by a passenger motor vehicle and which provides facilities for temporary camping or sleeping or both including a unit designed to be carried by an open pick up truck. The term camping vehicle includes "travel trailer," "camper," "recreational vehicle," "motor home," and "truck camper."

6. "Cargo Trailer." Any vehicle which is capable of being towed by a passenger or commercial motor vehicle and designed or used to store, haul, or transport merchandise, freight, refuse, or other materials whether used for private or commercial purposes and all those vehicles which were converted from other uses for such purposes.

7. "Commercial/Industrial Building Products and Machinery." Welders, air compressors, steel building components, oil drums, blocks, lumber, bricks, stones, wire, plastics or any other building or construction material.

8. "Unpaved Area." Any parking surface not completely covered by asphalt, brick, block, or concrete.

9. "Controlled hazardous substance." Any hazardous substance that the Maryland Department of the Environment or any successor department or agency identifies as a controlled hazardous substance or low level nuclear waste.

10. "Storage Shed or Shed." Any small structure, either free-standing or attached to a larger structure, serving as storage for residential uses.

11. "Watercraft." Jet skis, personal watercraft, powerboats, inflatable boats, catamarans, sailboats, and pontoon boats. Watercraft does not include canoes and kayaks, which are propelled by paddle or oar. (Sec. 26-1, 10 & 11 added by O-02-90).

12. "New Development". Any development proposed within the City of Bowie for which building permit applications are submitted subsequent to the effective date of Ordinance No. O-02-90 of the City of Bowie.

13. "Accessory Building." A building subordinate to, and located on the same lot with a main building and used for an accessory use; structures used for the benefit of a main building.
14. "Carport." A roof projecting from the main building, capable of being used as a shelter for an operable vehicle, whether screened and/or partially enclosed or not.

15. "Private Parking Garage." A building used for housing private motor vehicles only one of which may be a commercial vehicle.

16. "Residential Storage: The keeping or storing of items relating to, or items which are suitable for use in connection with, the place where one lives.

(Sec. 26-1 amended by O-30-90 by adding 12, 12, 14, 15, 16, adopted 12/17/90);
(Sec. 26-1, Subsec. 3, 5 and 8 amended by O-12-92, adopted 10/19/92).

17. "Apparent Front Yard." The area of a residential lot between that part or parts of the building which appear(s) to be its front because of its architectural features and orientation to a publicly dedicated street or private street or private parking area and the dedicated street.

18. "Front Yard." Front yard area shall be that area between the front of a structure and the publicly dedicated right-of-way, private right-of-way or parking area, extending the full width of the lot.

19. "Rear Yard." Rear yard area shall be that area between the rear of a structure and the rear lot line, extending between the side yards. Except, if a rear lot line abuts a publicly dedicated right-of-way, private right-of-way or parking area (excluding through corner lots as defined herein) the rear yard shall extend the entire width of the rear lot line.

20. "Side Street Yard." Side street yard shall be that area of a lot on a corner or through corner lot which is not the apparent front yard, but which abuts a publicly dedicated right-of-way, private right-of-way or parking area.

21. "Side Yard." Side yard shall be that area between the side of a structure and the side lot line, extending from the front yard to the opposite (back) lot line.

22. "Through Corner Lot." A lot which abuts a publicly dedicated right-of-way, private right-of-way or parking area on three sides.

(Sec. 26-1 amended by O-19-92; and O-7-98, approved by the District Council 7/28/98).
(Sec. 26-1 Subsec. 2, 7, and 11 amended by O-9-12, adopted 12/3/12, approved by District Council 2/5/13).

Sec. 26-2. Fences.

a) Purpose. It is the intent and purpose of this Section 26-2 to protect the public health, safety, morals and general welfare of the City and its residents by generally restricting the placement of fences on residential lots. Such restriction shall, among other things: Permit the rapid, free and unobstructed access to residences by emergency vehicles, personnel and equipment; allow for the unobstructed establishment, maintenance and creation of public rights-of-way along the streets and sidewalks in the City; prevent the obstruction or reduction, by man-made structures, of visibility at corners and intersections for drivers and pedestrians; add to the attractiveness and comfort of the residential district; create a better home environment in the City; preserve an area which is generally regarded by the public as pleasing to the eye; and preserve, improve and protect the general character of lands within the City and the improvements thereon.

b) Rule of construction. In applying the fence restrictions contained in this Section 26-2, the term "Front Yard" shall mean the "Apparent Front Yard" and the side, side street and rear yards of any lot shall be determined by their relationship to the apparent front yard of the lot. For through corner lots, one yard abutting a publicly dedicated right-of-way, private right-of-way or parking area shall be determined to be
the apparent front yard as defined herein, and the other two yards abutting publicly dedicated rights-of-way or parking areas shall be side street yards.

c) Front Yard Fences.

1) Except as hereinafter provided, fences are prohibited between the front building line of any residential dwelling and any publicly dedicated street, private street or parking area.

2) Notwithstanding the provisions of Subsection c)(1) of this Section, front yard fences may be constructed beyond the front building line of those dwellings located in the Huntington Section of the City which were constructed prior to January 1, 1960, provided however, that said fences:
   A. Shall not exceed four (4) feet in height;
   B. Must be constructed of wood, cast iron or wire fencing materials, or other materials that are consistent with historic guidelines as established by the City and, to the extent permitted by those guidelines, may incorporate stone and brick features; and
   C. Are subject to a City building permit.

d) Side Street Yard Fences.

1) Except as hereinafter provided fences are prohibited between the side street yard building restriction line of any residential dwelling and any publicly dedicated street, private street or private parking area; however, a fence may be located in any part of the side street yard of a lot where the side street yard lot line is a continuation of the rear yard lot line of the adjoining lot.

2) Notwithstanding the provisions of subsection (d)(1) of this section, side yard fences may be constructed between the side street yard building restriction line of any residential dwelling and any publicly dedicated street, private street or private parking area of those dwellings located in the Huntington section of the City which were constructed prior to January 1, 1960, provided however, that said fences:
   A. Shall not exceed four (4) feet in height;
   B. Must be constructed of wood, cast iron or wire fencing materials, or other materials which replicate fence types which were consistent with historic guidelines as established by the City and, to the extent permitted by those guidelines, may incorporate stone and brick features; and
   C. Are subject to a City building permit.

e) Rear Yard Fences. Fences in rear yards where the rear lot line is a continuation of the front yard line of the adjacent lot shall be set back 25 feet from the property line.

f) All fences legally existing on the effective date of O-19-92 which do not comply with this Section shall be deemed non-conforming uses. All fences which are erected subsequent to the effective date of O-19-92 that are intended to replace those fences deemed to be non-conforming uses shall conform to the requirements of this Section. A fence deemed to be a non-conforming use under this subsection that has been removed or destroyed through no fault of the owner and due to circumstances beyond the owner’s control may be replaced or repaired in a manner substantially identical in all material respects to the fence so removed or destroyed. Consideration shall be given to the similarity of such factors as materials, height, length and fence location between the original fence and the replacement fence. Nothing contained in this subsection shall be construed to prohibit the maintenance and repair of a non-conforming fence as long as the fence is not changed in character and repairs are made with materials substantially the same as the materials requiring maintenance or repair.
g) Variance. The Board of Appeals may allow a variance from the strict application of this Section according to the procedures and standards set forth in Section 26-15.

h) Temporary Fences; Model Homes. The provisions of this section do not prohibit the temporary placement of fences between the building restriction line of a model home and a dedicated street during the period of initial sales for a new residential development provided the following conditions are met:

i) The fence may be placed during the marketing stage of the development only and must be removed immediately upon termination of the home's use as a sales model.

ii) The fence must be conspicuously posted that it is for marketing purposes only and that front yard fences are prohibited pursuant to the Bowie City Code.

iii) A statement must be included in both the sales contract for a new home either in the sales document or by addendum, and in the residential development's covenants, clearly stating the Bowie City Code prohibits the fence as displayed and that it will not be allowed in the development.

i) Fences and walls (including retaining walls) more than six (6) feet high may not be located in any required yard and shall meet the setback requirements for main buildings.

(Sec. 26-2 amended by O-16-91, adopted 6/17/91; amended by O-19-92, effective upon approval by the District Council); (Sec. 26-2 (f) and (g) amended by O-10-94, adopted 5/16/94); (Sec. 2(c) amended by O-7-98, adopted by the District Council 7/28/98); (Sec. 26-2 amended by O-9-06, adopted 11/6/06 and approved by the District Council on 1/30/07); (Sec. 26-2©(2)(B), (f) and (i) amended by O-5-19 effective 7/1/19 and approved by District Council on 10/1/19).

Sec. 26-3. Inoperative Vehicles and Trailers.

No owner, occupant, or lessee of property within the City may permit the storage, parking or repair of inoperative vehicles, camping vehicles or any trailers not displaying valid registration plates, having one or more flat tires or missing parts on any residential lot at any time, except within a private parking garage. Prior to the issuance of a citation pursuant to this section notice shall be given to the owner, occupant or lessee of the alleged violation offering an opportunity to abate the violation prior to the issuance of a citation. The notice must be in writing and served by personal service, regular mail or by affixing a copy thereof to the front of the premises.

Notice shall not be required to be given prior to issuance of a subsequent citation to any owner, occupant or lessee to whom a citation has been issued pursuant to this Section 26-3 within a one year period preceding the issuance of the subsequent citation. (Sec. 26-3 amended by O-9-12, adopted 12/3/12, and approved by District Council 2/5/13)

Sec. 26-3A. Commercial Vehicles.

Except as may otherwise be permitted in this chapter, no owner, occupant, or lessee of property within the city that is residentially zoned or improved with a residential structure, including but not limited to single-family dwellings, townhouses condominiums, and apartments may permit the storage, parking, or repair of a commercial vehicle exceeding the manufacturer's gross vehicle weight specifications of seventy-five hundred (7,500) pounds, or containing advertising or lettering that

The parking or storing of vehicles in the R-R (Rural Residential) and R-E (Residential Estate) zones shall be limited to the following vehicles owned or used by the occupants of the premises and their bona fide guests:

(a) Private passenger motor vehicles;
(b) One (1) unoccupied camping vehicle;
(c) One (1) watercraft and trailer designed to carry watercraft;
(d) One (1) commercial vehicle, provided that such vehicle;
1. Does not exceed the manufacturer's gross vehicle weight specifications of seventy-five hundred (7500) pounds,
2. Contains no advertising other than a firm name or similar designation in lettering not exceeding four (4) inches in height, but excluding vehicles exceeding three-hundred (300) cubic feet of load space, stake platform trucks, crane or tow trucks, and vehicles with dual rear wheels.
(e) Farm vehicles and farm machinery used on the premises, in conjunction with a permitted agricultural use;
(f) Buses, on the same lot with, and as an accessory use to, principal uses as private schools or churches, or other places of worship, provided that:
1. Such parking or storage area shall be in addition to any automobile parking compound on the premises, and shall be connected to a public street by means of a driveway, constructed in compliance with the minimum standards of the Prince George's County Department of Public Works and Transportation, having a minimum width of eleven (11) feet for each lane.
2. Such parking or storage area shall be screened from any adjoining land in any residential zone by a slightly, opaque wall, fence, or planting strip, or combination thereof; and
3. No repairs, service, maintenance, or gasoline dispensing or storage facility shall be permitted on the premises. (Sec. 26-4 (b), (c) amended by O-12-92, adopted 10/19/92)
(Sec. 26-4 amended by O-9-12, adopted 12/3/12 and approved by District Council on 2/5/13)


The parking or storing of vehicles in the R-55/R-80 (one-Family, Detached Residential) and R-T (Residential Townhouse) zones shall be limited to the following vehicles owned or used by the occupants of the premises and their bona fide guests:

(a) Private Passenger motor vehicles;
(b) One (1) unoccupied camping vehicle;
(c) One (1) watercraft and trailer designed to carry watercraft;
(d) One (1) commercial vehicle subject to the restrictions and conditions described in the parking and storage of commercial vehicles in the R-R/R-E zones.
(e) Buses subject to the restriction and conditions described under the parking and storage of buses in the R-R/R-E zones.

The parking or storing of vehicles in the R-30-C zone (Multiple-Family, Low Density Residential Condominium) shall be limited to the following vehicles owned by the occupants of the premises and their bona fide guests:

(a) Private passenger motor vehicles;
(b) Unoccupied camping vehicles;
(c) Watercraft and trailers designed to carry watercraft; and
(d) Commercial vehicles subject to the restrictions and conditions described under the parking and storage of commercial vehicles in the R-R/R-E zones. (Sec. 26-6 (b) amended by O-12-92 adopted 10/19/92) (Sec. 26-6 (c) amended by O-9-12, adopted 12/3/12 and approved by District Council on 2/5/13).


The parking or storing of vehicles in the O-S zone (Open Space) shall be limited to the following vehicles owned or used by the occupants of the premises and their bona fide guests:

(a) Private passenger motor vehicle;
(b) Unoccupied camping vehicles;
(c) Watercraft and trailers designed to carry watercraft;
(d) Commercial vehicles subject to the restrictions and conditions described under the parking and storage of commercial vehicles in the R-R/R-E zones;
(e) Buses subject to the restrictions and conditions described under parking and storage of buses in the R-R/R-E zones. (Sec. 26-7 (b) amended by O-12-92, adopted 10/19/92) (Sec. 26-7 (c) amended by O-9-12, adopted 12/3/12 and approved by District Council on 2/5/13).

Sec. 26-8. Parking on Unpaved Areas.

The parking or storage of motor vehicles, watercraft, trailers, motor homes and camping vehicles shall be prohibited on any, deck, patio, porch, walkway, sidewalk or on any basketball, tennis or sport court or on any unpaved area of a residential lot except during a snow emergency. (Sec. 26-8 amended by O-12-92 adopted 10/19/92) (Sec. 26-8 amended by O-9-12, adopted 12/3/12 and approved by District Council 2/5/13).


(a) The parking or keeping of cargo trailers shall be prohibited on any residential lot and street within the City, except (1) where the cargo trailer is used for the pickup or delivery of materials to be used on the residential lot within 72 hours after pickup or delivery; or (2) the cargo trailer is used in connection with construction taking place on the residential lot, and then only for a period not to exceed thirty (30) days. Cargo trailers parked on residential lots pursuant to this section shall be parked or kept on a paved surface on the property. This Section shall not apply to a cargo trailer parked or kept in a garage or other wholly enclosed structure on the residential lot.
(b) No open storage of commercial/industrial building products within the City shall be allowed on a residential lot except during the period in which the products are to be used in connection with actual construction taking place on the residential lot, and then only for a period not to exceed thirty (30) days.

(c) Recreation vehicles shall not be stored on cargo trailers on any residential lot or street within the City. (Sec. 26-9 (a) amended by O-9-12 adopted 12/3/12 and approved by District Council on 2/5/13)

Sec. 26-10. Prohibition of Parking Commercial or Other Vehicles Carrying Controlled Hazardous Substances in Residential Zones.

The parking of a commercial or any other vehicle carrying controlled hazardous substances shall be prohibited in residential zones within the City.


a) Accessory buildings used for residential storage, excluding the keeping or storage of cars, trucks, cargo vehicles, boats, and trailers, shall be permitted in residential zones in the City of Bowie on lots consisting of 20,000 square feet or less subject to the following restrictions:

i. **Floor Area.** The maximum allowable floor area of an accessory building, temporary or permanent, including any projections therefrom shall be 200 square feet, provided that the property owner has obtained any necessary permits from Prince George's County and the City. Additionally, the total combined floor area of all accessory buildings located on a single lot shall not exceed 200 square feet. An attached accessory building may be permitted so long as it is part of the structure of the main residence and has at least one common wall therewith.

ii. **Height.** No accessory building or carport shall exceed one story, or an overall height of fifteen feet (15') measured from the lowest exposed point of the structure to the highest exposed point of the structure.

iii. **Design.** An attached accessory building shall be constructed of building materials similar in type and color to the type and color of materials used in the main residence so as to blend therewith.

iv. **Location.** Accessory buildings may be located only in the rear yard of a residential lot in accordance with all applicable setback requirements of subtitle 27 of the Prince George's County Zoning Ordinance. On corner lots, accessory buildings may only be located in the area of the rear yard which is contiguous to the side and rear yard area of any adjacent lot and may not be located in any portion of the rear yard which is closer to a public right-of-way than the main building.

(b) Residential storage shall be prohibited in any carport, or front porch, or portion thereof.

(c) The storage of hazardous substances shall be prohibited in any accessory building, carport and garage; excluding maintenance of residential property and dwellings located thereon.

(d) Accessory buildings encompassed by this section shall include storage sheds and any other detached structure that is used for storage located on the same lot as a residence.

(e) A violation of this section shall be deemed a municipal infraction.
(f) In the case of new development in the City of Bowie, where accessory buildings are incorporated into the design of the proposed development, the City Manager may waive the limitations of this section.

(g) All accessory buildings legally existing at the time of the adoption of this Ordinance which do not comply with this section shall be deemed non-conforming uses. However, all accessory buildings which are erected subsequent to the adoption of this ordinance that are intended to replace accessory structures deemed to be nonconforming uses shall conform to the requirements of this section.

(h) The limitations on accessory buildings contained in Section 27-442 of the Prince George's County Zoning Ordinance (i.e. setbacks, and total lot coverage) apply to accessory buildings within the City of Bowie, except as otherwise provided in this Chapter.

(i) This section shall not apply to those properties in the Huntington section of the City upon which residential dwellings were constructed prior to January 1, 1960, on which lots, accessory buildings used for residential storage, as defined in subsection (a) of this section, are permitted when a County permit has been obtained for the construction of such building. For those properties, when a County building permit has been issued, a City building permit will be issued for the same project, provided that the construction otherwise meets the City’s requirements for a building permit.

(j) Variance. The Board of Appeals may allow a variance from the strict application of this section according to the procedures and standards set forth in Section 26-15.

Section 26-12. Residential Parking.

(a) Private parking garages located in residential zones within the City of Bowie on lots consisting of less than 30,000 square feet shall be permitted subject to the following restrictions:
   i. Location: Private parking garages must be attached to a main building by a common wall and shall not exceed one story. Detached garages are prohibited.
   ii. Use: Private parking garages may be used for the storage of cars, trucks, boats, cargo trailers, cargo vehicles and other similar vehicles or for residential storage.
   iii. Height: Private parking garages shall not exceed the height of the residence to which the garage is attached.
   iv. Design: Private parking garages shall be constructed of materials similar in type and color to the building materials in the residence to which the garage is attached.

(b) A violation of this section shall be deemed a municipal infraction.

(c) In the case of new development in the City of Bowie, where detached garages are incorporated into the design of the proposed development, the City Manager may waive the limitations of this Section.

(d) All private parking garages legally existing at the time of the adoption of this ordinance which do not comply with this section shall be deemed non-conforming
uses. However, all private parking garages erected subsequent to the adoption of this ordinance which are intended to replace a parking garage deemed to be a nonconforming use, shall comply with the requirements of this section.

(e) The limitations on private parking garages contained in Section 27-442 of the Prince George's County Zoning Ordinance (i.e. setbacks and total lot coverage) apply to private parking garages within the City of Bowie, except as otherwise provided in this Chapter.

(f) This section shall not apply to those properties in the Huntington section of the City upon which residential dwellings were constructed prior to January 1, 1960, on which lots, private garages are permitted when a County permit has been obtained for the construction of such garage. For those properties, when a County building permit has been issued, a City building permit will be issued for the same project provided that the construction otherwise meets the City's requirements for a building permit.

(g) Variance. The Board of Appeals may allow a variance from the strict application of this section according to the procedures and standards set forth in Section 26-15.

(Sec. 26-12 amended by O-30-90, adopted 12/17/90)
(Sec. 26-12 (f) and (g) amended by O-15-98, adopted 3/2/98, effective 4/1/98).

Sec. 26-12A. Signs.


(b) Enforcement.

1. Whenever the City Manager (or his designated representative) determines that a sign is unsafe, he shall issue a notice of violation, directing that the sign be made safe or removed. The person owning or using the sign or, in the case of a gateway sign, the homeowner’s association or other entity responsible for the maintenance of the sign, shall comply with the notice of violation within five (5) days after the person, homeowner’s association, or other entity receives the notice of violation. Notwithstanding any provision of this subsection to the contrary, in the event that there is an immediate danger to the public safety, as determined by the City Manager or his designated representative in his sole discretion, the unsafe sign shall be made safe or removed immediately upon receipt of the notice of violation.

2. Whenever the City Manager (or his designated representative) determines that a sign violates any of the requirements of the Code of Prince George’s County, Maryland adopted in Subsection (a) of this Section, he shall issue a notice of violation directing that the sign be made to conform to all of the requirements of the Code of Prince George’s County, Maryland adopted in Subsection (a) of this Section or removed. The person owning or using the sign or, in the case of a gateway sign, the homeowner’s association or other entity responsible for the maintenance of the sign, shall comply with the notice of violation within five (5) days after the person, homeowner’s association, or other entity receives the notice of violation.

3. If the unsafe or illegal sign is not corrected or removed in accordance with a notice of violation issued by the City Manager (or his designated representative)
in accordance with the provisions of Subsection (b)1. or (b)2. of this Section, the City manager (or his designated representative) shall cause the sign to be removed. The cost of removal shall be borne by the owner, user, homeowner’s association, or entity responsible for the sign and shall be assessed against the property and shall constitute a lien collectible in the same manner as real property taxes.

(Sec. 26-12A added by O-11-98, adopted 2/2/98, effective 3/4/98).

Section 26-13. Penalty.

Violations of this Chapter are municipal infractions, subject to the penalty and enforcement provisions of Chapter 1, Sections 6 and 6A of this Code. (Sec. 26-12 and Sec. 26-13 added by O-02-90, 2/5/90; Sec. 26-13 amended by O-17-94, adopted 10/3/94).

Sec. 26-14. Board of Appeals.

(a) There is hereby established a Board of Appeals to review and render decisions on applications for variances.

(b) Composition and membership. The Board of Appeals shall be composed of members of the Administrative Review Board as established by Chapter 1A of the Bowie City Code. The Chairman of the Administrative Review Board shall act as the Chairman of the Board of Appeals and shall appoint at least two additional members of the Administrative Review Board to serve as the Board of Appeals on an ad hoc basis. For all business of the Board of Appeals three members must be present to constitute a quorum. (Sec. 26-14(b) amended by O-6-95, adopted 5/15/95).

(c) Powers.

1. The Board of Appeals may grant a variance from the strict application of a section within this Chapter only where specifically so provided in that section and only pursuant to the standards and procedures set forth in Section 26-15 of this Chapter.

2. The Board of Appeals may exercise all powers under the laws of evidence applicable to administrative proceedings under the laws of the State of Maryland to discover any information relevant to the variance request, including, but not limited to, subpoena, interrogatories, production of documents and depositions.

3. The Board of Appeals shall have authority to administer oaths and affirmations, examine witnesses, rule upon questions of evidence and issue notices and orders, take actions and make decisions or recommendations in conformity with this Chapter.

(d) Support staff. The City Manager shall designate a staff liaison to the Board of Appeals who shall provide support service as may be required. The City Attorney shall serve as counsel to the Board. (Sec. 26-14 added by O-14-94, adopted 10/3/94).


(A) Procedures.

1. Application.

a. All requests for a variance shall be made by application filed with the City. The City shall make available an application form which shall require an accurate description of the subject property and the variance being requested, and the basis of the request.

b. In addition to the application, the applicant shall submit the following:
i. One (1) copy of a site plan, survey or other graphic illustration satisfactory to the City which accurately depicts the location of all relevant features of the property, including but not limited to structures, property lines, setback lines and all other features that, when viewed together, result in the need for the requested variance. The site plan, survey or other graphic illustration must also depict the measurements of and between these features and the location, size and scope of the requested variance; and

ii. One (1) copy of a written explanation by the applicant describing how the proposed use meets the relevant standards prescribed in Subsection (B) below.

2. Required Public Hearing. Before making its decision on any application for variance, the Board of Appeals shall hold a public hearing on the matter in accordance with rules and regulations, approved by the City Council, which rules and regulations shall substantially conform with the procedures for hearing contested cases subject to the State Administrative Procedure Act. The hearing shall be open to the public and records and minutes shall be maintained by the Board at all such hearings. The Board shall issue a written decision either granting, granting with modifications or denying the variance application within thirty (30) days from the closing of the hearing or as soon thereafter as may be reasonably possible. The Board shall provide a copy of its written decision to the persons of record.

3. Notice of Hearing. Notice of the hearing shall be sent via certified mail, return receipt requested, postmarked not less than seven (7) days prior to the date of the hearing to the applicant. Additionally, notice of the hearing shall be sent via first class mail, postage prepaid, to the owners of abutting property (including those properties directly across a street, alley, or stream). The notice shall contain

   a. The date, time and place of the hearing; and
   b. A brief statement describing the specific nature of the variance requested.

4. No Refiling. If the Board of Appeals denies an application for variance, no further application concerning the same specific subject on the same property may be filed.

   (B) Standard of Review. A variance may only be granted by the Board of Appeals when:

   1. A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions;
   2. The strict application of this Chapter will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property; and
   3. The variance will not substantially impair the intent, purposes or integrity of the policies of the City.

   (C) Other laws. Nothing in this section shall be construed to relieve the applicant of any other duties, obligations, restrictions or requirements, including but not limited to permit requirements, of other sections of the Bowie City Code, the Prince George's County Code, or any other relevant laws, rules, ordinances or regulations.

(Sec. 26-14 added by O-10-94, adopted 5/16/94). (Sections 26-2(g), 2-11(i), 26-12(f); Sec. 26-14 renumbered to Sec. 26-14 and amended by O-14-94, adopted 10/3/94).
Sec. 26-16. Severability.

If any clause, sentence or part of this Chapter, or of any section thereof, shall be held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining parts of this Chapter or of any section thereof.

(Sec. 26-9 amended by O-12-92 adopted 10/19/92).
(Sec. 26-16 added by O-14-94 adopted 10/3/94).

Article II. Municipal Zoning Authority.

Division 1. General.

Sec. 26-17. Purpose.

A. The purpose of this Article is to create processes whereby the City Council may:
   1. Grant departures from design and landscaping standards, parking and loading standards, sign design standards, and the number of parking and loading spaces required;
   2. Grant variances for lot size, setback and similar requirements of the Prince George's County Zoning ordinance for land within the City of Bowie;
   3. Approve alternative compliance from the landscaping requirements of the Prince George's County Landscape Manual (Sec 27-123);
   4. Authorize the certification, revocation and revision of nonconforming uses; and
   5. Approve minor changes to approved special exceptions.

B. In implementing this Article, it is the intent of the City Council to overcome deficiencies in the current zoning process, to remove obstacles that hinder development within the City and to promote community and economic development vitality by encouraging appropriate development within the City.

(Sec. 26-17 amended by O-5-19; adopted 7/1/19 and approved by District Council on 10/1/19)


A. Council or City Council: The Council of the City of Bowie, Maryland.
B. County: Prince George's County, Maryland.
C. District Council: The County Council of Prince George's County, Maryland sitting as the District Council for that part of the Maryland-Washington Regional District in Prince George's County, Maryland.
D. Nonconforming use: The use of any building, structure, or land which is not in conformance with a requirement of the zone in which it is located (as it specifically applies to the use), provided that:
   (1) The requirement was adopted after the use was lawfully established; or
   (2) The use was established after the requirement was adopted and the District Council has validated a building, use and occupancy, or sign permit issued for it in error.
E. Person of Record (Party of Record): The owner, applicant, and correspondent of a pending application, a civic association or other person who, in
writing prior to the close of the hearing record before the Advisory Planning Board or in testimony before the Advisory Planning Board requests to be made a party to the proceeding.

F. Planning Director: The director of the City of Bowie Department of Planning and Community Development.

G. Use is either:
   (1) The purpose for which a building, structure, or land is designed, arranged, intended, maintained or occupied; or
   (2) Any activity, occupation, business, or operation carried on in, or on, a building, structure or parcel of land.

(Sec. 26-18 amended by O-5-19; adopted 7/1/19 and approved by District Council on 10/1/19)

Sec. 26-19. Powers and Duties of the Bowie Advisory Planning Board and the Planning Director.

A. The Bowie Advisory Planning Board shall have the authority to hear the following categories of requests with respect to property located within the corporate boundaries of the City of Bowie and to make recommendations to the Bowie City Council regarding same:
   (1) Applications for variances from the strict application of the Prince George’s County Zoning Ordinance with respect to lot size, setback and similar requirements of the Prince George’s County Zoning Ordinance for land within the corporate boundaries of the City, except that the Advisory Planning Board shall not have the power to hear and decide variance requests over which the District Council has retained jurisdiction pursuant to Sec. 27-239.03 of the Prince George’s County Code.
   (4) Departures from Sign Design Standards of the Prince George’s County Zoning Ordinance, Part 12 “Signs”, Division 3 (Sec. 27-613 through 27-630).
   (5) Alternative compliance from the landscaping requirements of the Landscape Manual (Sec 27-123).
   (6) Applications for certification, revocation and revision of nonconforming uses, as provided for in Prince George’s County Zoning Ordinance, Part 3 “Administration,” Division 6 “Nonconforming Buildings, Structures and Uses”, Subdivision 1 “General Requirements and Procedures” (Sec. 27-244 and 27-245).
   (7) Applications for minor changes to approved special exceptions, as provided for in Prince George’s County Zoning Ordinance, Part 4 “Special Exceptions”, Division I, Subdivision 10 “Amendments of Approved Special Exceptions,” (Sec. 27-325).
B. The Planning Director shall have the authority to grant limited departures from the items enumerated in Subsection (A) above as provided in this Article, in accordance with Section 26-33 of this chapter. (Sec. 26-19 amended by O-5-19; adopted 7/1/19 and approved by District Council on 10/1/19).

Sec. 26-19A. Procedures.
A. The Advisory Planning Board or the Planning Director shall conduct a complete public hearing on the requests specified in Subsection (A) of this section, subject to all the requirements and restrictions imposed by law upon the City Council. The Advisory Planning Board is empowered to swear witnesses and to issue subpoenas for witnesses and documents.

B. The Advisory Planning Board may request the Maryland-National Capital Park and Planning Commission, the County, Prince George’s County Planning Board, and/or the State Highway Administration to furnish technical service, advice, data or factual evidence. These comments and recommendations shall be available for public examination prior to the public hearing.

C. The record created before the Advisory Planning Board shall include, but not be limited to:
   1) The application form and accompanying data;
   2) City of Bowie Staff Report;
   3) Affidavit of posting;
   4) Comments and recommendations (if any) from the Maryland-National Capital Park and Planning Commission, the County, Prince George’s County Planning Board, and the State Highway Administration;
   5) All correspondence relative to the application;
   6) All testimony at the public hearing; and
   7) Other items which the Advisory Planning Board deems necessary.

D. Rules of procedure for hearings and other meetings.
   1) The Advisory Planning Board may adopt Rules of Procedure consistent with the provisions of this Article and the Prince George’s County Zoning Ordinance.
   2) The Advisory Planning Board shall keep minutes of this proceedings.
   3) An applicant, or counsel representing the applicant, must be present at the hearing. A petitioner which is a Corporation, Limited Liability Company, or other business entity must be presented by Counsel licensed to practice in the State of Maryland at any hearing before the Advisory Planning Board. Any non-attorney representative present at the hearing on behalf of the applicant (or any other person or entity) is not permitted to advocate.
   4) Hearings may be adjourned and continued. If the date, time, and place of the continued hearing are publicly announced at the time of the adjournment, no further notice of the continuation shall be required. If the date, time, and place are not publicly announced at the time of the adjournment, notice shall be given in the same manner as with the original hearing.
   5) At the conclusion of the public hearing, the Advisory Planning Board may close the record, or may leave the record open (for a specific time) for receipt of additional written evidence.
   6) After the close of the record, the Advisory Planning Board shall take action on the request. All actions of the Advisory Planning Board shall be based upon the record and shall be embodied in a resolution adopted at a public meeting. A majority of the members present and voting must concur in the resolution. Each resolution shall contain a statement of the findings of fact and conclusions of law.
forming the basis of the Advisory Planning Board’s recommendation and shall contain a recommended disposition of the case. The text of the resolution and a record of each member’s vote shall be incorporated into the minutes of the Advisory Planning Board. All such resolutions of the Advisory Planning Board shall be transmitted to all persons of record, the District Council, and the City Council within five (5) days of the date thereof.

(Sec. 26-19A added by O-5-19; adopted 7/1/19 and approved by District Council on 10/1/19).

Sec. 26-20. Filing Fees.

A. Upon filing an application, the applicant shall pay a filing fee to the City in an amount established by the City Council as may be amended from time to time, to help defray the costs of processing the application.

The applicant shall also pay a fee as established by the City for each public notice sign required. The filing and sign fees are non-refundable unless, following a request by the applicant, the Planning Director finds that the fees were paid by mistake. All fees must be paid at the time of filing, except as otherwise provided in this Article.

B. In lieu of the fee, the applicant may submit an affidavit claiming that payment of the fee would be an extreme financial hardship. Such hardship may only be claimed by a natural person. The affidavit shall contain the information required by the Planning Director and any other pertinent facts which the applicant feels are necessary.

C. Upon filing the affidavit, the Planning Director shall, within ten (10) working days, determine whether payment of the fee is an extreme financial hardship on the applicant. Should the Planning Director find that hardship does not exist, the applicant shall be required to pay the fee before the request may be heard by the Advisory Planning Board.

(Sec. 26-20(A) amended by O-5-19; adopted 7/1/19 and approved by District Council on 10/1/19).

Sec. 26-21. Informational Mailing.

A. Informational mailings with applications.

(1) This Section applies to departures from sign or design standards, departures from the required number of parking and loading spaces, nonconforming use certifications and minor changes to approved special exceptions. It also applies to private applications to amend those departures, certifications and changes. It does not apply to applications which the Planning Director is authorized to approve administratively.

(2) At least thirty (30) days before the City accepts any such application, the applicant shall send by first class mail an informational mailing to all adjoining property owners, including owners whose properties lie directly across a street, alley, or stream. The applicant shall send notice of the filing of such application to every person of record in a previous zoning, site plan or other application listed in Subsection (A)(1) above within ten (10) years of filing the current application. At the same time and in the same manner, the applicant shall send an informational mailing to the development review division of the Maryland-National Capital Park and Planning Commission and to all civic associations registered with the Maryland-
National Capital Park and Planning Commission (the “Commission”) for the area that includes the property.

(3) The applicant shall obtain an application number from the City before sending the informational mailing. The informational mailing shall contain at least the following: the application number; a description of the property and its location; the nature of the applicant’s request; justification statement, if required with the application; the City department, with telephone number, from which to obtain more information about the application; a statement to recipients that the applicant will meet with them to explain the application; an applicant telephone number, for persons wishing to meet; an explanation of the procedures and the necessity for becoming a person-of-record in the pending application and a statement that no government agency has reviewed the application. A civic association, or other person entitled to an informational mailing may request a copy of the site plan from the applicant.

(4) With the application, the applicant shall file an affidavit of mailing. The affidavit shall give the names and addresses of all persons sent informational mailings and the dates when they were sent.

(5) Before an application is accepted, the City shall determine that the applicant has complied with this section. A civic association, or other person entitled to an informational mailing may waive the requirement, and an applicant’s filing of a signed waiver constitutes its compliance with the requirement, for the person signing. At any time after the City accepts an application, a determination that a person entitled did not receive a required informational mailing may not be a basis for invalidating a final action on the application.

(6) The informational mailings required by this Section are in addition to all postings and notices required by law.

B. Notice of application acceptance.

(1) When the City determines an application has been filed in proper form and is ready to be formally accepted, it shall notify the applicant in writing, preferably by e-mail. The name and contact information of the staff member assigned to the application shall be included in the notice.

(2) The applicant shall notify in writing and via first class mail civic associations and other persons entitled to receive informational mailings that the application is ready to be accepted. The name and contact information of the staff member assigned to the application shall be included in the notice.

(3) The City shall not formally accept applications for processing until after the applicant has filed an affidavit in the record to document completion of the written notice of acceptance to civic associations and other persons entitled to receive informational mailings.

C. Civic association registration.

(1) Every civic association which maintains a registration with the Maryland-National Capital Park and Planning Commission in accordance with §27-125.01(c) of the Prince George’s County Code and as required by this Section is entitled to informational mailings, for all applications within the association’s defined geographical area.

(2) As to civic associations, an applicant complies with this Section by sending informational mailings to the associations maintaining registrations with the Maryland-National Capital Park and Planning Commission for the geographical area which includes the applicant’s property.

(Sec. 26-21(a)(2) amended by O-5-19; adopted 7/1/19 and approved by District Council on 10/1/19).

A. The required public notice signs for all public hearings conducted by the Advisory Planning Board or the Planning Director shall include the following information:

1. The word "hearing" prominently displayed;
2. The application number;
3. Date, time and place of the public hearing;
4. A phone number, prominently displayed, to call for additional information; and
5. The website address of the City planning department to obtain additional information.

B. There shall be one (1) sign posted for each one thousand (1,000) feet or fraction thereof of frontage on each improved street. The sign(s) shall be posted on the property near the street right-of-way and oriented to maximize their visibility to motorists. When more than one (1) sign is required to be posted along a street, the signs shall, where practicable, be evenly spaced along the street. The City of Bowie Planning Department shall be responsible for erecting the required signs.

C. Signs shall be posted in the following manner:

1. Single-sided if the property occupies frontage on a cul-de-sac, at the end of a dead-end street, or on a one-way street. The signs shall be oriented to maximize their visibility to motorists.
2. Double-sided if the property occupies frontage on a street that is visible to two-way traffic.

D. If the property does not have frontage on an improved public street, one (1) sign shall be placed on the property, near the boundary of the property and be visible from an adjoining property. Another sign shall be placed near to, and be visible from, the improved portion of the nearest, most traveled street. In addition to the required information, this sign shall state that the sign is not on the subject property and that a property having no improved street frontage is the subject of the hearing.

E. If the placement of any sign on the subject property is not visible to motorists from adjoining streets, additional signs may be required at the discretion of the City Planning Director.

F. Once a sign is posted, it is the applicant’s responsibility to ensure that it remains posted until the hearing. The applicant is responsible for the maintenance of all signs. In the event a sign is removed, falls down, or otherwise is not properly located on the property or in the right-of-way for any portion of the required posting period, it shall be the responsibility of the applicant to repost the sign. The applicant is also responsible for removing the signs from the property within 7 days after the hearing.

G. The person posting the sign on behalf of the City shall file a written statement of posting in the record. A close-up legible photograph of each posted sign and additional long-distance photographs depicting the signs and unique, identifiable features of the subject property shall also be submitted and included in the record file of the case. The applicant shall inspect the sign(s) to ensure that required signs are maintained and remain continuously posted for the required time prior to the hearing. The person conducting the inspections shall file in the record an affidavit with the Advisory Planning Board stating that the required sign was posted and remained on the property for the required period of time preceding the hearing.

H. Sign posting fees.
(1) In addition to the filing fee, a sign posting fee in an amount established by the City for each sign required shall be paid by the applicant to the City at the time the application is filed.

(2) No part of a fee shall be refunded or waived unless the Planning Director determines that one (1) of the following conditions applies:
   a. The fee was paid by mistake, and the applicant has requested (in writing) a refund; or
   b. The application has been withdrawn prior to posting the sign.

In this case, the entire sign posting fee shall be refunded.

(Sec. 26-22 amended by O-5-19; adopted 7/1/19 and approved by District Council on 10/1/19)

Sec. 26-23. Reserved.

Sec. 26-24. Reserved.

Division 2. Variances.


A. A variance from lot size, lot coverage, building setback and similar requirements of the Prince George’s County Zoning Ordinance from which a property owner may obtain a variance may only be granted upon a finding that:
   (1) A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions;
   (2) The strict application of the County Zoning Ordinance will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property; and
   (3) The variance will not substantially impair the intent, purpose, or integrity of any applicable County’s General Plan or the Bowie and Vicinity Master Plan.

B. For properties in the R-30, R-30C, R-18, R-18C, R-10A, R-10, and R-H zones, where the applicant proposes development of multifamily dwellings and also proposes that the percentage of dwelling units accessible to the physically handicapped and aged will be increased above the minimum number of units required by subtitle 4 of the Prince George’s County Code, the Advisory Planning Board may consider this increase over the required number of accessible units in making its required findings.

(Sec. 26-25(a)(3) amended by O-5-19; adopted 7/1/19 and approved by District Council on 10/1/19)


A. Filing requirements.
   (1) Variance requests shall be made on the forms provided by the Advisory Planning Board. All information required on the forms shall be furnished by the applicant and the Advisory Planning Board shall not accept any form which is incomplete.
(2) Variance requests shall be numbered sequentially and scheduled to be heard by the Advisory Planning Board. The schedule shall be posted conspicuously in City Hall at least seven (7) days prior to the hearing date.

(3) Variance requests may be made by any person who alleges that he or she is aggrieved by the refusal of a building or use and occupancy permit, by the issuance of a zoning violation notice, or other decision made in administering the Prince George's County Zoning Ordinance if such decision relates to lot size, lot coverage, building setback or any similar requirements of the Prince George's County Zoning Ordinance from which a variance is permitted. Such person shall notify the Advisory Planning Board of the request within thirty (30) days after the refusal of the permit, issuance of the notice, or other decision. Variance requests may be filed only after the County Department of Permits, Inspections and Enforcement refuses issuance of permit or issues a zoning violation notice or when it is alleged that a permit has been issued in error. The Advisory Planning Board may waive the requirement and allow the filing of a variance prior to any action on a permit.

B. Notice of public hearing.

(1) At least fifteen (15) days notice of the date, time and place of the hearing shall be sent by the City by certified mail to the applicant, to any agency or department whose decision is the subject of the variance request and to the owners of abutting property (including those properties directly across a street, alley or stream).

(2) The Advisory Planning Board may send notice of the hearing to other interested persons, organizations, or agencies, and/or the state highway administration. The Advisory Planning Board shall send a notice of hearing and a site plan drawn to scale to the Maryland-National Capital Park and Planning Commission, the Prince George's County Planning Board, and the District Council.

(3) All notices shall contain:
   a. The name of the applicant;
   b. The date, time and place of the hearing; and
   c. A brief statement describing the specific nature of the variance request.

(4) The Advisory Planning Board may require additional notice of hearings by at least one (1) advertisement in a newspaper of general circulation in the city. Any such advertisement shall appear not less than five (5) days prior to the date of the hearing and shall contain the same information as is required in the written notices. The cost of the advertisement shall be paid by the applicant.

(5) The Department of Planning and Community Development shall post the property with a durable sign at least fifteen (15) days prior to the scheduled hearing date, in accordance with Sec. 26-22 "Public Hearing Signs".

(6) All signs posted shall be durable, conspicuous and legible for at least fifteen (15) continuous days prior to the hearing.

C. The Planning Director may issue a variance in uncontested cases and in cases where the variance requested is of a minimal nature, where in the judgement of the Planning Director the applicant otherwise satisfies the criteria for the grant of a variance.

D. City Planning staff shall analyze the request and shall forward its comments and recommendations to the Advisory Planning Board. These comments and recommendations shall be available for public examination at least seven (7) days prior to the public hearing.

(Sec. 26-26 amended by O-5-19; adopted 7/1/19 and approved by District Council on 10/1/19).

A. A decision of the City Council permitting the erection of a building or structure shall not be valid for more than two (2) years, unless a building permit for the erection of the building or structure in question is obtained within this period and the construction is started and proceeds to completion in accordance with the terms of the decision and the permit.

B. A decision of the Board, permitting the use of a building structure or land, shall not be valid for more than two (2) years, unless the use is established within this period. Where the use depends on the erection or alteration of a building, the Board’s decision may be valid for more than two (2) years, provided that:

1) A building permit for the erection or alteration is obtained within two (2) year period and the work started and proceeds to completion in accordance with the terms of the decision and the permit; and

2) The Board specifies a time period (not more than two (2) years) within which the use must be established after the completion of construction.

C. A decision of the City Council granting a variance from the screening requirements set forth in Sections 27-469(b)(3) and 27-470(b)(3) of the Prince George's County Zoning Ordinance shall not be valid for more than five (5) years.

(Sec. 26-27 amended by O-5-19; adopted 7/1/19 and approved by District Council on 10/1/19).


If the City Council denies a variance, no further variance covering the same specific subject on the same property shall be filed within the following twelve (12) month period. If the second variance is also denied, no other subsequent variances covering the same specific subject on the same property shall be filed within each eighteen (18) month period following the second denial.

Sec. 26-29. Reserved.

Sec. 26-30. Reserved.

Division 3. Departures and Alternative Compliance.


A. A departure from the design standards contained in part 11 “Off-street Parking and Loading” and Part 12 “Signs” of the Prince George’s County Zoning Ordinance or contained in the Prince George’s County Landscape Manual may be permitted by the Advisory Planning Board or the City Planning Director, if authorized, in accordance with the provisions of this Division.

B. Procedures.

1) Application.

a. All requests for a departure from design standards shall be in the form of an application filed with the Advisory Planning Board. The Advisory
Planning Board shall determine the contents of the application and shall provide the application form.

b. Along with the application, the applicant shall submit the following:

   (i) 3 copies of a site plan and other graphic illustrations which are considered necessary to indicate what is being proposed;

   (ii) 3 copies of a written explanation by the applicant addressing the requirements of paragraph (4) below. The applicant shall be responsible for providing all information that is necessary for the Advisory Planning Board to make its decision under paragraph (4); and

   (iii) A list of the names and addresses of the abutting property owners, as well as pre-addressed envelopes or mailing labels for each abutting property owner.

(2) Staff report.

City Planning Staff shall analyze the request and shall forward its comments and recommendations to the Advisory Planning Board. These comments and recommendations shall be available for public examination at least seven (7) days prior to the public hearing.

(3) Notice.

a. At least 30 days prior to the public hearing, the City shall send notice of the date, time and place of the public hearing to all persons of record, the Maryland-National Capital Park and Planning Commission and the District Council. The application number, description of the property and the applicant’s request shall also be included in the notice. The notice sent to the Maryland-National Capital Park and Planning Commission and the District Council shall be accompanied by a site plan drawn to scale.

b. The Advisory Planning Board shall post the property with at least one (1) durable sign giving notice of the hearing at least thirty (30) days prior to the scheduled hearing date. The contents of the sign and the number of signs required shall be in accordance with Sec. 26-22.

c. Additional notice may be given, as determined by the Advisory Planning Board.

(4) Record.

The record created before the Advisory Planning Board shall include, but not be limited to:

   a. The application form and accompanying data;

   b. City of Bowie staff report;

   c. Affidavit of posting;

   d. Comments and recommendations (if any) from the Maryland-National Capital Park and Planning Commission, the County, Prince George’s County Planning Board, and the State Highway Administration;

   e. All correspondence relative to the application;

   f. All testimony at the public hearing; and

   g. Other items which the Advisory Planning Board deems necessary.

(5) Required findings.

a. A recommendation that a departure be granted shall be made by the Advisory Planning Board only upon the following findings:

   (i) The purposes of the Prince George’s County Zoning Ordinance (Section 27-102) will be equally well or better served by the applicant’s proposal;
(ii) The departure is the minimum necessary, given the specific circumstances of the request;
(iii) The departure is necessary in order to alleviate circumstances which are unique to the site or prevalent in areas of the City developed prior to November 29, 1949;
(iv) The departure will not impair the visual, functional, or environmental quality or integrity of the site or of the surrounding neighborhood.

b. For a departure from a standard contained in the landscape manual, the Advisory Planning Board shall find, in addition to the requirements in paragraph (4)(a) above, that a proposal for alternative compliance has been denied by the Planning Director pursuant to Section 26-34 or the Maryland-National Capital Park and Planning Commission, based upon a finding that there is no feasible proposal for alternative compliance, as defined in the Prince George's County Landscape Manual, which would exhibit equal or better design characteristics.

c. In making its findings for properties in the R-30, R-30C, R-18, R-18C, R-10A, R-10, and R-H zones where an applicant proposes development of multifamily dwellings and also proposes that the percentage of dwelling units accessible to the physically handicapped and aged will be increased over the minimum number of units required by Subtitle 4 of the Prince George's County Code, the Advisory Planning Board may give consideration to the proposed increase in accessible units.

d. Facilities for the physically handicapped.

A departure from the design standards for parking facilities for the physically handicapped shall not be granted unless an exemption from the requirements for the handicapped in the applicable building codes has been obtained from the state and county agencies responsible for administering those codes.

f. Applicability of departures.

An approved departure shall only apply to the use specified in the application.

(Sec. 26-31 amended by O-5-19; adopted 7/1/19 and approved by District Council on 10/1/19).

Sec. 26-32. Departures from the Minimum Number of Parking and Loading Spaces Required.

A. A departure from the minimum number of off-street parking and loading spaces required by the Prince George's County Zoning Ordinance, Sections 27-568 and 27-582 may be permitted by the Advisory Planning Board or the City Planning Director, in accordance with the provisions of this Section.

B. Procedures.

(1) Application.

a. All requests for a departure from the minimum number of off-street parking and loading spaces shall be in the form of an application filed with the Advisory Planning Board. The Advisory Planning Board shall determine the contents of the application and shall provide the application form.

b. The application shall be accompanied by the following:
   (i) 3 copies of a site plan and other graphic illustrations which are considered necessary to indicate what is being proposed;
   (ii) 3 copies of a written statement by the applicant addressing the requirements of paragraph (4) below. The applicant shall be responsible for
providing all information that is necessary for the Advisory Planning Board to make its decision under paragraph (4); and

(iii) A list of the names and addresses of the abutting property owners, as well as pre-addressed envelopes or mailing labels for each abutting property owner.

(2) Staff report.

City Planning Staff shall analyze the request and shall forward its comments and recommendations to the Advisory Planning Board. These comments and recommendations shall be available for public examination at least seven (7) days prior to the public hearing.

(3) Notice.

a. At least 30 days prior to the public hearing, the City shall send notice of the date, time and place of the public hearing to all persons of record, the Maryland-National Capital Park and Planning Commission and the District Council. The application number, description of the property and the applicant’s request shall also be included in the notice. The notice sent to the Maryland-National Capital Park and Planning Commission and the District Council shall be accompanied by a site plan drawn to scale.

b. The Advisory Planning Board shall post the property with at least one (1) durable sign giving notice of the hearing at least thirty (30) days prior to the scheduled hearing date. The contents of the sign and the number of signs required shall be as set forth in Sec. 26-22 by the Advisory Planning Board.

c. Additional notice may be given, as determined by the Advisory Planning Board.

(4) Required findings.

a. A recommendation that a departure from parking and loading space requirement be granted shall be made by the Advisory Planning Board only upon the following findings:

(i) The purposes of County Zoning Ordinance, Section 27-550 will be served by the applicant’s request;

(ii) The departure is the minimum necessary, given the specific circumstances of the request;

(iii) The departure is necessary in order to alleviate circumstances which are special to the subject use, given its nature at this location, or alleviate circumstances which are prevalent in older areas of the county which were predominantly developed prior to November 29, 1949;

(iv) All methods for calculating the number of spaces required (Prince George’s County Zoning Ordinance, Division 2, Subdivision 3, and Division 3, Subdivision 3 of Part 11) have either been used or found to be impractical; and

(v) Parking and loading needs of adjacent residential areas will not be infringed upon if the departure is granted.

b. In making its findings, the Advisory Planning Board shall give consideration to the following:

(i) The parking and loading conditions within the general vicinity of the subject property, including numbers and locations of available on- and off-street spaces within five hundred (500) feet of the subject property;

(ii) The recommendations of County’s General Plan or the Bowie and Vicinity Master Plan regarding the subject property and its general vicinity; and

(iii) Public parking facilities that are proposed in the county’s capital improvement program within the general vicinity of the property.
c. In making its findings, the Advisory Planning Board may give consideration to the following:
   (i) Public transportation available in the area;
   (ii) Any alternative design solutions to off-street facilities which might yield additional spaces;
   (iii) the specific nature of the use (including hours of operation if it is a business) and the nature and hours of operation of other (business) uses within five hundred (500) feet of the subject property;
   (iv) In the R-30, R-30C, R-18, R-18C, R-10A, R-10, and R-H zones, where development of multifamily dwellings is proposed, whether the applicant proposes and demonstrates that the percentage of dwelling units accessible to the physically handicapped and aged will be increased over the minimum number of units required by Subtitle 4 of the Prince George's County Code.

d. An approved departure shall apply only to the use specified in the application.

e. Departures not permitted.

   A departure from the number of spaces required for the physically handicapped (Section 27-566 of the Prince George's County Zoning Ordinance) shall not be granted unless an exception from the requirements for the handicapped in applicable building codes has been obtained from the state and county agencies responsible for administering those codes. If the exception is granted, this Section may be applied to Section 27-566 of the Prince George's County Zoning Ordinance.

(Sec. 26-32 amended by O-5-19; adopted 7/1/19 and approved by District Council on 10/1/19).

Sec. 26-33. Limited Departures from Design Standards and the Number of Parking and Loading Spaces Required.

   A. The City Planning Director is authorized to approve administratively, without public hearing, limited departures from the design standards in Part 11 “Off-street Parking and Loading” and Part 12 “Signs” of the Prince George’s County Zoning Ordinance, and the number of loading spaces required.

   B. Limited departures may be approved for a maximum of ten percent (10%) of the standard design requirements. For departures from the number of parking and loading spaces limited departures may be approved for a maximum of ten (10%) of standard requirements and shall not exceed one hundred (100) parking spaces or one (1) loading space.

   C. Before approving a limited departure, the Director shall make the findings required in Sec. 26-31 for departures from design standards and Sec. 26-32 for departures from parking and loading spaces in addition to all other findings the Advisory Planning Board would be required to make, if it reviewed the application.

   D. Except as expressly set forth in this Chapter, the Director is not authorized to waive requirements in the Prince George’s County Zoning Ordinance, grant variances, or modify conditions, considerations, or other requirements imposed by the Advisory Planning Board, the Prince George's County Planning Board, the Zoning Hearing Examiner for Prince George's County or District Council in any case.

   E. The applicant's property shall be posted within ten (10) days of the Planning Director's acceptance of filing of the application. Posting shall be in accordance with the City Code. On and after the first day of posting, the application may not be amended.
F. If a written request for public hearing is not submitted within the posted time period, then the Director may act on the application. The Planning Director's approval concludes all proceedings.

G. If the Planning Director denies the application or a timely hearing request is submitted, then the application shall be treated as re-filed on the date of that event. The applicant, Planning Director, and City Staff shall then follow the procedures for Advisory Planning Board review in Section 26-33 above.

(Sec. 26-33 amended by O-5-19; adopted 7/1/19 and approved by District Council on 10/1/19).

Sec. 26-34. Alternative Compliance.

A. Purpose. The standards contained in the Prince George’s County Landscape Manual are intended to encourage development that is economically viable and environmentally sound. The standards are not intended to be arbitrary or to inhibit creative solutions. Project conditions may justify approval of alternative methods of compliance with standards. Conditions may arise where normal compliance is impractical or impossible, or where maximum achievement of the county’s and City’s objectives can only be obtained through alternative compliance.

B. Alternative compliance from the landscaping requirements of the Prince George’s County Landscape Manual (Sec. 27-123) may be permitted by the Advisory Planning Board or the Planning Director, if authorized, in accordance with the provisions of this Section.

C. Procedures.

(1) Application.

a. All requests for alternative compliance from the landscaping requirements of the Prince George’s County Landscape Manual (Sec. 27-123) shall be in the form of an application filed with the Advisory Planning Board. The Advisory Planning Board shall determine the contents of the application and shall provide the application form.

b. Along with the application stating the Section of the Landscape Manual from which alternative compliance is requested and identifying the underlying permit or case, if any, the applicant shall submit the following:

(i) Application fee.

(ii) One site plan containing the following:

(a) A north arrow and scale.

(b) Property lines.

(c) Zoning and use of subject property and all abutting properties, location of buildings on abutting properties within fifty feet of a property line, and notes indicating the existence of all buildings on abutting properties within 200 feet of a property line; zoning and use of properties directly adjacent to the subject property.

(d) Name, location, existing right-of-way width, ultimate right-of-way width, and all existing and proposed improvements within all abutting streets.

(e) Natural features, such as existing two foot contour topography, ponds, lakes and streams.

(f) Delineation of regulated environmental features, such as one hundred year floodplain, non-tidal wetlands, regulated streams, and associated buffers.
(g) Existing and proposed stormwater management facilities.

(h) Required buffer yard depths/widths (i.e., building setbacks and landscape yards from all lot lines).

(i) Location, height, dimensions, details, and use of all existing and proposed buildings and other structures (including parking lots, sidewalks and other paved areas; fences and walls; and recreational equipment).

(j) Proposed grading in two foot contours, with any slope steeper than three-to-one (3:1) labeled.

(k) Location of existing and proposed utilities, including water, storm drain and sanitary sewer pipes; overhead wires; utility poles and boxes; and signs.

(l) Location of existing and proposed easements, including, but not limited to, access easements and utility easements.

(m) Location, size and description of all elements that are required to be screened by Section 4.4 “Screening Requirements” of the Prince George’s County Landscape Manual.

(iii) A typewritten explanation by the applicant (statement of justification) demonstrating how the request satisfies the requirements of paragraph D below. The statement must be signed by the applicant. The applicant shall be responsible for providing all information that is necessary for the Advisory Planning Board to make its decision under paragraph d; and

(iv) One zoning sketch map.

(v) One aerial photograph with the property outlined in red.

(vi) Any supporting information (photographs, previous alternative compliance approvals, etc.)

(vii) One tree conservation plan or exemption letter.

(viii) One landscape plan in accordance with Section 2 “Plan Preparation” of the Prince George’s County Landscape Manual.

(2) Staff report.

Planning Staff shall analyze the request and shall forward its comments and recommendations to the Planning Director or Advisory Planning Board. These comments and recommendations shall be available for public examination at least seven (7) days prior to the public hearing.

D. Requests for alternative compliance will be accepted for any application to which the requirements of the Prince George’s County Landscape Manual apply, except for applications for alternative compliance from the landscaping requirements of the Prince George’s County Landscape Manual (Sec 27-123) that are in conjunction with another approval upon which the Prince George’s County District Council or the Prince George’s County Planning Board make a decision, when one or more of the following conditions are met:

(1) Topography, soil, vegetation or other site conditions are such that full compliance is impossible or impractical; or improved environmental quality would result from the alternative compliance.

(2) Space limitations, unusually shaped lots, and prevailing practices in the surrounding neighborhood may justify alternative compliance for in-fill sites, and for improvements and redevelopment in older communities.

(3) Change of use on an existing site increases the buffer required by Section 4.7 of the Prince George’s County Landscape Manual more than it is feasible to provide.

(4) Safety considerations make alternative compliance necessary.
(5) An alternative compliance proposal is equivalent or better than normal compliance in its ability to fulfill the design criteria in Section 3 of the Prince George’s County Landscape Manual.

a. A proposed alternative compliance measure must be equivalent or better than normal compliance in terms of quality, effectiveness, durability, hardiness, and ability to fulfill the design criteria in Section 3 of the Prince George’s County Landscape Manual.

b. Alternative compliance shall be limited to the specific project under consideration and shall not establish precedents for acceptance in other cases.

c. A request for alternative compliance shall be submitted to the Planning Director, or his designee, at the time the plan is submitted. In the case of those plans for which no public hearing is requested, the decision of the Planning Director, or his designee, will be final, unless the applicant appeals the decision to the Advisory Planning Board. In the case of those plans for which an Advisory Planning Board or other public hearing is required: (1) the request for alternative compliance will be accepted no less than thirty-five (35) calendar days prior to the scheduled date of the hearing, and (2) the Planning Director, or his designee, will forward a recommendation to the proper hearing authority a minimum of five (5) working days prior to the hearing.

d. Requests for alternative compliance shall be accompanied by sufficient explanation and justification, written and/or graphic, to allow appropriate evaluation and decision.

e. In a situation where compliance with the Prince George’s County Landscape Manual is not possible, and there is no feasible proposal for alternative compliance which is, in the judgment of the Planning Director, or his designee, equivalent or better than normal compliance, then the applicant must apply for an appropriate departure from design standards in accordance with the requirements in Section 26-31.

(Sec. 26-34 amended by O-5-19; adopted 7/1/19 and approved by District Council on 10/1/19).

Sec. 26-35. Reserved.

Division 4. Certification, Revocation and Revision of Nonconforming Uses.

Sec. 26-36. Alteration, Extension or Enlargement of Nonconforming Uses.

A. In general – Except as provided for in this Section, a certified nonconforming use may be altered, enlarged, or extended, provided that the alteration, enlargement, or extension conforms to the building line setback, yard, and height regulations of the zone in which the use is located; and a special exception is not required by the District Council.

B. Specific uses.

(1) Surface mining – A certified nonconforming use involving surface mining may be expanded to include the entire parcel of land (or acreage owned or leased at the time the use became nonconforming) upon which the removal operations were initially conducted, provided the initial use predates the adoption of the original zoning map for the area. This does not apply if the use is located in a one hundred (100) year floodplain or if the use is located within a Chesapeake Bay Critical Area Overlay Zone, which require a special exception under the Prince George’s County Zoning Ordinance.
(2) Uses in floodplains - Existing nonconforming uses within a one hundred (100) year floodplain may be modified, but not enlarged or extended, to incorporate flood-proofing measures provided that: the measures do not raise the level of the one hundred (100) year floodplain; and the measures are in conformance with Division 2 of Subtitle 4, "Building," of the Prince George's County Code, entitled "Construction or Changes in Floodplain Areas."

(3) Gas stations.
   a. The following modifications of a certified nonconforming gas station may be permitted by the Advisory Planning Board:
      (i) The enlargement or relocation of pump islands;
      (ii) The addition of one (1) pump island;
      (iii) The addition, relocation, or modification of a fence, kiosk, island shelter, island canopy, storage area, trash enclosure, vending area, or lavatory facility; or
      (iv) The addition, relocation, or modification of an accessory building used solely for the storage of automotive replacement parts or accessories. The accessory building shall be wholly enclosed. The building shall either be constructed of brick (or another building material similar in appearance to that of the main structure) and placed on a permanent foundation, or it shall be entirely surrounded with screening material. Screening shall consist of a wall, fence, or sight-tight landscaping material, which shall be at least as high as the accessory building. The screening shall be approved as part of the modification.
   b. A site plan shall be submitted showing the modifications.
   c. The modifications shall not violate any condition of a previously approved special exception for a gas station on the property.
   d. The modification shall be in conformance with Section 27-358(a)(5), (6), (7), (8), and (10), Section 27-358(c) of the Prince George's County Zoning Ordinance, and any provisions of the zone in which the property is located.
   e. At the time the application is filed, a filing fee shall be paid by the applicant.
   f. The Advisory Planning Board's decision on the requested modification shall be sent to all persons of record in the hearing before the Advisory Planning Board, and to the City Council. This decision may be appealed in accordance with the provisions of Division 6 of this Article.

(4) Drive-in and fast-food restaurants.
   a. The following modifications of a certified nonconforming drive-in or fast-food restaurant may be permitted by the Advisory Planning Board:
      (i) The addition, relocation, or modification of a freezer on the sides or rear of the restaurant building;
      (ii) The addition, relocation, or modification of gross floor area in order to provide rest rooms to serve the physically handicapped;
      (iii) The addition, relocation, or modification of vestibules above and around points of access to the restaurant building; or
      (iv) The addition, relocation, or modification of a fence, storage area, or trash enclosure.
   b. A site plan shall be submitted showing the modifications.
   c. The modifications shall not violate any condition of a previously approved special exception for a drive-in or fast-food restaurant on the property.
   d. At the time the application is filed, a filing fee shall be paid by the applicant.
e. The Advisory Planning Board’s decision on the requested modification shall be sent to all persons of record in the hearing before the Advisory Planning Board, and to the City Council. This decision may be appealed to the City Council as provided for in Division 6 of this Article.

(5) The alteration, extension, or enlargement of recreational and social uses associated with certified nonconforming multifamily dwellings, for the sole use of residents and their guests, shall not be considered an alteration, extension, or enlargement of the nonconforming use. A detailed site plan shall be approved for this use in accordance with Part 3, Division 9, of the Prince George’s County Zoning Ordinance.

(6) The alteration, extension, or enlargement of a nonconforming one-family detached dwelling may be permitted provided that:

a. The modification conforms to the requirements of subsection (A) of this section;

b. Development on the property (including the proposed modification) conforms to the lot coverage limitations of the zone in which the property is located; and

c. Within a Chesapeake Bay Critical Area Overlay Zone, development on the property (including the proposed modification) conforms to any applicable requirements concerning impervious surface ratios, except as provided in paragraph 9, below.

(7) In multifamily developments existing as of January 1, 1990, in the R-30, R-30C, R-18, R-18C, R-10, AND R-H zones, the following improvements may be permitted:

a. Fence or wall;

b. Trash enclosure;

c. Guard booth;

d. Canopy;

e. Playground and outdoor play area for a day care center for children;

f. Landscaping;

g. Day care centers for children in multifamily units;

h. Antenna, otherwise permitted in the zone;

i. Equipment room for telecommunications located inside an existing building;

j. Day care center for children located within an existing free-standing building in a project in excess of one hundred (100) units, with a maximum of one (1) per project, provided that it is located in a “hot spot” as defined in state law or “revitalization area,” it is operated by a nonprofit entity, and at least 50% of the children are residents of the project; and

k. New access or parking, if accompanied by a reduction of 30% or more in the number of bedrooms. Such improvements shall conform to any applicable regulations in any applicable requirement of the Prince George’s County Zoning Ordinance.

(8) Screening requirements for vehicle repair facilities, vehicle towing stations, and vehicle storage yards - The alteration of a certified nonconforming vehicle repair facility, vehicle towing station, or vehicle storage yard may be permitted by the Advisory Planning Board, provided the alteration is made to comply with the screening requirements set forth in Section 13-235 of Subtitle 13 of the Prince George’s County Code, and Section 4.4 of the Prince George’s County Landscape Manual.
(9) Nonconforming buildings, structures, or certified uses in TDOZs - Existing nonconforming uses, buildings, or structures which have become nonconforming as a result of the adoption of a Transit District Overlay Zone (TDOZ) may be enlarged in height, provided the existing square footage of the structure is not enlarged or increased, provided further that it does not exceed applicable height limits set forth in the approved transit district development plan.

(10) Safety improvements required by the Commission - Safety improvements made to an existing certified nonconforming use pursuant to an executed agreement with the Maryland-National Capital Park and Planning Commission are permitted and shall be identified on the certified nonconforming use site plan.

(11) Adaptive reuse of community building - The renovation and adaptive reuse of a historic structure located within a certified nonconforming use multifamily development pursuant to a historic area work permit approved by the Historic Preservation Commission may be modified. Allowable modifications shall include, but not be limited to: reconfiguration of internal driveways, parking and drive aisles, provided the total number of parking spaces is not reduced; and the construction of an addition to the historic structure including related sidewalks, entrances, and other site work. Upon completion of the improvements proposed in this subsection, the owner shall be entitled to submit a revised nonconforming use site plan reflecting the improvements which shall be recertified by the Advisory Planning Board's authorized representative.

C. Procedures.

(1) Application.
   a. All requests for alteration, extension or enlargement of a certified nonconforming use shall be in the form of an application filed with the advisory planning board. The advisory planning board shall determine the contents of the application and shall provide the application form.
   b. Along with the application, the applicant shall submit fifteen (15) copies of a site plan and other data or explanatory material which are considered necessary to indicate what is being proposed.

(2) Fees.
   a. Upon filing the application, the applicant shall pay to the City a filing fee.
   b. Sign posting fees.

In addition to the filing fee, a sign posting fee as established by the City for each sign required shall be paid by the applicant at the time the application is filed.

(3) Notice.
   a. Notice of the date, time and place of the hearing shall be sent to all persons of record. Notice of the date, time and place of the hearing, and a site plan drawn to scale shall be sent to the Maryland-National Capital Park and Planning Commission and the District Council.
   b. The subject property shall be posted with at least one (1) durable sign giving notice of the hearing at least fifteen (15) days prior to the scheduled hearing date, in accordance with Sec. 26-22.

(4) A recommendation that an alteration, extension or enlargement of a certified nonconforming use be granted shall be made by the Advisory Planning Board only upon the finding that the purposes of the Prince George's County Zoning Ordinance will be equally well or better served by the applicant's proposal;
(5) Exceptions to the Advisory Planning Board’s recommendation regarding an alteration, extension or enlargement may be filed in accordance with Section 26-47.

(Sec. 26-36 amended by O-5-19; adopted 7/1/19 and approved by District Council on 10/1/19).

Sec. 26-37. Certification of Nonconforming Uses.

A. In general - a nonconforming use may only continue if a use and occupancy permit identifying the use as nonconforming is issued after the Advisory Planning Board (or its authorized representative) or the City Council certifies that the use is nonconforming and not illegal.

B. Application.

   (1) An application for certification of a nonconforming use shall be filed with the Advisory Planning Board. The Advisory Planning Board shall determine the contents of the application and shall provide the application form.

   (2) Along with the application and accompanying plans, the applicant shall provide the following:

      a. Documentary evidence, such as tax records, business records, public utility installation or payment records, and sworn affidavits, showing the commencing date and continuous existence of the nonconforming use;

      b. Evidence that the nonconforming use has not ceased to operate for more than one hundred eighty (180) consecutive calendar days between the time the use became nonconforming and the date when the application is submitted, or that conditions of nonoperation for more than one hundred eighty (180) consecutive calendar days were beyond the applicant’s and/or owner’s control, were for the purpose of correcting code violations, or were due to the seasonal nature of the use;

      c. Specific data showing the exact nature, size, and location of the building, structure or use; a legal description of the property; and the precise location and limits of the use on the property and within any building it occupies; and

      d. A copy of a valid use and occupancy permit issued for the use prior to the date upon which it became a nonconforming use, if the applicant possesses one.

C. Notice. – The City shall post the property with a durable sign(s) within ten (10) days of acceptance of the application and accompanying documentation. The signs(s) shall provide notice of the application; the nature of the nonconforming use for which the permit is sought; a date, at least twenty (20) days after posting, by which written comments and/or supporting documentary evidence relating to the commencing date and continuity of such use, and/or a request for public hearing from a party of interest will be received; and instructions for obtaining additional information. Requirements regarding posting fees, the number, and the location of signs shall conform to the requirements set forth in Section 26-22 of this Chapter. This Section does not apply to uses that occur solely within an enclosed building, with the exception of parking.

D. Planning Director review.

   (1) If a copy of a valid use and occupancy permit is submitted with the application, where applicable a request is not submitted for the Advisory Planning Board to conduct a public hearing, and, based on the documentary evidence presented, the Planning Director is satisfied as to the commencing date and continuity of the nonconforming use, the representative shall recommend certification of the use
as nonconforming for the purpose of issuing a new use and occupancy permit identifying the use as nonconforming. This recommendation shall not be made prior to the specified date on which written comments and/or requests for public hearing are accepted.

(2) Following a recommendation of certification of the use as nonconforming, the Planning Director shall notify the City Council of the recommendation.

(3) If the City Council does not elect to review the recommendation within thirty (30) days of receipt of the recommendation as authorized by Division 6 of this Article, below, the representative shall certify the use as nonconforming. Copies of the recommendation shall be sent to all persons of record, the Maryland-National Capital Park and Planning Commission and the District Council.

(4) Subsections (2) and (3), above, and Division 6 of this Article, shall not apply to uses that, with the exception of parking in accordance with Section 27-549 of the Prince George's County Zoning Ordinance, occur solely within an enclosed building.

E. Advisory Planning Board review.

(1) Required hearing - If a copy of a valid use and occupancy permit is not submitted with the application, if the documentary evidence submitted is not satisfactory to the Advisory Planning Board's authorized representative to prove the commencing date or continuity of the use, or if a public hearing has been requested by any party of interest challenging the commencing date and/or continuity of the use, the Advisory Planning Board shall conduct a public hearing on the application for the purpose of determining whether the use should be certified as nonconforming.

(2) Application for certification - Whenever the Advisory Planning Board will hold a hearing on a certification of the use as nonconforming, the applicant shall complete the appropriate form provided by the Advisory Planning Board.

(3) At least seven (7) calendar days prior to the public hearing, the City shall send written notice of the date, time, and place of the hearing to the applicant and to all persons of record.

(4) Advisory Planning Board action.

The Advisory Planning Board may decide to either grant or deny certification of the use as nonconforming. If it decides to certify that a nonconforming use actually exists and has continuously operated, the Advisory Planning Board shall find that the conclusion it reaches is supported by a preponderance of evidence.

F. Applicability. - This section shall not apply to nonconforming buildings or structures occupied by conforming uses.

(Sec. 26-37 amended by O-5-19; adopted 7/1/19 and approved by District Council on 10/1/19).

Sec. 26-37A. Additional Requirements for Specific Nonconforming Uses.

A. Junkyards and automobile salvage yards.

(1) All certified nonconforming junk yards and automobile salvage yards shall meet the following requirements:

a. The junk or automobile salvage yard shall be enclosed by a solid, light-tight, sightly wall or fence at least eight (8) feet high;

b. The wall or fence shall screen the enclosed area from public view;
c. The fence shall be maintained in a constant state of good repair; and

d. No sign shall be placed on the fence (except as permitted by Part 12 of the Prince George’s County Zoning Ordinance).

(2) The requirements of subsection A.(1), above, shall apply to all nonconforming junk yards and vehicle salvage yards, regardless of any prior nonconforming use status.

(3) The property owner may apply for a waiver of the fence or wall requirements as follows:

a. The owner or operator of the junk yard shall make a written request to the City Council to waive or modify the requirements. The application shall be filed with the City Clerk.

b. Along with the application, the owner or operator shall submit the following:

   (i) A statement listing the names, and the business and residential addresses, of all individuals having at least a five percent (5%) financial interest in the subject property;

   (ii) If any owner is a corporation, a statement listing the officers of the corporation, their business and residential addresses, and the date on which they assumed their respective offices. The statement shall also list the current board of directors, their business and residential addresses, and the dates of each director’s term. An owner that is a corporation listed on a national stock exchange shall be exempt from the requirement to provide residential addresses of its officers and directors;

   (iii) If the owner is a corporation (except one listed on a national stock exchange), a statement containing the names and residential addresses of those individuals owning at least five percent (5%) of the shares of any class of corporate security (including stocks and serial maturity bonds);

   c. For the purposes of A(3)(b) of this Section, the term “owner” shall include not only the owner of record, but also any contract purchaser.

   d. The city council shall designate a date for the public hearing and shall notify the applicant of the date.

(4) The application may only be approved:

   (i) For a fixed temporary period of time, which may be renewed; and

   (ii) If the purposes of this section are fulfilled.

(5) In place of the fence, the council may permit any of the following:

   (i) Screening by natural objects;

   (ii) Plantings on sides not facing traveled roads;

   (iii) A wire fence on sides where the adjacent properties are predominantly undeveloped; or

   (iv) A reduction in the fence requirements when the property is, or abuts, properties zoned I-1 or I-2.

B. Adult bookstores and/or adult video stores.

All certified nonconforming adult bookstores and/or adult video stores shall meet the following requirements:

(1) All windows, doors, and other apertures shall be blackened or obstructed so as to prevent anyone outside the establishment from viewing its interior;

(2) Advertising shall be limited to one (1) business sign, as provided for in Section 27-615 of the Prince George’s County Zoning Ordinance;
(3) The proprietor, owner, or personnel of the establishment shall prohibit access to the premises by any person who is under eighteen (18) years old.

(4) All adult book stores and/or adult video stores have to obtain a use and occupancy permit as set forth in Section 27-904 of the Prince George’s County Zoning Ordinance. In order to provide for a reasonable standard of amortization and to prevent an unreasonable loss, all certified nonconforming adult book stores and/or adult video stores may continue in operation until January 1, 2011, in accordance with the provisions of this subtitle.

C. Additional requirements for eating or drinking establishments.

(1) In addition to being certified as a nonconforming use, an eating or drinking establishment permitting live entertainment or patron dancing, with hours of operation that extend beyond 11:00 p.m., and with parking abutting land used for residential purposes, except hotel lounges, may only continue subject to the requirements of this section and to any other applicable requirements of the Prince George’s County zoning ordinance.

(2) All certified nonconforming eating or drinking establishments described in subsection (1), above, shall meet the following requirements:

(a) A sight-tight fence or wall, at least six (6) feet in height, shall be located along the perimeter of all abutting residential property; and

(b) The property shall be maintained in accordance with all applicable provisions of the City Code and Prince George’s County Code.

D. Additional requirements for massage establishments

All certified nonconforming massage establishments shall meet the following requirements:

(1) All windows, doors, and other apertures shall be blackened or obstructed so as to prevent anyone outside the establishment from viewing its interior;

(2) Advertising shall be limited to one (1) business sign, as provided for in Section 27-615 of the Prince George’s County Zoning Ordinance;

(3) The proprietor, owner, or personnel of the establishment shall prohibit access to the premises by any person who is under eighteen (18) years old.

(4) A massage establishment may only continue if a special exception for a massage establishment is approved in accordance with the Prince George’s County Zoning Ordinance.

E. Additional requirements for mobile homes and trailer camps (mobile home parks).

(1) Mobile home dwellings.

(a) A nonconforming mobile home used as a dwelling may continue, if the dwelling was legally in existence on November 24, 1975.

(b) A building permit may be issued for a mobile home to be used as a dwelling provided that:

(i) The application for the permit was on file with the Department of Environmental Resources on November 23, 1975; and

(ii) All requirements applicable to the erection of a mobile home as of that date have been met.

(c) A mobile home dwelling erected pursuant to the above permit shall be deemed a certified nonconforming use provided that:

(i) construction begins within six (6) months after the permit is issued; and

(ii) construction proceeds to completion in accordance with the permit.

(2) Trailer camps (mobile home parks).
(a) A trailer camp (mobile home park) legally in existence on November 24, 1975, shall be considered a nonconforming use.

(b) A trailer camp shall be deemed a certified nonconforming use if a special exception for the camp was approved by the Prince George’s County District Council prior to November 24, 1975.

(c) In the case of a trailer camp identified in paragraph (b), above, building permits may be issued for all structures shown on the site plan. In addition, building permits for buildings to be used for storage of maintenance equipment and supplies not shown on the site plan may be issued. These storage buildings shall be subject to the requirements applicable to main buildings in the zone in which the camp is located.

F. Additional requirements for pawn shops
   All certified nonconforming pawnshops shall meet the following requirements:
   (1) The proprietor, owner, or personnel of the pawnshop establishment shall not transact business with any person who is under eighteen (18) years old;
   (2) No parking of motor vehicles pledged as collateral shall be permitted on the subject property.
   (3) In the event that a certified nonconforming pawnshop is relocated to another location, the certification shall cease.

G. Additional requirements for model studios
   All certified nonconforming model studios shall meet the following requirements:
   (1) Outdoor displays or advertising shall be limited to one (1) business sign, as provided for in Section 27-615 of the Prince George’s County Zoning Ordinance; and
   (2) The proprietor, owner, or personnel of the establishment shall prohibit access to the premises by any person who is not yet eighteen (18) years old.
   (3) A model studio may continue only if a special exception for a model studio is approved in accordance with the Prince George’s County Zoning Ordinance.

(Sec. 26-37A added by O-5-19; adopted 7/1/19 and approved by District Council on 10/1/19).

Sec. 26-38. Revocation of Certification of Nonconforming Uses.

A. Upon a petition filed by the Planning Director of the County’s Department of Permitting, Inspections and Enforcement (or his or her designee), or upon its own motion, the Advisory Planning Board shall hold a public hearing to determine whether the certification of a nonconforming use should be revoked.

B. The Advisory Planning Board shall revoke the certification if it finds that either:
   (1) There was fraud or misrepresentation in obtaining the certification;
   (2) A certified nonconforming use has been discontinued for a period of one hundred eighty (180) or more consecutive calendar days, unless the conditions of nonoperation were beyond the control of the owner or holder of the use and occupancy permit; or
   (3) Any applicable requirements of Section 26.37 have not been met.
C. The Advisory Planning Board shall notify the County’s Department Permitting, Inspections and Enforcement (or his or her designee) and the Prince George’s County Planning Board of a revocation. The director, in turn, shall revoke the use and occupancy permit for the nonconforming use.

D. The decision of the Advisory Planning Board may be appealed to the City Council in the same manner as an original certification.

(Sec. 26-38.A and C amended by O-5-19; adopted 7/1/19 and approved by District Council on 10/1/19).

Sec. 26-39. Reserved.

Sec. 26-40. Reserved.

Division 5. Minor Changes to Approved Special Exceptions.

Sec. 26-41. Minor Changes to Special Exceptions, in General.

A. The Advisory Planning Board and Planning Director are authorized to approve minor changes to site plans for approved special exceptions, as provided in this Article. The Director may authorize staff to take any action the Director may take under this Article.

B. The Advisory Planning Board is authorized to grant the minor changes listed in this article, and any variance requested in conjunction with the minor change. The minor change request shall be in the form of an application filed with the Advisory Planning Board. The contents of the application shall be determined by the Advisory Planning Board. Along with filing the application, the applicant shall submit a revised site plan, and shall pay the required fee. The Advisory Planning Board shall hold a hearing on the request in accordance with the rules of procedure established by the Advisory Planning Board. The Advisory Planning Board's decision shall be in the form of a resolution. A copy of the resolution shall be sent to all persons of record and the City Clerk.

C. If the change is approved, the revised site plan shall be made a part of the record of the original application.

D. The revised site plan shall comply with all applicable requirements of the Prince George’s County Zoning Ordinance, and with any conditions, relating to the use, imposed in the approval of the special exception or of any applicable zoning map amendment, subdivision plat, or variance.

(Sec. 26-41 amended by O-5-19; adopted 7/1/19 and approved by District Council on 10/1/19).

Sec. 26-42. Minor Changes to Special Exceptions, Advisory Planning Board.

A. The Advisory Planning Board is authorized to approve the following minor changes:

   (1) An increase of no more than fifteen percent (15%) in the gross floor area of a building;
   (2) An increase of no more than fifteen percent (15%) in the land area covered by a structure other than a building;
   (3) The redesign of parking or loading areas; or
   (4) The redesign of a landscape plan.
B. The Advisory Planning Board is further authorized to approve the minor changes described in Section 26-44.

C. In reviewing proposed minor changes, the Advisory Planning Board shall follow the procedures in Section 26-41.

Sec. 26-43. Limited Minor Changes to Special Exceptions, Planning Director.

A. The Planning Director is authorized to approve minor changes administratively, without public hearing, in cases listed in Section 26-42 of this Chapter, but only if the proposed minor changes are limited in scope and nature, including an increase in gross floor area or land covered by a structure other than a building up to ten percent (10%). The Planning Director shall deny any administrative approval request proposing site plan changes which will have a significant impact on adjacent property.

B. Before approving a minor change, the Planning Director shall make all findings the Advisory Planning Board would be required to make, if it reviewed the application.

C. Except as set forth in this Article, the Planning Director is not authorized to waive requirements in the Prince George’s County zoning ordinance, grant variances, or modify conditions, considerations, or other requirements imposed by the Advisory Planning Board or City Council in any case.

D. The applicant's property shall be posted within ten (10) days of the Planning Director's acceptance of filing of the application. On and after the first day of posting, the application may not be amended.

E. The Planning Director may waive posting after determining, in writing, that the proposed minor change is so limited in scope and nature that it will have no appreciable impact on adjacent property.

F. If posting is waived or a written request for public hearing is not submitted within the posted time period, then the Director may act on the application. The Planning Director's approval concludes all proceedings.

G. If the Planning Director denies the application or a timely hearing request is submitted, then the application shall be treated as re-filed on the date of that event. The applicant and Director shall then follow the procedures for Advisory Planning Board review in Section 26-41.

(Sec. 26-43 amended by O-5-19; adopted 7/1/19 and approved by District Council on 10/1/19).

Sec. 26-44. Specific Changes.

A. Changes of golf course site plans. - Changes of a site plan for an approved golf course may be permitted by the Advisory Planning Board or Planning Director, if authorized, for any modifications or additions which are found to be in accordance with the purposes and uses generally associated with golf courses, including swimming pools, tennis courts, and clubhouses/restaurants. The Advisory Planning Board shall not approve any use previously disapproved as part of the original special exception.

B. Changes of pari-mutuel racetrack site plans - Changes of a site plan for an approved pari-mutuel racetrack may be permitted by the Advisory Planning Board or Planning Director, if authorized, for any modifications related to racetrack activities, upon submittal of a letter from the Maryland Racing Commission advising that the modifications have been directed or approved by the Commission and are necessary.
to benefit racing. The Advisory Planning Board shall not approve any use previously
disapproved as part of the original special exception.

C. Changes of gas station site plans.
   (1) The Advisory Planning Board and Planning Director may permit
the following modifications under the procedures in this subsection and in Sections
26-41 and 26-43 above:
   a. The enlargement or relocation of pump islands;
   b. The addition of one (1) pump island;
   c. The addition, relocation, or modification of a fence, kiosk,
      island shelter, island canopy, storage area, trash enclosure, vending area, or lavatory
      facility;
   d. The addition, relocation, or modification of an accessory
      building used solely for the storage of automotive replacement parts or accessories.
      The accessory building shall be wholly enclosed. The building shall either be
      constructed of brick (or another building material similar in appearance to that of the
      main structure) and placed on a permanent foundation, or it shall be entirely
      surrounded with screening material. Screening shall consist of a wall, fence, or sight-
      tight landscaping material, which shall be at least as high as the accessory building.
      The type of screening shall be approved as a part of the minor change;
   e. Any amendment described in Section 26-42.

   (2) The Advisory Planning Board's decision shall be sent to all
persons of record in the hearing before the Advisory Planning Board, the City Council,
and the Maryland-National Capital Park and Planning Commission and the District
Council. This decision may be appealed to the City Council as provided for in Division
6 of this Article.

D. Changes of adaptive reuse of surplus public school site plans. –
Changes of a site plan for an approved adaptive reuse of a surplus public school may
be permitted by the Advisory Planning Board or Planning Director, if authorized, for
the following modifications:
   (1) The relocation or addition of porches, patios, decks, exterior
      stairways, and the like;
   (2) The relocation or addition of accessory storage buildings,
      playground equipment, picnic areas, barbecue pits, bicycle and pedestrian ways, and
      the like;
   (3) The relocation or addition of driveways and off-street parking lots
      and loading areas;
   (4) The relocation or addition of landscaping or screening areas;
   (5) The relocation or addition of fences and retaining walls; and
   (6) The relocation of freestanding business signs.

E. Changes of multifamily housing for elderly/handicapped site plans. –
Changes of a site plan for approved multifamily housing for the elderly and/or
handicapped may be permitted by the Advisory Planning Board or Planning Director, if
authorized, in order to increase the amount of off-street parking. The Advisory
Planning Board shall not approve any change previously proposed and specifically
disapproved as part of the original special exception.

F. Changes of drive-in and fast-food restaurant site plans.
   (1) Changes of a site plan for an approved drive-in or fast-food

restaurant may be permitted under the site plan amendment procedures in Section
27-324 of the Prince George’s County Zoning Ordinance. The Advisory Planning
Board may permit the following modifications under the procedures in this Article:
a. The addition, relocation, or modification of a freezer on the sides or rear of the restaurant building;
b. The addition, relocation, or modification of gross floor area in order to provide rest rooms to serve the physically handicapped;
c. The addition, relocation, or modification of vestibules above and around points of access to the restaurant building;
d. The addition, relocation, or modification of a fence, storage area, or trash enclosure; or
e. Any amendment described in Section 26-42 above.

G. Changes of site plans necessitated by erosion/sediment control or stormwater management regulations – Changes of a site plan not otherwise provided for in this Article, for an approved use for which on-site erosion/sediment control or stormwater management facilities are required, may be permitted by the Advisory Planning Board or Planning Director, if authorized, provided that:

(1) Such changes are the minimum necessary in order to conform to the approved plans for the required erosion/sediment control or stormwater management facilities and do not include the relocation of stormwater management facilities onto land not proposed for development; and

(2) The agency having jurisdiction over approval of those plans advised the Advisory Planning Board that development in accordance with the approved special exception site plan would result in a violation of erosion/sediment control or stormwater management regulations.

H. Changes of site plans for public electric utility uses or structures. – The Advisory Planning Board or Planning Director, if authorized, may permit changes to a site plan for approved public electric utility uses or structures for the addition, relocation, or modification of foundations and equipment, including ground wires, control houses, and associated structures, within the existing fence line.

I. Changes of marina site plans. – Changes of a site plan for approved marinas may be permitted by the Advisory Planning Board or Planning Director, if authorized, for renovation in kind, replacement or repair for facilities such as the bulkheads or boat slips, floating and fixed docks boat storage facilities and other structures.

J. Changes of Planned Retirement Community Site Plans.

(1) The Advisory Planning Board may approve the following modifications, following the procedures in A. above:

(a) Changes required as the result of an approval of a Preliminary Plan of Subdivision;
(b) Changes required by engineering necessity to grading, utilities, stormwater management, or related plan elements;
(c) New or alternative architectural plans that are equal or superior to those originally approved, in terms of the quality of exterior building materials and architectural detail; or
(d) Changes to any other plan element determined to be consistent with the overall design, layout, quality, or intent of the approved special exception site plan.

(2) The Advisory Planning Board’s decision shall be sent to all persons of record in the hearing before the Board, and to the City Council. This decision may be appealed to the City Council upon petition by any person of record. The petition shall be filed with the Planning Director within thirty (30) days after the date of the notice of the Advisory Planning Board’s decision. The City Council may vote to review the Advisory Planning Board’s decision on its own motion within thirty
(30) days after the date of the notice. The Planning Director shall notify the Advisory Planning Board of any appeal or review decision. Within seven (7) calendar days after receiving this notice, the Advisory Planning Board shall transmit to the City Council a copy of all written evidence and materials submitted for consideration by the Planning Board and a transcript of the public hearing on the revised plan. The City Council shall schedule a public hearing on the appeal or review. Testimony at the hearing shall be limited to the facts and information contained within the record made at the hearing before the Advisory Planning Board. Within sixty (60) days after the close of the Council’s hearing, the Council shall affirm, reverse, or modify the decision of the Advisory Planning Board, or return the revised plan to the Board to take further testimony or reconsider its decision. Where the City Council approves a revised site plan, it shall make the same findings that are required to be made by the Advisory Planning Board. If the City Council fails to act within the specified time, the Advisory Planning Board’s decision is automatically affirmed. The City Council shall give its decision, in writing, stating the reasons for its action. Copies of the decision shall be sent to all persons of record and the Advisory Planning Board.

(Sec. 26-44 amended by O-5-19; adopted 7/1/19 and approved by District Council on 10/1/19).

Sec. 26-45. Reserved.

Sec. 26-46. Reserved.

Division 6. Exceptions to Advisory Planning Board’s Recommendation; Appeals.

Sec. 26-47. Exceptions to the Advisory Planning Board’s Recommendation.

A. Any person of record may file with the City Council, within fifteen (15) calendar days after written notice of the Advisory Planning Board’s recommendation regarding a variance, or thirty (30) days after receipt of a recommendation of the Advisory Planning Board regarding all other matters, exceptions to the Advisory Planning Board’s recommendation, and a request for oral argument before the City Council.

B. The City Clerk shall notify the Advisory Planning Board of any exceptions and/or requests for oral argument, and within seven (7) days of receiving said notice the Advisory Planning Board shall transmit to the City Council a copy of the record created by the Advisory Planning Board, including but not limited to, all written evidence and materials submitted for consideration by the Advisory Planning Board. A transcript of the public hearing on the application shall be prepared and transmitted immediately when available.

C. The City Council shall schedule oral argument on the appeal. The City Clerk shall give at least seven (7) calendar days notice of the hearing to all persons of record and the Advisory Planning Board. Oral argument shall be limited to the facts and information within the record made by the hearing before the Advisory Planning Board.

D. After the close of the Council’s hearing, the City Council present and voting shall accept, reject, or modify the recommendation of the Advisory Planning Board, or return the application to the Advisory Planning Board to take further testimony or reconsider its recommendation.

A. Not less than fifteen (15) days after receipt of a recommendation of the Advisory Planning Board regarding a variance or within thirty (30) days after receipt of a recommendation regarding any other request under this Article, a majority of the City Council may adopt the recommendation of the Advisory Planning Board by consent, unless within that fifteen (15) day period, a councilmember either files with the City Clerk a written request for oral argument on the matter or makes a verbal request for same at a City Council meeting, or exceptions and a request for oral argument are filed. Oral argument may only be requested by a councilmember when an action of the Advisory Planning Board is not unanimous or when it is alleged that the recommendation fails to comply with the criteria established herein.

B. The Council shall give its decision in writing, stating the reasons for its action. The Council shall make the same findings that are required to be made by the Advisory Planning Board for each application it considers. Copies of the decision shall be sent to all persons of record, the Advisory Planning Board, the Maryland-National Capital Park and Planning Commission and the District Council.

Sec. 26-49. Appeals.

A. Any person aggrieved by a decision of the City Council regarding variances, departures, alternative compliance or minor revisions to special exceptions who was a party to the proceeding before it may appeal the decision to the Circuit Court for Prince George’s County, Maryland which shall have the power to affirm the decision of the City Council, or, if the decision is not in accordance with the law, to remand the matter or to modify or reverse the decision.

B. Any person aggrieved by a decision of the City Council regarding certification, revocation or revision of a nonconforming use who was a person of record in the proceeding before it may appeal the decision to the District Council for review on the record. On review, the District Council may:
   (1) By majority vote of its members, approve the action of the City; or
   (2) By a vote of at least six of its members, approve with conditions or overrule the action of the City.

C. Any person aggrieved by a decision of the District Council who was a person of record in the proceeding before it may appeal the decision of the District Council to the Circuit Court for Prince George's County, Maryland. For purposes of an appeal to the Circuit Court, the City shall be considered an aggrieved person.

Sec. 26-50. Reserved.

Sec. 26-51. Reserved.

Sec. 26-52. Reserved.

Chapter 26, Article II Repealed and Reenacted by Ordinance O-12-11, adopted 6/20/11.
Chapter 26, Article III repealed in its entirety by O-5-19; adopted 7/1/19 and approved by District Council on 10/1/19.
CHAPTER 27.

RESIDENTIAL ALARM SYSTEMS.

27-1. Definitions.
27-3. False Alarms.

Sec. 27-1. Definitions.

For the purpose of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(a) "Alarm Signal." The activation of an alarm system that requires a response by the police or fire department.

(b) "Alarm System." Any assembly of equipment, mechanical or electrical, that emits, transmits or relays a signal intended to summon to the site of the alarm system the police or fire department, including devices activated automatically, such as burglary and ambulance services alarms, and devices activated manually, such as holdup alarms, but not including telephone lines maintained and operated by public utilities under the regulation of the Public Service Commission over which such signals may be transmitted, an alarm designed to alert only persons occupying the site of the alarm system or alarm systems installed in motor vehicles or boats.

(c) "Alarm User." A person legally entitled to possession of the residential property upon which is located an alarm system.

(d) "City Manager." All references to the City Manager shall be deemed to include the City Manager or any person designated by the City Manager to administer the provisions of this chapter.

(e) "Code Enforcement Officer." Any person designated by the City Manager responsible for the enforcement of this chapter.

(f) "False Alarm." Any activation of an alarm system by inadvertence, negligence or the intentional or unintentional act of a person to which police, fire or ambulance services respond and their existed at the inception of the alarm no fire, crime in process, medical emergency or other activity necessitating a response. Signals which are activated by unusually severe weather conditions or fluctuation in the electricity supplied by a regulated utility company and beyond the control of the alarm user or alarm business shall not be deemed false alarms.

(g) "Person." Any individual, partnership, corporation, association, political subdivision or other entity of any kind.

Sec. 27-2. Operation and Control of Alarm Systems.

All persons owning or operating an alarm system within the City shall have the following duties and responsibilities as respects such system:

(a) To keep and maintain the system in good operating condition, order and repair.

(b) To keep and maintain at the site of the alarm system a complete set of written operating instructions for such system.

(c) To provide training and instructions to individuals customarily occupying the site of the alarm system in its proper operation.

(d) To cooperate with the City in preventing or minimizing the number of false alarms originating from the site of the alarm system.

(e) The alarm user shall make provision for silencing the local audible alarm within thirty (30) minutes from the time the signal is received by the police or fire department, but in no event more than sixty (60) minutes after the alarm is activated, either automatically or by an authorized person.
A violation of this Section shall be a municipal infraction, the penalty for which shall be as prescribed in Section 27-4.

Sec. 27-3. False Alarms.

More than two (2) false alarms in a calendar year from any alarm system located within the City shall be a municipal infraction, the penalty for which shall be as prescribed in Section 27-4.

Sec. 27-4. False Alarm Notification and Penalty.

Violations of this Chapter are municipal infractions subject to the penalty and enforcement provisions of Chapter 1, Sections 6 and 6A of this Code. (Sec. 27-5 amended by O-17-94, adopted 10/3/94).

(a) a person owning or operating an alarm system within the City shall be subject to notice, warnings and penalties for false alarms emitting from an alarm system within a twelve (12) month period as follows:

<table>
<thead>
<tr>
<th>Number of False Alarms</th>
<th>Action Taken</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Written Notice</td>
</tr>
<tr>
<td>2</td>
<td>Warning Letter</td>
</tr>
<tr>
<td>3</td>
<td>$25.00 Penalty</td>
</tr>
<tr>
<td>4</td>
<td>$50.00 Penalty</td>
</tr>
<tr>
<td>5 or more</td>
<td>$100.00 Penalty for each false alarm</td>
</tr>
</tbody>
</table>

(b) All penalties imposed under Subsection (a) of this Section shall be paid within fourteen (14) calendar days of the date of notice.

(c) No action shall be taken against any person for a false alarm occurring within thirty (30) days following the initial installation of an alarm system.

(Chapter 27 amended by O-11-95, adopted 8/2/95).
CHAPTER 28

STORM DRAIN ILLICIT DISCHARGE

28-1. Purpose.
28-3. Applicability.
28-4. Responsibility for administration.
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28-13. Penalties for violations; abatement and other relief.

Sec. 28-1. Purpose.

The purpose of this Chapter is to provide for the health, safety, and general welfare of the citizens of the City of Bowie through the regulation of certain discharges to the storm drain system to the maximum extent practicable as required by federal and state law. This Chapter establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this Chapter are:

A. to regulate the contribution of pollutants to the municipal storm drain system by any user; and
B. to prohibit illicit connections and discharges to the municipal storm drain system; and to establish legal authority to carry out all inspection, surveillance, monitoring and enforcement procedures necessary to ensure compliance with this ordinance.

Sec. 28-2. Definitions.

For the purpose of this chapter, the following terms shall have the meanings set forth herein:

A. “Best Management Practices (BMPs)” means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

C. “Construction activity” means activities subject to NPDES construction permits. These include construction projects resulting in land disturbance of one acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

D. “EPA” means the United States Environmental Protection Agency.

E. “Hazardous materials” means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

F. “Illicit discharge” means any direct or indirect discharge of any substance other than stormwater, including but not limited to sewage, process water, and wash water, into the City’s storm drain system, except as exempted in §28-6 of this Chapter.

G. “Illicit connection” means

1. Any drain or conveyance, whether on the surface or subsurface that allows an illicit discharge to enter the City’s storm drain system, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the City.

2. Any drain or conveyance connected to the storm drain system that has not been documented in plans, maps, or equivalent records and approved by the City.

H. “Industrial activity” means an activity subject to an NPDES industrial permit or the NPDES industrial general permit as defined in the Code of Federal Regulations at 40 CFR §122.26 (b)(14).

I. “Municipal Separate Storm Sewer System” (or MS4): means a conveyance or system of conveyances (including road drainage systems, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is not combined with the sanitary sewer and that discharges to waters of the United States.

J. “National Pollutant Discharge Elimination System” or “NPDES” stormwater permit means a permit issued by the U.S. Environmental Protection Agency (or by the State of Maryland under authority delegated pursuant to 33 USC §1342(b)) that authorizes the discharge of pollutants to waters of the United States.

K. “Person” means any individual or any business entity in any form acting as either the owner or as the owner’s agent.

L. “Pollutant” includes paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes; yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations; floatables; food and food waste including grease; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes, rubbish, and residues from building construction.

M. “Premises” means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

N. “Receiving waters” means any stream, creek, river, lake, groundwater feature or other body of water either directly or indirectly receiving surface runoff or wastewater whether treated or not.
O. “Storm drain system” means facilities in the City by which stormwater is collected and/or conveyed into surface waters, including but not limited to any roads, streets, gutters, curbs, inlets, storm drains, pipes, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures, also known as a “Municipal Separate Storm Sewer System” or “MS4.”

P. “Stormwater” means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Q. “Stormwater pollution prevention plan” means a document that describes the Best Management Practices to be used by a person to identify sources of pollution or contamination at a site and the actions or Best Management Practices that will be implemented to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

R. “Watercourse” means a stream, river, or creek, or the natural or artificial channel through which water flows.

Sec. 28-3. Applicability.

This Chapter shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the City.

Sec. 28-4. Responsibility for administration.

The City Manager shall administer, implement, and enforce the provisions of this Chapter. Any powers granted to or duties imposed upon the City may be delegated in writing to persons or entities acting in the beneficial interest of or in the employ of the City.

Sec. 28-5. Compatibility with other regulations.

This Chapter is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this Chapter are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this Chapter imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

Sec. 28-6. Discharge prohibitions.

A. Prohibition of illegal discharges.
   No person shall discharge or cause to be discharged into the City storm drain system or watercourses any pollutants or waters containing any pollutants.

B. Exceptions
   The following discharges are exempt from discharge prohibitions established by this Chapter:
   1. Water from line flushing or other potable water sources;
   2. Water from landscape irrigation;
   3. Diverted stream flows;
   4. Uncontaminated pumped ground water;
5. Foundation or footing drains (not including active groundwater dewatering systems);
6. Crawl space pumps;
7. Air conditioning condensation;
8. Wastewater from non-commercial washing of vehicles;
9. Water drained from swimming pools if dechlorinated to less than one part per million chlorine;
10. Water from firefighting activities;
11. Discharges specified by the City as being necessary to protect public health and safety;
12. Discharges associated with dye testing, however, this activity requires a verbal notification to the City prior to the test; and
13. Any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the EPA, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

C. Prohibition of illicit connections.
1. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited without regard to whether the connection was permissible at any time prior to the adoption of this Chapter.
2. A person may not connect a line conveying sewage to the storm drain system or allow such a connection to continue.
3. Illicit connections must be disconnected and redirected, if necessary, to an approved onsite sewage disposal system or to a sanitary sewer system of the appropriate agency, following all required guidelines and regulations.
4. Any drain or conveyance that has not been documented in scale plans, maps, or equivalent records and that is or may be connected to the storm drain system shall be located by the owner of the property upon which the drain or conveyance is located upon written notice from the City. Such notice will specify a time period within which the location of the drain or conveyance is to be documented upon a scale plan, map or equivalent records, and shall direct that such plan, map or equivalent records identify the drain or conveyance as a storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm drain system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the City.

Sec. 28-7. Suspension of storm drain system access.

A. Suspension in emergency situations.
The City may, without prior notice, suspend storm drain system access for a property when such suspension is necessary to stop an actual or threatened discharge that presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons or property, or to the storm drain system or to waters of the United States, by issuing a suspension order to the property owner. If the property owner fails to comply with a suspension order, the City may take such steps as deemed necessary to prevent or minimize damage to the storm drain system or waters of the State or of the United States, or to minimize danger to persons and property.
B. Non-emergency suspension.

The City may suspend storm drain system access by any person discharging to the storm drain system in violation of this Chapter may be terminated if such termination would abate or reduce an illicit discharge. The City will notify a violator of the proposed termination of the violator's storm drain system access. The violator may petition the City, by letter to the Director of Public Works, for a reconsideration and hearing. Reinstatement of access to the storm drain system is prohibited if such access has been terminated pursuant to this Section, without the prior approval of the City's Director of Public Works.

Sec. 28-8. Industrial or construction activity discharges.

A. Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City prior to the allowing of discharges to the storm drain system.

B. The owner of property upon which there is a facility, including construction sites, required to have an NPDES permit to discharge stormwater associated with industrial activity shall submit a copy of the notice of intent (NOI) to the City at the same time the operator submits the original NOI to the EPA as applicable, and may not discharge stormwater associated with industrial activity until the property owner has obtained the required NPDES permit.

C. A copy of the NOI may be delivered to the City in person or by mailing it to the Director of Public Works.

Sec 28-9. Monitoring of discharges

A. The City shall be permitted to enter and inspect facilities subject to regulation under this Chapter, subject to the City’s procurement of an administrative warrant if required by law, as often as may be necessary to determine compliance with this Chapter. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the City.

B. Facility operators shall allow the City ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.

C. The City shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the City to conduct monitoring and/or sampling of the facility's stormwater discharge.

D. The City has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated according to the manufacturer’s specifications to ensure their accuracy.

E. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the City and shall not be replaced. The costs of clearing such access shall be borne by the operator.

F. Unreasonable delays in allowing the City access to a permitted facility are a violation of a stormwater discharge permit and of this Chapter. A person who is the
operator of a facility with a permit to discharge stormwater associated with industrial 
activity commits an offense if the person denies the City reasonable access to the
permitted facility for the purpose of conducting any activity authorized or required by 
this Chapter.

Sec. 28-10. Requirement to prevent, control, and reduce stormwater pollutants by the use of Best Management Practices.

A. The owner of a property subject to an individual NPDES permit shall provide, 
at the owner's expense, protection from accidental discharge of prohibited materials or other wastes into the City storm drain system or watercourses through the use of structural and non-structural Best Management Practices.

B. Any person responsible for a property that is or may be the source of an illicit discharge may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the City storm drain system.

C. A person who complies with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater, to the extent practicable, shall be deemed to be in compliance with the provisions of this Section.

Sec. 28-11. Watercourse protection.

Every person owning property through which a watercourse passes shall keep and maintain that part of the watercourse within the property free of trash, debris, vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner shall maintain existing privately owned structures within or adjacent to a watercourse in a manner that is not and does not become a hazard to the use, function, or physical integrity of the watercourse.

Sec. 28-12. Notification of spills.

A. As soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation knows or has reason to know or suspect that an illicit discharge exists shall take all necessary steps to ensure the discovery, containment, and cleanup of such illicit discharge. In the event of such a release of hazardous materials said person shall immediately notify the City of the event via the City's main telephone number.

B. In the event of a release of non-hazardous materials, said person shall notify the City in person or by phone, facsimile or email no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years and are subject to inspection on demand by the City. Failure to provide notification of a release as provided above is a violation of this Chapter.
Sec. 28-13. Penalties for violations; abatement and other relief.

A. Whenever the City Manager determines there has been or is a violation of the provisions of this Code, the City Manager shall give notice to the property owner. Such notice shall be in writing and shall include:

1. The address, when available, or a description of the building, structure or land upon which the violation is alleged to be occurring or to have occurred;
2. A statement specifying the nature of the violation;
3. A description of the remedial measures necessary to restore compliance with this Chapter and a time schedule for the completion of such remedial action;
4. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
5. A statement that the determination of violation may be appealed to the City’s Administrative Review Board in accordance with the provisions of Chapter 1A of this Code; and
6. A statement specifying that, should the property owner violator fail to abate the violation within the established time schedule, the work will be done by the City and the expenses thereof shall be charged to the property owner and collected as taxes. Such notice may require:
   a. the performance of monitoring, analyses, and reporting;
   b. the elimination of illicit connections or discharges;
   c. the abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
   d. payment of a fine or fee to cover remediation costs; and
   e. the implementation of source control or treatment BMPs.

B. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed.

C. Should the property owner fail to abate or remediate the violation and/or restore the property to a condition complying with this Chapter within the established deadline, the work will be done by the City and the expense thereof shall be charged to the violator.

D. A notice of violation shall be served:

1. By delivery to the property owner personally or by leaving the notice at the site where the violation is alleged to be occurring or to have occurred, or
2. By depositing the notice in the United States Post Office addressed to the property owner at the property owner’s last known address, first-class postage prepaid.

E. Violations of this Chapter are municipal infractions, subject to a fine of Two Hundred Fifty Dollars ($250.00) for the first violation, Five Hundred Dollars ($500.00) for the second violation, and One Thousand Dollars ($1,000) for each subsequent violation.

F. In addition to the fines and remedies set forth elsewhere in this Section, the City may recover from the property owner all attorneys’ fees, court costs and other expenses associated with enforcement of this Chapter, including sampling and monitoring expenses.

G. In addition, to the fines, penalties and remedies set forth elsewhere in this Section, the City may petition for a preliminary or permanent injunction restraining a property owner from violating or continuing to violate this Chapter or compelling the property owner to abate or remediate a violation.
H. In addition to the fines, penalties and remedies set forth elsewhere in this Section, the City may impose upon a property owner alternative compensatory actions, including but not limited to storm drain stenciling, attendance at compliance workshops, or watercourse cleanup.

I. In addition to the fines, penalties and remedies set forth elsewhere in this Section, any condition caused or permitted to exist in violation of any of the provisions of this Chapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the property owner's expense.

J. The remedies listed in this Section are not exclusive of any other remedies available under any applicable federal, state or local law.

(Chapter 28 added by O-3-15, adopted 1/20/15, effective 2/19/15)