

Introduced _____
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

County Council Of Howard County, Maryland

2012 Legislative Session

Legislative Day No. 14

Bill No. 36 -2012 (ZRA 144)

Introduced by: The Chairperson at the request of the Marsha S. McLaughlin,
Director, Department of Planning and Zoning

AN ACT creating a Community Enhancement Floating District; setting forth uses permitted as of right; excluding certain uses; allowing for certain accessory uses; requiring certain moderate income housing; requiring certain density be obtained through the density exchange option or through the neighborhood preservation density exchange option; requiring certain features or amenities as community enhancements; setting forth certain criteria and procedures for the establishment of a Community Enhancement Floating District; requiring certain plans; allowing certain modifications under certain conditions; and generally relating to the Howard County Zoning Regulations.

Introduced and read first time _____, 2012. Ordered posted and hearing scheduled.

By order _____
Stephen LeGendre, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2012.

By order _____
Stephen LeGendre, Administrator

This Bill was read the third time on _____, 2012 and Passed ____, Passed with amendments _____, Failed _____.

By order _____
Stephen LeGendre, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ____day of _____, 2012 at ____ a.m./p.m.

By order _____
Stephen LeGendre, Administrator

Approved/Vetoed by the County Executive _____, 2012

Ken Ulman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **Section 1. Be It Enacted** by the County Council of Howard County, Maryland, that the
2 *Howard County Zoning Regulations is amended as follows:*

- 3 (1) *Section 103 “Definitions” is amended;*
- 4 (2) *New subsection 121 “Community Enhancement Floating” District is added.*

5
6 **Howard County Zoning Regulations.**
7 **Section 103. Definitions.**
8

9 87. Floating District: A district of undetermined location which may only be placed on
10 the zoning map upon petition of a property owner and not by government initiative. A
11 floating district may only be applied to a specific property if stated criteria are satisfied, a
12 finding of compatibility is made and a development plan is approved for the property. A
13 finding of mistake in the existing zoning or a substantial change in the character of the
14 neighborhood since the last [[comprehensive zoning]] COMPREHENSIVE ZONING PLAN is
15 not required to apply a floating zone to a property. In these Zoning Regulations, only the
16 CC, BR, CEF, SW, PSC, and NT districts are floating districts.

17
18 **SECTION 121: CEF (COMMUNITY ENHANCEMENT FLOATING) DISTRICT**
19

20 **A. PURPOSE**

21 THE COMMUNITY ENHANCEMENT FLOATING (CEF) DISTRICT IS ESTABLISHED TO
22 ENCOURAGE THE CREATIVE DEVELOPMENT AND REDEVELOPMENT OF PROPERTIES
23 THROUGH THE PROVISION OF FLEXIBILITY IN ZONING REQUIREMENTS. APPROPRIATE
24 LOCATIONS FOR THE CEF DISTRICT DEPEND ON FACTORS WHICH ARE BEST
25 EXAMINED THROUGH REVIEW OF A PARTICULAR PROPERTY IN THE CONTEXT OF
26 SURROUNDING PROPERTIES. THEREFORE, THE CEF DISTRICT IS A FLOATING ZONE
27 WHICH REQUIRES THE SUBMISSION OF A DEVELOPMENT CONCEPT PLAN AND ZONING
28 BOARD APPROVAL FOR A PARTICULAR SITE. THE CEF DISTRICT IS NOT INTENDED TO
29 ALLOW EXCEPTIONS TO OTHERWISE APPLICABLE REGULATIONS AND IS INTENDED
30 TO:

- 1 1. ALLOW GREATER DESIGN FLEXIBILITY AND A BROADER RANGE OF
- 2 DEVELOPMENT ALTERNATIVES THAN IN THE EXISTING ZONING DISTRICT
- 3 WITH THE PROVISION OF FEATURES AND AMENITIES WHICH ARE BENEFICIAL
- 4 TO THE COMMUNITY IN ACCORDANCE WITH SECTION 121.J.4.B;
- 5 2. PROVIDE A HIGHER QUALITY OF SITE DESIGN AND AMENITY THAN IS
- 6 POSSIBLE TO ACHIEVE UNDER THE STANDARD PROVISIONS OF EXISTING
- 7 ZONING DISTRICT REQUIREMENTS;
- 8 3. ENCOURAGE CREATIVE ARCHITECTURAL DESIGN AND THE MOST
- 9 FAVORABLE ARRANGEMENT OF SITE FEATURES WHICH ARE BASED ON
- 10 PHYSICAL SITE CHARACTERISTICS AND CONTEXTUAL SENSITIVITY TO
- 11 SURROUNDING DEVELOPMENTS;
- 12 4. SERVE AS THE APPROPRIATE TRANSITIONAL USE BUFFER TO PROVIDE
- 13 COMPATIBLE TRANSITIONAL USES WITH THE SURROUNDING COMMUNITY OR
- 14 DEVELOPMENTS; AND
- 15 5. ENCOURAGE CONSOLIDATION OF UNDERUTILIZED PROPERTIES.

16

17 **B. USES PERMITTED AS A MATTER OF RIGHT IN THE CEF DISTRICT**

- 18 1. EXCEPT FOR THOSE EXCLUDED USES LISTED IN SECTION 121.C BELOW, ALL
- 19 OTHER USES PERMITTED AS A MATTER OF RIGHT IN RESIDENTIAL ZONING
- 20 DISTRICTS AND THE POR, B-1, AND B-2 DISTRICTS MAY BE PERMITTED AS A
- 21 MATTER OF RIGHT, PROVIDED THAT THE USE CATEGORIES ARE AUTHORIZED
- 22 IN AN APPROVED DEVELOPMENT CONCEPT PLAN.
- 23 2. NEW INNOVATIVE USE CATEGORIES THAT ARE NOT CURRENTLY PERMITTED
- 24 AS A MATTER OF RIGHT IN THE POR, B-1, AND B-2 DISTRICTS BUT ARE
- 25 CONSIDERED TO BE COMPATIBLE WITH THE PERMITTED USE CATEGORIES,
- 26 PROVIDED THAT THE INNOVATIVE USE CATEGORIES:
 - 27 A. ARE AUTHORIZED IN AN APPROVED DEVELOPMENT CONCEPT PLAN;
 - 28 AND
 - 29 B. ARE NOT USES LISTED IN SECTION 121.C BELOW.

30

31 **C. EXCLUDED USES**

1 THE FOLLOWING USES ARE SPECIFICALLY EXCLUDED FROM THE CEF DISTRICT AND
2 ARE NOT PERMITTED.

- 3 1. ADULT LIVE ENTERTAINMENT ESTABLISHMENTS.
- 4 2. BUILDING CLEANING, PAINTING, ROOFING, EXTERMINATING AND SIMILAR
5 ESTABLISHMENTS.
- 6 3. BULK RETAIL STORES.
- 7 4. BUS TERMINALS.
- 8 5. COMMERCIAL COMMUNICATION TOWERS.
- 9 6. FLEA MARKETS.
- 10 7. FUNERAL HOMES.
- 11 8. KENNELS.
- 12 9. LAWN AND GARDEN SHEDS AND EQUIPMENT SALES, MAINTENANCE AND
13 REPAIR.
- 14 10. LUMBER YARDS.
- 15 11. MOBILE HOME AND MODULAR HOME SALES AND RENTALS.
- 16 12. MOTOR VEHICLE, CONSTRUCTION EQUIPMENT AND FARM EQUIPMENT
17 MAINTENANCE, REPAIR AND PAINTING FACILITIES, INCLUDING FULL BODY
18 REPAIR AND INCIDENTAL SALE OF PARTS.
- 19 13. MOTOR VEHICLE, CONSTRUCTION EQUIPMENT AND FARM EQUIPMENT SALES.
- 20 14. MOTOR VEHICLE INSPECTIONS STATION.
- 21 15. MOTOR VEHICLE TOWING AND STORAGE FACILITY.
- 22 16. RECREATIONAL VEHICLE, MARINE EQUIPMENT AND BOAT SALES,
23 MAINTENANCE AND REPAIR FACILITIES.
- 24 17. RECYCLING COLLECTION FACILITIES.
- 25 18. RETAIL AND COMMERCIAL SERVICE USES WHICH INCLUDE MORE THAN A
26 SINGLE DRIVE-THROUGH LANE.
- 27 19. SCHOOLS, PRIVATE ACADEMIC, INCLUDING COLLEGES AND UNIVERSITIES.
- 28 20. TAXICAB BUSINESSES, INCLUDING FACILITIES FOR DISPATCH AND
29 MAINTENANCE OF RELATED VEHICLES.
- 30 21. WHOLESALE SALES.

31

1 **D. ACCESSORY USES IN A CEF DISTRICT**

2 ACCESSORY USES ESTABLISHED WITH THE APPROVAL OF THE DEVELOPMENT
3 CONCEPT PLAN ARE PERMITTED.

4
5 **E. MODERATE INCOME HOUSING**

6 A MINIMUM OF 10 PERCENT OF THE TOTAL NUMBER OF DWELLING UNITS SHALL BE
7 MODERATE INCOME HOUSING UNITS.

8
9 **F. RESIDENTIAL DENSITY**

10 A MINIMUM OF 10 PERCENT OF THE RESIDENTIAL DENSITY AUTHORIZED BY THE
11 ZONING BOARD FOR THE CEF DEVELOPMENT MUST BE ACQUIRED BY THE
12 DEVELOPER THROUGH THE DENSITY EXCHANGE OPTION OR THE NEIGHBORHOOD
13 PRESERVATION DENSITY EXCHANGE OPTION.

14
15 **G. ENHANCEMENTS**

16 THE CEF DEVELOPMENT MUST CONTAIN ONE OR MORE DESIGN FEATURES OR
17 AMENITIES WHICH ARE BENEFICIAL TO THE COMMUNITY AS DELINEATED IN
18 ACCORDANCE WITH SECTION 121.J.4.B AND THAT EXCEED MINIMUM STANDARDS
19 REQUIRED BY COUNTY REGULATIONS, EXCLUDING BULK REGULATIONS. SUCH
20 FEATURES OR AMENITIES MUST BE PROPORTIONATE TO THE SIZE AND SCOPE OF THE
21 CEF DEVELOPMENT. FEATURES OR AMENITIES MAY BE PROVIDED ON A VICINAL
22 SITE WITHIN THE DELINEATED COMMUNITY PURSUANT TO EVALUATION ON A CASE
23 BY CASE BASIS. ENHANCEMENTS MAY INCLUDE:

- 24 1. COMMUNITY PARKS OR GATHERING SPACES, PLAYGROUNDS, DOG PARKS, OR
25 RECREATION FACILITIES THAT ARE OPEN TO THE SURROUNDING
26 COMMUNITY;
- 27 2. ENHANCED ENVIRONMENTAL OPEN SPACE WHICH INCORPORATES
28 ENVIRONMENTAL RESTORATION OF STREAMS, WETLANDS OR FORESTS, OR
29 ENHANCED LANDSCAPING;

- 1 3. BICYCLE, PEDESTRIAN, OR TRANSIT IMPROVEMENTS WHICH PROVIDE
- 2 CONNECTIONS TO OFF-SITE DESTINATIONS OR BICYCLE, PEDESTRIAN, OR
- 3 TRANSIT FACILITIES; OR
- 4 4. OTHER COMMUNITY ENHANCEMENTS IDENTIFIED ON THE DEVELOPMENT
- 5 CONCEPT PLAN.

6

7 **H. BULK REGULATIONS**

8 REQUIREMENTS REGARDING SETBACKS, LOT COVERAGE, LOT SIZES, BUILDING

9 HEIGHTS AND ALL OTHER BULK REGULATIONS FOR THE CEF DISTRICT SHALL BE

10 ESTABLISHED WITH THE APPROVAL OF THE DEVELOPMENT CONCEPT PLAN.

11

12 **I. CRITERIA FOR A CEF DISTRICT**

13 THE CEF DISTRICT MAY BE ESTABLISHED AT A PARTICULAR LOCATION IF THE

14 FOLLOWING CRITERIA ARE MET:

- 15 1. THE PROPOSED CEF DISTRICT IS LOCATED WITHIN THE PLANNED SERVICE
- 16 AREA FOR BOTH PUBLIC WATER AND SEWER SERVICE.
- 17 2. THE PROPOSED CEF DISTRICT SHALL HAVE FRONTAGE ON AND ACCESS TO
- 18 AN ARTERIAL OR MAJOR COLLECTOR ROAD.
- 19 3. THE MINIMUM DEVELOPMENT SIZE SHALL BE TWO ACRES.
- 20 4. THE PROPOSED CEF DISTRICT IS NOT LOCATED IN AN EXISTING M-2, CAC,
- 21 TOD, NT, MXD, OR PGCC DISTRICT.
- 22 5. THE PROPOSED CEF DISTRICT IS NOT PERMITTED WITHIN THE INTERIOR OF A
- 23 NEIGHBORHOOD COMPRISING ONLY SINGLE FAMILY DETACHED DWELLINGS.
- 24 6. A CEF DEVELOPMENT AT THE PROPOSED LOCATION WILL BE SENSITIVE TO
- 25 EXISTING LAND USES IN THE VICINITY OF THE SITE IN TERMS OF PROVIDING A
- 26 TRANSITIONAL USE BETWEEN DIFFERENT ZONING DISTRICTS AND/OR LAND
- 27 USES AND THE SCALE, HEIGHT, MASS, AND ARCHITECTURAL DETAIL OF
- 28 PROPOSED STRUCTURES.
- 29 7. THE PROPOSED CEF DEVELOPMENT SHALL INCLUDE A SITE AMENITY OR
- 30 AMENITY AREA WITHIN THE DELINEATED COMMUNITY EXCEPT AS PROVIDED
- 31 IN SECTION 121.G.

- 1 (5) PARKING AREAS AND NUMBER OF PARKING SPACES
- 2 (6) POINTS AND WIDTHS OF VEHICULAR INGRESS AND EGRESS
- 3 (7) SITE AMENITIES WHICH FULFILL CEF DISTRICT OBJECTIVES
- 4 IN ACCORDANCE WITH SECTIONS 121.A AND 121.G
- 5 (8) LANDSCAPING
- 6 (9) HARDSCAPING INCLUDING PEDESTRIAN AND BICYCLE
- 7 CONNECTIONS TO OFF-SITE FACILITIES
- 8 (10) RETAINED NATURAL FEATURES SUCH AS WETLANDS, STEEP
- 9 SLOPES, AND TREE AND FOREST COVER
- 10 (11) ARCHITECTURAL ELEVATIONS OF ALL SIDES OF ALL
- 11 BUILDINGS AND SIGNIFICANT STRUCTURES, WITH EXTERIOR
- 12 MATERIALS SPECIFIED
- 13 (12) EXTERIOR LIGHTING PLAN WITH LIGHTING STRUCTURES AND
- 14 LIGHT SOURCES GIVEN ON SPECIFIC LIGHTING PRODUCT
- 15 INFORMATION SHEETS
- 16 (13) INFORMATION ON THE ADJOINING PROPERTIES, INCLUDING
- 17 THE OWNER NAME, ZONING, EXISTING USE, AND EXISTING
- 18 SITE IMPROVEMENTS.
- 19 B. A MAP DELINEATING THE BOUNDARY OF THE COMMUNITY
- 20 SURROUNDING THE CEF DISTRICT AND WRITTEN JUSTIFICATION FOR
- 21 SUCH BOUNDARY.
- 22 C. A WRITTEN JUSTIFICATION STATEMENT THAT EXPRESSES IN DETAIL:
- 23 (1) HOW THE PROPOSED DEVELOPMENT CONCEPT PLAN CONFORMS
- 24 TO THE PURPOSE STATEMENT FOR THE CEF DISTRICT.
- 25 (2) HOW THE PROPOSED CEF DISTRICT WILL BE OF A BENEFIT TO
- 26 HOWARD COUNTY THAT IS GREATER THAN A CONVENTIONAL
- 27 DEVELOPMENT ON THE PROPERTY USING THE EXISTING ZONING
- 28 DISTRICT REGULATIONS.
- 29 (3) SUPPORTING DOCUMENTATION, INCLUDING BUT NOT LIMITED TO
- 30 MARKET STUDIES AND TRAFFIC STUDIES AS REQUIRED BY THE
- 31 DEPARTMENT OF PLANNING AND ZONING BASED ON THE SCALE

1 OF THE PROJECT AND THE TYPE AND LOCATION OF PROPOSED
2 USES.

3 5. DECISION BY THE ZONING BOARD:

4 A. THE ZONING BOARD SHALL HOLD A PUBLIC HEARING ON THE PETITION
5 AND MAY APPROVE, APPROVE WITH MODIFICATIONS, OR DENY THE
6 DEVELOPMENT CONCEPT PLAN AND CRITERIA, STATING THE REASONS
7 FOR ITS DECISION IN A DECISION AND ORDER.

8 B. THE ZONING BOARD'S DECISION SHALL BE BASED ON FINDINGS
9 THAT THE PROPOSED DISTRICT WILL ACCOMPLISH THE PURPOSES OF
10 THE CEF DISTRICT AND THE CRITERIA FOR A CEF DISTRICT IN
11 SECTION 121.I.

12 C. IF THE PETITION IS APPROVED:

13 (1) THE ZONING BOARD MAY MODIFY OR APPLY ADDITIONAL
14 REQUIREMENTS TO THE DEVELOPMENT CONCEPT PLAN OR
15 CRITERIA, STATING THE REASONS FOR SUCH ACTION. THE
16 BOARD, IN ITS DISCRETION, MAY HOLD ADDITIONAL HEARINGS
17 ON ANY MODIFICATIONS OR ADDITIONAL REQUIREMENTS TO THE
18 PLAN AS IT DEEMS APPROPRIATE.

19 (2) SHOULD THE BOARD APPROVE ANY MODIFICATIONS OR
20 ADDITIONS, THEN, AT THE PETITIONER'S REQUEST, THE BOARD
21 SHALL HOLD A HEARING ON SUCH MODIFICATIONS OR
22 ADDITIONAL REQUIREMENTS. AT THE CONCLUSION OF SUCH
23 HEARING, THE BOARD MAY CHANGE ANY OF THE
24 MODIFICATIONS OR ADDITIONAL REQUIREMENTS. IF THE
25 PETITIONER DOES NOT ACCEPT THE FINAL MODIFICATIONS OR
26 ADDITIONAL REQUIREMENTS, THE PETITIONER MAY WITHDRAW
27 THE PETITION WITHOUT PREJUDICE.

28 (3) THE ZONING BOARD SHALL APPROVE THE DEVELOPMENT
29 CONCEPT PLAN AND CRITERIA AND SHALL CREATE A CEF
30 DISTRICT COVERING THE LAND IN THE PETITION.

31 (4) A COPY OF THE DEVELOPMENT CONCEPT PLAN AND CRITERIA
32 SHALL BE PROVIDED BY THE PETITIONER AND CERTIFIED AS
33 APPROVED BY THE ZONING BOARD AND A VERIFIED COPY OF

1 THE SAME SHALL BE FORWARDED TO THE DEPARTMENT OF
2 PLANNING AND ZONING AND THE PETITIONER.

3
4 **K. SITE DEVELOPMENT PLAN CONFORMANCE WITH THE DEVELOPMENT CONCEPT
5 PLAN**

6 THE DEPARTMENT OF PLANNING AND ZONING SHALL NOT APPROVE A SITE
7 DEVELOPMENT PLAN FOR A CEF DISTRICT UNLESS THE SITE DEVELOPMENT PLAN
8 CONFORMS SUBSTANTIALLY TO ALL EXHIBITS OF THE DEVELOPMENT CONCEPT PLAN
9 APPROVED BY THE ZONING BOARD.

10
11 EXCEPT AS PROVIDED IN SECTION 121.L. BELOW FOR PRE-AUTHORIZED MINOR
12 MODIFICATIONS, ANY MODIFICATIONS TO ANY ZONING BOARD APPROVED FEATURES
13 OF THE DEVELOPMENT CONCEPT PLAN MUST BE APPROVED BY THE ZONING BOARD,
14 FOLLOWING THE SAME PROCEDURES USED FOR A PETITION TO CREATE A CEF
15 DISTRICT.

16 **L. MINOR MODIFICATIONS TO THE DEVELOPMENT CONCEPT PLAN**

17 MINOR MODIFICATIONS TO THE APPROVED DEVELOPMENT CONCEPT PLAN WHICH DO
18 NOT INCREASE THE NUMBER OF RESIDENTIAL UNITS AND MEET THE CRITERIA BELOW
19 SHALL NOT REQUIRE RECONSIDERATION BY THE ZONING BOARD.

- 20 1. MINOR MODIFICATIONS TO STRUCTURES, WITH A FLOOR AREA NO LARGER
21 THAN 10 PERCENT OF THE EXISTING FLOOR AREA OF THE MAIN FLOOR.
- 22 2. MINOR NEW ACCESSORY STRUCTURES OR ACCESSORY USES IF THE
23 LOCATION DOES NOT INTERFERE WITH THE EXISTING APPROVED SITE
24 LAYOUT (E.G. CIRCULATION, PARKING, LOADING, STORM WATER
25 MANAGEMENT FACILITIES, OPEN SPACE, LANDSCAPING OR BUFFERING).
- 26 3. MINOR MODIFICATIONS TO PARKING LOTS COMPRISING NO MORE THAN 10
27 PERCENT OF THE ORIGINAL NUMBER OF PARKING SPACES REQUIRED.
- 28 4. SIMILAR MINOR MODIFICATIONS AS DETERMINED BY THE DEPARTMENT OF
29 PLANNING AND ZONING.

30

1 **Section 2. And Be It Further Enacted** by the County Council of Howard County,
2 Maryland that the Director of the Department of Planning and Zoning is authorized to
3 publish this Act, to correct obvious errors in section references, numbers and references
4 to existing law, capitalization, spelling, grammar, headings and similar matters.

5

6 **Section 3. And Be It Further Enacted** by the County Council of Howard County,
7 Maryland, that this Act shall become effective 61 days after its enactment.