

Draft following public hearing – 6/22/05

**BUILDING EXCISE TAX ORDINANCE**  
**FOR WASHINGTON COUNTY, MARYLAND**

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Effective July 1, 2003

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**BUILDING EXCISE TAX ORDINANCE FOR WASHINGTON COUNTY**

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## Sec. 1. Establishment of tax.

In accordance with Section 2-701 of the Code of the Public Local Laws of Washington County, as amended from time to time, there is a building excise tax on all new building construction in Washington County, ~~which tax will finance (i) school renovation and construction; (ii) primary, secondary, or higher education capital expenditures; (iii) public safety capital expenditures; (iv) public infrastructure projects; and (v) debt reduction.~~

## Sec. 2. Definitions.

Words and phrases used in this subtitle shall have their usual meaning, unless otherwise defined in this section.

(a) *Applicant*: "Applicant" means the individual, partnership, corporation or other legal entity whose signature appears on the building permit application.

(b) *Building*: "Building" means any structure used or intended for supporting or sheltering any use or occupancy. "Building" does not include a temporary structure, as defined in the Washington County building code.

(c) *Construction*: "Construction" means construction of a building that requires a building permit. Where the building replaces an existing building, "construction" does not include replacement of a building due to casualty or loss within one (1) year of that casualty or loss, or replacement of a mobile home on a site, except to the extent that the gross square footage of the replacement building or replacement mobile home exceeds the gross square footage of the building or mobile home being replaced.

(d) *Director of Finance*: "Director of Finance" means the Director of Budget and Finance for Washington County or designee.

(e) *Director of Permits and Inspections*: "Director of Permits and Inspections" means the Director of Permits and Inspections for Washington County or designee.

(f) *Dwelling Unit*: "Dwelling unit" means a single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

(g) *Farm Construction*: "Farm construction" means construction intended to be actively used for nonresidential farm or agricultural use.

(h) *Farm or Agricultural Use*: "Farm or agricultural use" means the same as defined in the Washington County Zoning Ordinance.

(i) *Gross Square Footage*: "Gross square footage" means the entire square footage of the construction and is the same as calculated for building permit purposes under the

Washington County building code. It includes all finished and unfinished areas of the construction.

(j) *Habitable Structure*: “Habitable structure” means a structure for living, sleeping, eating, or cooking.

(k) *Multifamily Residential Construction*: “Multifamily residential construction” means construction of a residential building containing more than one dwelling unit, including without limitation semi-detached, two-family, townhouse, and multifamily units.

(l) *Nonresidential Addition Construction*: “Nonresidential addition construction” means construction of a nonresidential addition to a nonresidential building where the work requires a building permit and where the addition increases the number of gross square feet of the nonresidential building.

(m) *Residential Construction*: “Residential construction” means a building that contains one (1) or more dwelling units, including boarding houses but not including institutional uses or transient accommodations such as hotels, country inns or bed and breakfast inns. “Residential” includes all finished and unfinished areas that are contained within a residential building such as basements, but does not include attached garages, attics, crawl spaces or non-residential uses ~~in mixed use structures~~.

(n) *Residential Addition Construction*: “Residential addition construction” means construction of a residential addition to a residential building where the work requires a building permit and where the addition increases the number of gross square feet of the residential building but does not add a new dwelling unit.

(o) *Redevelopment areas*: “Redevelopment Areas” includes the “Hagerstown Redevelopment Area,” consisting of all that land zoned C3 or within a Hagerstown Conversion District overlay zone as set forth in the Hagerstown Zoning Ordinance, and those areas in other municipal corporations as may be designated by the County upon request.

**Sec. 3A. -Amount of tax – Residential building construction.**

(a) *Base building excise tax*: The base amount of the building excise tax for residential construction shall be:

(1) *Residential multifamily construction* - \$15,500 per unit. \$1.00 per square foot.

(2) *Residential single-family construction*: \$13,000 per unit.

(b) *Subdivisions over 25 units under certain conditions*: An applicant that applies for building permits for more than 25 residential units for a single subdivision in one fiscal

year will be subject to a building excise tax in the following amounts, beginning with the 26<sup>th</sup> unit, if the development of the subdivision:

1. is in a school district where a school is at or above 85% of the state rated school capacity;

2. causes the roads or intersection within one centerline mile in any direction of any new street connecting the subdivision to be lower than a level of service D; or

3. causes the intersections outside of the urban and town growth areas to be lower than a level of service C.

a. Residential multifamily construction -\$31,000 per unit.

b. Residential single-family construction -\$26,000 per unit.

a. \$.25 per square foot in fiscal year 2004;

b. \$.50 per square foot in fiscal year 2005; and

c. \$.75 per square foot in fiscal years 2006 and thereafter.

~~(b) *Area not within a dwelling unit.* For multifamily residential construction, any gross square footage of multifamily residential construction not within a dwelling unit shall be allocated on a pro rata basis to each dwelling unit within the building. The amount of the tax shall be calculated for each dwelling unit as provided in subsections a, b and c based on the gross square footage of the dwelling unit plus the dwelling unit's pro rata share of any gross square footage not within a dwelling unit.~~

(c) *Calculation of Amount:* The amount of building excise tax to be paid by an applicant shall be determined by the Director of Permits and Inspections.

(d) *Interpretation:* All phases or sections of a single development shall be considered a single subdivision for the purpose of this section, in the discretion of the Director of Permits and Inspections.

(e) *Piecemeal applications:* An applicant for a building permit shall not avoid the intent of this Ordinance by submitting piecemeal applications for building permits. However, an applicant may seek approval of only a portion of the subdivision or development, provided that the impact from all previously approved building permits from that development shall be considered during the building permit review of each subsequent portion of the development.

**Sec. 3B Amount of Tax - Nonresidential Building Construction**

(a) The building excise tax for nonresidential construction shall be as set forth in the following table. For a mixed-use building, the tax shall be imposed on the basis of the primary use of the building as determined by the Director of Permits and Inspections.

	<u>Retail</u>	<u>Industrial</u>	<u>Warehouse/ Distribution</u>	<u>Office</u>	<u>Hotels/Motels<sup>1</sup></u>
<u>&lt; 25,000 sf</u>	<u>\$5.00</u>	<u>\$2.00</u>	<u>\$2.50</u>	<u>\$1.50</u>	<u>\$5.00</u>
<u>25,001 - 50,000 sf</u>	<u>\$5.00</u>	<u>\$1.50</u>	<u>\$2.00</u>	<u>\$1.50</u>	<u>\$4.50</u>
<u>50,001 - 100,000 sf</u>	<u>\$5.00</u>	<u>\$1.00</u>	<u>\$1.50</u>	<u>\$1.20</u>	<u>\$4.00</u>
<u>100,001 - 250,000 sf</u>	<u>\$4.50</u>	<u>\$0.60</u>	<u>\$1.10</u>	<u>\$1.00</u>	<u>\$3.00</u>
<u>250,001 - 500,000 sf</u>	<u>\$4.00</u>	<u>\$0.40</u>	<u>\$0.90</u>	<u>\$0.75</u>	<u>\$2.00</u>
<u>&gt; 500,000 sf</u>	<u>\$3.50</u>	<u>\$0.20</u>	<u>\$0.70</u>	<u>\$0.50</u>	<u>\$2.00</u>

(b) The Commissioners may adopt regulations to provide for the application of different rates or exemptions for different nonresidential building types and uses.

(c) The Board of County Commissioners may consider contributions toward satisfaction of the amount computed in Section 3A(a) and (b) and subsection (a) of this section or a combination thereof as determined acceptable to the Board. Should such alternatives include real property for a new school, the Planning Commission shall, upon recommendations of the Planning Department, determine acceptability of the site size, shape, and functionality. The value attributable to contributions shall be in the sole discretion of the Board of County Commissioners. Any such contributions shall be governed in accordance with the terms of Article IX of the Adequate Public Facilities Ordinance, where applicable.

**Sec. 4. Payment of tax.**

(a) *Building excise tax paid before issuance of building permit:* An applicant for a building permit shall pay the building excise tax before the issuance of a building permit.

<sup>1</sup> Campgrounds and similar facilities shall be considered as motels for the purposes of this section.

(b) *Refunds:*

(1) The Director of Finance shall refund to the applicant the building excise tax paid if the building permit is cancelled or expires so long as work has not commenced.

(2) If, upon appeal by an applicant who has paid the building excise tax, the County ~~Commissioners~~ Administrator determines that the Director of Permits and Inspections has erred in calculating the building excise tax, the Director of Finance shall refund to the applicant the difference between the amount of building excise tax paid by the applicant and the correct amount.

**Sec. 5. Exemptions.**

(a) *Farm construction.* Farm construction is not subject to the building excise tax so long as the construction continues to be actively used for nonresidential farm or agricultural use. Should the construction be used for some purpose other than active nonresidential farm or agricultural use, then the building excise tax shall be remitted to the Director of Finance at the then existing amount of the building excise tax. Construction for the purpose of residence by employees of the farm or other agricultural operation shall not be considered farm or agricultural use for the purposes of this ordinance.

(b) *Government construction.* No building excise tax shall be imposed on construction by the State of Maryland, the County Commissioners, any municipality, the Washington County Board of Education, Hagerstown Community College, or the federal government.

(c) *Non-Residential addition construction.* ~~No building excise tax shall be imposed on residential addition construction unless the residential addition construction increases by 100% or more the gross square footage of a residential building for which a building permit has been issued.~~ The building excise tax shall be imposed on that portion of any residentialnonresidential addition construction that exceeds 100% of the gross square footage of the residentialnonresidential building prior to the commencement of construction for which a building permit has been issued.

(d) *Residential accessory structures.* No building excise tax shall be imposed on residential accessory structures that are not habitable.

(e) *Residential addition construction.* No building excise tax shall be imposed on residential addition construction that does not add a dwelling unit.

(f) *Schools.* No building excise tax shall be imposed on construction of public or private elementary or secondary schools.

(g) *Redevelopment area.* No building excise tax shall be imposed in a redevelopment area as defined in Section 2(o) of this ordinance.

(h) *Elderly housing.* No building excise tax shall be imposed upon new construction of a residential unit:

(1) developed according to federal regulations restricting occupancy in the dwelling units to elderly persons, or

(2) whose occupation is restricted, by covenant recorded among the land records of Washington County, to persons age 55 or over.

(i) *Enterprise zones.* No building excise tax shall be imposed upon nonresidential construction within enterprise zones in the County.

(j) *Small developments.* No building excise tax shall be imposed upon new non-retail nonresidential construction with a total area of less than 5000 square feet.

(k) *Religious corporations.* No building excise tax shall be imposed upon structures: 1) owned by corporations organized and operated exclusively for religious purposes within the meaning of 26 U.S.C. 501, and 2) used primarily for religious, educational, and community purposes.

#### **Sec. 6. Change in use.**

(a) *General.* Upon receipt of a building permit application, the Director of Permits and Inspections shall determine whether it is for a change in use. In such a case, the building excise tax shall be imposed based on the use applied for in the building permit application. A credit shall be granted for any building excise tax previously paid for this construction. No refund shall be granted if the credit for any building excise tax previously paid exceeds the building excise tax imposed. For example, a change in use of a property from a multifamily to a single-family shall not entitle the owner to a refund of a building excise tax previously paid.

(b) *Conversion from nonresidential to residential.* When an existing building is subject to construction pursuant to a building permit that converts its use from nonresidential to residential, a building excise tax shall be imposed to the extent of the schools portion, or 70%, for each dwelling unit thereby created by the construction.

(c) *Conversion from residential to nonresidential.* When an existing building is subject to construction pursuant to a building permit that converts its use from residential to nonresidential, it shall be subject to the regulations adopted pursuant to Section 3B of this ordinance.

#### **Sec. 7. Special excise tax fund.**

(a) *Establishment of fund:* The Director of Finance shall establish an ~~an account~~ special nonlapsing fund to be known as the special excise tax fund. All revenues

~~receipts~~ from the building excise taxes shall be deposited in the special excise tax fund. Interest earned by money in the special excise tax fund shall accrue to the special excise tax fund.

(b) Use of special excise tax fund - nonresidential building types: Revenues Funds deposited in the special fund that are generated by the building excise tax imposed on nonresidential building types may only be used for:

~~from the special excise tax fund shall be expended only to pay for (i) school renovation and construction; (i1i)~~ primary, secondary, or higher education capital expenditures;

~~(2i1i)~~ public safety capital expenditures;

~~(3iv)~~ public infrastructure projects; and

~~(v4)~~ debt reduction related to capital improvements expenditures.

(c) Use of special excise tax fund - single-family and multifamily residential units: The revenues from the building excise tax imposed on single-family residential units or multifamily residential units may only be used as follows:

(1) 70% for schools;

(2) 23% for roads;

(3) 2% for public libraries; and

(4) 5% for parks and recreational facilities, public safety, water and sewer infrastructure, and agricultural land preservation.

(d) The revenues from the building excise tax imposed on single-family residential units and multifamily residential units used for public libraries, water and sewer infrastructure, and parks and recreation may only be used for the capital costs of public works, improvements, and facilities.

(e) The revenues from the building excise tax imposed on single-family residential units and multifamily residential units used for schools may only be used for the capital costs that primarily provide additional capacity required to accommodate new construction or development.

(f) At the end of a fiscal year, any unspent or unencumbered balance in the special fund shall remain in the fund available for use in future fiscal years for purposes specified in this subsection and does not revert to the general fund of Washington County.

## Sec. 8. Municipalities.

(a) *Building excise tax applicable:* This building excise tax shall apply to all construction in Washington County, including construction within the boundaries of a municipality.

(b) (1) *Collection of tax by municipal corporation without adequate public facilities ordinance: This paragraph applies to a municipal corporation within Washington County that has not adopted an adequate public facilities ordinance with school adequacy tests substantially similar to or more stringent than the adequate public facilities ordinance adopted by the County Commissioners.*

(2) A municipal corporation described in subparagraph (b) of this paragraph shall assist the County Commissioners in the collection of the building excise tax within the municipal corporation by:

a. Collecting the tax prior to the issuance of a building permit and remitting the tax monthly to the Director of Finance; or

b. Requiring the tax to be paid to the Director of Finance prior to the issuance of a building permit.

(c) (1) *Collection of tax by municipal corporation with adequate public facilities ordinance: This paragraph applies to a municipal corporation within Washington County that has adopted an adequate public facilities ordinance with school adequacy tests substantially similar to or more stringent than the adequate public facilities ordinance adopted by the County Commissioners.*

(2) For each single-family residential unit or multifamily residential unit that is within a municipal corporation described in subparagraph (c) of this paragraph, the municipal corporation:

a. Shall assist the County Commissioners in the collection of that portion of the building excise tax that is dedicated to schools and public libraries as provided under subsection (c)(3) of this section, by collecting and remitting that amount of the tax to the County Director of Finance; and

b. may retain the remaining portion of the building excise tax.

(3) For each of nonresidential building types that is within a municipal corporation of Washington County, the municipal corporation:

a. Shall assist the County Commissioners in the collection of 72% of the building excise tax on each nonresidential building type by collecting and remitting that amount of the tax to the County Director of Finance; and

b. May retain the remaining portion of the building excise tax.

(4) a. The municipal corporation is not required to retain any portion of the building excise tax as provided under subparagraph (1) or (2) of this paragraph.

b. Any portion of the building excise tax not retained by a municipal corporation under item 1 of this subparagraph shall be remitted to the County Director of Finance.

(5) a. The director of finance of a municipal corporation retaining any revenue from the building excise tax under subparagraph (c)(2)(b) or (c)(3)(b) of this paragraph shall deposit the revenues into a nonlapsing special fund.

b. The revenues from the municipal corporation's special fund may only be used for the capital costs of public works, improvements, and facilities required to accommodate new construction for development of:

1. roads;

2. new construction or development of parks and recreational facilities;

3. new construction or development of water and sewer infrastructure; and

4. new construction or development of public safety.

(6) At the end of a fiscal year, any unspent or unencumbered balance in the municipal corporation's special fund shall remain in the fund available for use in future fiscal years for purposes specified in subparagraph (5) of this paragraph and does not revert to the general fund of the municipal corporation.

~~— (b) *Collection within municipal corporation.* A municipal corporation shall assist the County Commissioners in the collection of this building excise tax within the municipal corporation by either~~

~~— (1) Collecting the tax prior to the issuance of a building permit and remitting the tax monthly to the Director of Finance; or~~

~~— (2) Requiring the tax to be paid to the Director of Finance prior to the issuance of a building permit.~~

~~— (c) *Administrative fees for collection.* A municipal corporation that collects the tax and remits the tax to the county may deduct from the revenues collected a fee not to exceed 2% of the revenues collected, for administrative costs.~~

(d) *Administrative fees for collection:*

(1) A municipal corporation that collects the tax and remits the tax to the county may deduct from the revenues collected after January 1, 2005 a fee of two (2%) percent of the revenues collected and remitted to the County under this section, not including any portion retained pursuant to subsection (c), for administrative costs.

(2) If the municipal corporation can demonstrate to the satisfaction of the Board of County Commissioners that the direct administrative costs of collecting the building excise tax exceed the two (2%) per cent rate authorized in the previous subsection, the Board, in its sole discretion, after receiving the recommendation of the Director of Finance, may authorize the municipal corporation to withhold all or any portion of the direct administrative costs claimed for collecting the building excise tax or may direct that the municipal corporation be reimbursed with the costs.

## **Sec. 9. Appeals**

(a) *Administrative appeals:* An applicant aggrieved by a decision regarding the calculation of the amount of building excise tax, the granting or denial of an exemption, or otherwise interpreting or applying this building excise tax may appeal the decision to the County Administrator within 30 days of the decision of the Director of Permits and Inspections, provided that either:

(1) Processing of the building permit is delayed pending the decision of the County Administrator; or

(2) The applicant pays the building excise tax prior to filing the appeal.<sup>2</sup>

(b) *Burden of proof:* The burden of proof shall be on the appellant to demonstrate that the decision is erroneous.

(c) Procedures: Appeals must be filed in writing with the Department of Permits and Inspections, stating the grounds thereof. Appeals from any decision of the Director of Permits and Inspections under this Ordinance shall be *de novo*. The County Administrator shall hold such hearings as are necessary. The decision of the County Administrator shall be in writing and shall be rendered within thirty (30) days of the date the appeal is received in the Department of Permits and Inspections. If the decision is not rendered in writing within such period of time, the appeal shall be considered to have been decided in favor of the appellant.

(d) -Judicial review:

(1) Any party aggrieved by a decision of the County Administrator may file for judicial review of the decision in accordance with Maryland Rules 7-201, *et seq.*, provided that such appeal is filed within thirty (30) days of the date of the written decision of the County Administrator. This and all subsequent appeals shall be on the record of the decision of the County Administrator and may not be heard *de novo*.

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<sup>2</sup> See Section 4(b)(2) “If, upon appeal by an applicant who has paid the building excise tax, the County Administrator determines that the Director of Permits and Inspections has erred in calculating the building excise tax, the Director of Finance shall refund to the applicant the difference between the amount of building excise tax paid by the applicant and the correct amount.”

(2) and following. The decision of the Circuit Court may be appealed to the Court of Special Appeals or, upon certiorari, to the Court of Appeals in accordance with the Maryland Rules.

(3) The County Commissioners may file a responsive pleading and be a party to or file for judicial review in the Circuit Court, or take an appeal to the Court of Special Appeals, or, upon certiorari, to the Court of Appeals, of any decision made under this Ordinance.

(e) Reports to the County Commissioners:

The County Administrator shall periodically report to the County Commissioners on appeals from decisions of the Director of Permits and Inspections including the issues raised, his decision, the decision on any further appeal, and any changes made to County policies and procedures as a result of the appeal.

## **Sec. 10. Enforcement.**

(a) *Misdemeanor:* It is unlawful for any person or entity to enlarge, alter or change any use of property or to erect, construct, enlarge, alter, repair, move, improve, make, put together or convert any building in the County, or attempt to do so, or cause the same to be done, without first paying any building excise tax imposed by this Ordinance. Any person or entity who shall so violate this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined up to five hundred dollars (\$500.00) or imprisoned for up to thirty (30) days, or be both fined and imprisoned. Each day that the violation continues shall be deemed a separate offense.

(b) *Action to enforce:* In the event the building excise tax is not paid as required, the County Attorney may institute an action to recover the building excise tax and enjoin the use of the property until the building excise tax is paid. The person who fails so to pay shall be responsible for the costs of such suit, including reasonable attorney's fees.

(c) *Lien and enforcement same as County real property taxes:* If not paid as required by this Ordinance, the building excise tax shall constitute a lien against the property being developed and shall be levied, collected, and enforced in the same manner as are County real property taxes, and shall have the same priority and bear the same interest and penalties as County real property taxes for lien purposes.

## **Sec. 11. Annual reports.**

(a) Reports by the municipal corporations.

(1) On or before September 30 of each year, each municipal corporation that retains revenues under Section 8 of this Ordinance shall report annually to the County Commissioners:

\_\_\_\_\_ a. The amount of revenues the municipal corporation received and the number of single-family residential units and multifamily residential units that generated these revenues;

\_\_\_\_\_ b. The amount of revenues remitted to the County Commissioners and the amount retained by the municipal corporation; and

\_\_\_\_\_ c. A detailed accounting of how the revenues that were retained by the municipal corporation were distributed among the acceptable uses specified in Section 8(5)(b) of this Ordinance and the specific projects for which the revenues were used.

\_\_\_\_\_ (2) The report prepared by each municipal corporation shall be based on the fiscal year ending on June 30 of the year the report is submitted.

(b) Reports by the Director of Finance. The Director of Finance shall prepare and submit an annual report on or before November 30 of each year to the County Commissioners that shall include the following information for the prior fiscal year:

\_\_\_\_\_ (1) Total amount of building excise taxes collected.

\_\_\_\_\_ (2) Amount of funds appropriated from the special excise tax fund.

\_\_\_\_\_ (3) Amount of funds expended from the special excise tax fund.

\_\_\_\_\_ (4) Amount of funds from County sources appropriated for each of the categories set forth in Section 7 of this Ordinance.

\_\_\_\_\_ (5) Funds remaining in the special excise tax fund.

(c) Reports by the County Commissioners.

\_\_\_\_\_ (1) On or before December 31 of each year, the County Commissioners shall:

\_\_\_\_\_ a. Report to the members of the Washington County legislative delegation:

\_\_\_\_\_ 1. The amount of revenues by school district that the County Commissioners received from nonresidential building types, single-family residential units, and multifamily residential units, and the number and type of units that generated these revenues, and

\_\_\_\_\_ 2. A detailed accounting of how the revenues were distributed among the acceptable uses specified in section 8(5)(b) of this Ordinance and the specific projects for which the revenues were used; and

\_\_\_\_\_ b. Submit to members of the Washington County legislative delegation:

\_\_\_\_\_ 1. The report prepared by each municipal corporation under Section 8(a) of this Ordinance; and

2. The report on the status of the building excise tax credit provided under Section 13 of this Ordinance.

(3) The reports prepared by the County Commissioners shall be based on the fiscal year ending on June 30 of the year the reports are submitted.

~~The Director of Finance shall prepare and submit an annual report on or before October 31 of each year to the County Commissioners that shall include the following information for the prior fiscal year:~~

~~— (a) Total amount of building excise taxes collected.~~

~~(b) Amount of funds appropriated from the special excise tax fund.~~

~~— (c) Amount of funds expended from the special excise tax fund.~~

~~— (d) Amount of funds from County sources appropriated for (i) school renovation and construction; (ii) primary, secondary, or higher education capital expenditures (iii) public safety capital expenditures; (iv) public infrastructure projects; and (v) debt reduction.~~

**(e) Funds remaining in the special excise tax fund.**  
**Sec. 12. Advisory School Design Review Committee.**

(a) The Advisory School Design Review Committee is hereby created.

(b) (1) In this section, the following words shall have the meanings indicated:

(2) "Bidding documents stage" means the period of time following the completion of design where all documents are compiled and made suitable for advertisement and competitive bidding.

(3) "Committee" means the Advisory School Design Review Committee established by the County Commissioners.

(4) "Design development stage" means the point when the overall design for a school capital improvement project is approximately 60% complete.

(c) The Committee shall:

(1) Review all construction plans for school capital improvement projects that exceed \$2 million; and

(2) Ensure that the construction and operational and maintenance of efficiencies for each capital improvement project provide an effective educational environment in a cost efficient manner.

(d) The school design review committee shall begin its duties specified in subsection (c) of this section at the design development stage for each capital

improvement project and conclude its review at the bidding document stage of each capital improvement project.

(e) At the conclusion of the Committee's review of a project, the Committee shall prepare a report summarizing its findings and making recommendations regarding the capital improvement project to the County Commissioners and the Board of Education.

(f) Prior to advertisement for competitive bids, the County Commissioners and the Board of Education shall jointly review the recommendations of the Committee.

(g) The County Commissioners shall have the responsibility of determining whether a capital improvement project may proceed to the bidding documents stage.

(h) The County Commissioners is not bound by the recommendations submitted by the Committee.

### **Sec. 13. Workforce Housing.**

(a) An individual who constructs single-family residential units or multifamily residential units as workforce housing in compliance with this section shall be entitled to credits against the building excise tax.

(b) Definition. (1) In this section, the following terms shall have the meanings indicated.

(2) "Workforce housing" means a housing for households with an income that is greater than 50% but does not exceed 120% of the average family median income for households in Washington County as established by the Planning Director.

(c) An individual who constructs qualified workforce housing shall be provided a credit against the building excise tax in the amount to be adopted by the County Commissioners by resolution.

(d) The County Commissioners shall adopt regulations necessary to carry out the building excise tax credit under this section.

(e) (1) A municipal corporation within Washington County may grant a building excise tax credit against the Washington County building excise tax imposed on single-family residential units and multifamily residential units that are developed within the municipal corporation as workforce housing.

(2) The amount of the building excise tax credit under this paragraph may not exceed the amount retained under Section 8 of this Ordinance and shall be offset against that amount.

(3) The duration of the building excise tax credit and any other provisions necessary to carry out the building excise tax credit shall be in accordance with this Ordinance.

(f) (1) Application may be made for and the Director of Finance may grant a refund of building excise tax paid by any individual who, on or after July 1, 2005 and before the date the building excise tax is enacted or amended, constructs workforce housing within Washington County.

(2) If an individual constructs workforce housing within Washington County prior to the County Commissioners enacting a building excise tax credit for the construction of housing, the County Commissioners may reimburse the individual the amount of money equal to the building excise tax credit.

(3) If an individual constructs workforce housing within Washington County after the County Commissioners enacts a building excise tax credit for the construction of workforce housing but prior to the County Commissioners amending the building excise tax credit and the amended building excise tax credit is greater than the original building excise tax credit, the County Commissioners may reimburse the individual the amount of money equal to the difference between the amended building excise tax credit and the original excise tax credit.

(4) Any refund that the County Commissioners makes under subsection (b) of this section shall be made on or before June 30, 2006.

(5) This subsection shall remain effective for a period of one year and, at the end of June 30, 2006, shall be abrogated and of no force and effect.

#### **Sec. 14. Agricultural land preservation**

Each fiscal year, the County Commissioners shall encumber at least \$1,000,000 of local funds for agricultural land preservation.

Original effective date: July 1, 2003.

Revision 2 adopted October 12, 2004, effective as of July 1, 2004.

Revision 3 adopted July \_\_\_\_, 2005, effective as of July \_\_\_\_, 2005.