
Maryland Style Manual
for
Statutory Law

Department of Legislative Services

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Chapter 1. Introduction to Style Manual

This is the style manual for drafting statutory law in Maryland. The rules in this manual apply most directly to the articles of the Annotated Code of Maryland that have been prepared as part of the ongoing code revision project. However, to the extent practicable, these rules are to be followed in preparing any legislation for the General Assembly.

Comparison with Previous Manuals

This manual is based on the *Style Manual for the Commission to Revise the Annotated Code of Maryland and the Maryland Revisor of Statutes*, published December 1, 1983, and the *Maryland Style Manual for Statutory Law*, published December 5, 1985, and is largely identical to those earlier versions. However, a limited number of changes in rules have been made in this version.

Application of Manual

Statutory drafting is a form of formal writing. Consequently, many of the rules in this manual are simply generally accepted rules for formal writing, included for emphasis and ease of reference. This manual is not intended to include all the rules for formal writing. Therefore, unless to do so would violate a rule in this manual, the regular rules for formal writing are to be followed in drafting Maryland legislation.

In some instances, considerations unique to statutory drafting dictate rules that are more restrictive than or even contradict the regular rules for formal writing. For example, this manual mandates that a comma or period that is not part of the quoted material be placed outside quotation marks. Furthermore, some of the rules in this manual are purely arbitrary, having been established purely to foster consistency in legislative drafting. Thus, for example, Rule 1 in Chapter 2 of this manual provides that the language “under the age of 16 years” is correct and that “less than 16 years old” is not. Either of the quoted expressions is grammatically acceptable, but, for consistency, Rule 1 in Chapter 2 makes “under the age of 16 years” the correct choice for statutory drafting.

In some situations, legal or policy considerations may require a departure from the rules in this manual. This manual is a tool for creating better statutes and should never be an impediment to drafting legislation that means precisely what its sponsors intend.

History and Adoption of Manual

The Office of Policy Analysis is charged by law (SG § 2-1238(10)) with the duty to maintain a style manual for statutory law. The 1983 version of this manual was adopted by the Commission to Revise the Annotated Code of Maryland on the recommendation of its Style Committee, which consisted of the Honorable William S. James, Commission Chairman, and Commissioners Avery Aisenstark, Esquire, Lowell R. Bowen, Esquire, and Franklin B. Olmsted, Esquire. William M. Ferris, Esquire, staff counsel to the Style Committee, authored that version

of the manual with significant contributions from Gary M. Hyman, Esquire, and Mrs. Marie Marangoni and with extensive review by and direction from the Style Committee.

The 1985 version of the style manual was prepared by William M. Ferris, Esquire. This version contains only minor rule changes.

William G. Somerville
Coordinator of Legislative
Drafting Services

Chapter 2. Age

1. **Younger than specified age.** Use the language “under the age of _____ years” to refer to an individual younger than a specified age.

Example

USE	DO NOT USE
An individual under the age of 12 years may not...	An individual less than 12 years old may not...

2. **At least specified age.** Use the phrase “at least _____ years old” to refer to an individual of a minimum specified age.

Examples

USE	DO NOT USE
An individual at least 19 years old may...	An individual 19 years old may...
An individual at least 20 years old may...	An individual 20 years old or older may....

3. **Adult.** Use the word “adult” to refer to an individual who is at least 18 years old.

Examples

USE	DO NOT USE
adult	at least 18 years old
adult	of full age
adult	of legal age
adult	age of majority

4. **Minor.** If a provision relates to legal age and capacity, use the word “minor” instead of “individual under the age of 18 years”.

Example

USE	DO NOT USE
A minor who is at least 15 years old may contract for...	An individual who is at least 15 years old but under the age of 18 years may contract for...

Discussion. See Article 1, § 24 of the Code.

Chapter 3. Articles and Pronominal Indefinite Adjectives

1. **Preference for articles.** Unless another rule requires otherwise, use the articles “a”, “an”, and “the” instead of the pronominal indefinite adjectives “all”, “any”, “each”, and “every”.

Example

USE	DO NOT USE
A person who violates this section is guilty...	Each person who violates this section is guilty...

2. **“Each”.** If using an article would allow the unintended interpretation that an obligation may be discharged by applying it to a single member of a class, rather than to all of the members, use “each” instead of an article or the word “every”.

Examples

USE	DO NOT USE
Each appointee to the Board shall take the oath...	An appointee to the Board shall take the oath...
Each appointee to the Board shall take the oath...	Every appointee to the Board shall take the oath...

3. **Indefinite articles.** Use the indefinite articles “a” or “an” before a noun that is intended to be a general reference.

Example

USE	DO NOT USE
A license expires on the first anniversary of its effective date, unless...	The license expires on the first anniversary of its effective date, unless...

4. **Definite article.** Use the definite article “the” preceding a noun that is intended to be a specific reference.

Example

USE	DO NOT USE
A license expires on . . . unless the license is renewed...	A license expires on . . . unless a license is renewed...

Chapter 4. Capitalization

1. **Proper nouns.** Capitalize proper nouns and common nouns used as proper nouns.

Example

USE	DO NOT USE
University of Maryland	university of Maryland

2. **Short words.** Unless it is the first word of a sentence or a proper name, do not normally capitalize a conjunction containing less than five letters, a preposition containing less than five letters, or an article.

Example

USE	DO NOT USE
Board of Dental Examiners	Board Of Dental Examiners

3. **Names of acts.** Except as otherwise provided in Rule 2 of this chapter, capitalize the first word and each other word in the name of an act.

Examples

USE	DO NOT USE
Maryland Uniform Reciprocal Enforcement of Support Act	Maryland Uniform Reciprocal Enforcement Of Support act
Maryland Audiologists Act	Maryland Audiologists act

4. **Constitution and declaration of rights.** Except as otherwise provided in Rule 2 of this chapter, capitalize each word that refers to the Constitution.

Examples

USE	DO NOT USE
Maryland Constitution	Maryland constitution
Maryland Declaration of Rights	Maryland declaration of Rights

5. **Official governmental offices.** Except as otherwise provided in Rule 2 of this chapter, capitalize each word in the name of a particular official governmental office.

Examples

USE	DO NOT USE
Speaker of the House	Speaker Of The House
President of the Senate	president of the Senate
the Governor	a governor
Secretary of State	Secretary Of State
State's Attorney	State's attorney
Judge	Judge
Chief Judge of the Court of Appeals	chief Judge of the Court of Appeals

6. **Courts.** Except as otherwise provided in Rule 2 of this chapter, capitalize each word in the full, official name of a particular court. Do not capitalize words that are part of a general reference to a court or a group of courts.

Examples

USE	DO NOT USE
Court of Appeals	Court Of Appeals
Court of Special Appeals	Court of special Appeals
Circuit Court for Howard County	circuit court for Howard County
a circuit court	a Circuit Court
District Court	district court
a court	a Court
equity court	Equity Court

Discussion. There is only one District Court of Maryland, but there are a number of circuit courts.

7. **Governmental agencies.** Except as otherwise provided in Rule 2 of this chapter, capitalize each word in the full name of a governmental agency.

Examples

USE	DO NOT USE
Department of Budget and Management	Department of Budget And Management
Department of Agriculture	department of Agriculture

8. **Tabulation.** See, Rule 6 in Chapter 22 of this manual.
9. **Reference list.** The following situations, which frequently occur in legislation, sometimes raise questions regarding capitalization.

CAPITALIZE	DO NOT CAPITALIZE
Capitalize the first word following an enacting or resolving clause -- e.g., "Resolved, That..."	
	Do not capitalize a word merely because it is the first word following a colon.
Capitalize the first word following "Whereas" in resolutions -- e.g., "Whereas, The..."	
	Do not capitalize a word merely because it is the first word following a semicolon.
Capitalize a specific reference: "Senate Bill 616" "House Bill 1" "the Little Gunpowder Falls Bridge Bond" "the Vermont Savings and Loan Association"	Do not capitalize general references: "the bill" "bills" "bond" "the bonds" "savings and loan association"

CAPITALIZE	DO NOT CAPITALIZE
Capitalize specific numbered references to units of the Code: “Title 20” “Subtitle 5” “Article 27”	Do not capitalize unnumbered references to units of the Code: “this title” “this subtitle” “this article”

Caveat. The short titles of only some federal acts include the word “Federal”. Because its short title includes the word “Federal”, it is correct to cite the “Federal Hazardous Substances Act”. On the other hand, the short title of the “Safe Drinking Water Act” does not include the word “Federal”, so that act is cited as the “federal Safe Drinking Water Act”.

Chapter 5. Citation of and Cross-references to Statutes

1. *Avoid cross-references.* Avoid cross-references to other statutes.

Discussion. Amendments to the cross-referenced statute can create problems. For example, a cross-reference to a subsection may become incorrect because of the addition of a new subsection to the section that contains the cross-referenced subsection.

2. *State larger unit first.* Except for a reference to the smallest common unit, e.g., “of this section”, or if citing a provision in a revised article other than the article in which the citation appears, state the larger unit of a statute first.

Examples

USE	DO NOT USE
§ 4-302 (a) of this title	Subsection (a) of § 4-302
Article 41, § 15 of the Code	§ 15 of Article 41
Title 8, Subtitle 4	Subtitle 4 of Title 8
§ 1-101 of the Agriculture Article	Agriculture Article, § 1-101

3. *Cite using smallest common unit.* Unless the smallest common unit is a part, cite another provision in the code using, as the primary point of reference, the smallest unit that is common to the statute cited and the statute containing the citation. If the smallest common unit is a part, use the common subtitle as the primary point of reference.

Examples

(assuming that each example is in § 1-101(b)(2)(ii) of the Financial Institutions Article and that Subtitle 1 of Title 1, of the Financial Institutions Article is divided into parts).

USE	DO NOT USE
item (i) of this paragraph	subsection (b)(2)(i) of this section
paragraph (1) of this subsection	subsection (b)(1) of this section
subsection (a) of this section	§ 1-101(a) of this article
§ 1-102 of this subtitle	§ 1-102 of this Part I of this subtitle
§ 1-201 of this title	§ 1-201 of this article

USE	DO NOT USE
§ 2-101 of this article	§ 2-101 of the Financial Institutions Article
Title 2, Subtitle 1 of this article	Title 2, Subtitle 1 of the Financial Institutions Article

4. **Designations of combined statutory units.** use a single section symbol (“§”) to cite any number of component parts of another single section. Use two section symbols to cite conjunctively to two or more other sections or to provisions in two or more other sections. use a single section symbol before each section reference if the section references are joined by “or”.

Examples

USE	DO NOT USE
§ 2-411 (a) and (c)	§§ 2-411 (a) and (c)
§§ 2-411 and 2-415	§ 2-411 and § 2-415
§§ 2-411(b) and 2-415(c)	§ 2-411(b) and § 2-415(c)
§ 2-411 or § 2-412	§§ 2-411 or 2-412
§ 2-411(b) or § 2-415(c)	§§ 2-411(b) or 2-415(c)
§ 5, § 8, or § 14	§§ 5, 8, or 14
§§ 5 and 8 or § 14	§ 5 and § 8 or § 14

5. **Use of “of” in citation.** In a citation, use the word “of” before the reference to the smallest common unit.

Examples

(assuming that each example is in § 1-201(b) of the Natural Resources Article).

USE	DO NOT USE
subsection (a) of this section	subsection (a)
§ 1-202 of this subtitle	§ 1-202
§ 1-301 of this title	§ 1-301
§ 2-301 of this article	§ 2-301 of the Natural Resources Article
Article 41, § 15 of the Code	Article 41, § 15

USE	DO NOT USE
§ 3-204 of the Health Occupations Article	HO § 3-204
Title 3, Subtitle 2A of the Courts Article	Subtitle 2A of the Courts Article Title 3

6. **Citation of revised articles.** Do not use the concluding phrase “of the code” in a reference to a revised article. The proper way to cite a provision in a revised article is shown in Article 1, § 25 of the Code.

Caveat. Article 1, § 25 of the Code essentially provides that a section in a revised article is cited as “§ ____ of the ____ Article”. However, a section in the Courts and Judicial Proceedings Article is cited as “§ ____ of the Courts Article”.

Discussion. The words “of the Code” following a reference to an unrevised article prevent confusion since some references to county codes are otherwise identical. Since no county code reference could be confused with a reference to a revised article, the words “of the Code” are not needed in a reference to a revised article.

7. **Citation of unrevised articles.** Cite a provision in an unrevised article by the word “article” followed, in order, by the number of the article, a comma, a section symbol (“§”) or symbols, as appropriate, the number of the section or sections, and the words “of the Code”.

Examples

USE	DO NOT USE
Article 1, § 21 of the Code	§ 21 of Article 1 of the Code
Article 10, §§ 34 and 35 of the Code	§§ 34 and 35 of Article 10 of the Code

Caveat. In general, do not cite to the unit designations “titles” and “subtitles” in the unrevised articles. With a few exceptions, the unrevised articles are organized differently from the revised articles. The subunit designations in an unrevised article also often differ from what they would be in a revised article. Consequently, to refer to a group of sections in an unrevised article, it is normally better to cite to the section numbers rather than to a subtitle or other subunit larger than a section.

Discussion: See the Discussion following Rule 6 of this chapter.

8. **Citation of federal statutes.** If a federal statute cannot be cited by short title or name, cite it using the applicable sections of the United States Code. Do not cite using the United States Code Annotated or any other private code service.

Example

USE	DO NOT USE
21 U.S.C. § 301	21 U.S.C.A. § 301

9. **Series of sections.** To refer to a series of consecutive sections, joint the first and last sections in the series with the word “through” instead of a dash, a hyphen, or the word “to”. Avoid using “et seq.”.

Examples

USE	DO NOT USE
§§ 2-105 through 2-109	§§ 2-105 -- 2-109
§§ 3-201 through 3-207	§§ 3-201 to 3-207
§§ 4-516 through 4-525	§§ 4-516 through 4-525, inclusive

10. **Descriptions of statutes.** Unless it is necessary to do so, do not include a description of the function of the statute in a reference to that statute. If it is necessary to include a description, make certain that the description is brief and accurate.

Example

(assuming that § 7-201 contains nothing except tag inscription requirements).

USE	DO NOT USE
The requirements of this section are in addition to the requirements of § 7-201 of this article.	The requirements of this section are in addition to the tag inscription requirements of § 7-201 of this article

11. **Reference to later amendments.** Do not use “as amended from time to time” when referring to another statute.

Example

USE	DO NOT USE
the Internal Revenue Code of 1954	the Internal Revenue Code of 1954, as amended from time to time

Discussion. Article 1, § 21 of the Code provides that, unless there is language expressly providing otherwise, subsequent amendments automatically are included in a reference to a statute.

12. **Citation by short title.** Normally cite a statute using its short title or name.

Examples

USE	DO NOT USE
Federal Hazardous Substances Act	15 U.S.C. § 1261 et seq.
Maryland Dentistry Act	Title 4 of the Health Occupations Article

Discussion. The defect in the disapproved version above is that 15 U.S.C. § 1261 et seq. is the Federal Hazardous Substances Act, and the short title is preferred over a reference to sections of the United States Code. As to the short titles of federal acts, see also the caveat to Rule 8 in Chapter 4 of this manual.

13. **Short titles -- To include “Maryland”.** When creating a new short title, include the word “Maryland” at the beginning of the short title of a Maryland act.

Examples

USE	DO NOT USE
Maryland Nurse Practice Act	Maryland State Nurse Practice Act
Maryland Chiropractic Act	State Chiropractic Act
Maryland Uniform Commercial Code	The Uniform Commercial Code

Discussion. As to the use of “State” in the names of State agencies or officials, see Chapter 13 of this manual.

14. **Same -- Not to include year.** Do not include the year in the short title of a Maryland act. If a year appears in the short title of a Maryland act, delete the year when revising that law.

Example

USE	DO NOT USE
Maryland Audiologists Act	Maryland Audiologists Act of 1981

15. **Maryland Rules of Procedure.** Cite a rule in the Maryland Rules of procedure by the words “Maryland Rule” followed, in order, by the number of the rule and the subdivision designation, if any.

Examples

USE	DO NOT USE
Maryland Rule 4-328	Rule 4-328 of the Maryland Rules
Maryland Rule 2-31	Md. Rule 2-311

16. **Maryland Constitution.** Cite a section of the Maryland Constitution by the word “Article” followed, in order, by the number of the article (in roman numerals), a comma, a section symbol (“§”), the number of the section, and the words “of the Maryland Constitution”.

Examples

USE	DO NOT USE
Article III, § 32 of the Maryland Constitution	Maryland Constitution, Article III, § 32
Article III, § 32 of the Maryland Constitution	Article III, § 32 of the State Constitution

Caveat. This rule and Rule 17 of this chapter represent a departure from the rule followed in some revised articles.

17. **Maryland Declaration of Rights.** Cite an article of the Maryland Declaration of Rights by the word “Article” followed, in order, by the number of the article and the words “of the Maryland Declaration of Rights”.

Examples

USE	DO NOT USE
Article 46 of the Maryland Declaration of Rights	Maryland Declaration of Rights, Article 46
Article 46 of the Maryland Declaration of Rights	Article 46 of the State Declaration of Rights

Caveat. See the caveat to Rule 16 of this chapter.

18. **Use of computer searches.** Whenever a statute is repealed or redesignated, search the code for references to that statute and change those references as appropriate.

Chapter 6. Conjunctions

1. **“And”**. Use “and” to connect requirements that are additive to each other.

Example

USE	DO NOT USE
The notice shall state: (1) the date, time, and place of the hearing; and (2) the purpose of the hearing.	The notice shall state: (1) the date, time, or place of the hearing; or (2) the purpose of the hearing.

Discussion. The defect in the disapproved version above is that it would be satisfied by a notice that contained only the date of the hearing but not its time, place, or purpose. To comply with the approved version, a notice would need to include all 4 elements of information.

2. **“And/or”**. Never use “and/or”. use “or”, “or . . . or both” “, or any of these”, or similar language, as appropriate, instead.

Examples

USE	DO NOT USE
“Authorized prescriber” means any licensed dentist, licensed physician, licensed podiatrist, or licensed veterinarian.	“Authorized prescriber” means any licensed dentist, licensed physician, licensed podiatrist, and/or licensed veterinarian.
... on conviction is subject to a fine not exceeding \$500 or imprisonment not exceeding 90 days or both.	... on conviction is subject to a fine not exceeding \$500 and/or imprisonment not exceeding 90 days.

USE	DO NOT USE
<p>Subject to the hearing provisions of this subtitle, the Department may reprimand any licensee, or suspend or revoke any license, if the licensee:</p> <p>(1) fraudulently or deceptively obtains or attempts to obtain a license;</p> <p>(2) fails to meet any applicable federal or State standard for removal or encapsulation of asbestos; or</p> <p>(3) fails at any time to meet:</p> <p>(i) the qualifications for a license; or</p> <p>(ii) any regulation that the Department adopts under this subtitle.</p>	<p>Subject to the hearing provisions of this subtitle, the Department may reprimand any licensee, or suspend or revoke any license, if the licensee:</p> <p>(1) fraudulently or deceptively obtains or attempts to obtain a license;</p> <p>(2) fails to meet any applicable federal or State standard for removal or encapsulation of asbestos; and</p> <p>(3) fails at any time to meet:</p> <p>(i) the qualifications for a license; and</p> <p>(ii) any regulation that the Department adopts under this subtitle.</p>

Caveat. A variation in tabulation can result in a different conjunction being appropriate. See the examples in R. Dickerson, *The Fundamentals of Legal Drafting* § 6.2 (1986).

3. **Penalty provisions.** In penalty provisions that provide for both fine and imprisonment, include the words “or both” or “but not both”, as appropriate.

Example

USE	DO NOT USE
<p>A person who violates any provision of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 6 months or both.</p>	<p>A person who violates any provision of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 6 months.</p>

Cross-references.

Conjunctions in definitions -- See Chapter 9. “Definitions”.

Conjunctions in tabulations -- See Chapter 22. “Tabulation”.

Chapter 7. Consistency

1. **Variations on defined terms.** Once a term is defined, do not use variations of that term in the statute to which the definition applies.

Example

(assuming that “community sewerage system” and “multiuse sewerage system” are each defined separately for the relevant statute).

USE	DO NOT USE
community sewerage system or multiuse sewerage system	community or multiuse sewerage system

Exceptions. Variations on verb forms are permitted; e.g., if “practice” is defined, use of “practiced” is acceptable. Also, if the meaning of the variation is indisputably clear and adherence to this rule would result in an extremely convoluted statute, it is permissible to use a variation on a defined term. See, e.g., the note concerning the meaning of “licensee” in the revisor’s note to the definition of “license” in § 10-201(c) of the Insurance Article.

2. **Synonyms.** Do not use both a word and its synonym, even if a defined term is not involved.

Example

(assuming that the reference to a “certificate” is intended to mean the license).

USE	DO NOT USE
The Board shall include on each license that the Board issues:	The Board shall include on each license that the Board issues:
...	...
(2) the date on which the license was issued;	(2) the date the certificate was issued;
...	...

Discussion. See the discussion on “elegant variation” in R. Dickerson, *The Fundamentals of Legal Drafting* § 2.3.1 (1986).

3. **Revised articles drafted under former rules.** Generally, in drafting a bill that amends a revised article enacted in or before 1984, follow the rules of style that were applied to that

article, even if those rules differ from the rules in this manual. However, do not waste time attempting to learn old style rules. If in doubt follow the rules in this manual.

Example

In some revised articles, the first word in each tabulated item is capitalized. See, e.g., § 1-101 (f) of the Health - General Article. Despite Rule 6 in Chapter 22 of this manual, a bill that amends that section should follow the old rule that the first word in each tabulated item is capitalized.

The revised articles in which the first word in each tabulated item is capitalized are:

- Agriculture;
- Commercial Law;
- Corporations and Associations;
- Courts and Judicial Proceedings;
- Education;
- Environment;
- Estates and Trusts;
- Financial Institutions;
- Health - General;
- Health Occupations;
- Natural Resources;
- Real Property; and
- Transportation.

Chapter 8. Dates and Periods of Time

1. **Reference to month and day.** To refer to a date, use the month followed by the numeral that corresponds to the day of the month.

Examples

USE	DO NOT USE
July 1	July one
July 2	2 July
July 3	July third
July 4	July 4th
July 5	Fifth day of July

2. **On or before.** Set a specific calendar deadline by using the phrase “on or before”.

Example

USE	DO NOT USE
on or before June 30	before July 1

Discussion. Ordinarily, a reader remembers the date specified in the statute. The disapproved version above might mislead a casual reader into thinking that July 1 is the last date for action, when, in fact, July 1 is after the last day.

3. **On or after.** Set a time period that runs from a specific day by using the phrase “on or after”.

Example

USE	DO NOT USE
on or after July 1	after June 30

4. **Specific intervals of time.** Set a specific interval of time by using the word “from” followed, in order, by the first date that is within the interval, the word “to”, the last date that is within the interval, and the words “both inclusive” set off with a comma.

Examples

USE	DO NOT USE
from May 1 to June 27, both inclusive	from May 1 to June 27
from June 1 to July 27, both inclusive	on or after June 1 and on or before July 27

5. **Future time periods.** Use “after” to state that an act may be done only after an event.

Example

(assuming that it is intended that suit may not be filed until after birth).

USE	DO NOT USE
within 2 years after the child is born	before the child is 2 years old

6. **Time periods surround event.** Use “before or after” to state that an act may be done during a period measured before and after an event.

Example

(assuming that it is intended that the act may occur within 30 days before the event or 30 days after the event).

USE	DO NOT USE
within 30 days before or after	within 30 days of

7. **“Day” instead of “date” or “time”.** If a period is measured in whole days, use “day” instead of “date” or “time”.

Examples

USE	DO NOT USE
30 days after the day on which	30 days after the time when
30 days after the day on which	30 days from the date on which

Cross-reference.

“Biweekly” and similar words -- *See* Chapter 12. “Language to Avoid”.

“Per annum” -- *See* Chapter 12. “Language to Avoid”.

Chapter 9. Definitions

1. **When to use definitions.** Use a definition to avoid vagueness, ambiguity, or unnecessary verbosity.
2. **Avoid reciting what is obvious.** If a definition does not serve a purpose, do not include it.

Example

Unnecessary definition.

“Calendar year” means a period of 12 months ending on December 31.

3. **Avoid “humpty-dumpty definitions”.** Do not define a term to have a meaning that is contrary to what the term normally is understood to mean.

Example

Unacceptable “Humpty-Dumpty definitions”.

“Goods” means goods and real estate.

“Cow” means horse.

Discussion. The term “Humpty-Dumpty definition” is an allusion to Lewis Carroll’s *Through the Looking Glass*, in which Humpty Dumpty tells Alice that he can make a word stand for whatever he pleases. See R. Dickerson, *The Fundamentals of Legal Drafting* § 7.3 (1986).

4. **Avoid “one-shot definitions” and unused definitions.** Do not define a term that is used once or not at all outside of its own definition.

Example

USE	DO NOT USE
<p>The Secretary shall carry out a program to post and maintain in each facility that prepares food and provides seating for patrons a diagram that gives clear and illustrative directions on the use of manual maneuvers to assist choking victims.</p>	<p>(a) In this section, “restaurant” means a facility that prepares food and provides seating for patrons.</p> <p>(b) The secretary shall carry out a program to post and maintain in each restaurant a diagram that gives clear and illustrative directions on the use of manual maneuvers to assist choking victims.</p>

Exception. Normally a “one-shot definition” can be avoided by including the substance of the definition in the substantive provision in which the defined term appears. However, if the language otherwise would be extremely complicated and confusing to a reader, a “one-shot definition” may be appropriate.

Caveat. In the drafting or amending process, a defined term may be removed from the substantive text, creating an unused definition. To avoid this error, always check a completed draft or amended bill to ensure that there are no unused definitions.

5. **Avoid “stuffed definitions”.** Do not include a substantive provision, e.g., a prohibition, in a definition.

Example

Unacceptable “stuffed definition”.

<p>In this subtitle, “label” means a display of written, printed, or graphic matter on the container, other than a package liner, of a substance, and, in order to comply with any requirement under this subtitle that a word, a statement, or any other information appear on the label of a substance, the word, statement, or other information shall:</p> <ol style="list-style-type: none"> <li data-bbox="412 1566 1133 1600">(1) be placed on the outside container or wrapper; or <li data-bbox="412 1640 1170 1673">(2) be legible through the outside container or wrapper.

Discussion. The defect in the example above is that all the words following “and” (the 25th word) should be a separate substantive provision instead of being part of the definition. See §§ 5-101 and 5-106 of the Agriculture Article for the correct alternative to this example. See also R. Dickerson, *The Fundamentals of Legal Drafting* § 7.6.5 (1986) regarding “stuffed definitions”.

6. **Placement and order of definitions.** Place a definition at the beginning of the smallest statutory unit, e.g., section or subtitle, to which the definition applies. If there are multiple definitions applicable to the same statutory unit, put them in alphabetical order.

Discussion. If a definition is intended to apply to only a single section, that definition normally should be part of the section to which it applies. If only a single term is defined in the section, the first subsection of the section normally should read, e.g., “In this section, ‘license’ means . . .”. If multiple terms are defined for purposes of a single section, the first subsection of the section should be divided into paragraphs and paragraph (1) should read: “In this section the following words have the meanings indicated”. The definitions should then be set forth in alphabetical order as paragraphs (2), (3), etc.

If a definition is intended to apply to more than a single section, the definition should be in a separate section. If only a single term is defined in that section, the section should begin, e.g., “in this title (or article, subtitle, etc.), ‘Department’ means . . .”. If multiple definitions are included in that section, the section should be divided into subsections and subsection (a) of that section should read, “In this title (or article, subtitled, etc.) the following words have the meanings indicated”. The definitions should then be set forth in alphabetical order as subsections (b), (c), etc.

If a definition or a group of definitions applies to a title that is divided into subtitles (or a subtitle that is divided into parts), include the definition or group of definitions in a separate subtitle (or part), which also may include general provisions applicable to the entire title (or subtitle). Place definitions applicable to an entire article in Title 1 of the article, along with general provisions applicable to the entire article. If both definitions and general provisions appear in the same statute, place the definitions first.

7. **“Means” definitions.** Use “means” if the definition is intended to be exhaustive.

Example

(assuming that a reference to a single specific department is intended).

USE	DO NOT USE
“Department” means the Department of Agriculture.	“Department” includes the State Department of Agriculture.

8. **“Includes” definitions.** Use “includes” if the definition is intended to be partial or illustrative.

Example

USE	DO NOT USE
“Disinfect” includes to sterilize.	“Disinfect” means to sterilize.

Discussion. Article 1, § 30 of the Code provides that “includes” means “by way of illustration and not by way of limitation”.

9. **“Does not include” definitions.** Use “does not include” if a definition is intended to be exclusive.

Example

USE	DO NOT USE
In this section, “own” does not include to lease.	In this section, “own” does not mean to lease.

10. **Composite definitions.** A definition may contain a combination of a “means” clause with an “includes” clause or a “does not include” clause or both. However, do not use an “includes” clause that expands the “means” clause or a “does not include” clause that contradicts the “means” clause.

Examples

USE	DO NOT USE
(b) “Authorized prescriber” means any licensed dentist, licensed physician, licensed podiatrist, or licensed veterinarian.	(b) (1) “Authorized prescriber” means any licensed dentist, licensed physician, or licensed podiatrist. (2) “Authorized prescriber” includes any licensed veterinarian.
(c) “County” means any county except Anne Arundel County and Baltimore City.	(c) (1) “County” means any county. (2) “County” does not include Anne Arundel County or Baltimore City.

11. **Conjunctions in definitions.** In a definition, if the conjunctions “and” and “or” seem equally appropriate, use “or” following “means” and “and” following “includes”.

Example

Acceptable use of conjunctions.

- | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>(x) (1) “Practice medicine” means to engage, with or without compensation, in medical:</p> <ul style="list-style-type: none">(i) diagnosis;(ii) healing;(iii) treatment; or(iv) surgery. <p>(2) “Practice medicine” includes doing, undertaking, professing to do, and attempting any of the following:</p> <ul style="list-style-type: none">(i) diagnosing, healing, treating, preventing, prescribing for, or removing any physical, mental, or emotional ailment or supposed ailment of an individual:<ul style="list-style-type: none">A. by physical, mental, emotional, or other process that is exercised or invoked by the practitioner, the patient, or both; orB. by appliance, test, drug, operation, or treatment;(ii) ending a human pregnancy; and(iii) performing acupuncture. <p>(3) “Practice medicine” does not include:</p> <ul style="list-style-type: none">(i) selling a nonprescription drug or medicine;(ii) practicing as an optician; or(iii) performing a massage or other manipulation by hand. |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

12. **Parallel construction of definitions.** Define a term using a part of speech comparable to the term defined.

Examples

USE	DO NOT USE
“Drive” means to drive, operate, move, or be ...	“Drive” means driving, operating, moving, or being ...
“Driver” means an individual who drives a vehicle.	“Driver” means to be the individual who drives a vehicle.
“Practice pharmacy” means to engage in ...	“Practice pharmacy” means the act of engaging in ...

Caveat. Be careful to determine what part of speech a defined word is intended to be. For example, “abuse” can be either a noun or a verb. See § 4-501(b) of the Family Law Article.

13. **Definitions and different parts of speech.** If a word is defined, normally use the word only as that part of speech that corresponds to the definition.

Example

(Assuming that “abuse” is defined as a noun)

USE	DO NOT USE
a child who has been subjected to abuse	an abused child

14. **Defining by incorporation by reference.** Unless the intent is that the two definitions be identical no matter how the incorporated definition is amended, repeat a definition rather than incorporating it by reference. If a definition is incorporated by reference, use the words “has the meaning stated in”.

Discussion: Occasionally, it may be appropriate to define a term by reference to a statutory unit to which the definition applies, e.g., “‘Permit’ means a permit issued under § 2-222 of this subtitle”. However, this type of definition should be used sparingly.

Caveat. A risk inherent in incorporating a definition by reference is that the incorporated definition may be amended or even repealed. Therefore, when amending or repealing a definition, search the Code for cross-references to that definition.

15. **Defined terms containing multiple words.** Avoid creating defined terms that lend themselves to being divided in the substantive text of the statute.

Example

USE	DO NOT USE
In this section, “State” means ...	In this section, “any state” means ...

Discussion. The defect in the disapproved version above is that a revisor attempting to refer to any state other than Maryland might use the term “any other state”, thereby creating a question as to whether the definition of “any state” applies.

16. **“Unless the context requires otherwise”.** In rare instances, the phrase “unless the context requires otherwise” is appropriate in a definition. As a general rule, do not use defined terms in a way that requires the inclusion of this phrase.

Cross-reference. Variations on defined terms -- See Chapter 7. “Consistency”.

Chapter 10. Exceptions, Conditions, and Limitations

1. *State exceptions and limitations early.* Unless to do so would impair the clarity of the statute, place an exception or limitation at the earliest possible point in the statutory unit to which it applies. If the exception or limitation is long or complicated, initially state that there is an exception or limitation and then detail the exception or limitation at a later point in the statute.

Example

USE	DO NOT USE
<p>With the prior approval of the governing body of the county affected, the State Highway Administration may designate ...</p>	<p>The State Highway Administration, with the prior approval of the governing body of the county affected, may designate ...</p>
<p>(a) Except as provided in subsection (b) of this section, a person who has been released on habeas corpus may not be imprisoned or committed in connection with the same offense.</p> <p>(b) A person who has been released on habeas corpus may be imprisoned or committed in connection with the same offense:</p> <p style="padding-left: 40px;">(1) by order of the court for violation of the terms of release;</p> <p style="padding-left: 40px;">(2) by order of ...</p>	<p>A person who has been released on habeas corpus may not be imprisoned or committed in connection with the same offense, except:</p> <p style="padding-left: 40px;">(1) by order of the court for violation of the terms of release;</p> <p style="padding-left: 40px;">(2) by order of ...</p>

2. *“If” versus “when”.* Unless a time element is involved, use “if”, instead of “when”, to introduce a condition.

Examples

USE	DO NOT USE
<p>If the Bank Commissioner approves, a commercial bank may ...</p>	<p>When the Bank Commissioner approves, a commercial bank may ...</p>

USE	DO NOT USE
When the petitioner appears before the court, the court may ...	If the petitioner appears before the court, the court may ...

3. ***“Whenever” versus “when”***. To refer to a recurring event, use “whenever” instead of “when”.

Example

(assuming that an emergency could occur more than once).

USE	DO NOT USE
Whenever the Secretary finds that an emergency exists, the Secretary may ...	When the Secretary finds that an emergency exists, the Secretary may ...

4. ***“Whether” versus “if”***. If there is an implied “or not”, use “whether” instead of “if”.

Example

USE	DO NOT USE
shall investigate whether the licensee is violating ...	shall investigate if the licensee is violating ...

5. ***Interlocking exceptions***. Do not use “except” and “notwithstanding” to create interlocking exceptions.

Example

USE	DO NOT USE
<p>(a) Except as otherwise provided in this section, a person shall be licensed before the person ...</p> <p>(b) A license is not required for ...</p>	<p>(a) Except as otherwise provided in this section, a person shall be licensed before the person ...</p> <p>(b) Notwithstanding subsection (a) of this section, a license is not required for ...</p>

Chapter 11. Gender Neutral Language

1. *Use gender neutral language.* Except as otherwise provided in Rules 2 and 3 of this chapter, do not use words that connote or denote gender distinctions.

Examples

USE	DO NOT USE
the applicant's name	his name
on refusal to comply	on his refusal to comply
The officer shall file the report ...	The officer shall file his report ...
interfered with the Secretary in the performance of the Secretary's duties ...	interfered with the Secretary in the performance of his duties ...
If the individual is ...	If he/she is ...
If the individual is ...	If he or she is ...

Discussion. This rule forbids the use of masculine or feminine pronouns in most cases. These pronouns normally may be avoided by 1 of the following methods:

- repeating the words that would have been the pronoun's antecedent reference, including, as appropriate, using the possessive form of a noun;
- omitting the pronoun, or the phrase that would include the pronoun, if the pronoun or phrase is not essential;
- using an article instead of a pronoun; or
- restructuring or rephrasing the statute to avoid the need for a pronoun, including, if necessary, using the passive voice.

Caveat. In avoiding pronouns that connote or denote gender distinctions, be careful not to obscure the meaning of the statute in the process. In particular, remember that, although the rule against using the passive voice yields to the requirement to use gender neutral language, it is normally possible to obey both of these rules.

2. *Subject matter that applies only to one sex.* Words that connote or denote gender distinctions may be used in a statute that specifically applies only to one sex.

Examples

USE	DO NOT USE
If the alleged father appears for trial without having filed a written answer, the court shall advise him of his right to ...	If the alleged father appears for trial without having filed a written answer, the court shall advise the alleged father of the alleged father's right to ...
If the mother or pregnant woman is living, she shall be made a defendant.	If the mother or pregnant woman is living, the mother or pregnant woman may be made a defendant.

Caveat. Under normal circumstances, this rule does not authorize the use of “he or she” or “his or her”.

3. **Names and organizational titles.** Words that connote or denote gender distinctions may be used if they are part of a name or organizational title.

Examples

USE	DO NOT USE
chairman	chairperson
chairman	chair

Discussion of chapter. The rules contained in this chapter and their inclusion in this manual are mandated by a statute that requires, “to the extent practicable, the use of words that are neutral as to gender”. See § 2-1238(11) of the State Government Article. Experience indicates that only very rarely is it “impracticable” to use gender neutral language if neither Rule 2 nor Rule 3 of this chapter applies.

Chapter 12. Language to Avoid

1. **Dual meaning of prefix “bi”.** Do not use words with the prefix “bi”.

Example

USE	DO NOT USE
once every 2 weeks	biweekly

Discussion. “Biweekly” can mean twice a week or once every other week. The prefix “bi” is ambiguous. Therefore, to avoid confusion, words with that prefix should not be used.

2. **Latinisms.** If there is an adequate english substitute, do not use a latin expression.

Examples

USE	DO NOT USE
a year	per annum
absolute divorce	divorce a vinculo

Discussion. Some Latin expressions are terms of art (e.g., “pendente lite”) and must be retained. However, there are English substitutes for many, if not most, Latin expressions that commonly appear in statutes.

3. **Legalisms.** Use simple english instead of unnecessarily legalistic words.

Examples

USE	DO NOT USE
the licensee	said licensee
that person	such person
that purpose	the aforesaid purpose
those acts	the beforementioned acts
under this section	under the provisions of this section

Caveat. Lawyers often use “said”, “such”, and similar words to ensure that an antecedent reference is clear. The use of these words in drafting statutes is objectionable. However, avoiding the use of these words by substituting, for example, “the” for “said”, may not be adequate. The legislative drafter also must ensure that the statute is structured so that antecedent references are made clear without the use of legalistic “crutches”.

4. **Archaic language.** Use modern terminology instead of archaic language.

Examples

USE	DO NOT USE
on which	whereupon
when	Whenas
by which	whereby

Cross-reference.

As to other words to avoid, see Chapter 24. “Word Choices”.

Chapter 13. Modifiers

1. **Placement in general.** Generally, place a modifier as close as possible to the term or phrase it modifies.

Example

USE	DO NOT USE
The petitioner shall file the petition in writing with the court.	The petitioner shall file the petition with the court in writing.

2. **Clear association.** Be sure that a modifier clearly refers to the term the modifier is intended to modify.

Example

USE	DO NOT USE
Only a licensed dentist may sign an authorization for dental laboratory work.	A licensed dentist may sign only an authorization for dental laboratory work.

3. **Avoid “squinting” modifiers.** Do not place a modifier so that it is not clear whether the modifier is intended to modify the preceding term or the following term.

Examples

USE	DO NOT USE
The unit of State government that had State property at the time of its loss or damage and the Department jointly shall determine the value of the property.	The Department and the unit of State government that had State property at the time of its loss or damage jointly shall determine the value of the property.
A person who believes that an individual in a facility has been abused shall promptly report the alleged abuse to...	A person who believes that an individual in a facility has been abused promptly shall report the alleged abuse to...

4. ***Ambiguous modifiers in series.*** Do not place a modifier so that it is unclear whether it modifies a single item in a series or each item in the series.

Examples

(assuming that modification of only a single item in the series is intended).

USE	DO NOT USE
a truck, van, or gasoline powered automobile	a gasoline powered automobile, truck, or van
a relative who resides in the State or a child	a child or relative who resides in the State

Discussion. (1) Tabulation is a good device for demonstrating the relationship between a modifier and the items in a series. If the modifier is placed in the language that introduces a tabulated list, the modifier clearly applies to each item in the list. On the other hand, a modifier placed in a tabulated item clearly does not appear to modify any item except the one in which it appears.

(2) The following amusing example of a modifier that violates this rule appeared in a bill introduced in the 1980 Session of the Maryland General Assembly (the bill also violates some of the other rules in this manual):

“A state, county, or municipal police officer, sheriff, or deputy sheriff employed by a private employer as a private detective or security guard may not wear or use any uniform, clothing, or equipment other than an issued gun which is either owned by his law enforcement agency or which indicates his membership in the law enforcement agency while he is in this private employ.”

5. ***“State” in names of agencies and officials.*** Do not use the word “State” to refer to a Maryland agency or official. If a federal office or agency otherwise might be confused with a Maryland office or agency, add the word “federal” to the official name of the office or agency.

Examples

USE	DO NOT USE
Department or Agriculture	State Department of Agriculture
Department of Natural Resources	State Department of Natural Resources
Attorney General	State Attorney General

Caveat. This rule was first adopted in 1983. Some of the earlier revised articles, therefore, were drafted following a different rule. See also the caveat to Rule 9 in Chapter 4 of this manual, with respect to the use of the word “federal”.

Chapter 14. Money

1. **Whole dollar amounts.** Express a whole dollar amount by using a dollar sign followed by the amount in numerals without a decimal point.

Examples

USE	DO NOT USE
\$1,000	\$1,000.00
... \$400 or \$400. or ...
\$300	Three Hundred Dollars (\$300)
\$200	200 dollars
\$1,500,000	\$1.5 million
\$1,543,210	\$1.54321 million

2. **Amounts less than \$1.** Express an amount less than \$1 by using the number of cents in numerals followed by the word “cents”.

Examples

USE	DO NOT USE
25 cents	\$0.25
25 cents	25¢

3. **Dollars and cents combined.** Express an amount that is more than \$1 and that is not a whole dollar amount by using a dollar sign followed by the amount expressed as a decimal fraction.

Example

USE	DO NOT USE
\$1.25	\$1 and 25 cents

Chapter 15. Numbers and Percentages

1. **Cardinal numbers – in general.** Unless it is at the beginning of a sentence, express a cardinal number 10 or greater in arabic numbers. Express numbers one through nine as words unless another rule requires numerals. If a sentence begins with a cardinal number, express the number in words. However, if possible, recast the sentence instead of expressing the number in words. In a series of numbers, if a rule requires one of the numbers to be an arabic number, then style all of the numbers in the series as numerals.

Example

USE	DO NOT USE
(b) Of the 12 members: (1) 10 ...; (2) 1 ...; and (3) 2 ...	(b) Of the twelve members: (1) 10 ...; (2) one ...; and (3) two ...
(b) Of the 12 members: (1) nine ...; (2) one ...; and (3) two ...	(b) Of the twelve members: (1) 9 ...; (2) 1 ...; and (3) 2 ...
(x) The Secretary may intervene at levels 8, 9, and 10.	(x) The Secretary may intervene at levels eight, nine, and 10.

2. **Same – large numbers.** Include commas in all cardinal numbers over 999.

Examples

USE	DO NOT USE
1,000	1000
1,200	1200
75,000	75000
1,500,000	1.5 million

3. *Same – units of measurement.* Use numerals when expressing a unit of measurement including distance, latitude, longitude, money, temperature, time, volume, and weight.

Examples

USE	DO NOT USE
9 miles	nine miles
\$8	eight dollars
three tons	three tons

Discussion. See also Chapter 8 of this manual on “Dates and Periods of Time”.

4. *Same – large numbers in words.* If it is necessary to express a cardinal number in words, use a formal description of the number.

Example

USE	DO NOT USE
Four thousand five hundred	Forty-five hundred

5. *Ordinal numbers.* Unless it is at the beginning of a sentence, express an ordinal number greater than ninth by using numerals followed by “nd”, “rd”, “st”, or “th”, as appropriate.

Examples

USE	DO NOT USE
first	1 st
ninth	9 th
10th	Tenth
22nd	twenty-second
31st	thirty-first
32nd	32d

6. *Decimal fractions.* In decimal fractions, include a zero before the decimal point.

Example

USE	DO NOT USE
0.8	.8

7. **Other fractions.** Express fractions other than decimal fractions in words instead of numerals. Use a hyphen to express these fractions.

Examples

USE	DO NOT USE
one-third	0.33333
two-thirds	2/3
seven-eighths	seven eighths

8. **Use of percent symbol; percentages preferred over fractions.** Express percentages using numerals followed by a percent symbol (“%”). However, if the subject matter is not normally expressed as a percentage, or if a percentage cannot accurately express a fraction (without still using a fraction), use a fraction instead of a percentage.

Examples

USE	DO NOT USE
50%	one-half
50%	½
50%	50 percent
one-third	33-1/3%
two-thirds	66-2/3%

Discussion. Some of the early revised articles were drafted following rules that vary from Rule 8 of this chapter. In drafting to an article revised in or before 1984, follow the rule that applies to that article. See Rule 3 of Chapter 7 and the related discussion.

One-third does not equal 33%. Two-thirds does not equal 67%.

9. **Fraction of a percent.** Write a fraction of a percent as a decimal fraction with a zero before the decimal point.

Example

USE	DO NOT USE
0.75%	.75 percent

10. **“Majority” versus “51%”.** Do not use “51%” to mean “majority”. Use “majority” instead.

Example

USE	DO NOT USE
A majority of the members then serving on the Board is a quorum.	A quorum of the Board is 51 percent of the members then serving on the Board.

Discussion. A majority may be less than 51%. For example, 101 is a majority of 200, but is only 50.5%.

Chapter 16. Organization of Sections and Larger Statutory Units

1. *Standard organization.* The following list represents the sequence in which parts of a statute should ordinarily appear:

- definitions;
- rules of construction;
- legislative policy;
- scope of statute;
- exceptions to statute;
- creation of agency;
- administrative provisions;
- rights, privileges, and duties;
- remedial provisions;
- prohibitions;
- penalties;
- short title; and
- sunset provisions and the like.

Example

(Section properly organized, only section and subsection catchlines are shown).

- 11-203. Sanitary condition of railroad locomotives.
- (a) Scope of section.
 - (b) Rules and regulations.
 - (c) Public hearings.
 - (d) Prohibition; penalty.

Discussion. See the most recent version of the *Model Guide for Drafting Board, Commission, and Licensing Provisions*, published by the Department of Legislative Services, for a detailed example of this standard organization.

2. **Section composition.** A section should address a single primary subject.

Discussion. As a general rule, avoid creating overly long sections. Thus, the degree of detail that a statute contains on a given subject will generally determine whether that subject is a single primary subject to which an entire section should be devoted.

3. **Subdivision of sections.** Subdivide a section according to the following breakdown. However, avoid organizing a section so as to subdivide it beyond the level for which roman numerals are used.

Examples

<p>“§ 12-205(a)(1)(i)1.A.” indicates:</p> <p>section 12-205 subsection (a) paragraph or item (1) subparagraph or item (i) sub-subparagraph or item 1. sub-sub-subparagraph or item A.</p>
<p>“§ 12-205(2)” indicates:</p> <p>section 12-205 item (2)</p>

Discussion. An “item” is a subdivision that is not a grammatically complete sentence (or sentences), while a “subsection”, “paragraph”, “subparagraph”, etc., consists of one or more complete sentences (including any subsequent subdivision).

Additional Rule. If more than 26 subsections are required, subsection “(z)” is followed, in order, by subsections “(aa)”, “(bb)”, “(cc)”, etc. However, this number of subsections should be avoided.

4. **Section designation.** Designate a section in a revised article by a section symbol (“§”) followed, in order, by the number of the title, a hyphen, and a three- or four-digit index number. The two rightmost digits of the index number indicate the sequence of the section in the subtitle and the remaining digits of the index number indicate the number of the subtitle.

Example

“§ 4-203 of the Health Occupations Article” indicates:
 Title 4
 Subtitle 2
 Third section in Subtitle 2
 Health Occupations Article

Caveat. This system of designation will not work if a subtitle has more than 99 sections. Therefore, avoid drafting a subtitle that contains more than 99 sections.

5. **Adding title to enacted revised article.** To insert a title between consecutively numbered titles in an enacted revised article, number the new title with a decimal fraction starting with “.5”. Number additional new titles in the same place “.2” more or less than “.5” depending on whether the additional new title is intended to come before or after the first new title.

Examples

Number a new title to be inserted between Title 6 and Title 7 as “Title 6.5”.
Number a new title to be inserted between Title 6 and Title 6.5 as “Title 6.3”.
Number a new title to be inserted between Title 6.5 and Title 7 as “Title 6.7”.

Discussion. See the discussion following Rule 9 of this chapter.

6. **Adding subtitle to enacted revised article.** To add a subtitle between consecutively numbered subtitles in a revised article that has been enacted, number the new subtitle with a numeral and a capital letter.

Example

In Title 6 of the Health Occupations Article, number a new subtitle to be inserted between Subtitle 3 and Subtitle 4 as “Subtitle 3A”. The first section in the new subtitle will be “§ 6-3A-01 of the Health Occupations Article”.

Discussion. See the discussion following Rule 9 of this chapter.

7. **Adding new section to enacted revised article.** To add a new section between consecutively numbered sections in a revised article that has been enacted, number the new section with the number of the section it follows, increased by the decimal fraction 0.1.

Examples

Number a new section to be inserted between § 1-203 and §1-204 as “§ 1-203.1”.

Number a new section to be inserted between § 1-203.1 and § 1-204 as “§ 1-203.2”.

8. ***Adding new subsection, paragraph, item, subparagraph, or subitem to enacted revised article.*** As a general rule, to add a new subsection, paragraph, item, subparagraph, or subitem between existing statutory units of the same level of subdivision in a section of a revised article that has been enacted, redesignate each unit of that level that follows the new unit, thus creating an appropriate vacant designation to assign to the new unit.

Example

In a definition section that contains six alphabetically designated subsections, to add a new subsection defining a term that alphabetically fits between subsections (d) and (e), designate the new subsection “(e)” and redesignate old subsections (e) and (f) to be (f) and (g), respectively.

Caveat. Check for cross-references whenever a statutory unit is redesignated.

9. ***Special designations when adding new subsection to enacted revised article.*** If it is impracticable to redesignate the old subsections and it is necessary to insert a new subsection between subsections of a section in a revised article that has been enacted, designate the new subsection as follows:

(1) Insert a new subsection between two alphabetically designated subsections by designating the new subsection with the letter of the existing subsection it follows, a hyphen, and the numeral “1”.

Example

A new subsection inserted between subsections (b) and (c) would be designated subsection “(b-1)”.

(2) Insert a new subsection between an alphanumerically designated subsection and an alphabetically designated subsection by designating the new subsection in the same way as the subsection it follows, except that the number after the hyphen is increased by one.

Example

A new subsection inserted between subsections (b-1) and (c) would be designated subsection “(b-2)”.

Discussion. An examination of Rules 5, 6, and 7 of this chapter will reveal that many possible insertion situations are not covered. Insertions that create unusual numbering schemes should be avoided wherever possible. Therefore, if a situation does not fit any of the rules in this chapter, and, to a lesser degree, even if the situation fits one of these rules, attempt to avoid the insertion by locating the new provision elsewhere.

Chapter 17. Powers, Prohibitions, Requirements, and Rights; Use of “May”, “Must”, and “Shall”

1. **Right, privilege, or power.** Use the word “may” to confer a right, privilege, or power.

Examples

USE	DO NOT USE
may	may, in his discretion,
may	is authorized to
may	is empowered to
may	it is lawful to
may	shall have the power to

Additional Rule. Use “is entitled to” for compensation provisions (e.g., “is entitled to compensation” or “is entitled to reimbursement”). Otherwise, use “may” instead of “is entitled to”.

2. **Prohibition.** Use “may not” to state a prohibition.

Examples

USE	DO NOT USE
may not	shall not
may not	It is unlawful to
may not	It is illegal to
may not	no ... may

Discussion. Article 1, § 26 of the Code provides that “may not” has “a mandatory negative effect” and establishes “a prohibition”.

3. **Mandatory obligation to act.** Use “shall” to state a requirement or duty.

Example

USE	DO NOT USE
The Secretary shall inspect the premises.	The Secretary has the duty to inspect the premises.

4. ***“Must” in conditions precedent.*** Use “must” to establish a mandatory requirement that is expressed using an inactive verb. Do not use “must” to state a requirement or duty.

Example

USE	DO NOT USE
Each member must be a resident of the State.	Each member shall be a resident of the State.

Discussion. The use of “must” should be limited to situations in which “shall” might create the impression that a legal fiction is intended. For example, a provision stating that each member of a body “shall be expert” in a certain field might be interpreted to mean that each member is considered to be an expert in that field by virtue of membership.

5. ***“Shall” as forming future tense.*** Do not use “shall” to form the future tense. Use “will” instead.

Chapter 18. Pronouns

1. **Clear antecedents.** Do not use a pronoun if its antecedent is not absolutely clear.

Example

USE	DO NOT USE
The Commission shall review the application for renewal of the permit before the permit expires.	The Commission shall review the application for renewal of the permit before it expires.

Discussion. Statutory drafting requires greater precision as to pronouns than is required even in other formal writing. Therefore, if there are two possible antecedents for a pronoun, repeat the antecedent instead of using the pronoun, even though on analysis it becomes clear which possible antecedent is correct.

2. **Pronoun-antecedent agreement.** A pronoun and its antecedent must agree as to number. Both must be singular or both must be plural.

Example

USE	DO NOT USE
... may not impose any requirements other than those may not impose any requirement other than those ...

Additional Rule. If two or more antecedents are joined by the conjunction “and”, the correct pronoun is plural, even if none of the antecedents is plural.

3. **Improperly vague pronouns.** Avoid using “that”, “these”, “this”, or “which” to refer to a general idea in a preceding clause or sentence.

Example

USE	DO NOT USE
The Governor shall appoint the Director within 6 months after ...	The Governor shall appoint the Director, which shall be done within 6 months after ...

Chapter 19. Punctuation

1. **Dependence on punctuation.** Avoid making the meaning of a sentence depend on punctuation.

Example

USE	DO NOT USE
Except for a producer or retailer, any licensee who sells ...	Any licensee, except for a producer or retailer, who sells ...

Discussion. The defect in the disapproved version above is that if the punctuation is deleted it is unclear whether the statute speaks to any “retailer” and to any “licensee except for a producer” or whether the exception embraces both producers and retailers.

2. **Series.** In a coordinate series of three or more, insert a comma after each word, clause, or phrase in the series except the last word, clause, or phrase.

Examples

USE	DO NOT USE
... make, sell, or dispose make, sell or dispose ...
... may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke any license if may deny a license to any applicant, reprimand any licensee, place any licensee on probation or suspend or revoke any license if ...

3. **Paired commas.** Set off a parenthetical expression, nonrestrictive appositive, exception, or similar expression with appropriate punctuation. Unless the expression is at the beginning or end of a sentence or at the end of language introductory to a tabulation, the expression normally should be set off with paired commas.

Example

USE	DO NOT USE
The Department shall submit to the Governor and, subject to Article 40, § 51 of the Code, to the General Assembly a report that ...	The Department shall submit to the Governor and subject to Article 40, § 51 of the Code, to the General Assembly a report that ...

4. ***Do not set off restrictive clauses.*** Do not set off a restrictive clause with commas or other punctuation.

Example

USE	DO NOT USE
The person who files the complaint shall sign the complaint.	The person, who files the complaint, shall sign the complaint.

5. ***Sentences containing two independent clauses.*** If a sentence consists of two independent clauses, insert a comma before the conjunction that joins the independent clauses.

Example

The Commission shall report annually to the Governor and the General Assembly shall ...

Discussion. A sentence that contains two independent clauses can be identified by the fact that it contains two verbs each of which has a different subject.

Exception. If a sentence begins with a dependent clause that applies to both independent clauses that follow, no comma should separate the independent clauses because that comma would make the introductory dependent clause seem to apply only to the first independent clause. For example: “If the Governor finds that an emergency exists, the Secretary shall issue an appropriate order and the Department shall . . .”. Remember that tabulation can often be used to avoid any question as to whether an introductory dependent clause applies to several independent clauses or to only a single independent clause.

6. ***Commas with two separate predicates.*** Do not separate two predicates joined by a coordinating conjunction with a comma.

Example

USE	DO NOT USE
The Committee shall review the information and prepare a report.	The Committee shall review the information, and prepare a report.

7. **Punctuation of material in quotation marks.** Unless the punctuation is part of quoted material, place all punctuation, including commas and periods, after the ending quotation mark.

Example

USE	DO NOT USE
This subtitle may be cited as the “Maryland Uniform Child Custody Jurisdiction Act”.	This subtitle may be cited as the “Maryland Uniform Child Custody Jurisdiction Act.”

Discussion. This rule is a stylistic convention that promotes precision. This rule must be followed even though, in some respects, it is contrary to the usual rule.

8. **Parentheses.** Except in extraordinary circumstances, do not use parentheses in the text of a statute. If commas will serve as well, use commas instead of parentheses.

Examples

USE	DO NOT USE
“Physician” means, except in Title 14 of this article, an individual who ...	“Physician” means (except in Title 14 of this article) an individual who ...
Subject to the notice and hearing provisions of this section, the Department may ...	The Department (subject to the notice and hearing provisions of this section) may ...

Discussion. See R. Dickerson, *The Fundamentals of Legal Drafting* § 6.1 (1986), for a discussion of the use of parentheses.

9. **Apostrophe.** If a noun or indefinite pronoun describes something capable of ownership, an apostrophe may be used to form the possessive case of the noun or indefinite pronoun. Do not use the possessive case of a noun or pronoun that refers to something that is not capable of ownership. Do not use contractions.

Examples

USE	DO NOT USE
of the application	the application's
is not	isn't

Discussion. Generally, the more formal “of the” is preferable even with a noun or indefinite pronoun that describes something capable of ownership. Thus, “of the individual” is better than “the individual’s” in most circumstances. However, in some circumstances, use of the possessive case can avoid extremely awkward phraseology and is permitted by this rule. For example, “the individual shall include the individual’s telephone number” may be preferable to “the individual shall include the telephone number of the individual”, especially in a long sentence.

Chapter 20. Relative Pronouns

1. **“Who”; “whose”.** Do not use “who” or “whose” to refer to anything other than an individual or personified entity.

Examples

USE	DO NOT USE
The individual who files the report shall ...	The individual that files the report shall ...
A dog that bites ...	A dog who bites ...

Discussion. Since the term “person” may include an entity as well as an individual, in most cases, it is appropriate to use “a person that” instead of “a person who”. See Article 1, § 15 of the Code and Rule 10 of Chapter 24.

2. **“That”; “which”.** Use “that” to introduce a restrictive modifier and “which” to introduce a nonrestrictive modifier.

Example

USE	DO NOT USE
“Commercial bank” means an institution that is incorporated under ...	“Commercial bank” means an institution which is incorporated under ...

Discussion. A restrictive modifier is a modifier that is essential to identifying the item modified. For example: “‘Commercial bank’ means an institution that is incorporated under the laws of the State as a state bank or trust company.”

A nonrestrictive modifier is a modifier that is not essential to identifying the item modified. For example: “Throughout this section, the term ‘commercial bank’, which is defined in § 1-101 of this article, is substituted for the independent references to ‘state bank’ and ‘trust company’.”

It is rare that a nonrestrictive modifier is used in a properly drafted statute (as opposed to a revisor’s note). Therefore, if in doubt, use “that” in a statute.

Chapter 21. Sentence Length and Structure

1. **Simple sentences.** Use short, simple sentences. Avoid using numerous dependent clauses, parallel clauses, or other complex sentence structures.

Example

USE	DO NOT USE
(a) Each credit union shall have at least five directors.	(a) Each credit union shall have at least five directors, each of whom shall be a member of the credit union.
(b) Each director shall be a member of the credit union.	(b) A director holds office for the term that the bylaws provide.
(c) A director holds office for the term that the bylaws provide.	

2. **Usual structure.** Generally, the principal parts of a sentence should appear in the following order:

1. subject;
2. “when” adverb or adverbial phrase;
3. verb;
4. object of verb;
5. “where” adverb or adverbial phrase; and
6. “how” adverb or adverbial phrase.

Examples

(Usual sentence structure)

The Secretary periodically shall inspect the equipment of each permit holder.
The Commission shall send the report directly to the Secretary.

Discussion. “When” adverbs describe timing (e.g., “monthly”). “Where” adverbs describe location (e.g., “inside”). “How” adverbs describe the manner in which something happens (e.g.,

“carefully”). The order suggested in this rule is derived from and more fully explained in E. Schuster, *Grammar, Usage, and Style* 136-40 (1965).

Cross-reference.

Position of exceptions, conditions, and limitations – See Chapter 10. “Exceptions, Conditions, and Limitations”.

Position of subject and verb – see Chapter 25. “Word Order”.

Position of verb and object – see Chapter 25. “Word Order”.

Chapter 22. Tabulation

Introductory Comment to Chapter. Tabulation is similar in appearance to outlining and may be used to list a series of items or concepts each of which relates to common introductory language. Tabulation can enhance clarity and prevent ambiguity. However, before tabulating legislation, balance the need for enhanced clarity against the extent to which the tabulation might impair readability or distort emphasis.

Example

(Appropriate and useful tabulation of a statute)

“The standards set under this subtitle for child resistant packaging of a dangerous household substance may not require specific:

- (1) packaging designs;
- (2) product content;
- (3) package quantity; or
- (4) except as provided in § 5-310 of this subtitle, labeling.”

Example

(Inappropriate overtabulation of a statute)

“‘Banking institution’ means an institution that is incorporated under the laws of the State as a:

- (1) state bank;
- (2) trust company; or
- (3) savings bank.”

The rules that appear in this chapter are intended to be guidelines for tabulation in those situations in which tabulation is appropriate. Generally, it is hard to overtabulate. However, always remember that it is possible to overtabulate.

1. **Parallelism.** Each item in a tabulated list must be of the same grammatical construction and relate to a common theme.

Examples

USE	DO NOT USE
<p>“Abuse” means:</p> <p style="padding-left: 40px;">(1) an act that causes serious bodily harm;</p> <p style="padding-left: 40px;">(2) an act that places another in fear of imminent serious bodily harm; or</p> <p style="padding-left: 40px;">(3) sexual abuse of a child, as defined in ...</p>	<p>“Abuse” means:</p> <p style="padding-left: 40px;">(1) an act that causes serious bodily harm;</p> <p style="padding-left: 40px;">(2) an act that places another in fear of imminent serious bodily harm; or</p> <p style="padding-left: 40px;">(3) to sexually abuse a child, as defined in</p>
<p>(a) A licensee may:</p> <p style="padding-left: 40px;">(1) manufacture drugs or medicines; and</p> <p style="padding-left: 40px;">(2) distribute drugs or medicines.</p> <p>(b) A licensee may take any license renewal examination that is required.</p>	<p>A licensee may:</p> <p style="padding-left: 40px;">(1) manufacture drugs or medicines;</p> <p style="padding-left: 40px;">(2) distribute drugs or medicines; and</p> <p style="padding-left: 40px;">(3) take any license renewal examination that is required.</p>

2. **Contextual coordination.** Unless a tabulated list is a “pure” list, each item in the list must express a complete thought when combined with the language that introduces the list.

Example

USE	DO NOT USE
<p>A person is exempt if the person:</p> <p style="padding-left: 40px;">(1) signs the application under oath;</p> <p style="padding-left: 40px;">(2) pays the required fee; and</p> <p style="padding-left: 40px;">(3) does anything else the Secretary reasonably requires.</p>	<p>A person is exempt if the person:</p> <p style="padding-left: 40px;">(1) signs the application under oath;</p> <p style="padding-left: 40px;">(2) pays the required fee; and</p> <p style="padding-left: 40px;">(3) anything else the Secretary reasonably requires.</p>

Discussion. As to what constitutes a “pure” list, see the discussion following Rule 6 of this chapter.

3. **“Splitting” prepositions and objects.** Do not end the introductory language to a tabulation with a preposition unless each item in the tabulation begins with the object of the preposition (ignoring articles and adjectives).

Examples

USE	DO NOT USE
<p>The Attorney General is the legal adviser for:</p> <p>(1) the Board of ...;</p> <p>(2) the Board of ...; and</p> <p>(3) the Sheriff of ...</p>	<p>The Attorney General is the legal adviser:</p> <p>(1) for the Board ...;</p> <p>(2) for the Board of ...; and</p> <p>(3) for the Sheriff of ...</p>
<p>“Practice dentistry” means to:</p> <p>(1) be a manager of ...;</p> <p>(2) perform or attempt to ...;</p> <p>(3) diagnose ...</p>	<p>“Practice dentistry” means:</p> <p>(1) to be a manager of...;</p> <p>(2) to perform or attempt to ...;</p> <p>(3) to diagnose ...</p>
<p>While it is in effective, a permit authorizes the permit holder:</p> <p>(1) to collect ...;</p> <p>(2) to handle ...; and</p> <p>(3) except in Baltimore City, to distribute ...</p>	<p>While it is in effect, a permit authorizes the permit holder to:</p> <p>(1) collect ...;</p> <p>(2) handle...; and</p> <p>(3) except in Baltimore City, distribute ...</p>

Discussion. As the examples above demonstrate, for purposes of this rule, the word “to” in an infinitive is treated as a preposition and the plain form of the verb is treated as the object of that preposition.

4. **Continuing sentence or paragraph.** Do not continue a sentence or paragraph at the end of a tabulation.

Example

USE	DO NOT USE
<p>Except as otherwise provided in this section, in every sale, warranties are implied that, at the time of the delivery of the deed to a completed improvement or at the time of completion of an improvement not completed when the deed is delivered, the improvement is:</p> <p>(1) free from faulty materials;</p> <p>(2) constructed according to sound engineering standards;</p> <p>(3) constructed in a workmanlike manner; and</p> <p>(4) fit for habitation.</p>	<p>Except as otherwise provided in this section, in every sale, warranties are implied that the improvement is:</p> <p>(1) free from faulty materials;</p> <p>(2) constructed according to sound engineering standards;</p> <p>(3) constructed in a workmanlike manner; and</p> <p>(4) fit for habitation at the time of the delivery of the deed to a completed improvement, or at the time of the completion of an improvement not completed when the deed is delivered.</p>

Discussion. For a dramatic example of why a sentence should not be continued at the end of a tabulation, see *Krol v. York Terrace Building, Inc.*, 35 Md. App. 3321 (1977). In *Krol*, a circuit court interpreted a statute essentially identical to the disapproved version above in a manner diametrically different than did the Court of Special Appeals. The difference was based on the position of the modifying phrase that is moved to the introductory language in the approved version.

5. **Form and punctuation.** End the introductory language to a tabulation with a colon. End the penultimate item with a semicolon followed by “and” or “or”, the last item with a period, and the remaining items with semicolons.

Example

<p>A foreign association or a savings and loan association that maintains its principal office outside the State may not:</p> <p>(1) have an office for business in the State except for an office that was open for business in the State before June 1, 1955;</p> <p>(2) have an electronic terminal in the State; or</p> <p>(3) be admitted to do business in the State.</p>

Discussion. See the discussion following Rule 6 of this chapter.

6. **Capitalization.** Unless it must be capitalized under some other rule, the first word of each enumerated item following the introductory language to a tabulation should be in lower case.

Discussion. Some of the early revised articles were drafted following rules that vary from Rule 6 of this chapter. In drafting to an article revised in or before 1984, follow the rule that applies to that article. See Rule 3 of Chapter 7 and the related discussion.

A “pure” list is a tabulation in which the enumerated items are simply a listing and the introductory language is a complete sentence. Professor Dickerson suggests that the punctuation and capitalization rules for a “pure” list should be different from those for other tabulations, and some of the early revised articles of the Code were drafted following his suggestions. However, except as provided in Rule 2 of this chapter, there is no longer any variation between the rules for a “pure” list and the rules for other tabulations.

7. **Subtabulation – sequence.** If only one item in a list is subtabulated, place the subtabulated item last in the tabulation unless to do so is awkward or otherwise not appropriate.

Example

USE	DO NOT USE
<p>The Board shall reinstate the license of a physician who has failed to renew a license for any reason if the physician:</p> <p style="padding-left: 40px;">(1) meets the renewal requirements of § 14-308 of this subtitle; and</p> <p style="padding-left: 40px;">(2) submits to the Board:</p> <p style="padding-left: 80px;">(i) a reinstatement fee of \$10; and</p> <p style="padding-left: 80px;">(ii) evidence satisfactory to the Board of compliance with the qualifications and requirements set under this subtitle for license reinstatement.</p>	<p>The Board shall reinstate the license of a physician who has failed to renew a license for any reason if the physician:</p> <p style="padding-left: 40px;">(1) submits to the Board:</p> <p style="padding-left: 80px;">(i) a reinstatement fee of \$10; and</p> <p style="padding-left: 80px;">(ii) evidence satisfactory to the Board of compliance with the qualifications and requirements set under this subtitle for license reinstatement; and</p> <p style="padding-left: 40px;">(2) meets the renewal requirements of § 14-308 of this subtitle.</p>

8. *Same – maximum extent.* The drafter should make an effort not to carry subtabulation beyond the third level of division.

Example

(Avoidable overtabulation)

<p>(a) . . .:</p> <p style="padding-left: 20px;">(1) . . .; and</p> <p style="padding-left: 20px;">(2) . . . is:</p> <p style="padding-left: 40px;">(i) . . .; or</p> <p style="padding-left: 40px;">(ii) equipment that is used to:</p> <p style="padding-left: 60px;">1. cool the building;</p> <p style="padding-left: 60px;">. . .</p> <p style="padding-left: 60px;">4. heat water used in the building; or</p> <p style="padding-left: 60px;">5. supply power to the building using as the power source:</p> <p style="padding-left: 80px;">A. coal;</p> <p style="padding-left: 80px;">B. electricity;</p> <p style="padding-left: 80px;">C. natural gas; or</p> <p style="padding-left: 80px;">D. oil.</p>

Example

(An alternative construction)

<p>(a) . . .:</p> <p style="padding-left: 20px;">(1) . . .; and</p> <p style="padding-left: 20px;">(2) . . . is:</p> <p style="padding-left: 40px;">(i) . . .; or</p> <p style="padding-left: 40px;">(ii) equipment that is used to:</p> <p style="padding-left: 60px;">1. cool the building;</p> <p style="padding-left: 60px;">. . .</p> <p style="padding-left: 60px;">4. heat water used in the building; or</p> <p style="padding-left: 60px;">5. supply power to the building using coal, electricity, natural gas, or oil as the power source.</p>

9. *Same – cross-reference.* Do not refer to an item in a subtabulation as a “subitem”.

Example

USE	DO NOT USE
In item (i) of this item ...	In subitem (i) of this item ...

Chapter 23. Verbs

1. **Present tense; present perfect tense.** Unless another tense is needed to express a time relationship, use the present tense. However, the present perfect tense may be used to express a condition precedent.

Examples

USE	DO NOT USE
A person who violates any provision of this subtitle is guilty of ...	A person who violated any provision of this subtitle shall be guilty of ...
Unless the licensee has been practicing X for at least 7 years, the licensee shall ...	Unless the licensee is practicing X for at least 7 years, the licensee shall ...

2. **Active voice; passive voice.** In general, use the active voice. However, the passive voice may be used for emphasis or if express reference to the acting entity is awkward, is impossible, or violates another rule.

Example

USE	DO NOT USE
The Board shall appoint the director.	The director shall be appointed by the Board.

3. **Indicative mood.** In general, use the indicative mood. Never use the subjunctive mood. Use “shall” in imperative provisions only.

Examples

USE	DO NOT USE
The Board may waive the examination requirement of this subtitle for an applicant who is licensed to practice optometry in any other state.	If an applicant be licensed to practice optometry in any other state, the Board may waive the examination requirement of this subtitle.

USE	DO NOT USE
The State keeps title to each book received under this section.	Each book received under this section shall remain the property of the State.

4. **“Splitting” verbs.** If a verb consists of two or more words, avoid placing other words between any two of those words. However, if clarity or readability is enhanced by doing so, a single word may be placed between two words that form a verb. Do not place more than a single word between any two words that form a verb.

Examples

USE	DO NOT USE
to investigate immediately	to immediately investigate
immediately shall investigate	shall immediately investigate

Discussion. As to splitting infinitives in a tabulation, see Rule 3 in Chapter 22 of this manual.

Chapter 24. Word Choice

1. **“Adopt”**. Use “adopt” to refer to the act of issuing and publishing rules or regulations.

Example

USE	DO NOT USE
shall adopt regulations that	shall promulgate regulations that

2. **“County” and “Baltimore City”**. The word “county” generally includes “Baltimore City”.

Example

USE	DO NOT USE
State’s Attorney for the county	State’s Attorney for the county or Baltimore City, as the case may be

Discussion. According to Article 1, § 14 of the Code, “county” includes “Baltimore City” unless the construction would be unreasonable. However, in order to avoid an unintended construction of “unreasonable”, revised articles of the Code expressly define “county” to include Baltimore City.

3. **“Completely”; “wholly”; “partly”; “partially”**. “Completely” and “partially” address degree. “Wholly” and “partly” are more finite terms. Therefore, “wholly” and “partly” generally are more appropriate.

Example

USE	DO NOT USE
The State shall contribute only after the work is (wholly, partly) done.	The State shall contribute only after the work is (completely, partially) done.

4. **“Data” versus “information”**. Use “information” instead of “data”.

5. **“Deem” versus “consider”**. Use the phrase “is deemed” to express a legal fiction. Do not use “deem” as a substitute for “consider”.

Example
(Legal fiction)

A person who is licensed to sell firearms is deemed to have consented to

Example
(Improper use of “deem”)

The report may contain any other information the Board deems necessary.

Example
(Correct alternative to improper)

The report may contain any other information the Board considers necessary.

Discussion. The phrase “is deemed” should be used very sparingly. Many provisions that appear to be legal fictions are not.

6. *Mail – “registered” and “certified”.* Unless “registered mail” is intended specifically, use “certified mail” to mean either certified or registered mail.

Example

USE	DO NOT USE
serve the notice by certified mail	serve the notice by registered or certified mail

Discussion. Article 1, § 20 of the Code provides that “registered mail” includes “certified mail” and that “certified mail” includes “registered mail”. However, “certified mail” is the term preferred for consistency.

7. *“Municipality” and “municipal corporation”.* Absent a specific definition, use “municipal corporation” instead of “municipality” or “municipality, town, or subdivision”. Do not use “municipal corporation” to mean a “county” or “baltimore city”.

8. *“Oath” and “affirmation”.* Use the word “oath” instead of a phrase like “oath or affirmation”.

Example

USE	DO NOT USE
shall take an oath	shall take an oath or affirm

Discussion. Article 1, § 9 of the Code provides that, if an oath is required by the Code, an affirmation made by a person conscientiously scrupulous of taking an oath is sufficient. Therefore, in the phrase “oath or affirmation,” the words “or affirmation” are unnecessary.

9. **“Issue” an order.** Use the word “issue” to describe the action of a court or a unit in making an order effective.

Examples

USE	DO NOT USE
issue an order	pass an order
issue an order	make an order
issue an order	grant an order

Discussion. Former versions of this manual recommended the use of the phrase “pass an order”. That phrase is no longer preferred.

10. **“Person” and “individual”.** Use “person” to include human beings, corporations, and other entities. If the reference is intended to apply only to human beings, use “individual”. Do not use the term “natural person” to mean an individual.

Example

USE	DO NOT USE
An individual who gives blood	A person who gives blood

Discussion. “Person” includes “corporation”. See Article 1, § 15 of the Code. Most revised articles include a definition of “person”.

11. **“Person” and “the State”.** Use “person” to include “the state” only if “person” is defined to include “the state”.

Discussion. In *Mayor and City Council of Baltimore v. Maryland*, 281 Md. 217, 223 (1977), the Court of Appeals held that “the State is not deemed to be bound by an enactment of the General

Assembly unless the enactment specifically names the State or manifests a clear and indisputable intention that the State is to be bound”. Therefore, if it is intended that “person” include “the State”, define “person” to include “the State”. However, bear in mind that this may raise questions about sovereign immunity.

12. **“Political subdivision” and “county”.** Use “county”, rather than “political subdivision” to refer to county-level government in Maryland.

Example

USE	DO NOT USE
... the appropriate court in the county in which the appropriate court in the political subdivision in which ...

13. **“Residence”;** “domicile”; “address”. Use the word “residence” to denote a dwelling place that may be either transient or permanent. Use the word “domicile” to denote what is often referred to as the individual’s legal residence – the principal place to which, whenever the individual is absent, the individual intends to return. Use the word “address” to denote a specific place.

14. **“Such”.** Do not use “such” as a demonstrative adjective.

Example

USE	DO NOT USE
that person shall	such person shall

Discussion. Use of “such” is not forbidden in all instances. For example, the phrase “such as” may be used. However, “such” should not be used where “that”, “these”, or “those” could be used instead.

15. **Circumlocution.** Avoid circumlocution. Use a single word or a short phrase instead.

16. **Imprecise words of reference.** Use a precise reference rather than imprecise words of reference.

Examples

USE	DO NOT USE
Except as provided in this section, ...	Except as herein provided, ...
Except as provided in subsection (a) of this section, ...	Except as provided above, ...

17. **Prepositions and conjunctions.** Use simple prepositions and conjunctions instead of compound prepositions and conjunctions.

Example

USE	DO NOT USE
from which	wherefrom

18. **Simple words.** If two words or expressions are equally precise, use the shorter instead of the longer and use the commonplace instead of the exotic.

Example

USE	DO NOT USE
limited divorce	divorce a mensa et thoro

19. **Unnecessary words.** Avoid using unnecessary adjectives, e.g., “real”, and unnecessary adverbs, e.g., “duly”.

Examples

USE	DO NOT USE
funds received	funds actually received
authorized expenditures	duly authorized expenditures

Discussion. Unless they are needed for special emphasis, adjectives and adverbs like “true” and “truly” should be avoided. Generally, these words add nothing to meaning, but merely “gild the lily”. See R. Dickerson, *The Fundamentals of Legal Drafting* § 6.11 (1986).

20. **Verbs and abstract nouns.** Use verbs instead of phrases that contain abstract nouns.

Discussion. An abstract noun is a noun that names an idea or a quality.

21. **Noun overuse.** Avoid using nouns instead of adjectives or prepositional phrases.

Example

USE	DO NOT USE
the report of the Board	the Board report

22. **Preference for singular.** The singular ordinarily includes the plural and vice versa. Therefore, unless the singular is not intended, use the singular to include both the singular and the plural.

Example

USE	DO NOT USE
A person who ...	A person or persons who ...

Discussion. Article 1, § 8 of the Code provides that the singular includes the plural and vice versa unless that construction is unreasonable.

Caveat. Be especially careful about substituting the singular for the plural, as there are situations where a substantive difference exists between the two constructions.

23. **Standard terminology.** To the extent appropriate, use the following terminology when drafting:

- “Administer oaths”;
- “Compel the attendance of witnesses”;
- “There is a (name of unit and, if applicable, the department in which the unit is placed)”;
- “Exercise” powers and “perform” duties;
- “Is entitled to” a salary (not “an individual shall have a salary”);
- “Intent of this subtitle” (not “intent behind this subtitle”);

- To refer to maryland, use “the state” (not “this state” unless to do otherwise is necessary to avoid ambiguity)
- “As the maryland rules provide” (not “as provided by the maryland rules”);
- “This subtitle (or title) is the ‘maryland uniform gifts to minors act’”; and
- “The secretary of (name of department but without a reference to “department””, e.g., “Secretary of Transportation” (not “Secretary of the Department of Transportation”).

24. *Miscellaneous preferred word choices.* Use the words that are preferred in the following table:

DO NOT USE	USE INSTEAD
absolutely null and void and of no effect	void
alright	all right
any or all	any
are presently in progress	are in progress
at such time as	when
at that point in time	then
at the point in time	when
at this point in time	now
be and the same hereby is	is
citizen of the State	resident of the State
commence	begin
conferred on	granted to
data	information
during the course of	during
each and all	each
each and every	each
expeditiously as practicable	as soon as practicable
feasible	possible
finalize	complete
format	form

DO NOT USE	USE INSTEAD
formulate	make
for the duration of	during
for the reason that	because
forthwith	immediately
forward	send
from and after	from
full force and effect	effect
general consensus	consensus
general public	public
give consideration to	consider
give recognition to	recognize
grant an order	pass an order
has the duty to	shall
have the knowledge of	know
have need of	need
in case	if
inflammable	flammable
in lieu of	instead of
in order to	to
in the event that	if
irregardless	regardless
is authorized and directed to	shall
is authorized to	may
is defined to mean	means
is directed to	shall
is empowered to	may
is not precluded from	may
is hereby authorized to	may
is required to	shall
issue an order	pass an order
is vested with power and authority	shall

DO NOT USE	USE INSTEAD
and has the duty to	
it is lawful to	may
make an order	pass an order
make application	apply
make payment	pay
make provision for	provide for
meet up with	meet
not precluded from	may
null and void	void
or, in the alternative,	or
pertain	relate
portion	part
prescribe	require
present incumbent	incumbent
prior to	before
promulgate rules and regulations	adopt rules and regulations
proscribe	prohibit
purchase	buy
purchase and acquire	acquire
pursuant to	in accordance with
pursuant to	under
relating to	that relates to
select	choose
separate and apart	apart
shall be construed to mean	means
shall have the power to	may
shall mean	means
shall not	may not
sole and exclusive	sole
subsequent to	after
such	that (or “this” or a similar word)

DO NOT USE	USE INSTEAD
the individual currently lives	the individual lives
transmit	send
under the provisions of	under
unless and until	unless
until such time as	until
upon	on
utilize	use
vendee	buyer
vendor	seller
whatsoever	whatever
whenever	whenever
wheresoever	wherever
whosoever	whoever

Chapter 25. Word Order

1. **Proximity of subject and verb.** Place the subject and verb of a sentence as close together as reasonably possible.

Example

USE	DO NOT USE
With the approval of the Governor, the Secretary shall . . .	The Secretary, with the approval of the Governor, shall . . .

2. **Proximity of verb and object or predicate noun.** Place the object of a transitive verb or the predicate noun following a linking verb as close after the verb as possible.

Example

USE	DO NOT USE
The Governor shall deliver the original executive order or a certified copy of it to the Secretary of State.	The Governor shall deliver to the Secretary of State the original executive order or a certified copy of it.

Cross-reference.

Order of words in sentence – See Chapter 21. “Sentence Length and Structure”.

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