

BY: Education, Health, and Environmental Affairs Committee

AMENDMENTS TO SENATE BILL 236

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 3, strike “altering” and substitute “authorizing a local jurisdiction to adopt and certify to the Department of Planning certain growth tier designations; requiring a local jurisdiction under certain circumstances to alter”; in the same line, strike “certain elements that are required in”; in line 4, after “plan;” insert “authorizing a local jurisdiction to submit proposed tier designations to the Department of Planning before certification for certain purposes; establishing certain mandatory and certain discretionary provisions relating to the adoption of certain tiers by certain local jurisdictions; requiring a local jurisdiction to provide documentation to the Department of Planning if the jurisdiction does not adopt a certain tier; requiring growth tiers certified by a local jurisdiction to meet certain criteria;”; in line 6, strike the first “the”; strike beginning with “requiring” in line 9 down through “time” in line 12 and substitute “requiring the Department of Planning to provide certain information to certain State agencies and post certain information on the Department’s Web site”; strike beginning with “requiring” in line 13 down through “circumstances” in line 15 and substitute “prohibiting the Department of the Environment or the Department’s designee from approving a certain residential subdivision until the local jurisdiction adopts certain growth tiers; authorizing the Department or the Department’s designee, if a local jurisdiction has not adopted certain growth tiers, to approve a certain residential subdivision under certain circumstances; authorizing the Department to extend the time period for recordation of a subdivision plat in certain circumstances”; in lines 16 and 17, strike “of the Environment;”; in line 20, after the semicolon, insert “providing for the resolution of conflicting tier designations;”; in line 24, strike “notify” and substitute “provide certain information to”; and strike beginning with “authorizing” in line 25 down through “subdivisions” in line 27 and substitute “requiring the Department of Planning to provide a certain notification to the Department of the Environment”.

(Over)

On page 2, in line 2, after “date;” insert “authorizing the owner of certain property used for agricultural activities to install certain numbers of on-site sewage disposal systems in accordance with certain requirements; requiring certain on-site sewage disposal systems installed on certain property to be clustered together under certain circumstances;”; strike beginning with “requiring” in line 4 down through “system;” in line 6; in line 7, after the semicolon insert “establishing certain requirements for the verification by the Department of Planning of a certain yield for zoning; requiring a local jurisdiction to submit to the Department of Planning on or before a certain date a certain definition or description; requiring the Department of Planning to prepare a list of certain definitions and descriptions for publication on certain Web sites on or after a certain date; providing that this Act may not be construed to limit certain authority granted to the Critical Area Commission;”; in line 25, strike the first comma and substitute “and”; in the same line, strike “, 1.04(b)(1)(iv), and 3.05(a)(4)(ii)””; strike in their entirety lines 28 through 32, inclusive; in line 35, strike “1.04(b)(5),”; in the same line, strike the second comma; in the same line, strike “3.05(a)(9)” and substitute “1.06”; and strike line 40 in its entirety and substitute “Section 9-206(a)(3), (d)(1), (g)(1)(iv) and (2), and (j)(1)”.

On page 3, in line 5, strike “, 1-407, 3-103,”; strike in their entirety lines 9 through 14, inclusive; in line 17, after “Section” insert “1-501 through 1-507 to be under the new subtitle “Subtitle 5. Growth Tiers”; and”; and strike in their entirety lines 21 through 26, inclusive.

AMENDMENT NO. 2

On page 5, in line 23, strike “SUBSECTION” and substitute “SECTION”; after line 26, insert:

“(3) “GROWTH TIERS” MEANS THE TIERS ADOPTED BY A LOCAL JURISDICTION IN ACCORDANCE WITH ARTICLE 66B, § 1.05 OF THE CODE.”;

in lines 27 and 31, respectively, strike “**(3)**” and “**(4)**”, respectively, and substitute “**(4)**” and “**(5)**”, respectively; in line 31, strike “**THE**” and substitute “**:**”

(I) THE;

in the same line, after “LAND” insert a colon; and in line 32, strike “INTO” and substitute:

1. INTO.

On page 6, in line 1, after “DEFINED” insert “OR DESCRIBED AS A MAJOR SUBDIVISION”; in the same line, strike “THE” and substitute “A”; in the same line, strike “LAW AS A MAJOR SUBDIVISION” and substitute “ORDINANCE OR REGULATION”:

A. THAT IS;

in line 2, strike the period and substitute “; OR”

B. IF A LOCAL ORDINANCE OR REGULATION DOES NOT DEFINE OR DESCRIBE A MAJOR SUBDIVISION UNDER ITEM A OF THIS ITEM, THAT IS ADOPTED ON OR BEFORE DECEMBER 31, 2012; OR

2. IF A LOCAL JURISDICTION HAS NOT ADOPTED A DEFINITION OR DESCRIPTION OF A MAJOR SUBDIVISION ON OR BEFORE DECEMBER 31, 2012, UNDER ITEM 1 OF THIS ITEM, INTO FIVE OR MORE NEW LOTS, PLATS, BUILDING SITES, OR OTHER DIVISIONS OF LAND; AND

(II) IF THE LOCAL ORDINANCE OR REGULATION HAS TWO DEFINITIONS OR DESCRIPTIONS OF A MAJOR SUBDIVISION UNDER PARAGRAPH (I) OF THIS SUBSECTION, THE DEFINITION OR DESCRIPTION OF A MAJOR

SUBDIVISION THAT IS DETERMINED BY THE LOCAL JURISDICTION TO APPLY FOR THE PURPOSES OF THIS SECTION.”;

in lines 3, 7, and 9, respectively, strike “**(5)**”, “**(6)**”, and “**(7)**”, respectively, and substitute “**(6)**”, “**(7)**”, and “**(8)**”, respectively; in line 3, strike “**THE**” and substitute “:

(1) THE”;

in the same line, after “**LAND**” insert a colon; and in line 4, strike “**INTO**” and substitute:

“1. INTO”;

in line 5, after “**DEFINED**” insert “**OR DESCRIBED AS A MINOR SUBDIVISION**”; in the same line, strike “**THE**” and substitute “**A**”; in the same line, strike “**LAW AS A MINOR SUBDIVISION**” and substitute “**ORDINANCE OR REGULATION**”:

A. THAT IS”;

in line 6, strike the period and substitute “**; OR**”

B. IF A LOCAL ORDINANCE OR REGULATION DOES NOT DEFINE OR DESCRIBE A MINOR SUBDIVISION UNDER ITEM A OF THIS ITEM, ADOPTED ON OR BEFORE DECEMBER 31, 2012, PROVIDED THAT A MINOR SUBDIVISION DEFINED OR DESCRIBED IN THE ADOPTED ORDINANCE OR REGULATION DOES NOT EXCEED SEVEN NEW LOTS, PLATS, BUILDING SITES, OR OTHER DIVISIONS OF LAND; OR

2. IF A LOCAL JURISDICTION HAS NOT ADOPTED A DEFINITION OR DESCRIPTION OF A MINOR SUBDIVISION ON OR BEFORE

DECEMBER 31, 2012, UNDER ITEM 1 OF THIS ITEM, INTO FEWER THAN FIVE NEW LOTS, PLATS, BUILDING SITES, OR OTHER DIVISIONS OF LAND; AND

(II) IF THE LOCAL ORDINANCE OR REGULATION HAS TWO DEFINITIONS OR DESCRIPTIONS OF A MINOR SUBDIVISION UNDER ITEM (I) OF THIS PARAGRAPH, THE DEFINITION OR DESCRIPTION OF A MINOR SUBDIVISION THAT IS DETERMINED BY THE LOCAL JURISDICTION TO APPLY FOR THE PURPOSES OF THIS SECTION.”;

after line 14, insert:

“(9) “PUBLIC SEWER” MEANS A COMMUNITY, SHARED, OR MULTIUSE SEWERAGE SYSTEM.”;

in lines 15 and 28, strike “(8)” and “(9)”, respectively, and substitute “(10)” and “(12)”, respectively; and after line 27, insert:

“(11) “STATE AGENCY” MEANS:

(I) THE MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION;

(II) THE MARYLAND ENVIRONMENTAL TRUST;

(III) THE DEPARTMENT OF NATURAL RESOURCES; OR

(IV) THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION.”.

(Over)

On page 7, strike beginning with the comma in line 2 down through “AREAS” in line 5; after line 6, insert:

“(III) “SUBDIVISION” DOES NOT INCLUDE A CHANGE IN STREET LINES OR LOT LINES IF THE CHANGE IN THE STREET OR LOT LINES DOES NOT:

1. RESULT IN A NET INCREASE IN THE NUMBER OF LOTS; AND

2. ADVERSELY AFFECT THE SAFETY AND ADEQUACY OF WELL SITES OR SEWAGE DISPOSAL AREAS, AS DETERMINED BY THE SECRETARY OR THE SECRETARY’S DESIGNEE.”;

and strike in their entirety lines 7 through 10, inclusive.

AMENDMENT NO. 3

On page 7, in line 11, strike “THIS SUBSECTION DOES” and substitute “SUBSECTIONS (F) THROUGH (K) AND SUBSECTION (N) OF THIS SECTION APPLY TO RESIDENTIAL SUBDIVISIONS.

(2) SUBSECTIONS (F) THROUGH (K) AND SUBSECTION (N) OF THIS SECTION:

(I) APPLY TO A SUBDIVISION PLAT APPROVAL BY THE DEPARTMENT OR THE DEPARTMENT’S DESIGNEE; AND

(II) DO NOT APPLY TO A SUBDIVISION PLAT APPROVAL BY A LOCAL JURISDICTION.

(3) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, SUBSECTIONS (F) THROUGH (K) DO”;

in line 12, after “A” insert “RESIDENTIAL”; in line 21, strike “(2)” and substitute:

“(4) THE DEPARTMENT MAY EXTEND THE DATE FOR RECORDATION OF A SUBDIVISION PLAT UNDER PARAGRAPH (3) OF THIS SUBSECTION BY ONE ADDITIONAL 6-MONTH PERIOD IF THE APPLICANT DEMONSTRATES TO THE DEPARTMENT OR THE DEPARTMENT’S DESIGNEE THAT THE APPLICANT IS UNABLE TO RECORD THE PLAT BECAUSE THE APPLICANT CANNOT PERFORM THE REQUIRED TESTS FOR ADEQUACY OF AN ON-SITE SEWAGE DISPOSAL SYSTEM IN ACCORDANCE WITH THE REGULATIONS ADOPTED BY THE DEPARTMENT.

(C) (1) SUBSECTIONS (F) THROUGH (K) AND SUBSECTION (N) OF THIS SECTION DO NOT APPLY TO COVENANTS, RESTRICTIONS, CONDITIONS, OR CONSERVATION EASEMENTS THAT WERE CREATED OR ENTERED INTO AT ANY TIME UNDER § 2-118 OF THE REAL PROPERTY ARTICLE FOR THE BENEFIT OF, OR HELD BY, A STATE AGENCY OR A LOCAL JURISDICTION FOR THE PURPOSE OF CONSERVING NATURAL RESOURCES OR AGRICULTURAL LAND.

(2) SUBSECTIONS (F) THROUGH (K) OF THIS SECTION MAY NOT BE CONSTRUED AS GRANTING ANY ADDITIONAL RIGHTS IN COVENANTS, RESTRICTIONS, CONDITIONS, OR CONSERVATION EASEMENTS THAT WERE CREATED OR ENTERED INTO AT ANY TIME UNDER § 2-118 OF THE REAL PROPERTY ARTICLE FOR THE BENEFIT OF, OR HELD BY, A STATE AGENCY OR A LOCAL JURISDICTION FOR THE PURPOSE OF CONSERVING NATURAL RESOURCES OR AGRICULTURAL LAND.

(Over)

(D) SUBSECTIONS (F) THROUGH (K) AND SUBSECTION (N) OF THIS SECTION DO NOT:

(1) AFFECT A LOCAL TRANSFER OF DEVELOPMENT RIGHTS PROGRAM AUTHORIZED UNDER ARTICLE 25A, § 5(X), ARTICLE 28, § 8-101, OR ARTICLE 66B, § 11.01 OF THE CODE; OR

(2) DIMINISH THE LOCAL DEVELOPMENT RIGHTS TRANSFERRED IN THESE TRANSFER OF DEVELOPMENT RIGHTS PROGRAMS.

(E) SUBSECTIONS (F) THROUGH (K) AND SUBSECTION (N) OF THIS SECTION MAY NOT BE CONSTRUED AS PROHIBITING A LOCAL JURISDICTION FROM ALTERING THE DEFINITION OR DESCRIPTION OF A MAJOR OR MINOR SUBDIVISION IN A LOCAL ORDINANCE OR REGULATION FOR LOCAL ZONING OR DEVELOPMENT PURPOSES.

(F) ON OR AFTER DECEMBER 31, 2012, THE DEPARTMENT OR THE DEPARTMENT'S DESIGNEE:

(1) MAY NOT APPROVE A MAJOR RESIDENTIAL SUBDIVISION SERVED BY ON-SITE SEWAGE DISPOSAL SYSTEMS, COMMUNITY SEWERAGE SYSTEMS, OR SHARED SYSTEMS UNTIL THE LOCAL JURISDICTION ADOPTS THE GROWTH TIERS IN ACCORDANCE WITH ARTICLE 66B, § 1.05 OF THE CODE; OR

(2) IF THE LOCAL JURISDICTION HAS NOT ADOPTED THE GROWTH TIERS IN ACCORDANCE WITH ARTICLE 66B, § 1.05 OF THE CODE, MAY APPROVE:

(I) A MINOR RESIDENTIAL SUBDIVISION SERVED BY ON-SITE SEWAGE DISPOSAL SYSTEMS IF THE RESIDENTIAL SUBDIVISION OTHERWISE MEETS THE REQUIREMENTS OF THIS TITLE; OR

(II) A MAJOR OR MINOR SUBDIVISION SERVED BY PUBLIC SEWER IN A TIER I AREA.

(G) (1)”;

and in line 21, strike “(E)(2)” and substitute “(F)(2)”.

On page 8, in lines 3 and 19, in each instance, strike “(C)” and substitute “(H)”; in line 4, strike “UTILIZING” and substitute “SERVED BY”; in line 13, after “PLANNING” insert “IN ACCORDANCE WITH SUBSECTIONS (I) AND (J) OF THIS SECTION”; in the same line, strike “TIER III OR TIER”; in line 14, strike “IV AREA IS” and substitute “GROWTH TIERS ARE”; in the same line, strike the colon and substitute “ARTICLE 66B, § 1.05 OF THE CODE.”; strike in their entirety lines 15 through 18, inclusive, and substitute:

“(2) ANY DELAY IN THE APPROVAL OF A RESIDENTIAL SUBDIVISION PLAT UNDER THIS SUBSECTION MAY NOT BE CONSTRUED AS APPLYING TO ANY DEADLINE FOR APPROVING OR DISAPPROVING A SUBDIVISION PLAT UNDER ARTICLE 28 OF THE CODE, ARTICLE 66B, § 5.04 OF THE CODE, OR A LOCAL ORDINANCE.”;

in line 20, strike “(B)(2)(III)” and substitute “(G)(1)(III)”; in line 22, strike “A” and substitute “AN”; after line 31, insert:

“(I) (1) IF TWO OR MORE LOCAL JURISDICTIONS ADOPT CONFLICTING GROWTH TIER DESIGNATIONS FOR THE SAME AREA, THE DEPARTMENT AND THE

DEPARTMENT OF PLANNING SHALL CONFER WITH THE LOCAL JURISDICTIONS TO SEEK RESOLUTION OF THE CONFLICTING DESIGNATIONS.

(2) IF A CONFLICT IN GROWTH TIER DESIGNATIONS IS NOT RESOLVED, THE DEPARTMENT OF PLANNING SHALL RECOMMEND TO THE DEPARTMENT THE PREFERRED LOCAL JURISDICTION DESIGNATIONS AS DETERMINED BY THE DEPARTMENT OF PLANNING BASED ON THE FOLLOWING BEST PLANNING PRACTICES OR FACTORS:

(I) THE COMPREHENSIVE PLAN, INCLUDING THE MUNICIPAL GROWTH ELEMENT, THE WATER RESOURCES ELEMENT, THE LAND USE ELEMENT, AND, IF APPLICABLE, THE PRIORITY PRESERVATION ELEMENT;

(II) GROWTH PROJECTIONS AND DEVELOPMENT CAPACITY;
AND

(III) AVAILABILITY OF INFRASTRUCTURE.”;

in line 32, strike “(D)” and substitute “(J)”; in line 33, after “PLAT” insert “FOR A MAJOR SUBDIVISION IN A TIER III AREA”; and in the same line, strike “(B)” and substitute “(G)(1)(IV)”.

On page 9, in line 2, strike “TIER III OR TIER IV AREA IS” and substitute “GROWTH TIERS ARE”; in line 3, strike “OF A TIER III OR TIER IV AREA” and substitute “FOR THE GROWTH TIERS”; in line 4, strike “§ 1.04 OR § 3.05” and substitute “§ 1.05”; in line 5, after “THE” insert “COMPREHENSIVE PLAN, INCLUDING THE”; in the same line, after “ELEMENT,” insert “THE WATER RESOURCES ELEMENT, THE LAND USE ELEMENT, AND, IF APPLICABLE,”; strike beginning with the first comma in line 6 down through “PLAN” in line 7; strike in their entirety lines 8 through 22, inclusive; in line 23, strike “(F)” and substitute “(K)”; in

line 27, after “PLAT” insert “FOR A MAJOR SUBDIVISION IN A TIER III AREA”; in line 28, strike “FOR ADVICE UNDER SUBSECTION (D) OF THIS SECTION”; in line 30, strike “TIER III OR TIER IV AREA” and substitute “GROWTH TIER”; and in line 31, strike “(B)” and substitute “(G)”.

On page 10, strike in their entirety lines 1 and 2, inclusive; in lines 3, 10, and 21, strike “(H)”, “(I)”, and “(J)”, respectively, and substitute “(L)”, “(M)”, and “(N)”, respectively; and in line 10, strike “(H)” and substitute “(L)”.

AMENDMENT NO. 4

On page 11, in line 5, strike “AND”; in line 7, after “SUBDIVIDED” insert “;AND”

(III) THE SUBDIVISION PLAT IS SUBJECT TO STATE LAW AND LOCAL ORDINANCES AND REGULATIONS”;

in line 31, strike “AND”; and in line 33, after “SUBDIVIDED” insert “;AND”

3. THE SUBDIVISION PLAT IS SUBJECT TO STATE LAW AND LOCAL ORDINANCES AND REGULATIONS”.

On page 12, in line 2, after “PURPOSES” insert “,INCLUDING A FARM MARKET, AGRICULTURAL PROCESSING FACILITY, OR CREAMERY, AND THE OWNER MAY APPLY FOR APPROVAL OF AN ON-SITE SEWAGE DISPOSAL SYSTEM TO SERVE THE NONRESIDENTIAL AGRICULTURAL PURPOSES”; after line 2, insert:

“(O) (1) IN THIS SUBSECTION, “AGRICULTURAL ACTIVITIES” INCLUDES:

(I) PLOWING, TILLAGE, CROPPING, SEEDING, CULTIVATING, AND HARVESTING FOR THE PRODUCTION OF FOOD AND FIBER PRODUCTS; AND

(II) THE GRAZING OF LIVESTOCK.

(2) THIS SUBSECTION APPLIES ONLY TO LAND THAT IS ZONED FOR AGRICULTURAL USE.

(3) NOTWITHSTANDING ANY OTHER LAW, AN OWNER OF PROPERTY USED FOR AGRICULTURAL ACTIVITIES MAY INSTALL THE FOLLOWING NUMBER OF ON-SITE SEWAGE DISPOSAL SYSTEMS:

(I) THREE ON-SITE SEWAGE DISPOSAL SYSTEMS FOR A PROPERTY THAT IS NO MORE THAN 25 ACRES;

(II) FOUR ON-SITE SEWAGE DISPOSAL SYSTEMS FOR A PROPERTY THAT IS AT LEAST 25 ACRES AND LESS THAN 75 ACRES;

(III) FIVE ON-SITE SEWAGE DISPOSAL SYSTEMS FOR A PROPERTY THAT IS AT LEAST 75 ACRES AND LESS THAN 125 ACRES;

(IV) SIX ON-SITE SEWAGE DISPOSAL SYSTEMS FOR A PROPERTY THAT IS AT LEAST 125 ACRES AND LESS THAN 175 ACRES; AND

(V) SEVEN ON-SITE SEWAGE DISPOSAL SYSTEMS FOR A PROPERTY THAT IS 175 ACRES OR MORE.

(4) EXCEPT FOR AN ON-SITE SEWAGE DISPOSAL SYSTEM THAT SERVES THE MAIN FARM HOUSE ON THE PROPERTY, THE ON-SITE SEWAGE DISPOSAL SYSTEMS SHALL BE CLUSTERED TOGETHER.”;

and in line 27, after “(B)” insert “**THIS SECTION MAY NOT BE CONSTRUED AS REQUIRING A LOCAL JURISDICTION TO:**

(1) BE A CONTROLLING AUTHORITY; OR

(2) AUTHORIZE OR ALLOW THE USE OF A SHARED FACILITY OR A COMMUNITY SEWERAGE SYSTEM WITHIN THE LOCAL JURISDICTION.

(C)”.

On page 13, strike in their entirety lines 12 through 14, inclusive.

AMENDMENT NO. 5

On page 15, in line 29, after “(I),” insert “**AND**”; in the same line, strike “, AND”; in line 30, strike “(M)”; in the same line, after the second comma insert “**AND**”; in the same line, strike the third comma and substitute “**;**”; and strike in its entirety line 31.

On page 16, in line 4, after “§ 1.05” insert “**(ADOPTION OF GROWTH TIERS);**

(6) § 1.06”;

in lines 5, 6, 7, 9, 10, 12, 13, 14, 15, 16, 17, 18, 20, and 21, strike “(6)”, “(7)”, “(8)”, “(9)”, “(10)”, “(11)”, “(12)”, “(13)”, “(14)”, “(15)”, “(16)”, “(17)”, “(18)”, and “(19)”, respectively, and substitute “(7)”, “(8)”, “(9)”, “(10)”, “(11)”, “(12)”, “(13)”, “(14)”, “(15)”, “(16)”, “(17)”, “(18)”, “(19)”, and “(20)”, respectively; and strike in its entirety line 24.

(Over)

On pages 17 through 19, strike in their entirety the lines beginning with line 1 on page 17 through line 18 on page 19, inclusive.

On page 19, after line 19, insert:

“(A) ON OR BEFORE DECEMBER 31, 2012, A LOCAL JURISDICTION MAY CERTIFY TO THE DEPARTMENT OF PLANNING THE MAPPED GROWTH TIERS DESIGNATED BY THE LOCAL JURISDICTION IN ACCORDANCE WITH THIS SECTION.

(B) BEFORE CERTIFICATION OF THE GROWTH TIERS, A LOCAL JURISDICTION MAY SUBMIT THE PROPOSED TIERS AND ANY RELEVANT INFORMATION TO THE DEPARTMENT OF PLANNING FOR:

(1) TECHNICAL ASSISTANCE, REVIEW, AND COMMENT; AND

(2) THE OPPORTUNITY FOR PUBLIC REVIEW.

(C) ON CERTIFICATION OF THE GROWTH TIERS, THE LOCAL JURISDICTION SHALL PROVIDE TO THE DEPARTMENT OF PLANNING ALL INFORMATION NECESSARY TO DEMONSTRATE THE PRECISE LOCATION OF THE TIERS, INCLUDING, AS APPROPRIATE:

(1) A MAP OF THE AREA SHOWING PLANNING AND ZONING CHARACTERISTICS OF EACH TIER; AND

(2) EXISTING AND PLANNED WATER AND SEWER SERVICES.

(D) THE DEPARTMENT OF PLANNING, AS APPROPRIATE, SHALL PROVIDE TO EACH STATE AGENCY AND POST ON THE DEPARTMENT OF PLANNING'S WEB SITE, COPIES OF MAPS ILLUSTRATING:

(1) GROWTH TIERS CERTIFIED BY LOCAL JURISDICTIONS; AND

(2) ANY COMMENTS BY THE DEPARTMENT OF PLANNING ON THE CERTIFIED TIERS.

(E) (1) SUBJECT TO PARAGRAPHS (2), (3), AND (4) OF THIS SUBSECTION, A LOCAL JURISDICTION THAT CHOOSES TO CERTIFY GROWTH TIERS TO THE DEPARTMENT OF PLANNING IS NOT REQUIRED TO ADOPT ALL OF THE TIERS.

(2) A MUNICIPAL CORPORATION THAT EXERCISES PLANNING AND ZONING AUTHORITY SHALL ADOPT TIER I AND MAY ADOPT TIER II.

(3) A COUNTY SHALL ADOPT TIERS I, III, AND IV, AND MAY ADOPT TIER II.

(4) IF A LOCAL JURISDICTION DOES NOT ADOPT ALL OF THE TIERS AUTHORIZED UNDER THIS SECTION, THE LOCAL JURISDICTION SHALL PROVIDE DOCUMENTATION TO THE DEPARTMENT OF PLANNING OF THE REASONS THE JURISDICTION IS NOT ADOPTING A PARTICULAR TIER.

(F) THE GROWTH TIERS CERTIFIED BY A LOCAL JURISDICTION SHALL MEET THE FOLLOWING CRITERIA:

(1) TIER I AREAS ARE AREAS THAT ARE:

(Over)

(I) SERVED BY PUBLIC SEWERAGE SYSTEMS AND MAPPED LOCALLY DESIGNATED GROWTH AREAS; OR

(II) A MUNICIPAL CORPORATION THAT IS A PRIORITY FUNDING AREA THAT IS SERVED BY PUBLIC SEWERAGE SYSTEMS;

(2) TIER II AREAS ARE AREAS THAT ARE:

(I) 1. PLANNED TO BE SERVED BY PUBLIC SEWERAGE SYSTEMS AND IN THE MUNICIPAL GROWTH ELEMENT; OR

2. MAPPED LOCALLY DESIGNATED GROWTH AREAS;
AND

(II) NEEDED TO SATISFY DEMAND FOR DEVELOPMENT AT DENSITIES CONSISTENT WITH THE LONG-TERM DEVELOPMENT POLICY AFTER CONSIDERATION OF THE CAPACITY OF LAND AREAS AVAILABLE FOR DEVELOPMENT, INCLUDING IN-FILL AND REDEVELOPMENT, WITHIN THE LOCAL JURISDICTION;

(3) TIER III AREAS ARE AREAS THAT ARE:

(I) NOT PLANNED FOR SEWERAGE SERVICE AND NOT DOMINATED BY AGRICULTURAL OR FOREST LAND; AND

(II) ONE OF THE FOLLOWING:

1. MUNICIPAL CORPORATIONS NOT SERVED BY A PUBLIC SEWERAGE SYSTEM;

2. ESTABLISHED COMMUNITIES PLANNED AND ZONED FOR DEVELOPMENT;

3. RURAL VILLAGES AS DESCRIBED IN § 5-7B-03(F) OF THE STATE FINANCE AND PROCUREMENT ARTICLE; OR

4. MAPPED LOCALLY DESIGNATED GROWTH AREAS;
OR

(III) ADJOINING AND CONTIGUOUS TO ONE OF THE FOLLOWING:

1. MUNICIPAL CORPORATIONS NOT SERVED BY A WASTEWATER TREATMENT PLANT;

2. ESTABLISHED COMMUNITIES PLANNED AND ZONED FOR DEVELOPMENT; OR

3. RURAL VILLAGES AS DESCRIBED IN § 5-7B-03(F) OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND

(4) TIER IV AREAS ARE AREAS THAT ARE NOT PLANNED FOR SEWERAGE SERVICE AND ARE:

(I) AREAS PLANNED OR ZONED FOR LAND, AGRICULTURAL, OR RESOURCE PROTECTION, PRESERVATION, OR CONSERVATION;

(II) AREAS DOMINATED BY AGRICULTURAL LANDS, FOREST LANDS, OR OTHER NATURAL AREAS; OR

(III) 1. RURAL LEGACY AREAS, PRIORITY PRESERVATION AREAS, OR AREAS MAPPED FOR ECOLOGICAL PRESERVATION BY THE DEPARTMENT OF NATURAL RESOURCES AT THE TIME OF THE ADOPTION OF THE PLAN OR AMENDMENT; OR

2. AREAS MAPPED FOR AGRICULTURAL PRESERVATION BY THE DEPARTMENT OF PLANNING AT THE TIME OF THE ADOPTION OF THE PLAN OR AMENDMENT.

(G) (1) A LOCAL JURISDICTION SHALL STRIVE TO AVOID CREATING A TIER III AREA THAT IS BOUNDED ON ALL SIDES BY LAND IN A TIER IV AREA.

(2) IF AN AREA NOT PLANNED FOR SEWERAGE SERVICE DOES NOT MEET THE DESCRIPTION OF A TIER III OR TIER IV AREA, THEN THE AREA IS A TIER IV AREA.

(H) (1) A LOCAL JURISDICTION THAT CERTIFIES GROWTH TIERS TO THE DEPARTMENT OF PLANNING SHALL INCORPORATE THE TIERS INTO THE LOCAL COMPREHENSIVE PLAN OR AN ELEMENT OF THE PLAN;

(I) WHEN THE LOCAL JURISDICTION CONDUCTS THE 6-YEAR REVIEW OF THE PLAN UNDER §§ 1.04(D) AND 3.05(B) OF THIS ARTICLE; AND

(II) IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION.

(2) IF A LOCAL JURISDICTION DOES NOT INCORPORATE ALL OF THE GROWTH TIERS AUTHORIZED UNDER THIS SECTION INTO THE LOCAL COMPREHENSIVE PLAN OR AN ELEMENT OF THE PLAN, THE LOCAL JURISDICTION SHALL STATE THAT A TIER IS NOT ADOPTED.

1.06.”;

and strike beginning with “MEANS” in line 24 down through “2012” in line 27 and substitute “**HAS THE MEANING STATED IN § 9-206 OF THE ENVIRONMENT ARTICLE**”.

On page 20, in line 6, after “(B)” insert “**THIS SECTION APPLIES ONLY TO A RESIDENTIAL MAJOR SUBDIVISION IN A TIER III AREA SERVED BY:**

(1) ON-SITE SEWAGE DISPOSAL SYSTEMS;

(2) A SHARED FACILITY; OR

(3) A COMMUNITY SEWERAGE SYSTEM.

(C)”;

in line 6, strike “TIERS FOR” and substitute “**THE**”; strike beginning with “IN” in line 6 down through “PLAN” in line 7 and substitute “**TIERS**”; in line 7, strike “§ 1.04” and substitute “**§ 1.05**”; in line 8, strike “SUBHEADING OR § 3.05 OF THIS”; in line 8, after “SUBDIVISION” insert “**IN A TIER III AREA**”; in line 10, strike “A” and substitute “**THE**”; strike beginning with “SERVED” in line 11 down through

(Over)

“FACILITY” in line 14; in lines 15, 21, and 29, strike “(C)”, “(D)”, and “(E)”, respectively, and substitute “(D)”, “(E)”, and “(F)”, respectively; strike beginning with “SERVED” in line 16 down through “FACILITY” in line 17; in line 21, strike the first “THE” and substitute “A RESIDENTIAL”; in line 24, after “THE” insert “RESIDENTIAL”; in the same line, after “SUBDIVISION” insert “UNLESS A LOCAL JURISDICTION’S ADEQUATE PUBLIC FACILITIES ORDINANCE ALREADY REQUIRES A REVIEW OF GOVERNMENT SERVICES”; in line 25, after “THE” insert “POTENTIAL”; in the same line, strike “IMPACT OF” and substitute “ISSUES OR A NATURAL RESOURCES INVENTORY RELATED TO”; in the same line, after “PROPOSED” insert “RESIDENTIAL”; in line 27, strike “ACCORDING TO” and substitute “IF REQUIRED BY”; in line 28, strike “FOR THE” and substitute “AS A RESULT OF THE APPROVAL OF THE”; in line 28, after “PROPOSED” insert “RESIDENTIAL”; and in line 29, after “PROPOSED” insert “RESIDENTIAL”.

On pages 21 through 23, strike in their entirety the lines beginning with line 1 on page 21 through line 15 on page 23, inclusive.

On page 23, strike beginning with “(10)” in line 20 down through “**§ 3-103**” in line 23 and substitute “(3) “Growth tiers” means the tiers adopted by a local jurisdiction in accordance with [Article 66B, § 1.05 of the Code] TITLE 1, SUBTITLE 5”; after line 24, insert:

“(d) Subsections (f) through (k) and subsection (n) of this section do not:

(1) Affect a local transfer of development rights program authorized under Article 25A, § 5(x) [, Article 28, § 8-101, or Article 66B, § 11.01] of the Code OR TITLE 7, SUBTITLE 2 OR § 22-105 OF THE LAND USE ARTICLE; or”;

in line 25, strike “(b) (2)” and substitute “(G) (1)”; in the same line, strike “(e)(2)” and substitute “(H)(2)”; in line 26, strike “only”; and in line 27, after “plat” insert “ONLY”.

On page 24, in line 1, after “Planning” insert “IN ACCORDANCE WITH SUBSECTIONS (I) AND (J) OF THIS SECTION”; in line 2, strike “Tier III or Tier IV area is” and substitute “GROWTH TIERS ARE”; in the same line, strike the colon and substitute “[Article 66B, § 1.05 of the Code] TITLE 1, SUBTITLE 5 OF THE LAND USE ARTICLE”; strike beginning with “A.” in line 3 down through “applicable” in line 7; after line 7, insert:

“(2) Any delay in the approval of a residential subdivision plat under this section may not be construed as applying to any deadline for approving or disapproving a subdivision plat under [Article 66B, § 5.04 of the Code] ARTICLE 28 OF THE CODE, § 5-201 OF THE LAND USE ARTICLE, or a local ordinance.”;

in line 8, strike “(d)” and substitute “(J)”; in the same line, after “plat” insert “FOR A MAJOR SUBDIVISION IN A TIER III AREA”; in line 9, strike “(b)” and substitute “(D)”; in line 10, strike “Tier III or Tier IV area is” and substitute “GROWTH TIERS ARE”; in line 12, strike “a Tier III or Tier IV area” and substitute “THE TIERS”; in line 13, strike “§ 1-407 OR § 3-103” and substitute “TITLE 1, SUBTITLE 5”; in line 22, after “(M),” insert “AND”; in the same line, strike “, AND (R)”; in line 23, after the first comma, insert “AND”; in the same line, strike beginning with the second comma through the semicolon and substitute “;”; after line 28, insert:

“(8) TITLE 1, SUBTITLE 5 (GROWTH TIERS);”;

and in line 29, strike “(8)” and substitute “(9)”.

On page 25, in lines 1, 2, 3, 4, 5, 6, 8, 9, 10, 12, and 14, strike “(9)”, “(10)”, “(11)”, “(12)”, “(13)”, “(14)”, “(15)”, “(16)”, “(17)”, “(18)”, and “(19)”, respectively, and substitute “(10)”, “(11)”, “(12)”, “(13)”, “(14)”, “(15)”, “(16)”, “(17)”, “(18)”, “(19)”, and “(20)”, respectively.

On pages 25 through 30, strike in their entirety the lines beginning with line 17 on page 25 through line 31 on page 30, inclusive.

AMENDMENT NO. 6

On page 30, after line 31, insert:

“SUBTITLE 5. GROWTH TIERS.

1-501.

ON OR BEFORE DECEMBER 31, 2012, A LOCAL JURISDICTION MAY CERTIFY TO THE DEPARTMENT OF PLANNING THE MAPPED GROWTH TIERS DESIGNATED BY THE LOCAL JURISDICTION IN ACCORDANCE WITH THIS SUBTITLE.

1-502.

BEFORE CERTIFICATION OF THE GROWTH TIERS, A LOCAL JURISDICTION MAY SUBMIT THE PROPOSED TIERS AND ANY RELEVANT INFORMATION TO THE DEPARTMENT OF PLANNING FOR:

- (1) TECHNICAL ASSISTANCE, REVIEW, AND COMMENT; AND**
- (2) THE OPPORTUNITY FOR PUBLIC REVIEW.**

1-503.

ON CERTIFICATION OF THE GROWTH TIERS, THE LOCAL JURISDICTION SHALL PROVIDE TO THE DEPARTMENT OF PLANNING ALL INFORMATION NECESSARY TO DEMONSTRATE THE PRECISE LOCATION OF THE TIERS, INCLUDING, AS APPROPRIATE:

(1) A MAP OF THE AREA SHOWING PLANNING AND ZONING CHARACTERISTICS OF EACH TIER; AND

(2) EXISTING AND PLANNED WATER AND SEWER SERVICES.

1-504.

THE DEPARTMENT OF PLANNING, AS APPROPRIATE, SHALL PROVIDE TO EACH STATE AGENCY AND POST ON THE DEPARTMENT OF PLANNING'S WEB SITE, COPIES OF MAPS ILLUSTRATING:

(1) GROWTH TIERS CERTIFIED BY LOCAL JURISDICTIONS; AND

(2) ANY COMMENTS BY THE DEPARTMENT OF PLANNING ON THE CERTIFIED TIERS.

1-505.

(A) SUBJECT TO SUBSECTIONS (B), (C), AND (D) OF THIS SECTION, A LOCAL JURISDICTION THAT CHOOSES TO CERTIFY GROWTH TIERS TO THE DEPARTMENT OF PLANNING IS NOT REQUIRED TO ADOPT ALL OF THE TIERS.

(B) A MUNICIPAL CORPORATION THAT EXERCISES PLANNING AND ZONING AUTHORITY SHALL ADOPT TIER I AND MAY ADOPT TIER II.

(C) A COUNTY SHALL ADOPT TIERS I, III, AND IV, AND MAY ADOPT TIER II.

(D) IF A LOCAL JURISDICTION DOES NOT ADOPT ALL OF THE TIERS AUTHORIZED UNDER THIS SECTION, THE LOCAL JURISDICTION SHALL PROVIDE DOCUMENTATION TO THE DEPARTMENT OF PLANNING OF THE REASONS THE JURISDICTION IS NOT ADOPTING A PARTICULAR TIER.

1-506.

(A) THE GROWTH TIERS CERTIFIED BY A LOCAL JURISDICTION SHALL MEET THE FOLLOWING CRITERIA:

(1) TIER I AREAS ARE AREAS THAT ARE:

(i) SERVED BY PUBLIC SEWERAGE SYSTEMS AND MAPPED LOCALLY DESIGNATED GROWTH AREAS; OR

(ii) A MUNICIPAL CORPORATION THAT IS A PRIORITY FUNDING AREA THAT IS SERVED BY PUBLIC SEWERAGE SYSTEMS;

(2) TIER II AREAS ARE AREAS THAT ARE:

(i) 1. PLANNED TO BE SERVED BY PUBLIC SEWERAGE SYSTEMS AND IN THE MUNICIPAL GROWTH ELEMENT; OR

2. MAPPED LOCALLY DESIGNATED GROWTH AREAS;

AND

(II) NEEDED TO SATISFY DEMAND FOR DEVELOPMENT AT DENSITIES CONSISTENT WITH THE LONG-TERM DEVELOPMENT POLICY AFTER CONSIDERATION OF THE CAPACITY OF LAND AREAS AVAILABLE FOR DEVELOPMENT, INCLUDING IN-FILL AND REDEVELOPMENT, WITHIN THE LOCAL JURISDICTION;

(3) TIER III AREAS ARE AREAS THAT ARE:

(I) NOT PLANNED FOR SEWERAGE SERVICE AND NOT DOMINATED BY AGRICULTURAL OR FOREST LAND; AND

(II) ONE OF THE FOLLOWING:

1. MUNICIPAL CORPORATIONS NOT SERVED BY A PUBLIC SEWERAGE SYSTEM;

2. ESTABLISHED COMMUNITIES PLANNED AND ZONED FOR DEVELOPMENT;

3. RURAL VILLAGES AS DESCRIBED IN § 5-7B-03(F) OF THE STATE FINANCE AND PROCUREMENT ARTICLE; OR

4. MAPPED LOCALLY DESIGNATED GROWTH AREAS;

OR

(Over)

(III) ADJOINING AND CONTIGUOUS TO ONE OF THE FOLLOWING:

1. MUNICIPAL CORPORATIONS NOT SERVED BY A WASTEWATER TREATMENT PLANT;

2. ESTABLISHED COMMUNITIES PLANNED AND ZONED FOR DEVELOPMENT; OR

3. RURAL VILLAGES AS DESCRIBED IN § 5-7B-03(F) OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND

(4) TIER IV AREAS ARE AREAS THAT ARE NOT PLANNED FOR SEWERAGE SERVICE AND ARE:

(I) AREAS PLANNED OR ZONED FOR LAND, AGRICULTURAL, OR RESOURCE PROTECTION, PRESERVATION, OR CONSERVATION;

(II) AREAS DOMINATED BY AGRICULTURAL LANDS, FOREST LANDS, OR OTHER NATURAL AREAS; OR

(III) RURAL LEGACY AREAS, PRIORITY PRESERVATION AREAS, OR AREAS MAPPED FOR ECOLOGICAL PRESERVATION BY THE DEPARTMENT OF NATURAL RESOURCES AT THE TIME OF THE ADOPTION OF THE PLAN OR AMENDMENT OR AREAS MAPPED FOR AGRICULTURAL PRESERVATION BY THE DEPARTMENT OF PLANNING AT THE TIME OF THE ADOPTION OF THE PLAN OR AMENDMENT.

(B) A LOCAL JURISDICTION SHALL STRIVE TO AVOID CREATING A TIER III AREA THAT IS BOUNDED ON ALL SIDES BY LAND IN A TIER IV AREA.

(C) IF AN AREA NOT PLANNED FOR SEWERAGE SERVICE DOES NOT MEET THE DESCRIPTION OF A TIER III OR TIER IV AREA, THEN THE AREA IS A TIER IV AREA.

1-507.

(A) A LOCAL JURISDICTION THAT CERTIFIES GROWTH TIERS TO THE DEPARTMENT OF PLANNING SHALL INCORPORATE THE TIERS INTO THE DEVELOPMENT REGULATIONS ELEMENT OF THE COMPREHENSIVE PLAN:

(1) WHEN THE LOCAL JURISDICTION CONDUCTS THE 6-YEAR REVIEW OF THE PLAN UNDER §§ 1-416(A) AND 3-301(A) OF THIS ARTICLE; AND

(2) IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION.

(B) IF A LOCAL JURISDICTION DOES NOT INCORPORATE ALL OF THE GROWTH TIERS AUTHORIZED UNDER THIS SECTION INTO THE DEVELOPMENT REGULATIONS ELEMENT OF THE COMPREHENSIVE PLAN, THE LOCAL JURISDICTION SHALL STATE THAT A TIER IS NOT ADOPTED.”.

On page 31, strike beginning with “MEANS” in line 6 down through “2012” in line 9 and substitute “HAS THE MEANING STATED IN § 9-206 OF THE ENVIRONMENT ARTICLE”; in line 19, after “(B)” insert “THIS SECTION APPLIES ONLY TO A RESIDENTIAL MAJOR SUBDIVISION IN A TIER III AREA SERVED BY:

(1) ON-SITE SEWAGE DISPOSAL SYSTEMS;

(Over)

(2) A SHARED FACILITY; OR

(3) A COMMUNITY SEWERAGE SYSTEM.

(C);

in line 19, strike “TIERS FOR” and substitute “THE”; strike beginning with “IN” in line 19 down through “PLAN” in line 20 and substitute “TIERS”; in the same line, strike “**§ 1-407 OR §**” and substitute “TITLE 1, SUBTITLE 5”; in line 21, strike “**3-103**”; in the same line, after “SUBDIVISION” insert “IN A TIER III AREA”; in line 23, strike “A” and substitute “THE”; strike beginning with “SERVED” in line 23 down through “FACILITY” in line 26; in line 27, strike “(C)” and substitute “(D)”; and strike beginning with “SERVED” in line 28 down through “FACILITY” in line 29.

On page 32, in lines 3 and 11, strike “(D)” and “(E)”, respectively, and substitute “(E)” and “(F)”, respectively; in line 3, strike the first “THE” and substitute “A RESIDENTIAL”; in line 6, after “THE” insert “RESIDENTIAL”; in the same line, after “SUBDIVISION” insert “UNLESS A LOCAL JURISDICTION’S ADEQUATE PUBLIC FACILITIES ORDINANCE ALREADY REQUIRES A REVIEW OF GOVERNMENT SERVICES”; in line 7, after the first “THE” insert “POTENTIAL”; in the same line, strike “IMPACT OF” and substitute “ISSUES OR A NATURAL RESOURCES INVENTORY RELATED TO”; in the same line, after “PROPOSED” insert “RESIDENTIAL”; in line 9, strike “ACCORDING TO” and substitute “IF REQUIRED BY”; in line 10, strike “FOR THE” and substitute “AS A RESULT OF THE APPROVAL OF THE”; in line 10, after “PROPOSED” insert “RESIDENTIAL”; and in line 11, after “PROPOSED” insert “RESIDENTIAL”; in line 21, after “subdivisions” insert “served by on-site septic systems”; in line 26, strike “§§ 1.04 and 3.05” and substitute “§ 1.05”; in the same line, strike “§§ 1-407” and substitute “Title 1, Subtitle 5”; in line 27, strike “and 3-103”; and in line 29, after “plan” insert “under Article 66B, § 1.05 of the Code or Title 1, Subtitle 5 of the Land Use Article”.

AMENDMENT NO. 7

On page 33, after line 3, insert:

“SECTION 6. AND BE IT FURTHER ENACTED, That, if requested by a local jurisdiction to verify the actual overall yield for zoning in a Tier IV area under § 9-206(h) of the Environment Article, the Department of Planning shall:

(a) review the local zoning code, along with any relevant subdivision or development regulations or rules, to help determine the overall development yield;

(b) request, if appropriate, information from the local jurisdiction to help determine the overall yield of development in Tier IV;

(c) examine any additional information that the local jurisdiction provides supporting qualification of the jurisdiction’s zoning districts; and

(d) discuss any discrepancies or questions with the local jurisdiction before determining if the jurisdiction’s Tier IV area meets the overall actual yield of one dwelling unit per 25 acres within the Tier IV area.

SECTION 7. AND BE IT FURTHER ENACTED, That:

(a) each local jurisdiction shall submit any definition or description of a major or minor subdivision in the jurisdiction’s local ordinance or regulation to the Department of Planning on or before December 31, 2012, in accordance with the provisions of § 9-206 of the Environment Article; and

(b) the Department of Planning shall prepare a list of definitions and descriptions of major and minor subdivisions submitted by local jurisdictions for publication on the Web sites of the Department of Planning and the Department of the Environment on or after December 31, 2012.

(Over)

SECTION 8. AND BE IT FURTHER ENACTED, That the provisions of this Act may not be construed to limit the authority granted to the Critical Area Commission under Chapter 119 of the Acts of 2008 to adopt regulations under § 8-1806(b) of the Natural Resources Article.”;

and in lines 4, 8, and 9, strike “6.”, “7.”, and “6”, respectively, and substitute “9.”, “10.”, and “9”, respectively.