

Chapter 427

(House Bill 1130)

AN ACT concerning

Land Use – Cross-References and Corrections

FOR the purpose of correcting certain cross-references to the Land Use Article in the Annotated Code of Maryland; correcting certain errors and omissions in and relating to the Land Use Article; adding to a certain list of public general laws that may affect land use in certain local jurisdictions; defining a certain term; clarifying the application of certain provisions; making stylistic changes; providing for the termination of a certain provision of this Act, subject to a certain contingency; and generally relating to the Land Use Article and cross-references and corrections to it.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 9–103
Annotated Code of Maryland
(2011 Replacement Volume)

BY repealing and reenacting, with amendments,
Article 23A – Corporations – Municipal
Section 9(c)(2) and 19(o)(4) and (s)
Annotated Code of Maryland
(2011 Replacement Volume)

BY repealing and reenacting, with amendments,
Article 25 – County Commissioners
Section 10J–1
Annotated Code of Maryland
(2011 Replacement Volume)

BY repealing and reenacting, with amendments,
Article 25A – Chartered Counties of Maryland
Section 5(X)(1)(ii) and (BB)
Annotated Code of Maryland
(2011 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 4–401(10)(ii), (v), and (xi)
Annotated Code of Maryland

(2006 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – Economic Development

Section 5–1303(d)(19)

Annotated Code of Maryland

(2008 Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – Environment

Section 5–203.1(b)(2)(i), 9–505(a)(1), 9–506(a)(1)(ii), 9–1601(ee), 14–508(a)(9),
and 15–804(a)

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – Financial Institutions

Section 13–1014(a)(3)(ii)1., 13–1101(g), and 13–1111(g)(8)(ii)1.

Annotated Code of Maryland

(2011 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – Land Use

Section 1–204(a) and 8–101(f) through (h)

Annotated Code of Maryland

(As enacted by Chapter 426 (H.B. 1290) of the Acts of the General Assembly of
2012)

BY repealing and reenacting, without amendments,

Article – Land Use

Section 8–101(a)

Annotated Code of Maryland

(As enacted by Chapter 426 (H.B. 1290) of the Acts of the General Assembly of
2012)

BY adding to

Article – Land Use

Section 8–101(f)

Annotated Code of Maryland

(As enacted by Chapter 426 (H.B. 1290) of the Acts of the General Assembly of
2012)

BY repealing and reenacting, with amendments,

Article – Natural Resources

Section 5–102.1(d)(2)(i) and (e) and 5–9B–04(b)(1)

Annotated Code of Maryland

(2005 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 8–1304(b) and 8–1808(d)
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Utilities
Section 4–209(a) and 21–301(a)
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Real Property
Section 3–108.1(a)(4) and (f)(1) and 4–110
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 5–706 and 5–7B–01(e)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 15–821(c), 15–830, and 15–835(a)(1)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 7–241(a) and 9–204(a)(3)
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 2B – Alcoholic Beverages

9–103.

No license or permit under the provisions of this article shall be issued in violation of any zoning rule or regulation as the same may from time to time exist under and by virtue of any ordinance or ordinances passed pursuant to the authority contained in [Article 66B of the Code, title “Land Use”,] **DIVISION I OF THE LAND USE ARTICLE** or IN Chapter 599 of the Acts of the General Assembly of 1933.

Article 23A – Corporations – Municipal

9.

(c) (2) If the county expressly approves, the municipality, without regard to the provisions of [Article 66B, § 4.05(a) of the Code] **§ 4-204 OF THE LAND USE ARTICLE**, may place the annexed land in a zoning classification that permits a land use or density different from the land use or density specified in the zoning classification of the county or agency having planning and zoning jurisdiction over the land prior to its annexation applicable at the time of the annexation.

19.

(o) (4) (i) A municipal corporation may submit an annexation plan in accordance with paragraph (3)(ii) of this subsection, if on or after October 1, 2009, a municipal corporation is granted an extension for the inclusion of a municipal growth element in accordance with [Article 66B, § 3.05(f) of the Code] **§ 3-304 OF THE LAND USE ARTICLE**.

(ii) After the expiration of a final extension granted under [Article 66B, § 3.05(f) of the Code] **§ 3-304 OF THE LAND USE ARTICLE** for the inclusion of a municipal growth element, an annexation plan shall be submitted in accordance with paragraph (3)(iii) of this subsection.

(s) The powers granted to municipal corporations by Article XI–E of the Constitution, by this article, and by [Article 66B of the Code] **DIVISION I OF THE LAND USE ARTICLE**, shall not be deemed to authorize any municipal corporation, either through procedures under this subheading or other changes in its charter, to exercise planning (including subdivision control) and zoning jurisdiction or power within any political subdivision in which such planning and zoning jurisdiction or power, or either, is exercised by any State, regional or county agency or authority. Except that where any area is annexed to a municipality authorized to have and having then a planning and zoning authority, the said municipality shall have exclusive jurisdiction over planning and zoning and subdivision control within the area annexed; provided that nothing in this exception shall be construed or interpreted to grant planning and zoning authority to a municipality not authorized to exercise such authority at the time of such annexation.

Article 25 – County Commissioners

10J-1.

Except as provided in §§ 10-I(f) and 10J(c) of this article[, Article 66B, §§ 7.02 and 14.07(f) of the Code] **AND TITLE 11, SUBTITLE 2 AND § 9-1607 OF THE LAND USE ARTICLE**, and notwithstanding any other provision of law to the contrary, in St. Mary's County, the County Commissioners may provide that:

(1) Violations of county ordinances and resolutions shall be punishable as misdemeanors and enforced in the same manner and to the same extent as municipal violations under Article 23A, § 3(a) of the Code; and

(2) Violations of county ordinances shall be prosecuted in the same manner and to the same extent as set forth for municipal infractions in Article 23A, § 3(b) of the Code.

Article 25A – Chartered Counties of Maryland

5.

The following enumerated express powers are granted to and conferred upon any county or counties which hereafter form a charter under the provisions of Article XI-A of the Constitution, that is to say:

(X)

(1) (ii) To provide by ordinance that a violation of a zoning law or regulation enacted under this section may be a civil zoning violation. The violation shall be enforced as provided in [Article 66B, § 7.02 of the Code] **TITLE 11, SUBTITLE 2 OF THE LAND USE ARTICLE**.

(BB)

To enact laws generally for historic and landmark zoning and preservation or to enact those laws in accordance with the provisions of [Article 66B, § 8.01 et seq.] **TITLE 8 OF THE LAND USE ARTICLE**, or to enact such laws to be administered generally by an Historic District Commission and to provide for appeals. The authority conferred by this subsection shall be in addition to any existing charter provisions or local law providing for planning and zoning.

Article – Courts and Judicial Proceedings

4-401.

Except as provided in § 4–402 of this subtitle, and subject to the venue provisions of Title 6 of this article, the District Court has exclusive original civil jurisdiction in:

(10) A proceeding for adjudication of:

(ii) A Commission infraction as defined in [Article 28, § 5–113 of the Code] **§ 17–208 OF THE LAND USE ARTICLE**;

(v) A zoning violation for which a civil penalty has been provided [pursuant to Article 66B, § 7.02 or Article 28, § 8–120(c) of the Code] **IN ACCORDANCE WITH TITLE 11, SUBTITLE 2 OR § 20–526(C) OF THE LAND USE ARTICLE**;

(xi) A subdivision violation for which a civil penalty has been provided in accordance with [Article 66B, § 14.07(f) of the Code] **§ 9–1607 OF THE LAND USE ARTICLE**;

Article – Economic Development

5–1303.

(d) The Secretary shall consider the following factors in determining whether to designate an area as a BRAC Revitalization and Incentive Zone:

(19) the presence of sensitive areas, as defined in [Article 66B, § 1.00(j) of the Code] **§ 1–101 OF THE LAND USE ARTICLE**;

Article – Environment

5–203.1.

(b) (2) The following are exempt from the application fees established under paragraph (1) of this subsection:

(i) Regulated activities conducted by the State, a municipal corporation, county, bicounty or multicounty agency under [Article 28 of the Code] **DIVISION II OF THE LAND USE ARTICLE** or Division II of the Public Utilities Article, or a unit of the State, a municipal corporation, or a county;

9–505.

(a) In addition to the other requirements of this subtitle, each county plan shall:

(1) Provide for the orderly expansion and extension of the following systems in a manner consistent with all county and local comprehensive plans prepared under [§ 3.05 of Article 66B,] **TITLE 1, SUBTITLE 4, TITLE 3, OR TITLE 21 OF THE LAND USE ARTICLE, ARTICLE 25A, § 5(X) of [Article 25A,] THE CODE, AND ARTICLE 25B, § 13 [of Article 25B, and § 7–108 of Article 28]** of the Code:

(i) Community water supply systems and multiuse water supply systems;

(ii) Community sewerage systems and multiuse sewerage systems; and

(iii) Solid waste disposal systems and solid waste acceptance facilities;

9–506.

(a) (1) Except as provided in paragraphs (2) and (3) of this subsection, before a county governing body may adopt a county plan or a revision or amendment to the county plan:

(ii) The county planning agency shall certify that the plan, revision, or amendment is consistent with the county comprehensive plan prepared under [Article 66B, § 3.05;] **TITLE 1, SUBTITLE 4 OR TITLE 3 OF THE LAND USE ARTICLE, Article 25A, § 5(X);] OF THE CODE**, or Article 25B, § 13 of the Code.

9–1601.

(ee) (1) “Person” means an individual, corporation, partnership, association, the State, any unit of the State, commission, special taxing district, or the federal government.

(2) “Person” does not include a county, municipal corporation, bi-county or multicounty agency under [Article 28 or 29 of the Code] **DIVISION II OF THE LAND USE ARTICLE OR DIVISION II OF THE PUBLIC UTILITIES ARTICLE**, housing authority under Division II of the Housing and Community Development Article, school board, community college, or any other unit of a county or municipal corporation.

14–508.

(a) Within 90 days following the completion of the public hearing under § 14–507 of this subtitle, and after receiving the advisory comments and recommendations of the Secretaries of Natural Resources, Business and Economic Development, and Transportation and the Director of Planning, the Secretary shall decide whether to grant, grant conditionally, or deny the permit. The Secretary’s

decision shall be in writing and based upon the economic and environmental statement, the public hearing record, and a determination that the applicant has shown satisfactorily that the facility:

(9) Would have no material adverse effect upon critical areas identified and designated pursuant to § 5–611 of the State Finance and Procurement Article and **[Article 66B, § 3.05 of the Code] TITLE 1, SUBTITLE 4 OR TITLE 3 OF THE LAND USE ARTICLE;**

15–804.

(a) The Department shall review mineral resources plan elements developed by local planning commissions under **[Article 66B, § 3.05 of the Code] § 1–411 OR § 3–107 OF THE LAND USE ARTICLE** to determine whether the proposed plan is consistent with the programs and goals of the Department.

Article – Financial Institutions

13–1014.

(a) Except as provided in subsection (b) of this section and notwithstanding any power vested in the Authority by this subtitle, the Authority may not make any expenditure until:

(3) The Mayor and City Council of the City of Cumberland:

(ii) Enact an ordinance that:

1. Consistent with **[§§ 8.01 through 8.17 of Article 66B of the Code] TITLE 8 OF THE LAND USE ARTICLE**, creates a Historic District Commission for portions of the Heritage Area within the City of Cumberland;

13–1101.

(g) (1) “Local plan” means the policies, statements, goals, and interrelated plans for private and public land use, transportation, and community facilities documented in texts and maps which constitute the guide for the area’s future development.

(2) “Local plan” includes a general plan, master plan, comprehensive plan, community plan, and the like as adopted in accordance with **[Article 66B, Titles 3 and 14 of the Code] TITLE 1, SUBTITLE 4 OR TITLE 3 OF THE LAND USE ARTICLE.**

13–1111.

(g) A management plan for a certified heritage area shall include:

(8) A description of the techniques or means for the preservation and protection of the natural and cultural resources within the recognized heritage area, including:

(ii) If the plan proposes the enactment of one or more ordinances to provide for one or more historic preservation commissions for specific sites, structures, or districts within the recognized heritage area, provisions that:

1. Are consistent with [Article 66B, §§ 8.01 through 8.17 of the Code] **TITLE 8 OF THE LAND USE ARTICLE;**

Article – Land Use

1–204.

(a) Other public general laws that may affect land use in a local jurisdiction under this division, Division II of this article, or otherwise, include:

(1) Article 23A, §§ 2(30) and (36), 9, 19, and 19A(e) of the Code;

(2) Article 25, § 3 of the Code;

(3) Article 25A, § 5 of the Code; [and]

(4) Article 25B, § 13 of the Code; AND

(5) **TITLE 8, SUBTITLE 18 OF THE NATURAL RESOURCES ARTICLE.**

8–101.

(a) In this title the following words have the meanings indicated.

(F) “PERSON” INCLUDES A UNIT OF LOCAL GOVERNMENT.

[(f)] (G) “Routine maintenance” means work that:

(1) does not alter the exterior fabric or features of a site or structure;
and

(2) has no material effect on the historical, archaeological, or architectural significance of the site or structure.

[(g)] (H) “Site” means the location of:

- (1) an event of historic significance; or
- (2) a structure or ruin that possesses historic, archaeological, or cultural significance.

[(h)] (I) (1) “Structure” means a combination of material to form a construction that is stable.

(2) “Structure” includes:

- (i) a building;
- (ii) a stadium;
- (iii) a reviewing stand;
- (iv) a platform;
- (v) staging;
- (vi) an observation tower;
- (vii) a radio tower;
- (viii) a water tank or tower;
- (ix) a trestle;
- (x) a bridge;
- (xi) a pier;
- (xii) paving;
- (xiii) a bulkhead;
- (xiv) a wharf;
- (xv) a shed;
- (xvi) a coal bin;
- (xvii) a shelter;

(xviii) a fence;

(xix) a display sign that is visible or intended to be visible from a public way; and

(xx) a part of a structure.

Article – Natural Resources

5–102.1.

(d) (2) It is the intent of this subsection to:

(i) Encourage forestry practices in local comprehensive plans developed in accordance with [Article 66B, § 3.05 of the Code] **TITLE 1, SUBTITLE 4 OR TITLE 3 OF THE LAND USE ARTICLE**; and

(e) Since it is in the State and public interests to preserve the forest land base and other natural resources, a local government with planning and zoning powers shall support forestry by a reasonable exercise of these powers, including the consideration, development, and interpretation of planning and zoning requirements that beneficially impact the efficient and economic practice of forestry in a manner consistent with the local government's implementation of the visions listed in [Article 66B, § 1.01 of the Code] **§ 1–201 OF THE LAND USE ARTICLE**.

5–9B–04.

(b) A sponsor may satisfy the requirements of subsection (a)(1) of this section with materials developed under or in conjunction with:

(1) The comprehensive plan for the jurisdiction reviewed and revised under [Article 66B, § 1.04(d) or § 4.09 of the Code] **§ 1–416 OR § 3–303 OF THE LAND USE ARTICLE**;

8–1304.

(b) This power and authority is in addition to that which is stated in [Article 28 of the Code] **DIVISION II OF THE LAND USE ARTICLE**.

8–1808.2.

(d) A bona fide intrafamily transfer from a parcel of land shall be a subdivision of the parcel of land that is subject to local approval under [the “Subdivision Control” subtitle of Article 66B of the Code, under Title 7 of Article 28 of the Code,] **TITLE 5 OR TITLE 23 OF THE LAND USE ARTICLE** or under any subdivision control provisions of a charter county.

Article – Public Utilities

4–209.

(a) With respect to the net capital costs associated with the relocation underground of utility lines and facilities in connection with projects required by [Article 66B, § 8.16 of the Code] **§ 8–401 OF THE LAND USE ARTICLE**, the Commission shall:

- (1) set the amount of the monthly surcharge required to support the costs and determine which customers of the applicable utility are subject to the surcharge;
- (2) include in the rate base the related net capital costs; or
- (3) adopt another method to apportion the costs appropriately.

21–301.

- (a) (1) In this section the following words have the meanings indicated.
 - (2) (i) “District council” has the meaning [as provided in Article 28, Title 8 of the Code] **STATED IN § 14–101 OF THE LAND USE ARTICLE**.
 - (ii) “District council” includes a designee or hearing officer appointed by the district council.
 - (3) “Regional district” [means the Maryland–Washington Regional District, as set forth in Article 28, Title 7 of the Code] **HAS THE MEANING STATED IN § 14–101 OF THE LAND USE ARTICLE**.

Article – Real Property

3–108.1.

(a) (4) “Subdivision approval” means approval required under subdivision regulations adopted in Queen Anne’s County in accordance with [Article 66B of the Code] **TITLE 5 OF THE LAND USE ARTICLE**.

(f) A person who is recording a plat shall submit, along with the plat, a written certificate that is signed by:

- (1) A person authorized to certify subdivision approval under regulations concerning subdivisions adopted by the county or a municipal corporation

under [Article 66B of the Code] **TITLE 5 OF THE LAND USE ARTICLE**, and which states that:

- (i) Subdivision approval has been given; or
- (ii) Subdivision approval is not required; or

4–110.

Notwithstanding [the provisions of § 5.06 of Article 66B, Annotated Code of Maryland,] **§ 5–302 OF THE LAND USE ARTICLE** or [of] any similar public local law or ordinance, every deed executed or recorded before June 1, 1974, conveying land in a subdivision a plat of which had not been approved by a planning commission is fully valid and effective according to its terms if the deed would have been valid and effective but for [the provisions of § 5.06, as enacted by § 1 of Chapter 672, Acts of 1970,] **§ 5–302 OF THE LAND USE ARTICLE** or a similar public local law or ordinance.

Article – State Finance and Procurement

5–7B–01.

(e) “Locally designated growth area” means an area determined by the county to be suitable for development in compliance with [Article 66B, § 3.05 of the Code] **TITLE 1, SUBTITLE 4 OR TITLE 3 OF THE LAND USE ARTICLE**.

Article – State Government

15–821.

(c) (1) **(I)** In Montgomery County, an applicant for appointment or reappointment to the Maryland–National Capital Park and Planning Commission shall file the statement not later than 5 days before the interview conducted under [Article 28, § 2–114 of the Code] **§ 15–104 OF THE LAND USE ARTICLE**.

(II) The statement shall cover the 12–month period ending 60 days before the day the statement is filed.

(2) **(I)** In Prince George’s County, an applicant for appointment to the Maryland–National Capital Park and Planning Commission shall file the statement not later than 5 days before the confirmation hearing conducted under [Article 28, § 2–101 of the Code] **§ 15–103 OF THE LAND USE ARTICLE**.

(II) The statement shall cover the 12–month period ending 60 days before the initial date set for the confirmation hearing.

15–830.

Notwithstanding any other provision of law, the provisions of [Article 28 of the Code] **DIVISION II OF THE LAND USE ARTICLE** affecting that part of the Maryland–Washington Regional District in Prince George’s County shall be carried out consistent with the provisions of this Part IV.

15–835.

(a) (1) The Ethics Commission or any other aggrieved person may file a petition for injunctive or other relief in the Circuit Court of Prince George’s County for the purpose of requiring compliance with this Part IV, and may assert as error any violation of this Part IV in [an appeal taken pursuant to the provisions of Article 28, § 8–106(e) of the Code] **JUDICIAL REVIEW REQUESTED UNDER § 22–407 OF THE LAND USE ARTICLE.**

Article – Tax – Property

7–241.

(a) Subject to subsection (b) of this section, property reserved by the Charles County Planning Commission under [Article 66B, § 5.03(b)(4) of the Code] **§ 9–805 OF THE LAND USE ARTICLE** is not subject to property tax.

9–204.

(a) To qualify under this section, a structure shall:

(3) be designated under [Article 66B, § 2.12 or §§ 8.01 through 8.17,] **TITLE 8, § 10–204, OR § 22–108 OF THE LAND USE ARTICLE**, Article 25A, § 5(X) or (BB)[, or Article 28, § 8–101(c)] of the Code, or the charter powers of Baltimore City, as:

(i) an architecturally compatible new structure that is located in a historic district; or

(ii) a landmark.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – State Finance and Procurement

5–706.

The Commission shall:

- (1) assess and advise on the progress of State, regional, and local planning in Maryland in achieving the goals of the State economic growth, resource protection, and planning policy, as defined in § 5–7A–01 of this title;
- (2) make recommendations on the adequacy, coordination, and implementation of funding mechanisms and other State assistance for planning activities and infrastructure and land preservation needs, consistent with the State economic growth, resource protection, and planning policy;
- (3) promote planning coordination and interjurisdictional cooperation among the State and local jurisdictions and recommend mechanisms to facilitate voluntary joint planning;
- (4) advise on the content and preparation of the State development plan, State transportation plan, and State housing plan and the implementation of these plans, including the relationship of these plans with local land use plans;
- (5) promote and make recommendations regarding efficient and predictable model State and local development regulations to achieve the goals of the State economic growth, resource protection, and planning policy;
- (6) evaluate the continuing viability and effectiveness of the State and local government smart growth indicators contained in [Article 66B, § 3.10 of the Code] **§ 1–208 OF THE LAND USE ARTICLE**, and make recommendations for amendments or additions to the indicators;
- (7) review the reports of local jurisdictions on adequate public facilities development restrictions required by [Article 66B, § 10.01 of the Code] **TITLE 7, SUBTITLE 1 OF THE LAND USE ARTICLE**, and assess whether and to what extent adequate public facilities ordinances affect the achievement of the goals of the State economic growth, resource protection, and planning policy;
- (8) develop and assist in the implementation of educational and outreach programs about smart growth;
- (9) review periodically the educational requirements for members of planning boards and commissions and boards of appeals required by [Article 66B, §§ 3.02 and 4.07 of the Code] **§ 1–206 OF THE LAND USE ARTICLE**, and evaluate compliance rates for the members;
- (10) make recommendations for changes in State law, regulations, policies, and procedures, if any, that the Commission believes are necessary to achieve the State's economic growth, resource protection, and planning policy; and

(11) serve as an advisory board to the Governor's Smart Growth Subcabinet, providing advice and guidance.

SECTION 3. AND BE IT FURTHER ENACTED, That § 5–706 of the State Finance and Procurement Article, as enacted by Section 2 of this Act, shall remain effective until the taking effect of the termination provisions specified in Section 3 of Chapter 488 and Section 3 of Chapter 489 of the Acts of the General Assembly of 2010. If those termination provisions take effect, § 5–706 of the State Finance and Procurement Article, as enacted by Section 2 of this Act, shall be abrogated and of no further force and effect. This Act may not be interpreted to have any effect on those termination provisions.

SECTION 4. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 3 of this Act, this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.