
By: **Delegate Taylor**
Introduced and read first time: February 11, 1999
Assigned to: Commerce and Government Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Growth Management - Land Use Definitions and Controls**

3 FOR the purpose of altering certain requirements of certain land use laws of the State
4 in order to promote the effective management of growth; requiring local
5 jurisdictions to act in accordance with and be guided by certain visions in
6 administering land use; altering the required and allowed elements required in
7 a comprehensive plan; establishing primacy of the comprehensive plan over
8 certain other plans for certain purposes; requiring the implementation of certain
9 streamlining processes and flexible development tools; requiring the
10 implementation of certain provisions by certain jurisdictions by certain dates;
11 authorizing certain local legislative bodies to override certain recommendations
12 relating to certain plans in a certain manner; altering the required contents and
13 deadlines of certain annual reports; authorizing certain administrative
14 adjustments of certain zoning and land use provisions in accordance with local
15 law; authorizing site plan review by certain units and persons; establishing
16 certain educational and training requirements for certain hearing examiners;
17 altering certain requirements for members of boards of appeals; altering the
18 jurisdiction of boards of appeals; altering certain appellate requirements
19 regarding cases heard by boards of appeals; altering certain provisions relating
20 to subdivision controls and their adoption; providing for the legality of certain
21 lots sold in subdivisions prior to subdivision approval, subject to certain
22 conditions; applying certain provisions to charter counties; transferring certain
23 provisions specific to certain local jurisdictions; renaming Article 66B - Zoning
24 and Planning of the Annotated Code of Maryland to be Article 66B - Land Use;
25 amending and transferring certain provisions to the Session Laws; providing for
26 the construction of certain portions of this Act; adding and amending certain
27 definitions; making stylistic changes; and generally relating to growth
28 management and land use controls.

29 BY renumbering

30 Article 66B - Zoning and Planning
31 Section 3.02(b)(1), 7.01(a)(2), 3.02(b)(2), 5.05(c), 3.02(b)(4), 3.04(b), 4.07(b-3),
32 3.02(b)(3), 4.05(d), 4.07(b-2) and (e), 5.05(b), 5.08, 3.08.1, 4.07(b-1), 4.01(c),
33 5.05(d), and 4.05 (f) and (g), respectively
34 to be Section 14.01, 14.02, 14.03(b) and (c), 14.04(b), (c), and (d), 14.05(b), (c), (d),

1 (e), (f), and (g), 14.06(b) and (c), 14.07(b) and (f), and 14.08(b) and (c),
2 respectively, to be under the new subtitle "Miscellaneous Local Provisions"
3 Annotated Code of Maryland
4 (1998 Replacement Volume)

5 BY repealing and reenacting, with amendments,
6 Article 66B - Zoning and Planning
7 Section 1.00, 3.05(a) and (c), 3.06 through 3.08, 3.09, 4.04(a), 4.06, 4.08, 5.01
8 through 5.04, 5.06, 5.07, 7.01(a)(1), 7.02, and 7.03
9 Annotated Code of Maryland
10 (1998 Replacement Volume)

11 BY adding to
12 Article 66B - Zoning and Planning
13 Section 1.01 and 4.05.1
14 Annotated Code of Maryland
15 (1998 Replacement Volume)

16 BY repealing
17 Article 66B - Zoning and Planning
18 Section 3.05(d) and (e)
19 Annotated Code of Maryland
20 (1998 Replacement Volume)

21 BY repealing and reenacting, with amendments,
22 Article 66B - Zoning and Planning
23 Section 3.02, 3.04, 4.01, 4.05, 4.07, 5.05, and 14.01 through 14.08, inclusive
24 Annotated Code of Maryland
25 (1998 Replacement Volume)
26 (As enacted by Section 1 of this Act)

27 BY repealing and reenacting, with amendments,
28 Article - State Finance and Procurement
29 Section 5-7A-02(d)
30 Annotated Code of Maryland
31 (1995 Replacement Volume and 1998 Supplement)

32 BY repealing and reenacting, with amendments, and transferring to the Session
33 Laws
34 Article 66B - Zoning and Planning
35 Section 3.05(b) and 4.09
36 Annotated Code of Maryland
37 (1998 Replacement Volume)

1 BY renaming
2 Article 66B - Zoning and Planning
3 to be Article 66B - Land Use
4 Annotated Code of Maryland
5 (1998 Replacement Volume)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
7 MARYLAND, That Section(s) 3.02(b)(1), 7.01(a)(2), 3.02(b)(2), 5.05(c), 3.02(b)(4),
8 3.04(b), 4.07(b-3), 3.02(b)(3), 4.05(d), 4.07(b-2) and (e), 5.05(b), 5.08, 3.08.1, 4.07(b-1),
9 4.01(c), 5.05(d), and 4.05(f) and (g), respectively, of Article 66B - Zoning and Planning
10 of the Annotated Code of Maryland be renumbered to be Section(s) 14.01, 14.02,
11 14.03(b) and (c), 14.04(b), (c), and (d), 14.05(b), (c), (d), (e), (f), and (g)(1), 14.06(b) and
12 (c), 14.07(b) and (f), and 14.08(b) and (c), respectively, to be under the new subtitle
13 "Miscellaneous Local Provisions".

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

16 **Article 66B - Zoning and Planning**

17 1.00.

18 (a) In this article the following words have the meanings indicated, except
19 where the context clearly indicates otherwise.

20 (B) "ADAPTIVE RE-USE VARIANCE" MEANS A MODIFICATION OF USE
21 RESTRICTIONS IN A ZONING ORDINANCE APPLIED TO A PARTICULAR IMPROVED
22 PROPERTY ON A FINDING THAT:

23 (1) THE MODIFICATION IS CONSISTENT WITH THE PLAN;

24 (2) THE MODIFICATION IS IN THE PUBLIC INTEREST AND PROVIDES A
25 POSITIVE BENEFIT TO THE COMMUNITY; AND

26 (3) LITERAL ENFORCEMENT OF THE ZONING ORDINANCE WOULD
27 DEPRIVE THE OWNER OF ALL REASONABLE ECONOMICALLY VIABLE USE OF THE
28 PROPERTY.

29 (C) "AREA VARIANCE" MEANS AN ADJUSTMENT TO THE HEIGHT, SETBACK,
30 BULK, DENSITY, PARKING, LOADING, DIMENSIONAL, AREA, OR SIMILAR
31 REQUIREMENTS OF A ZONING ORDINANCE WHICH MAY BE GRANTED BY A BOARD OF
32 APPEALS, OR BY AN ADMINISTRATIVE HEARING OFFICIAL AS ALLOWED BY A ZONING
33 ORDINANCE, WITH RESPECT TO A PARTICULAR PROPERTY ON A FINDING THAT THE
34 ADJUSTMENT:

35 (1) IS CONSISTENT WITH THE PLAN;

36 (2) IS NOT CONTRARY TO THE PUBLIC INTEREST;

1 (3) PROVIDES RELIEF TO THE APPLICANT FROM AN EXCEPTIONALLY
2 BURDENSOME EFFECT OF THE ZONING ORDINANCE THAT IS NOT THE RESULT OF AN
3 ACTION TAKEN BY THE APPLICANT; AND

4 (4) DOES NOT CAUSE A SIGNIFICANT ADVERSE EFFECT ON ADJACENT
5 OR NEARBY PROPERTIES OR USES.

6 (D) "COMPREHENSIVE ZONING" MEANS AN ACTION OF A LOCAL LEGISLATIVE
7 BODY:

8 (1) ESTABLISHING OR MODIFYING THE LAND USE CLASSIFICATION
9 APPLICABLE TO ONE OR MORE PROPERTIES IN A JURISDICTION;

10 (2) TAKEN IN ACCORDANCE WITH THE PLAN; AND

11 (3) BASED ON A CAREFUL AND EXTENSIVE STUDY THAT:

12 (I) ASSESSES THE LAND COMPRISING ALL OR SUBSTANTIALLY ALL
13 OF THE JURISDICTION, OR THE LAND IN AN ESTABLISHED PLANNING SECTOR; AND

14 (II) MAY ADDRESS ALL OF THE ELEMENTS OF THE PLAN, OR ONE
15 OR MORE OF THE ELEMENTS.

16 [(b)] (E) "Development" means any activity, other than normal agricultural
17 activity, which materially affects the existing condition or use of any land or
18 structure.

19 [(c)] (F) "Development rights and responsibilities agreement" means an
20 agreement made between a governmental body of a jurisdiction and a person having
21 a legal or equitable interest in real property for the purpose of establishing conditions
22 under which development may proceed for a specified time.

23 [(d)] (G) "Jurisdiction" means [the territory of] a county or municipal
24 corporation AND THE TERRITORY within which its powers may be exercised.

25 [(e)] (H) "Local executive" means the chief executive of the political
26 subdivision whether the official designation of his office be elected county executive or
27 executive head, mayor, or similar term.

28 [(f)] (I) "Local legislative body" means the elected body of a political
29 subdivision whether known as county commissioner, or county council, city, town, or
30 village council, or similar terms.

31 [(g)] (J) (1) "Plan" means the COMPREHENSIVE AND COORDINATED
32 policies, statements, goals, and interrelated plans for private and public land use,
33 transportation, and community facilities documented in texts and maps which
34 constitute the guide for the area's future development.

1 (2) "Plan" includes general plan, master plan, comprehensive plan,
2 community plan, SECTOR PLAN, DISTRICT PLAN, FUNCTION PLAN, and the like as
3 adopted in accordance with §§ 3.01 through 3.09 of this article.

4 (K) "PRINCIPAL PERMITTED USE WITH CONDITIONS" MEANS A USE ALLOWED
5 IN A ZONING ORDINANCE ON COMPLIANCE WITH EACH OF THE CONDITIONS
6 APPLICABLE TO THE USE THAT ARE ENUMERATED IN THE ORDINANCE.

7 [(h)] (L) "Regulation" means any rule of general applicability and future effect
8 including any map or plan.

9 (M) "SENSITIVE AREAS" INCLUDE:

10 (1) STREAMS AND THEIR BUFFERS;

11 (2) 100-YEAR FLOODPLAINS;

12 (3) HABITATS OF THREATENED AND ENDANGERED SPECIES;

13 (4) STEEP SLOPES; AND

14 (5) OTHER AREAS IN NEED OF SPECIAL PROTECTION, AS DETERMINED
15 IN THE PLAN.

16 (N) "SITE PLAN" MEANS A SCALE DRAWING OF A PROPERTY THAT IS
17 REQUIRED TO BE SUBMITTED AS PART OF AN APPLICATION FOR A ZONING PERMIT
18 OR APPROVAL, AND CONTAINS INFORMATION SPECIFIED IN A ZONING ORDINANCE,
19 SUBDIVISION ORDINANCE, OR DEVELOPMENT REGULATIONS.

20 [(i)] (O) "Special exception" means a [grant of a specific use that would not be
21 appropriate generally or without restriction and shall be based upon a finding that
22 certain conditions governing special exceptions as detailed in the zoning ordinance
23 exist, that the use conforms to the plan and is compatible with the existing
24 neighborhood] USE SPECIFICALLY ENUMERATED IN A ZONING ORDINANCE THAT
25 MAY BE PERMITTED AT A PARTICULAR LOCATION AFTER HEARING BY THE BOARD OF
26 APPEALS, OR BY AN ADMINISTRATIVE HEARING OFFICIAL AS ALLOWED BY THE
27 ZONING ORDINANCE, ON A FINDING THAT THE USE, IF PERMITTED:

28 (1) IS CONSISTENT WITH THE PLAN; AND

29 (2) WOULD NOT HAVE AN ADVERSE EFFECT AT THE PROPOSED
30 LOCATION DIFFERENT IN KIND OR DEGREE FROM THOSE ADVERSE EFFECTS
31 INHERENTLY ASSOCIATED WITH THE USE IRRESPECTIVE OF ITS LOCATION WITHIN
32 THE ZONE.

33 (P) "SPECIFIC REZONING" MEANS AMENDMENT OF A ZONING
34 CLASSIFICATION UNDER § 4.05 OF THIS ARTICLE OTHER THAN BY A COMPREHENSIVE
35 ZONING.

1 [(j)] (Q) (1) "Subdivision" means the division of a lot, tract, or parcel of land
2 into two or more lots, plats, sites, or other divisions of land for the purpose, whether
3 immediate or future, of sale or of building development.

4 (2) [Subdivision] "SUBDIVISION" includes resubdivision and, when
5 appropriate to the context, relates to the process of resubdividing or to the land or
6 territory subdivided.

7 [(k)] "Variance" means a modification only of density, bulk, or area
8 requirements in the zoning ordinance where such modification will not be contrary to
9 the public interest and where owing to conditions peculiar to the property, and not the
10 results of any action taken by the applicant, a literal enforcement of the ordinance
11 would result in either, as specified by the local governing body in a zoning ordinance,
12 unnecessary hardship or practical difficulty.]

13 1.01.

14 IN ADOPTING, IMPLEMENTING, AND ADMINISTERING THE POWERS AND DUTIES
15 AUTHORIZED BY THIS ARTICLE, A LOCAL JURISDICTION SHALL ACT IN ACCORDANCE
16 WITH AND BE GUIDED BY THE FOLLOWING VISIONS:

17 (1) DEVELOPMENT IS CONCENTRATED IN SUITABLE AREAS;

18 (2) SENSITIVE AREAS ARE PROTECTED;

19 (3) IN RURAL AREAS, GROWTH IS DIRECTED TO EXISTING POPULATION
20 CENTERS AND RESOURCE AREAS ARE PROTECTED;

21 (4) STEWARDSHIP OF THE CHESAPEAKE BAY, COASTAL BAYS, AND THE
22 LAND IS A UNIVERSAL ETHIC;

23 (5) CONSERVATION OF RESOURCES, INCLUDING A REDUCTION IN
24 RESOURCE CONSUMPTION, IS ENCOURAGED;

25 (6) TO ASSURE THE ACHIEVEMENT OF PARAGRAPHS (1) THROUGH (5) OF
26 THIS SECTION, ECONOMIC GROWTH IS ENCOURAGED AND REGULATORY
27 MECHANISMS ARE STREAMLINED; AND

28 (7) FUNDING MECHANISMS ARE ADDRESSED TO ACHIEVE THESE
29 VISIONS.

30 3.02.

31 (a) [The] EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, THE
32 commission shall consist of [either] THREE, five or seven members, one of whom may
33 be a member of the local legislative body to serve in an ex officio capacity concurrent
34 with [his] THE MEMBER'S official term.

35 (B) (1) The members shall be appointed by the local legislative body or by
36 [such] THE person [or persons as the local legislative body creating the commission

1 in the ordinance may designate] DESIGNATED as the appointing power IN THE
2 ORDINANCE CREATING THE COMMISSION.

3 (2) Where there is a single local elected executive, the members shall be
4 appointed by the local executive and confirmed by the local legislative body.

5 (3) THE LOCAL LEGISLATIVE BODY MAY PROVIDE FOR THE
6 APPOINTMENT OF ALTERNATE MEMBERS AND TEMPORARY ALTERNATE MEMBERS
7 OF THE COMMISSION TO SERVE WHEN ANY OTHER MEMBER OF THE COMMISSION IS
8 ABSENT OR RECUSED.

9 (C) All members may serve with the compensation the local legislative body
10 deems appropriate.

11 (D) The term of each member is [five] 5 years or until [his] THE MEMBER'S
12 successor takes office, except that the respective terms of the five members first
13 appointed shall be on a staggered basis.

14 (E) After a public hearing, members may be removed by the local legislative
15 body for inefficiency, neglect of duty, or malfeasance in office. The local legislative
16 body shall file a written statement of reasons for the removal.

17 (F) Vacancies occurring otherwise than through the expiration of term shall be
18 filled for the unexpired term by the local legislative body or by [whatever] THE
19 person [or persons as the local legislative body creating the commission may
20 designate] DESIGNATED in the ordinance as the appointing power.

21 3.04.

22 (A) (1) THE COMMISSION MAY ACCEPT AND USE GIFTS AND PUBLIC OR
23 PRIVATE GRANTS FOR THE EXERCISE OF ITS FUNCTIONS.

24 (2) ALL PUBLIC OFFICIALS SHALL, UPON REQUEST, FURNISH TO THE
25 COMMISSION WITHIN A REASONABLE TIME AVAILABLE INFORMATION THAT THE
26 COMMISSION MAY REQUIRE FOR ITS PROGRAM.

27 (3) THE COMMISSION, ITS MEMBERS, OFFICERS, AND EMPLOYEES, IN
28 THE PERFORMANCE OF THEIR FUNCTIONS, MAY ENTER UPON ANY LAND WITH
29 APPROPRIATE AUTHORIZATION AND MAKE EXAMINATIONS AND SURVEYS.

30 (4) IN GENERAL, THE COMMISSION SHALL HAVE THE POWERS
31 NECESSARY TO ENABLE IT TO FULFILL ITS FUNCTIONS, PROMOTE PLANNING, AND
32 EXECUTE THE PURPOSES OF THIS ARTICLE.

33 [(a)] (B) The commission may appoint the employees necessary for its work,
34 and may contract with planners, engineers, architects, and other consultants for
35 services that the commission requires. The expenditures of the commission, exclusive
36 of gifts, shall be under the conditions and within the amounts appropriated for the
37 purpose by the local legislative body which shall provide the funds, equipment, and
38 accommodations necessary for the commission's work.

1 3.05.

2 (A) THE LOCAL LEGISLATIVE BODY, IN CONSULTATION WITH THE PLANNING
3 COMMISSION, MAY ADOPT GENERAL GUIDELINES FOR THE DEVELOPMENT OF THE
4 PLAN UNDER THIS SECTION BY ORDINANCE OR RESOLUTION. THE GUIDELINES MAY
5 INCLUDE:

6 (1) A GENERAL POLICY STATEMENT OF ECONOMIC GROWTH, RESOURCE
7 PROTECTION, AND PLANNING NEEDED AND DESIRED IN THE JURISDICTION;

8 (2) DIRECTION FOR RESOLVING CONFLICTS AMONG COMPETING
9 INTERESTS AND REQUIREMENTS ENCOUNTERED IN PLANNING FOR THE
10 LONG-TERM BENEFIT OF THE JURISDICTION;

11 (3) PARTICULAR REQUIRED AND PERMITTED ELEMENTS TO EMPHASIZE
12 IN THE PLAN; AND

13 (4) PARTICULAR VISIONS TO EMPHASIZE IN DEVELOPING AND
14 IMPLEMENTING THE PLAN.

15 [(a)] (B) [It shall be the function and duty of the] THE commission [to] SHALL
16 make and approve a plan [which shall be recommended] IN ACCORDANCE WITH THE
17 GENERAL GUIDELINES ADOPTED BY THE LOCAL LEGISLATIVE BODY. THE
18 COMMISSION SHALL RECOMMEND THE PLAN to the local legislative body for adoption
19 [and which]. THE PLAN shall serve as a guide to public and private actions and
20 decisions to insure the development of public and private property in appropriate
21 relationships and [which] shall include any areas outside of its boundaries which, in
22 the commission's judgment, bear relation to the planning responsibilities of the
23 commission. [The elements of the plan may be expressed in words, graphics, or other
24 appropriate form. They shall be interrelated and each element shall describe how it
25 relates to each of the other elements and to the statement of objectives, principles,
26 policies, and standards.

27 (1) The plan shall contain at a minimum the following elements:

28 (i) A statement of goals and objectives, principles, policies, and
29 standards which shall serve as a guide for the development and economic and social
30 well-being of the jurisdiction;

31 (ii) A land use plan element which shall show proposals for the
32 most appropriate and desirable patterns for the general location, character, extent,
33 and interrelationship of the manner in which the community should use its public
34 and private land at specified times as far into the future as is reasonable. Such land
35 use may include, without being limited to, public and private, residential, commercial,
36 industrial, agricultural, and recreational land uses;

37 (iii) A transportation plan element which shall show proposals for
38 the most appropriate and desirable patterns for the general location, character, and
39 extent of the channels, routes, and terminals for transportation facilities, and for the
40 circulation of persons and goods at specified times as far into the future as is

1 reasonable. The transportation plan element shall also provide for bicycle and
2 pedestrian access and travelways. An estimate of the probable utilization of any
3 proposed improvement shall be included. Such channels, routes, travelways, and
4 terminals may include, without being limited to, all types of highways or streets,
5 bicycle ways, sidewalks, railways, waterways, airways, routings for mass transit, and
6 terminals for people, goods, and vehicles related to highways, airways, waterways,
7 and railways;

8 (iv) A community facilities plan element which shall show proposals
9 for the most appropriate and desirable patterns for the general location, character,
10 and extent of public and semipublic buildings, land, and facilities for specified times
11 as far into the future as is reasonable. Such facilities may include, without being
12 limited to, parks and recreation areas, schools and other educational and cultural
13 facilities, libraries, churches, hospitals, social welfare and medical facilities,
14 institutions, fire stations, police stations, jails, or other public office or administrative
15 facilities;

16 (v) If current geological information is available, a mineral
17 resources plan element that:

18 1. Identifies undeveloped land that should be kept in its
19 undeveloped state until the land can be used to provide or assist in providing a
20 continuous supply of minerals, as defined in § 15-801(i) of the Environment Article;

21 2. Identifies appropriate post-excavation uses for this land
22 that are consistent with the county's land planning process;

23 3. Incorporates land use policies and recommendations for
24 regulations to balance mineral resource extraction with other land uses and, to the
25 extent feasible, to prevent the preemption of mineral resources extraction by other
26 uses; and

27 4. Has been reviewed by the Department of the Environment
28 to determine whether the proposed plan is consistent with the programs and goals of
29 the Department;

30 (vi) An element which shall contain the planning commission's
31 recommendation for land development regulations to implement the plan and which
32 encourages the following:

33 1. Streamlined review of applications for development,
34 including permit review and subdivision plat review within the areas designated for
35 growth in the plan;

36 2. The use of flexible development regulations to promote
37 innovative and cost-saving site design and protect the environment; and

38 3. Economic development in areas designated for growth in
39 the plan through the use of innovative techniques;

1 (vii) Recommendations for the determination, identification, and
2 designation of areas within the county which are of critical State concern; and

3 (viii) A sensitive area element that contains goals, objectives,
4 principles, policies, and standards designed to protect, from the adverse effects of
5 development, sensitive areas, including the following:

- 6 1. Streams and their buffers;
- 7 2. 100-year floodplains;
- 8 3. Habitats of threatened and endangered species; and
- 9 4. Steep slopes.

10 (2) The sensitive areas element adopted under paragraph (1)(viii) of this
11 subsection may also include other areas in need of special protection, as determined
12 in the local plan.

13 (3) The plan may include, without being limited to, any additional
14 elements such as community renewal, housing, flood control, pollution, conservation,
15 natural resources, the general location and extent of public utilities, and other
16 programs which, in the judgment of the planning commission will further advance the
17 purposes of the plan.

18 (4) The mineral resources plan element shall be incorporated in:

19 (i) Any new plan adopted after July 1, 1986 for all or any part of a
20 jurisdiction; and

21 (ii) Any amendment or addition that is adopted after July 1, 1986
22 to a plan that was in effect on July 1, 1985.

23 (5) (i) As a component of its plan, each planning commission of a
24 county that is located on the tidal waters of the State and that exercises authority
25 under this article shall amend or include in its plan by January 1, 1988 the
26 designation of areas on the tidal water or in close proximity to the tidal water for the
27 following purposes:

- 28 1. Loading and unloading finfish and shellfish;
- 29 2. Processing finfish and shellfish; and
- 30 3. Docking and mooring commercial fishing boats and
31 vessels.

32 (ii) The designated areas under subparagraph (i) of this paragraph
33 shall be geographically located in order:

- 34 1. To facilitate the commercial harvesting of finfish and
35 shellfish; and

1 2. To assure reasonable access to the waterways of the State
2 by commercial watermen.]

3 (C) (1) IN THE PREPARATION OF THE PLAN THE COMMISSION SHALL MAKE
4 CAREFUL AND COMPREHENSIVE SURVEYS AND STUDIES OF PRESENT CONDITIONS
5 AND FUTURE GROWTH OF THE JURISDICTION, WITH DUE REGARD TO ITS RELATION
6 TO NEIGHBORING JURISDICTIONS, AND INCLUDING:

7 (I) POPULATION - CHARACTERISTICS AND NEEDS;

8 (II) ECONOMIC ACTIVITY;

9 (III) LAND USE AND LAND DEMAND;

10 (IV) COMMUNITY FACILITIES AND OTHER PUBLIC AND PRIVATE
11 INFRASTRUCTURE NEEDS;

12 (V) TRANSPORTATION FACILITIES AND NEEDS;

13 (VI) HOUSING CONDITIONS AND NEEDS;

14 (VII) FISCAL CONSIDERATIONS;

15 (VIII) GROWTH MANAGEMENT NEEDS; AND

16 (IX) NATURAL RESOURCES AND THE ENVIRONMENT.

17 (2) THE PLAN SHALL BE MADE WITH THE GENERAL PURPOSE OF
18 GUIDING AND ACCOMPLISHING THE COMPREHENSIVE, SEQUENTIAL, SYSTEMATIC,
19 COORDINATED, AND HARMONIOUS DEVELOPMENT OF THE JURISDICTION AND ITS
20 NEIGHBORING TERRITORY WHICH WILL, IN ACCORDANCE WITH PRESENT AND
21 FUTURE NEEDS, BEST PROMOTE HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE,
22 PROSPERITY, AESTHETICS, AND GENERAL WELFARE, AS WELL AS EFFICIENCY AND
23 ECONOMY IN THE PROCESS OF DEVELOPMENT.

24 (3) THE PLAN SHALL INCLUDE ADEQUATE PROVISIONS FOR
25 TRANSPORTATION, THE PROMOTION OF PUBLIC SAFETY, ADEQUATE PROVISION FOR
26 LIGHT AND AIR, CONSERVATION OF NATURAL RESOURCES, THE PREVENTION OF
27 ENVIRONMENTAL POLLUTION, THE PROMOTION OF THE HEALTHFUL AND
28 CONVENIENT DISTRIBUTION OF POPULATION, THE PROMOTION OF GOOD CIVIC
29 DESIGN AND ARRANGEMENT, WISE AND EFFICIENT EXPENDITURE OF PUBLIC
30 FUNDS, AND THE ADEQUATE PROVISION OF PUBLIC UTILITIES AND OTHER PUBLIC
31 REQUIREMENTS.

32 (4) THE PLAN SHALL CONTAIN POLICIES TO GUIDE AND MANAGE
33 FUTURE GROWTH, BOTH RESIDENTIAL AND NONRESIDENTIAL, IN A MANNER THAT IS
34 FISCALLY RESPONSIBLE.

35 (D) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (C) OF THIS
36 SECTION, THE COMMISSION SHALL BALANCE THE VISIONS STATED IN § 1.01 OF THIS

1 ARTICLE AS COMPETING AND COORDINATED INTERESTS INCORPORATED IN THE
2 PLAN UNDER THIS SECTION.

3 (E) (1) THE PLAN SHALL INCLUDE THE FOLLOWING DISTINCT ELEMENTS:

4 (I) LAND USE, INCLUDING:

5 1. POLICIES FOR DEVELOPED AREAS, DESIGNATED GROWTH
6 AREAS, AND RESOURCE PROTECTION AREAS;

7 2. STANDARDS AND CRITERIA FOR THE DESIGNATION OF
8 GROWTH AREAS;

9 3. MAPS DELINEATING DEVELOPED, GROWTH, AND
10 RESOURCE PROTECTION AREA LOCATIONS, PATTERNS, DENSITY, INTENSITY, AND
11 THEIR RELATIONSHIP TO OTHER PLAN ELEMENTS;

12 4. NEIGHBORHOOD AND COMMUNITY CONSERVATION OR
13 REVITALIZATION STRATEGIES, INCLUDING:

14 A. A GENERAL DELINEATION OR DESCRIPTION OF
15 DISTRESSED NEIGHBORHOODS OR COMMUNITIES;

16 B. GOALS AND OBJECTIVES FOR THE IDENTIFIED
17 NEIGHBORHOODS OR COMMUNITIES; AND

18 C. RECOMMENDED PUBLIC AND PRIVATE ACTIONS TO
19 ACHIEVE THE GOALS AND OBJECTIVES; AND

20 5. DESIGNATION OF GENERAL AREAS FOR PLACEMENT OF
21 FLOATING ZONES, TRANSFERRABLE DEVELOPMENT RIGHTS, CLUSTER
22 DEVELOPMENT, INCENTIVE ZONING, AND AFFORDABLE HOUSING AND MODERATELY
23 PRICED DWELLING UNITS;

24 (II) TRANSPORTATION, INCLUDING THE PROPOSED LOCATION,
25 CHARACTERISTICS, AND EXTENT OF TRANSPORTATION FACILITIES, INCLUDING ALL
26 TYPES OF TRANSPORTATION WAYS, BICYCLE WAYS, PEDESTRIAN WAYS, RAILWAYS,
27 WATERWAYS, AIRWAYS, AND PUBLIC TRANSIT FOR DEVELOPED AREAS, DESIGNATED
28 GROWTH AREAS, AND RESOURCE PROTECTION AREAS, AND THE RELATIONSHIP OF
29 THIS ELEMENT TO THE LAND USE AND OTHER PLAN ELEMENTS;

30 (III) COMMUNITY FACILITIES, INCLUDING POLICIES, LOCATION,
31 AND LEVEL OF SERVICE OF MAJOR PUBLIC AND PRIVATE FACILITIES AND
32 INFRASTRUCTURE FOR DEVELOPED AREAS, DESIGNATED GROWTH AREAS, AND
33 RESOURCE PROTECTION AREAS, AND THE RELATIONSHIP OF THIS ELEMENT TO
34 LAND USE AND OTHER PLAN ELEMENTS;

35 (IV) ECONOMIC DEVELOPMENT, INCLUDING POLICIES TO PROMOTE
36 ECONOMIC GROWTH, JOB RETENTION, AND EDUCATIONAL AND TRAINING

1 STRATEGIES, AND THE RELATIONSHIP OF THIS ELEMENT TO LAND USE AND OTHER
2 PLAN ELEMENTS;

3 (V) SENSITIVE AREAS, ENVIRONMENTAL AND NATURAL
4 RESOURCES, INCLUDING:

5 1. APPLICABLE AGRICULTURAL AND SILVICULTURAL
6 RESOURCES;

7 2. GOALS, OBJECTIVES, PRINCIPLES, POLICIES, AND
8 STANDARDS DESIGNED TO PROTECT SENSITIVE AREAS FROM THE ADVERSE
9 EFFECTS OF DEVELOPMENT; AND

10 3. A MINERAL RESOURCES COMPONENT, WHERE
11 APPLICABLE, THAT:

12 A. IDENTIFIES LAND THAT SHOULD BE KEPT IN ITS
13 UNDEVELOPED STATE UNTIL THE LAND CAN BE USED TO PROVIDE MINERALS
14 ECONOMICALLY TO THE CONSTRUCTION, MANUFACTURING, AND OTHER ECONOMIC
15 SECTORS OF THE STATE; AND

16 B. INCORPORATES LAND USE POLICIES TO BALANCE
17 MINERAL RESOURCE EXTRACTION WITH OTHER LAND USES AND, TO THE EXTENT
18 FEASIBLE, PREVENT THE PREEMPTION OF MINERAL RESOURCES EXTRACTION BY
19 OTHER USES;

20 (VI) A GROWTH MANAGEMENT ELEMENT, INCLUDING TIMING AND
21 PHASING MECHANISMS TO ALLOW PROJECTED DEVELOPMENT TO OCCUR IN A
22 WELL-MANAGED FASHION WITHOUT OVERBURDENING PUBLIC FACILITIES OR
23 SERVICES; AND

24 (VII) JURISDICTIONAL COORDINATION, SHOWING THE
25 RELATIONSHIPS AND STATING THE PRINCIPLES AND OBJECTIVES TO BE USED IN
26 COORDINATING THE ADOPTED PLAN WITHIN THE JURISDICTION AND WITH
27 ADJACENT JURISDICTIONS.

28 (2) THE PLAN MAY INCLUDE OTHER ELEMENTS THAT THE
29 JURISDICTION DEEMS APPROPRIATE TO GUIDING LAND USE AND COMMUNITY
30 DEVELOPMENT, INCLUDING:

31 (I) FISCAL IMPACT EVALUATION, TO PROJECT THE LONG-TERM
32 AND SHORT-TERM FISCAL EFFECTS OF THE PLAN ON THE PUBLIC SECTOR;

33 (II) EDUCATION, CRIMINAL JUSTICE, AND SOCIAL WELFARE
34 POLICIES;

35 (III) COMMUNITY DESIGN;

36 (IV) HISTORIC AND ARCHAEOLOGICAL PRESERVATION; AND

1 (V) CULTURAL ASPECTS OF THE COMMUNITY.

2 (3) EACH PLAN ELEMENT SHALL INCLUDE:

3 (I) A STATEMENT OF GOALS AND POLICIES; AND

4 (II) ACTIONS AND PROCEDURES ANTICIPATED TO IMPLEMENT AND
5 ACHIEVE THE GOALS AND POLICIES OF THE ELEMENT.

6 (4) THE ELEMENTS OF THE PLAN MAY BE EXPRESSED IN WORDS,
7 GRAPHICS, OR OTHER APPROPRIATE FORM.

8 [(c)] (F) (1) [The commission shall have power to promote public interest in
9 and understanding of the plan. The commission shall from time to time recommend to
10 the appropriate public officials programs for public structures, improvements and
11 land acquisitions, and for their financing. It shall be part of its duties to] THE
12 COMMISSION SHALL consult public officials and agencies, public utility companies,
13 civic, educational, professional and other organizations, and citizens with relation to
14 the [protecting or execution] IMPLEMENTATION AND OVERSIGHT of the plan. [The
15 commission shall have the right to accept and use gifts and public or private grants
16 for the exercise of its functions. All public officials shall, upon request, furnish to the
17 commission within a reasonable time that available information as it may require for
18 its program. The commission, its members, officers, and employees, in the
19 performance of their functions may enter upon any land and make examinations and
20 surveys. In general, the commission shall have those powers as may be necessary to
21 enable it to fulfill its functions, promote planning, or execute the purposes of this
22 article.]

23 (2) THE PLANNING COMMISSION, OR OTHER LOCAL UNIT RESPONSIBLE
24 FOR PREPARING THE PLAN, AT INTERVALS OF NO MORE THAN 6 YEARS, SHALL
25 REVIEW AND IF NECESSARY PREPARE REVISIONS OR AMENDMENTS TO A PLAN TO
26 INCLUDE ALL ELEMENTS REQUIRED IN SUBSECTION (E) OF THIS SECTION AND THE
27 VISIONS SET FORTH IN § 1.01 OF THIS ARTICLE.

28 (3) A PLANNING COMMISSION, OR OTHER LOCAL UNIT RESPONSIBLE
29 FOR PREPARING THE PLAN, MAY ELECT TO PREPARE PLANS FOR ONE OR MORE
30 MAJOR GEOGRAPHIC SECTIONS OR DIVISIONS OF THE JURISDICTION, OR FOR ONE
31 OR MORE PLAN ELEMENTS, PROVIDED THAT THE PLAN FOR EACH GEOGRAPHIC
32 SECTION, DIVISION, OR ELEMENT IS REVIEWED AND IF NECESSARY REVISED OR
33 AMENDED WITHIN EACH 6-YEAR INTERVAL.

34 [(d)] In order that a county or municipal corporation may avail itself of the
35 zoning powers conferred by this article, it shall be the duty of the planning
36 commission to recommend the boundaries of the various original districts and
37 appropriate regulations to be enforced therein. Such commission shall make a
38 preliminary report and hold at least one public hearing thereon before submitting its
39 final report and the local legislative body shall not hold its public hearings or take
40 action until it has received the final report of such commission.]

1 [(e) By January 1, 1993, each jurisdiction that exercises planning and zoning
2 authority shall provide to the Governor a schedule for complying with the
3 requirements of §§ 3.05, 3.06(b), and 4.09 of this article, including a schedule for the
4 adoption and implementation of a sensitive areas element and the visions and the
5 achievement of consistency in local zoning, subdivision, and other regulations.]

6 (G) A JURISDICTION SHALL ENSURE THAT, TO THE EXTENT PRACTICABLE,
7 THE FOLLOWING ARE CONSISTENT WITH THE PLAN:

8 (1) PLANS PREPARED UNDER § 9-503 OF THE ENVIRONMENT ARTICLE;

9 (2) THE LOCAL LAND PRESERVATION AND RECREATION PLAN
10 PREPARED UNDER § 5-905 OF THE NATURAL RESOURCES ARTICLE;

11 (3) PLANS FOR LOCAL SCHOOL CONSTRUCTION PREPARED UNDER
12 TITLE 5, SUBTITLE 3 OF THE EDUCATION ARTICLE;

13 (4) OTHER PLANS IDENTIFIED BY THE JURISDICTION, INCLUDING
14 LOCAL INFORMATION THAT IS INCLUDED IN STATE PLANS, THAT MAY HAVE AN
15 IMPACT ON THE IMPLEMENTATION OF THE PLAN; AND

16 (5) STATE AND LOCAL PROJECTS SUBJECT TO § 5-7A-02(A)(1) AND (B)(1)
17 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

18 (H) (1) ANY PLAN WHOSE PREPARATION OR REVISION BEGINS OR IS
19 REQUIRED TO BEGIN AFTER OCTOBER 1, 2005, SHALL INCLUDE ALL ELEMENTS
20 REQUIRED IN SUBSECTION (E) OF THIS SECTION AND THE VISIONS SET FORTH IN §
21 1.01 OF THIS ARTICLE.

22 (2) ON OR BEFORE JULY 1, 2006, ALL LOCAL JURISDICTIONS SHALL
23 ADOPT AND INCLUDE IN THEIR PLANS ALL ELEMENTS REQUIRED IN SUBSECTION (E)
24 OF THIS SECTION AND THE VISIONS SET FORTH IN § 1.01 OF THIS ARTICLE.

25 3.06.

26 [(a) In the preparation of the plan the commission shall make careful and
27 comprehensive surveys and studies of present conditions and future growth of the
28 jurisdiction, and with due regard to its relation to neighboring territory. The plan
29 shall be made with the general purpose of guiding and accomplishing the coordinated,
30 adjusted, and harmonious development of the jurisdiction, and its environs which
31 will, in accordance with present and future needs, best promote health, safety, morals,
32 order, convenience, prosperity, and general welfare, as well as efficiency and economy
33 in the process of development; including among other things, adequate provisions for
34 traffic, the promotion of public safety, adequate provision for light and air,
35 conservation of natural resources, the prevention of environmental pollution, the
36 promotion of the healthful and convenient distribution of population, the promotion of
37 good civic design and arrangement, wise and efficient expenditure of public funds,
38 and the adequate provision of public utilities and other public requirements.]

1 [(b) In addition to the requirements of subsection (a) of this section, the
2 commission shall implement the following visions through the plan described in §
3 3.05 of this article:

4 (1) Development is concentrated in suitable areas;

5 (2) Sensitive areas are protected;

6 (3) In rural areas, growth is directed to existing population centers and
7 resource areas are protected;

8 (4) Stewardship of the Chesapeake Bay and the land is a universal ethic;

9 (5) Conservation of resources, including a reduction in resource
10 consumption, is practiced;

11 (6) To assure the achievement of paragraphs (1) through (5) of this
12 subsection, economic growth is encouraged and regulatory mechanisms are
13 streamlined; and

14 (7) Funding mechanisms are addressed to achieve these visions.]

15 (A) (1) WHEN A COUNTY OR MUNICIPAL CORPORATION FIRST ADOPTS THE
16 ZONING POWERS CONFERRED BY THIS ARTICLE, THE PLANNING COMMISSION SHALL
17 RECOMMEND THE BOUNDARIES OF THE VARIOUS ORIGINAL DISTRICTS AND
18 APPROPRIATE REGULATIONS TO BE ENFORCED IN THOSE DISTRICTS.

19 (2) THE COMMISSION SHALL MAKE A PRELIMINARY REPORT AND HOLD
20 AT LEAST ONE PUBLIC HEARING ON THE PRELIMINARY REPORT BEFORE
21 SUBMITTING ITS FINAL REPORT.

22 (3) THE LOCAL LEGISLATIVE BODY MAY NOT HOLD ITS PUBLIC
23 HEARINGS OR TAKE ACTION UNTIL IT HAS RECEIVED THE FINAL REPORT OF THE
24 COMMISSION.

25 (B) TO IMPLEMENT THE PLAN, THE COMMISSION SHALL FROM TIME TO TIME
26 RECOMMEND TO THE APPROPRIATE PUBLIC OFFICIALS CAPITAL IMPROVEMENT
27 PROGRAMS FOR PUBLIC STRUCTURES AND LAND ACQUISITIONS, AND FOR
28 FINANCING THEM.

29 (C) THE LOCAL JURISDICTION SHALL ADOPT THE FOLLOWING, AFTER
30 CONSIDERING RECOMMENDATIONS OF THE PLANNING COMMISSION, OR OTHER
31 LOCAL UNIT RESPONSIBLE FOR PREPARING THE PLAN:

32 (1) STREAMLINED REVIEW OF APPLICATIONS FOR DEVELOPMENT,
33 INCLUDING PERMIT REVIEW AND SUBDIVISION PLAT REVIEW WITHIN THE AREAS
34 DESIGNATED FOR GROWTH IN THE PLAN;

1 (2) THE USE OF FLEXIBLE DEVELOPMENT REGULATIONS TO PROMOTE
2 INNOVATIVE AND COST-SAVING SITE DESIGN AND PROTECT THE ENVIRONMENT;
3 AND

4 (3) ECONOMIC DEVELOPMENT IN AREAS DESIGNATED FOR GROWTH IN
5 THE PLAN THROUGH THE USE OF INNOVATIVE TECHNIQUES TO GUIDE
6 DEVELOPMENT INTO THESE AREAS.

7 (D) (1) ON OR BEFORE JULY 1, 2006, AND SUBSEQUENTLY AT INTERVALS OF
8 NO MORE THAN 6 YEARS WHICH CORRESPOND TO THE PLAN REVISION UNDER §
9 3.05(F) AND (H) OF THIS SUBTITLE, A LOCAL JURISDICTION SHALL IMPLEMENT THE
10 PROVISIONS OF THE PLAN THAT COMPLY WITH § 3.05(F) AND (H) OF THIS SUBTITLE
11 THROUGH THE ADOPTION OF APPLICABLE ZONING ORDINANCES AND REGULATIONS,
12 PLANNED DEVELOPMENT ORDINANCES AND REGULATIONS, SUBDIVISION
13 ORDINANCES AND REGULATIONS, AND OTHER LAND USE ORDINANCES AND
14 REGULATIONS THAT ARE CONSISTENT WITH THE PLAN.

15 (2) UNLESS COMPREHENSIVE ZONING IS REQUIRED TO COMPLY WITH
16 PARAGRAPH (1) OF THIS SUBSECTION, NOTHING IN PARAGRAPH (1) OF THIS
17 SUBSECTION SHALL REQUIRE OR LIMIT THE AUTHORITY OF A LOCAL JURISDICTION
18 TO UNDERTAKE OR ADOPT A COMPREHENSIVE ZONING PRIOR TO JULY 1, 2006.

19 [(c)] (E) (1) Except as provided in paragraph (2) of this subsection, the
20 authority to adopt regulations concerning the implementation of [subsection (b) of
21 this section] THE VISIONS STATED IN § 1.01 OF THIS ARTICLE in a plan shall be vested
22 solely in the LOCAL legislative body of the jurisdiction that has adopted the plan.

23 (2) This subsection does not limit the Office of Planning, the State
24 Economic Growth, Resource Protection, and Planning Commission, or any
25 subcommittee of the Commission, from exercising any authority granted under the
26 State Finance and Procurement Article.

27 3.07.

28 (A) (1) The commission may recommend adoption of the plan as a whole or
29 may recommend adoption of successive parts of the plan, the parts corresponding to
30 major geographical sections or divisions of the jurisdiction, and may recommend
31 adoption of any amendment or extension of or addition to the plan.

32 (2) THE COMMISSION SHALL ADOPT WRITTEN PROCEDURES DESIGNED
33 TO PROVIDE EARLY AND CONTINUOUS PUBLIC PARTICIPATION IN THE PREPARATION
34 OF THE PLAN.

35 (3) Before recommending the adoption of the plan or any part,
36 amendment, extension, or addition, the commission shall hold at least one public
37 hearing thereon, notice of the time and place of which shall be given by one
38 publication in a newspaper of general circulation in the jurisdiction.

39 (4) Copies of the recommended plan and all amendments to the plan
40 shall be referred to all adjoining planning jurisdictions, and to all State and local

1 jurisdictions that have responsibility for financing or constructing public
2 improvements necessary to implement the plan, at least 60 days prior to the public
3 hearing.

4 (5) The recommendation of each jurisdiction that comments on the plan's
5 recommendations shall be included in the planning commission's report to the local
6 legislative body.

7 (6) The [approval of] COMMISSION SHALL APPROVE the plan or [of] any
8 part, amendment, extension, or addition [shall be] by resolution of the commission
9 carried by the affirmative votes of not less than a majority of the membership. The
10 resolution shall refer expressly to the text, map, and descriptive, and other matter
11 [intended by] THAT the commission INTENDS to form the whole or part of the [plan,
12 and the] PLAN. THE action taken shall be recorded on the map, plan, text or other
13 matter by the identifying signature of the chairman or secretary of the commission, or
14 both.

15 (7) An attested copy of the plan or part of the plan shall be certified to
16 the local legislative body.

17 (B) THE LOCAL LEGISLATIVE BODY SHALL ADOPT:

18 (1) THE PLAN AS A WHOLE OR FOR ONE OR MORE MAJOR GEOGRAPHIC
19 SECTIONS OR DIVISIONS OF THE JURISDICTION; AND

20 (2) ANY AMENDMENT OF, EXTENSION OF, OR ADDITION TO THE PLAN.

21 (C) THE LOCAL LEGISLATIVE BODY MAY ADOPT OR MODIFY THE PLAN OR A
22 PLAN AMENDMENT OVER THE OBJECTION OF THE PLANNING COMMISSION BY A
23 MAJORITY VOTE OF NOT LESS THAN TWO-THIRDS OF THE MEMBERSHIP OF THE
24 LOCAL LEGISLATIVE BODY.

25 3.08.

26 (A) [Whenever] SUBJECT TO SUBSECTION (B) OF THIS SECTION, IF the local
27 legislative body [shall have] HAS adopted the plan as a whole or for one or more
28 geographic sections or divisions of the jurisdiction, no street, square, park or other
29 public way, ground, or open space, or public building or structure, or public utility,
30 whether public or privately owned, [shall] MAY be constructed or authorized in the
31 jurisdiction or major geographic section [thereof] OF THE JURISDICTION until the
32 location, character, and extent of [such] THE development [shall have] HAS been
33 submitted to and approved by the commission as consistent with the plan.

34 (B) [provided, that the] THE commission shall communicate its decision and
35 reasons to the local legislative body [which shall have the power to] OR TO THE BODY
36 THAT HAS JURISDICTION OVER FINANCING OF THE PUBLIC WAY, GROUND, SPACE,
37 BUILDING, STRUCTURE, OR UTILITY. THE LOCAL LEGISLATIVE BODY, OR OTHER
38 BODY HAVING JURISDICTION, AS APPROPRIATE, MAY overrule [such] THE action by a
39 recorded vote of not less than 2/3 of its entire membership[; provided, however, that
40 if the public way, ground, space, building, structure or utility be one the authorization

1 of financing of which does not, under the law or charter provisions governing same,
2 fall within the province of the local legislative body, then the submission to the
3 planning commission shall be by the board, commission or body having such
4 jurisdiction, and the planning commission's action may be overruled by said board,
5 commission or body by a vote of not less than 2/3 of its membership].

6 (C) Failure of the planning commission to act within 60 days [from and] after
7 the date of official submission to the planning commission shall be deemed approval.
8 Failure of the local legislative body, OR OTHER BODY HAVING JURISDICTION, AS
9 APPROPRIATE, to act within 60 days [from and] after the date of submission of the
10 recommendation of the planning commission shall be deemed concurrence with the
11 recommendation of the planning commission.

12 [The local legislative body shall adopt the plan as a whole or for one or more
13 major geographic sections or divisions of the jurisdiction, and further shall adopt any
14 amendment or extension thereof or addition thereto.]

15 3.09.

16 (A) [The] ON OR BEFORE APRIL 1 OF EACH YEAR, THE planning commission
17 shall [annually] prepare, adopt, and file an annual report with the local legislative
18 body. [The annual report shall be made available for public inspection and a copy of
19 the report shall be mailed to the Director of the Maryland Office of Planning.]

20 (B) The annual report shall [(a) index and locate on a map all]:

21 (1) BE PREPARED AS A SELF-ASSESSMENT OF PROGRESS, STRENGTHS,
22 AND ISSUES IN MANAGING GROWTH;

23 (2) SUMMARIZE changes in development patterns [including land use,
24 transportation, community facilities patterns, zoning map amendments, and
25 subdivision plats] which occurred during the [period covered by the report, and shall
26 state] PRECEDING CALENDAR YEAR;

27 (3) STATE whether these changes are or are not consistent with [each
28 other, with the recommendations of the last annual report, with adopted plans of the
29 jurisdiction, with adopted plans of all adjoining planning jurisdictions, and with
30 adopted plans of State and local jurisdictions that have responsibility for financing or
31 constructing public improvements necessary to implement the jurisdiction's] THE
32 plan; [(b) contain]

33 (4) CONTAIN statements and recommendations for improving the
34 planning and development process within the jurisdiction; AND

35 (5) SUMMARIZE THE JURISDICTION'S PROGRESS IN ACHIEVING THE
36 SEVEN VISIONS IN § 1.01 OF THIS ARTICLE, AS IMPLEMENTED THROUGH THE PLAN.

37 (C) THE ANNUAL REPORT MAY INCLUDE THE INFORMATION REQUIRED BY §
38 5-7A-02(D) OF THE STATE FINANCE AND PROCUREMENT ARTICLE ON APPROVED
39 LOCAL CONSTRUCTION PROJECTS THAT ARE INCONSISTENT WITH THE PLAN.

1 NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, IF THE ANNUAL REPORT
2 CONTAINS THIS INFORMATION, THE ANNUAL REPORT SHALL BE PREPARED AND
3 SENT TO THE ECONOMIC GROWTH, RESOURCE PROTECTION, AND PLANNING
4 COMMISSION ON OR BEFORE APRIL 1 OF THE YEAR REQUIRED.

5 (D) The local legislative body shall review the annual report and direct that
6 such studies and other actions as appropriate and necessary be undertaken to insure
7 the continuation of a viable planning and development process.

8 (E) THE ANNUAL REPORT SHALL BE MADE AVAILABLE FOR PUBLIC
9 INSPECTION AND A COPY OF THE REPORT SHALL BE MAILED TO THE DIRECTOR OF
10 THE MARYLAND OFFICE OF PLANNING.

11 4.01.

12 (a) (1) For the purpose of promoting health, safety, morals, or the general
13 welfare of the community the LOCAL legislative body of counties and municipal
14 corporations [are hereby empowered to] MAY regulate and restrict the height,
15 number of stories, and size of buildings and other structures, the percentage of lot
16 that may be occupied, off-street parking, the size of yards, courts and other open
17 spaces, the density of population and the location and use of buildings, signs,
18 structures and land for trade, industry, residence or other purposes.

19 (2) (i) If the LOCAL legislative body of a county or municipal
20 corporation regulates off-street parking, the LOCAL legislative body shall require
21 space for the parking of bicycles in a manner that the LOCAL legislative body
22 considers appropriate.

23 (ii) The LOCAL legislative body may allow a reduction in the
24 number of required automobile parking spaces based on the availability of space for
25 parking bicycles.

26 (b) The local legislative body of a county or municipal corporation, upon the
27 zoning or rezoning of any land or lands pursuant to the provisions of this article, may
28 impose such additional restrictions, conditions, or limitations as may be deemed
29 appropriate to preserve, improve, or protect the general character and design of the
30 lands and improvements being zoned or rezoned, or of the surrounding or adjacent
31 lands and improvements, and may, upon the zoning or rezoning of any land or lands,
32 retain or reserve the power and authority to approve or disapprove the design of
33 buildings, construction, landscaping, or other improvements, alterations, and changes
34 made or to be made on the subject land or lands to assure conformity with the intent
35 and purpose of this article and of the jurisdiction's zoning ordinance. The powers
36 provided in this subsection shall be applicable only if the local legislative body adopts
37 an ordinance which shall include enforcement procedures and requirements for
38 adequate notice of public hearings and conditions sought to be imposed.

39 [(d)] (C) (1) It has been and shall continue to be the policy of this State that
40 the orderly development and use of land and structures requires comprehensive
41 regulation through implementation of planning and zoning controls.

1 (2) It has been and shall continue to be the policy of this State that
2 planning and zoning controls shall be implemented by local government.

3 (3) To achieve the public purposes of this regulatory scheme, the General
4 Assembly recognizes that local government action will displace or limit economic
5 competition by owners and users of property.

6 (4) It is the policy of the General Assembly and of this State that
7 competition and enterprise shall be so displaced or limited for the attainment of the
8 purposes of the State policy for implementing planning and zoning controls as set
9 forth in this article and elsewhere in the public local and public general law.

10 (5) The powers granted to the [county] LOCAL GOVERNMENT pursuant
11 to this subsection shall not be construed:

12 (i) To grant to the [county] LOCAL GOVERNMENT powers in any
13 substantive area not otherwise granted to the [county] LOCAL GOVERNMENT by
14 other public general or public local law;

15 (ii) To restrict the [county] LOCAL GOVERNMENT from exercising
16 any power granted to the [county] LOCAL GOVERNMENT by other public general or
17 public local law or otherwise;

18 (iii) To authorize the [county] LOCAL GOVERNMENT or its officers
19 to engage in any activity which is beyond their power under other public general law,
20 public local law, or otherwise; or

21 (iv) To preempt or supersede the regulatory authority of any State
22 department or agency under any public general law.

23 4.04.

24 (a) The local legislative body shall provide for the manner in which [such]
25 THE regulations and restrictions and the boundaries of [such] districts shall be
26 determined, established, and enforced, and from time to time amended,
27 supplemented, modified, or repealed. However, a regulation, restriction, or boundary
28 may not become effective until 10 days after at least 1 public hearing [in relation
29 thereto] ON THE MATTER, at which parties in interest and citizens shall have an
30 opportunity to be heard. THE PUBLIC HEARING MAY BE CONSOLIDATED WITH A
31 HEARING OF THE PLANNING COMMISSION.

32 4.05.

33 (a) (1) [Such] ZONING regulations, restrictions, and boundaries may from
34 time to time be amended[, supplanted, modified,] or repealed.

35 (2) A LOCAL LEGISLATIVE BODY MAY AMEND ZONING REGULATIONS,
36 RESTRICTIONS, AND BOUNDARIES BY COMPREHENSIVE ZONING, BY TEXT
37 AMENDMENT, OR BY SPECIFIC REZONING.

1 (3) (I) IN EACH CASE OF SPECIFIC REZONING [Where the purpose and
2 effect of the proposed amendment is to change the zoning classification], the local
3 legislative body shall make findings of fact [in each specific case] including[, but not
4 limited to,] the following matters: population change, availability of public facilities,
5 present and future transportation patterns, compatibility with existing and proposed
6 development for the area, the recommendation of the planning commission, and the
7 relationship of [such] THE proposed amendment to the jurisdiction's plan[; and].

8 (II) THE LOCAL LEGISLATIVE BODY may grant the amendment FOR
9 A SPECIFIC REZONING based upon a finding that:

10 A. [there] THERE was a substantial change in the character
11 of the neighborhood where the property is located; OR

12 B. [or that there] THERE was a mistake in the existing
13 zoning classification.

14 (4) A complete record of the hearing and the votes of all members of the
15 local legislative body shall be kept.

16 (b) An application for a reclassification shall not be accepted for filing by the
17 local legislative body if the application is for the reclassification of the whole or any
18 part of land the reclassification of which has been [opposed or] denied by the local
19 legislative body on the merits within [twelve (12)] 12 months from the date of the
20 local legislative body's decision.

21 (c) The provisions of § 4.04 [above relative to] OF THIS SUBTITLE
22 CONCERNING public hearings and official notice shall apply equally to all
23 reclassifications.

24 (D) (1) THE LOCAL LEGISLATIVE BODY MAY AUTHORIZE THE PLANNING
25 DIRECTOR OR OTHER DESIGNEE TO GRANT:

26 (I) ADMINISTRATIVE ADJUSTMENTS FROM HEIGHT, SETBACK,
27 BULK, PARKING, LOADING, DIMENSIONAL, AREA, OR SIMILAR REQUIREMENTS OF
28 THE ZONING ORDINANCE;

29 (II) ADMINISTRATIVE ADJUSTMENTS FROM DENSITY
30 REQUIREMENTS OF THE ZONING ORDINANCE ONLY IN CONJUNCTION WITH A
31 LOCALLY ENACTED TRANSFERRABLE DEVELOPMENT RIGHTS PROGRAM IN AREAS
32 DESIGNATED FOR GROWTH; AND

33 (III) SPECIAL EXCEPTIONS, AND PRINCIPAL PERMITTED USES WITH
34 CONDITIONS, IN ACCORDANCE WITH THE STANDARDS IN EFFECT IN THE
35 JURISDICTION.

36 (2) THE LOCAL LEGISLATIVE BODY SHALL CONSULT WITH THE
37 PLANNING COMMISSION AND THE BOARD OF APPEALS IN DEVELOPING CRITERIA
38 AND PROCEDURES FOR ADMINISTRATIVE ADJUSTMENTS UNDER THIS SUBSECTION.

1 (3) THE LOCAL LEGISLATIVE BODY SHALL ADOPT THE CRITERIA AND
2 PROCEDURES AFTER REASONABLE PUBLIC NOTICE, PUBLIC HEARING, AND
3 OPPORTUNITY FOR REVIEW AND COMMENT BY THE PUBLIC.

4 (4) CRITERIA FOR ADMINISTRATIVE ADJUSTMENTS SHALL INCLUDE:

5 (I) STANDARDS FOR ACTIONS ON REQUESTS;

6 (II) STANDARDS FOR CLASSES OF DEVELOPMENT ELIGIBLE FOR
7 ADMINISTRATIVE ADJUSTMENTS; AND

8 (III) MAXIMUM VARIATION FROM A ZONING REQUIREMENT
9 ALLOWABLE UNDER AN ADMINISTRATIVE ADJUSTMENT.

10 (5) PROCEDURES FOR ADMINISTRATIVE ADJUSTMENTS MAY INCLUDE:

11 (I) APPLICATIONS;

12 (II) NOTICE TO THE PUBLIC AND PARTIES IN INTEREST;

13 (III) OPPORTUNITY FOR PUBLIC HEARING;

14 (IV) TAKING OF TESTIMONY AND EVIDENCE; AND

15 (V) DECISION MAKING.

16 (6) A DECISION ON AN APPLICATION FOR AN ADMINISTRATIVE
17 ADJUSTMENT SHALL INCLUDE WRITTEN FINDINGS OF FACT.

18 (7) THE LOCAL LEGISLATIVE BODY MAY PROVIDE, BY ORDINANCE OR
19 OTHER ADOPTED PROCEDURE, FOR THE APPEAL OF A DECISION TO APPROVE OR
20 DENY AN ADMINISTRATIVE ADJUSTMENT TO THE BOARD OF APPEALS.

21 4.05.1.

22 (A) THE LOCAL LEGISLATIVE BODY MAY PROVIDE FOR REVIEW AND
23 APPROVAL OF SITE PLANS BY THE PLANNING COMMISSION, OR BY THE ZONING
24 ADMINISTRATOR OR AN EQUIVALENT ADMINISTRATIVE OFFICIAL.

25 (B) WHERE THE LOCAL LEGISLATIVE BODY HAS PROVIDED FOR SITE PLAN
26 REVIEW AND APPROVAL BY THE PLANNING COMMISSION, THE PLANNING
27 COMMISSION MAY AUTHORIZE THE ZONING ADMINISTRATOR OR AN EQUIVALENT
28 ADMINISTRATIVE OFFICIAL TO REVIEW AND APPROVE SITE PLANS IN ACCORDANCE
29 WITH NONDISCRETIONARY CRITERIA ADOPTED AND SPECIFIED BY ORDINANCE.

30 4.06.

31 (a) (1) The local legislative body may appoint [such] ONE OR MORE full and
32 part-time hearing examiners [as in its discretion may be deemed necessary and
33 appropriate and].

1 (2) THE LOCAL LEGISLATIVE BODY may delegate to [the said] A hearing
2 examiner [or examiners] the power to hold and conduct A public [hearings as
3 required and set forth in] HEARING UNDER § 4.05 [above] OF THIS SUBTITLE OR TO
4 HEAR AND DECIDE APPEALS ON BEHALF OF THE BOARD OF APPEALS UNDER § 4.07(D)
5 OF THIS SUBTITLE. [Such] THE hearing shall be conducted [in such a manner and
6 subject to such] UNDER rules and regulations [as may be provided] ADOPTED by the
7 local legislative body.

8 (3) IN THE SAME MANNER AS A MEMBER OF THE BOARD OF APPEALS
9 UNDER § 4.07(A)(13) OF THIS ARTICLE, A HEARING EXAMINER SHALL RECUSE
10 HIMSELF OR HERSELF FROM PARTICIPATING IN A MATTER IN WHICH THE HEARING
11 EXAMINER MAY HAVE A CONFLICT OF INTEREST, IN ACCORDANCE WITH THE PUBLIC
12 ETHICS PROVISIONS ENACTED UNDER § 15-803 OF THE STATE GOVERNMENT
13 ARTICLE.

14 (b) (1) [The hearing examiner or examiners shall be appointed for such
15 terms of office, possessed of such qualifications, and shall receive such compensation
16 as may be provided by the local legislative body] THE LOCAL LEGISLATIVE BODY
17 SHALL DETERMINE THE TERMS OF OFFICE, QUALIFICATIONS, AND COMPENSATION
18 OF A HEARING EXAMINER EMPLOYED BY THE JURISDICTION.

19 (2) TO THE EXTENT POSSIBLE, BEFORE APPOINTMENT, A HEARING
20 EXAMINER SHALL, EITHER BY EDUCATION OR BY EXPERIENCE, POSSESS
21 KNOWLEDGE OF THE FOLLOWING:

22 (I) LAWS, ORDINANCES, AND REGULATIONS GOVERNING ZONING
23 AND PLANNING IN THE STATE AND IN THE JURISDICTION;

24 (II) LAWS, ORDINANCES, AND REGULATIONS GOVERNING
25 ENVIRONMENTAL PROTECTION IN THE STATE AND IN THE JURISDICTION;

26 (III) OTHER APPROPRIATE LAW RELATING TO GOVERNMENTAL
27 STRUCTURE, FUNCTION, AND PROCEDURE;

28 (IV) LAND-USE PLANNING AND GROWTH MANAGEMENT
29 TECHNIQUES;

30 (V) ARCHITECTURE AND CONSTRUCTION ENGINEERING; AND

31 (VI) ECONOMICS AND FINANCIAL MATTERS RELATING TO
32 DEVELOPMENT AND THE USE OF LAND.

33 (c) The hearing examiner shall render a written recommendation [at such] IN
34 THE time, MANNER, and [in such manner and] form [as may be] required by the
35 local legislative body.

36 4.07.

37 (a) (1) The local legislative body shall provide for the appointment of a board
38 of appeals.

1 (2) The board of appeals consists of AT LEAST three [or five] members.

2 (3) The terms of office of the members of the board are three years, AND
3 MAY BE STAGGERED.

4 (4) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
5 SUCCESSOR IS APPOINTED AND QUALIFIES.

6 (5) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
7 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
8 QUALIFIES.

9 [(4)] (6) The members of the board shall be appointed by the local
10 [executive, and confirmed by the local legislative body] LEGISLATIVE BODY, IN
11 CONSULTATION WITH THE LOCAL EXECUTIVE.

12 (7) A MEMBER OF THE BOARD MAY BE REQUIRED TO BE A RESIDENT OF
13 THE JURISDICTION.

14 (8) A MEMBER OF THE LOCAL LEGISLATIVE BODY MAY NOT SERVE ON
15 THE BOARD.

16 [(5)] (9) A member of the board may be removed for cause, upon written
17 charges, and after a public hearing.

18 [(6)] (10) Vacancies shall be filled for the unexpired terms of any member
19 whose term becomes vacant.

20 [(7)] (11) Members of the board may receive compensation as the local
21 legislative body deems appropriate.

22 (12) THE LOCAL LEGISLATIVE BODY MAY NOT SERVE AS THE BOARD OF
23 APPEALS.

24 (13) A MEMBER SHALL RECUSE HIMSELF OR HERSELF FROM
25 PARTICIPATING IN A MATTER IN WHICH THE MEMBER MAY HAVE A CONFLICT OF
26 INTEREST, IN ACCORDANCE WITH THE PUBLIC ETHICS PROVISIONS ENACTED
27 UNDER § 15-803 OF THE STATE GOVERNMENT ARTICLE.

28 (b) (1) The local legislative body shall designate one OR MORE alternate
29 [member] MEMBERS for the board of appeals who may [be empowered to] sit on the
30 board [in the absence of] WHEN any OTHER member of the board IS ABSENT OR
31 RECUSED.

32 (2) When [the] NO alternate MEMBER is [absent] PRESENT, the local
33 legislative body may designate a temporary alternate.

34 (c) The board shall adopt rules in accordance with the provisions of any
35 ordinance adopted [pursuant to] UNDER this article. Meetings of the board shall be
36 held at the call of the chairman and at [such] other times [as] DETERMINED BY the

1 board [may determine]. [Such] THE chairman or [in his absence,] the acting
2 chairman[,] may administer oaths and compel the attendance of witnesses. All
3 meetings of the board shall be open to the public. The board shall make a transcript
4 OR RECORDING of all proceedings, showing the vote of each member upon each
5 question, or, if absent or failing to vote, indicating [such] THAT fact[, which]. THE
6 TRANSCRIPT OR RECORDING shall be immediately filed in the office of the board and
7 shall be a public record. IF A RECORDING OR A TRANSCRIPT OF A RECORDING IS NOT
8 PREPARED IN THE NORMAL COURSE OF THE BOARD'S PROCEEDINGS, THE PARTY
9 WHO REQUESTS A COPY OF THE RECORDING OR ITS TRANSCRIPT SHALL BEAR THE
10 COST OF PREPARING THE RECORDING OR ITS TRANSCRIPT.

11 (d) [The] UNLESS OTHERWISE LIMITED BY LOCAL LAW, THE board of appeals
12 [shall have the following powers] MAY:

13 (1) [To hear] HEAR and decide appeals where it is alleged there is error
14 in any order, requirement, decision, or determination made by an administrative
15 official in the enforcement of this article or of any ordinance adopted [pursuant
16 thereto.] UNDER THIS ARTICLE;

17 (2) [To hear] HEAR and decide special exceptions to the terms of the
18 ordinance upon which [such] THE board is required to pass under [such ordinances.]
19 THE ORDINANCE;

20 (3) HEAR AND DECIDE APPEALS RELATING TO LICENSES APPLICABLE
21 TO PLANNING AND ZONING ISSUES;

22 (4) HEAR AND DECIDE APPEALS FROM ORDERS RELATING TO BUILDING
23 PERMITS AND BUILDING CODE OR LIVABILITY CODE ENFORCEMENT;

24 [(3)] (5) [To authorize upon] AUTHORIZE ON appeal in specific cases
25 [a] AN AREA variance OR ADAPTIVE RE-USE VARIANCE from the terms of the
26 ordinance; AND

27 (6) AUTHORIZE ON APPEAL IN SPECIFIC CASES AN AREA VARIANCE OR
28 ADAPTIVE RE-USE VARIANCE FROM HISTORIC PRESERVATION REQUIREMENTS.

29 (E) IN CONSIDERING A SPECIAL EXCEPTION OR AREA VARIANCE, THE BOARD
30 OF APPEALS MAY CONSIDER THE EFFECT OF CONDITIONS OF APPROVAL IMPOSED BY
31 THE BOARD IN DETERMINING THE EXISTENCE OR DEGREE OF ANY ADVERSE
32 EFFECT.

33 (F) A DECISION RENDERED BY A HEARING OFFICER ON BEHALF OF THE
34 BOARD OF APPEALS UNDER SUBSECTION (D) OF THIS SECTION IS NOT FINAL UNTIL 5
35 WORKING DAYS HAVE ELAPSED FROM THE DATE OF THE DECISION.

36 [(f)] (G) Appeals to the board of appeals may be taken by any person
37 aggrieved or by any officer, department, board or bureau of the jurisdiction affected by
38 any decisions of the administrative officer. [Such] THE appeal shall be taken within
39 a reasonable time, as provided by the rules of the board, by filing with the officer from
40 whom the appeal is taken and with the board of appeals a notice of appeal specifying

1 the grounds [thereof] OF THE APPEAL. The officer from whom the appeal is taken
2 shall [forthwith] PROMPTLY transmit to the board all the papers constituting the
3 record upon which the action appealed from was taken.

4 [(g)] (H) An appeal TO THE BOARD OF APPEALS stays all proceedings in
5 furtherance of the action appealed from, unless the officer from whom the appeal is
6 taken certifies to the board of appeals after notice of appeal shall have been filed with
7 him that by reason of the facts stated in the certificate a stay would, in his opinion,
8 cause imminent peril to life or property. In such case proceedings shall not be stayed
9 otherwise than by a restraining order which may be granted by the board of appeals
10 or by a court of record on application on notice to the officer from whom the appeal is
11 taken and on due cause shown.

12 [(h)] (I) The board of appeals shall fix a reasonable time for the hearing of the
13 appeal, give public notice [thereof] OF THE HEARING, as well as due notice to the
14 parties in interest, and decide the [same] APPEAL within a reasonable time. [Upon]
15 AT the hearing any party may appear in person or by agent or by attorney.

16 [(i)] (J) In exercising the above-mentioned powers [such] THE board may, in
17 conformity with the provisions of this article, reverse or affirm, wholly or partly, or
18 may modify the order, requirement, decision, or determination appealed from and
19 make [such] AN APPROPRIATE order, requirement, decision or determination[as
20 ought to be made, and to that end]. THE BOARD shall have all the powers of the officer
21 from whom the appeal is taken.

22 4.08.

23 (a) Any person or persons, jointly or severally, aggrieved by any decision of the
24 board of appeals, or by a zoning action by the local legislative body, [or any taxpayer,]
25 or any officer, department, board, bureau of the jurisdiction, may appeal the [same]
26 DECISION OR ACTION to the circuit court of the county. [Such] THE appeal shall be
27 taken in accordance with Title 7, Chapter 200 of the Maryland Rules. Nothing in this
28 subsection shall change the existing standards for review of any zoning action.

29 (b) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN
30 APPEAL TO A CIRCUIT COURT FROM A BOARD OF APPEALS UNDER THIS SECTION
31 SHALL BE DECIDED BY THE COURT ON THE RECORD TRANSMITTED BY THE BOARD
32 OF APPEALS, AND NOT DE NOVO.

33 (2) If, [upon the] AFTER A hearing, [it shall appear to] the court
34 DETERMINES that testimony is necessary for the proper disposition of the matter, [it]
35 THE COURT may take evidence or appoint a referee to take [such] THE REQUIRED
36 evidence [as it may direct] and report [the same] THE EVIDENCE to the court with
37 [his] THE REFEREE'S findings of fact and conclusions of law[, which]. THE
38 REFEREE'S EVIDENCE, FINDINGS, AND CONCLUSIONS shall constitute a part of the
39 proceedings upon which the determination of the court shall be made.

40 (c) Costs shall not be allowed against the board unless it shall appear to the
41 circuit court that [it] THE BOARD acted with gross negligence, or in bad faith, or with
42 malice in making the decision appealed from.

1 (d) All issues in any proceeding under this section shall have preference over
2 all other civil actions and proceedings.

3 (e) Upon its determination of the case, the circuit court shall file a formal
4 order embodying its final decision. An appeal may be taken to the Court of Special
5 Appeals, during the period and in the manner prescribed by the Maryland Rules,
6 from any decision of the circuit court. In such cases the award of costs shall be subject
7 to the discretion of the Court of Special Appeals.

8 (f) In addition to the appeal provided in this section, a local legislative body
9 may provide for appeal to the circuit court of any matter arising under the planning
10 and zoning laws of the county or municipal corporation. The decision of the circuit
11 court may be appealed to the Court of Special Appeals.

12 5.01.

13 The territorial jurisdiction of any planning commission over the subdivision of
14 land shall only include land located in the jurisdiction. However, in those jurisdictions
15 where a county has not provided functional subdivision regulations, the territorial
16 jurisdiction of a planning commission of a municipal corporation may include all land
17 [lying within] UP TO one mile [of] BEYOND the corporate limits of [said] THE
18 municipal corporation [and] THAT IS not located in any other municipal corporation.
19 5.02.

20 (a) If a local legislative body has adopted the [transportation element of the]
21 plan of the territory within its subdivision jurisdiction or part of the territory, [and
22 has filed a certified copy of that plan in the office of clerk of the circuit court of the
23 county in which the territory or part is located,] a plat of a subdivision of land within
24 the territory or part may not be filed or recorded until it has been approved by the
25 planning commission and the approval entered in writing on the plat by the chairman
26 or secretary of the commission.

27 (b) The planning commission may authorize the zoning administrator or an
28 equivalent administrative official to approve subdivision plats [and site plans] under
29 subsection (a) of this section in accordance with nondiscretionary criteria adopted and
30 specified by ordinance. The approval shall be entered in writing on the plat.

31 5.03.

32 (a) (1) Before exercising the powers referred to in § 5.02 OF THIS SUBTITLE,
33 the planning commission shall [prepare] RECOMMEND regulations TO THE LOCAL
34 LEGISLATIVE BODY governing the subdivision of land within its jurisdiction, FOR THE
35 HEALTH, SAFETY, WELFARE, AND COMMON INTEREST OF THE CITIZENS OF THE
36 JURISDICTION.

37 (2) Those regulations may [provide] INCLUDE PROVISIONS for the
38 adequate control of shore erosion; the control of sediment and the protection from
39 flooding; the proper arrangement of streets in relation to other existing planned
40 streets and to the master plan; the adequate and convenient placement of public

1 school sites and of open spaces for traffic, utilities, access of fire-fighting apparatus,
2 recreation, light and air and the avoidance of congestion of population, including
3 minimum width and area of lots.

4 (b) (1) [Such] THE regulations may include provision as to the extent to
5 which streets and other ways shall be graded and improved, to which soil erosion or
6 sediment control shall be provided, and to which water and sewer and other utility
7 mains, piping, or other facilities shall be installed as a condition precedent to the
8 approval of the plat.

9 (2) The regulations or practice of the commission may provide for a
10 tentative approval of the plat [previous to such] BEFORE installation; but any [such]
11 tentative approval shall be revocable and [shall] MAY not be entered on the plat.

12 (3) In lieu of the completion of [such] THE improvements and utilities
13 [prior to] BEFORE the final approval of the plat, the commission may accept a bond
14 with surety, AN IRREVOCABLE LETTER OF CREDIT, OR OTHER FORM OF SECURITY
15 ACCEPTABLE TO AND APPROVED BY THE JURISDICTION to secure to the [county or
16 municipal corporation] JURISDICTION the actual construction and installation of
17 [such] THE improvements or utilities at a time and according to specifications fixed
18 by or in accordance with the regulations [of the commission]. The [county or
19 municipal corporation is hereby granted the power to] JURISDICTION MAY enforce
20 [such] THE [bond] SECURITY by all appropriate legal and equitable remedies.

21 (c) (1) Before any regulations shall be submitted to the local legislative body
22 for adoption a public hearing shall be held [thereon and all such].

23 (2) THE LOCAL LEGISLATIVE BODY SHALL PUBLISH A NOTICE OF THE
24 PUBLIC HEARING AT LEAST ONCE IN A WEEKLY OR DAILY NEWSPAPER OF GENERAL
25 CIRCULATION IN THE JURISDICTION AT LEAST 10 DAYS BEFORE THE PUBLIC
26 HEARING.

27 (3) THE NOTICE SHALL CONTAIN:

28 (I) THE TEXT OF THE regulations, or [if in the opinion of the
29 commission it is best, a brief synopsis of such regulations, sufficient to inform a
30 person of ordinary intelligence] A FAIR SUMMARY of the nature and contents of
31 [such] THE regulations[, together with the]; AND

32 (II) THE time and place of [such] THE public hearing[, shall be
33 published once or more, if the commission deems best, in a weekly or daily newspaper
34 of general circulation in such county or municipal corporation].

35 (4) THE LOCAL LEGISLATIVE BODY MAY ADOPT OR MODIFY THE
36 REGULATIONS OR AN AMENDMENT TO THE REGULATIONS OVER THE OBJECTION OF
37 THE PLANNING COMMISSION BY A MAJORITY VOTE OF NOT LESS THAN TWO-THIRDS
38 OF THE MEMBERSHIP OF THE LOCAL LEGISLATIVE BODY.

39 (5) When [such] THE regulations are adopted AS AN ORDINANCE by the
40 local legislative body, THE LOCAL LEGISLATIVE BODY SHALL SEND a CERTIFIED copy

1 [thereof] OF THE REGULATIONS [shall be certified by the commission] to the clerk of
2 the circuit court in which the jurisdiction is located for record.

3 (d) Regulations governing the subdivision of land shall require that an
4 appropriate easement be provided for any burial site located on the land subject to the
5 subdivision plat for ingress and egress to the burial site by persons related by blood or
6 marriage or persons in interest, as defined in § 14-121 of the Real Property Article.
7 Improvements are not required to exceed any existing right-of-way.

8 5.04.

9 (A) (1) [The] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE
10 planning commission OR ITS DESIGNEE shall approve or disapprove a final plat, if all
11 subdivision regulations have been complied with, within [thirty (30)] 30 days after
12 the [submission thereof] APPLICANT SUBMITS THE COMPLETE FINAL PLAT to it;
13 otherwise [such] THE plat shall be deemed to have been approved and THE
14 PLANNING COMMISSION OR DESIGNEE SHALL ISSUE a certificate to that effect [shall
15 be issued by the commission] on demand.

16 (2) [Provided, however, that the] AN applicant for the commission's
17 approval OF A FINAL PLAT may waive this requirement and consent to an extension of
18 [such] THE period FOR APPROVAL.

19 (3) [The ground of disapproval of any plat shall be stated upon] IF A
20 PLAT IS DISAPPROVED, THE PLANNING COMMISSION OR DESIGNEE SHALL PROVIDE
21 A WRITTEN STATEMENT OF THE GROUNDS OF DISAPPROVAL TO THE APPLICANT AND
22 SHALL RETAIN A COPY OF THE GROUNDS IN the records of the commission.

23 (4) THE LOCAL LEGISLATIVE BODY MAY PROVIDE, BY ORDINANCE, FOR
24 HEARING, NOTICE, AND POSTING REQUIREMENTS THAT APPLY TO SUBDIVISION
25 APPLICATIONS.

26 (B) (1) Every plat approved by the commission [shall by virtue of such]
27 SHALL, THROUGH THE approval, be deemed to be an amendment of or an addition to
28 or a detail of the plan and SHALL BE DEEMED TO BE a part [thereof] OF THE PLAN.

29 (2) Approval of a plat [shall] MAY not be deemed to constitute or effect
30 an acceptance by the public of any street or other open space shown upon the plat.

31 (3) The planning commission may, from time to time, recommend to the
32 local legislative body amendments of the zoning ordinance or map or additions
33 [thereto] to conform to the commission's recommendations for the zoning regulation
34 of the territory [comprised] within approved subdivisions.

35 (C) (1) The commission [shall have the power to] MAY agree with AN
36 applicant upon use, height, area or bulk requirements or restrictions which are
37 designed to promote the purposes of the zoning ordinance of the jurisdiction.

38 (2) [Such] THE requirements or restrictions shall be stated upon the
39 plat [prior to the approval and recording thereof and] BEFORE THE PLAT IS

1 APPROVED AND RECORDED. THE REQUIREMENTS AND RESTRICTIONS shall have the
2 same force of law and be enforceable in the same manner and with the same sanctions
3 and penalties and subject to the same power of amendment or repeal as though set
4 out as a part of the zoning ordinance or map of the jurisdiction.

5 (D) THE LOCAL LEGISLATIVE BODY MAY PROVIDE, BY ORDINANCE, AN
6 ALTERNATIVE PROCEDURE FOR REVIEW AND APPROVAL OF SUBDIVISION PLATS BY
7 A QUALIFIED ADMINISTRATOR OR BY ADMINISTRATIVE STAFF WITH AN
8 OPPORTUNITY FOR ADJUSTMENT BY THE PLANNING COMMISSION.

9 5.05.

10 (A) THIS SECTION DOES NOT APPLY TO A CONTRACT FOR SALE OR TO
11 NEGOTIATION FOR SALE OF PROPERTY, IF:

12 (1) THE UNRECORDED STATUS OF THE SUBDIVISION IS DISCLOSED TO
13 THE PROSPECTIVE PURCHASER;

14 (2) A SUBDIVISION PLAT THAT INCLUDES THE PROPERTY IS APPROVED
15 AND RECORDED IN ACCORDANCE WITH THIS ARTICLE BEFORE RECORDATION OF A
16 LEGAL INSTRUMENT EVIDENCING TRANSFER OF TITLE TO THE PROPERTY; AND

17 (3) ALL MONEYS AND OTHER CONSIDERATION FOR THE TRANSFER OF
18 TITLE, INCLUDING EARNEST MONEY DEPOSITS, ARE HELD IN ESCROW UNTIL THE
19 SUBDIVISION PLAT IS APPROVED AND RECORDED.

20 [(a)] (B) Except as provided in [subsections (b) through (d) of this section] §§
21 14.03(C), 14.05(F), 14.06(D), AND 14.07(E) AND (F) OF THIS ARTICLE, [whoever, being] A
22 PERSON WHO, AS the owner or agent of the owner of any land located within a
23 [subdivision] SUBDIVISION, transfers or sells or agrees to sell or negotiate to sell any
24 land by reference to or exhibition of or by other use of a plat of a subdivision, before
25 the plat has been approved by the planning commission and recorded or filed in the
26 office of the appropriate county clerk, shall forfeit and pay a civil penalty of not less
27 than \$200 and not more than \$1,000 in the discretion of the court, for each lot or
28 parcel so transferred or sold or agreed or negotiated to be sold[; and the].

29 (C) THE description of the lot or parcel by metes and bounds in the instrument
30 of transfer or other document used in the process of selling or transfer or other
31 document used in the process of selling or transferring shall not exempt the
32 transaction from the penalties or from the remedies [herein] provided IN THIS
33 SECTION.

34 (D) The county or municipal corporation may enjoin the transfer or sale or
35 agreement by action for injunction brought in any court of equity jurisdiction or may
36 recover the penalty by civil action in any court of competent jurisdiction.

37 5.06.

38 A clerk of the circuit court [shall] MAY not record a plat of a subdivision unless
39 the plat has been approved by the planning commission OR ITS DESIGNEE as required

1 by law. Any plat of a subdivision recorded without [planning commission] THE
2 REQUIRED approval has only the legal effect of an unrecorded plat.

3 5.07.

4 [From and after the time when] WHEN a planning commission [shall have]
5 BEGINS TO EXERCISE control over subdivisions [as provided in] UNDER § 5.01 of this
6 article, the jurisdiction of the planning commission over plats shall be exclusive
7 within the territory under its jurisdiction, and all statutory control over plats or
8 subdivisions of land granted by other statutes shall, [insofar as] in harmony with the
9 provisions of this [article] ARTICLE, be deemed transferred to the planning
10 commission of [such] THE jurisdiction.

11 7.01.

12 (a) [(1)] The local legislative body may provide by ordinance for the
13 enforcement of this article and of any ordinance or regulation made thereunder. A
14 violation of this article or of such ordinance or regulation is a misdemeanor, and
15 [such] THE local legislative body may provide for punishment by fine or
16 imprisonment or both. It [is] MAY also [empowered to] provide civil penalties for
17 such violation.

18 7.02.

19 (A) Whenever the regulations made under the authority of this article require
20 a greater width or size of yards, courts, or other open spaces, or require a lower height
21 of building or less number of stories, or require a greater percentage of lot to be left
22 unoccupied or impose other higher standards than are required in any other statute
23 or local ordinance or regulations, the provisions of the regulations made under
24 authority of this article shall govern.

25 (B) Whenever the provisions of any other statute or local ordinance or
26 regulation require a greater width or size of yards, courts, or other open spaces, or
27 require a lower height of building or a less number of stories, or requires a greater
28 percentage of lot to be left unoccupied, or impose other higher standards than are
29 required by the regulations made under authority of this article, the provisions of
30 such statute or local ordinance or regulation shall govern[; provided, however, that
31 within].

32 (C) (1) THIS SUBSECTION APPLIES TO THE MARYLAND-WASHINGTON
33 REGIONAL DISTRICT ESTABLISHED UNDER CHAPTER 992 OF THE LAWS OF
34 MARYLAND OF 1943, AS AMENDED.

35 (2) WITHIN the limits of the Maryland-Washington regional district as
36 [said] THE district is now or shall hereafter be defined by law, in Montgomery and
37 Prince George's Counties -- in which district there is now in effect city and regional
38 planning and zoning, which are being administered by existing agencies under
39 existing law -- this article shall not be construed as supplemental to Chapter 992 of
40 the Laws of Maryland of 1943, as amended[; and within the said].

1 (3) IN THE REGIONAL district the several additional and supplemental
 2 powers or any of them vested by this article in the "municipality," and/or the "council,"
 3 shall not be construed to be vested in and may not be exercised by the respective
 4 board of county commissioners or county councils acting as the district council, as
 5 provided in [said] Chapter 992 OF THE LAWS OF MARYLAND OF 1943, as amended[;
 6 and within the said].

7 (4) IN THE REGIONAL district in like manner the several powers or any of
 8 them vested by this article in the "commission" and in the "board of appeals,"
 9 respectively, shall be construed not to be vested in and may not be exercised by the
 10 Maryland-National Capital Park and Planning Commission, the respective planning
 11 boards, and/or the respective board of zoning appeals of the county affected[; and
 12 provided further, that insofar].

13 (5) INSOFAR as the provisions of this article may be inconsistent with or
 14 contrary to the provisions of Chapter 992 of the Laws of Maryland of 1943, as
 15 amended[; such], THE provisions OF THIS ARTICLE shall [have no application] NOT
 16 APPLY within the [Maryland-Washington] regional district[, but nothing].

17 (6) NOTHING contained [herein] IN THIS ARTICLE shall be deemed or
 18 construed to affect the validity of [said] Chapter 992 OF THE LAWS OF MARYLAND OF
 19 1943, as amended[; and provided further, that nothing].

20 (D) NOTHING in §§ 3.01-8.15 OF THIS ARTICLE, inclusive, shall apply to
 21 Baltimore City.

22 7.03.

23 (a) [Except as provided in §§ 3.05(a)(1)(iii), (v), (vi), and (viii), (4), and (b),
 24 3.06(b) and (c), 4.01(a)(2), 4.09, 5.03(d), 7.01(c), 10.01, 11.01, 12.01, and 13.01 of this
 25 article, and subject to subsection (b)] SUBJECT TO SUBSECTIONS (B) AND (C) of this
 26 section, this article does not apply to the chartered counties of Maryland. This section
 27 supersedes § 7.02 of this article and any inconsistent provision of Article 28 of the
 28 Code.

29 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE
 30 FOLLOWING SECTIONS OF THIS ARTICLE APPLY TO THE CHARTERED COUNTIES OF
 31 MARYLAND:

- 32 (1) 1.00(M) (DEFINITION OF "SENSITIVE AREAS");
- 33 (2) 1.01 (VISIONS);
- 34 (3) 3.05(E)(1)(V), (F)(2) AND (3), AND (H) (COMPREHENSIVE PLAN);
- 35 (4) 3.06(C), (D), AND (E) (IMPLEMENTATION AND AUTHORITY);
- 36 (5) 4.01(A)(2) (BICYCLE PARKING REGULATION);
- 37 (6) 5.03(E) (BURIAL SITE EASEMENT);

- 1 (7) 7.01(C) (CIVIL PENALTY FOR ZONING VIOLATION);
 2 (8) 10.01 (ADEQUATE PUBLIC FACILITIES ORDINANCES);
 3 (9) 11.01 (TRANSFER OF DEVELOPMENT RIGHTS);
 4 (10) 12.01 (INCLUSIONARY ZONING); AND
 5 (11) 13.01 (DEVELOPMENT RIGHTS AND RESPONSIBILITIES
 6 AGREEMENTS).

7 [(b)] (C) Section 13.01 of this article does not apply to Montgomery County or
 8 Prince George's County.

9 MISCELLANEOUS LOCAL PROVISIONS

10 14.01. ALLEGANY COUNTY.

11 [(b)] The following counties are excepted from the provisions of subsection (a) to
 12 the extent provided in this subsection:]

13 In Allegany County, the PLANNING commission may consist of seven members.
 14 The term of each member shall be [five] 5 years or until [his] THE MEMBER'S
 15 successor takes office, except that the respective terms of the sixth and seventh
 16 members first appointed may be less than [five] 5 years.

17 14.02. BALTIMORE COUNTY.

18 In addition to the jurisdiction as defined in [subsection (c) of this section] §
 19 7.01(C) OF THIS ARTICLE, the legislative body of Baltimore County may provide by
 20 ordinance for an administrative proceeding to enforce its zoning regulations,
 21 including the imposition of civil fines and penalties for zoning violations.

22 14.03. CARROLL COUNTY.

23 (A) THIS SECTION APPLIES TO CARROLL COUNTY.

24 (b) [In Carroll County, the] THE County Commissioners [have the discretion
 25 to] MAY determine whether or not one of the appointive members of the planning and
 26 zoning commission is a member of the Board of County Commissioners. The County
 27 Commissioners shall designate one alternate member of the commission who may be
 28 empowered to sit on the commission in the absence of any member of the commission.
 29 When the alternate is absent, the County Commissioners may designate a temporary
 30 alternate who shall sit on the commission.

31 (c) [In Frederick and Carroll Counties, this section] SECTION 5.05 OF THIS
 32 ARTICLE does not apply to the contract for sale or negotiation for sale of property
 33 zoned industrial, commercial, or both industrial and commercial, if a plat is approved
 34 and recorded in accordance with this article [prior to] BEFORE the transfer of land.

1 14.04. CECIL COUNTY.

2 (A) THIS SECTION APPLIES TO CECIL COUNTY.

3 (b) [(i)] (1) [In Cecil County, the] THE planning commission has six
4 regular members and one alternate member.5 [(ii)] (2) Members of the planning commission serve for 3-year
6 staggered terms.7 [(iii)] (3) At the end of a term, an appointed member continues to
8 serve until a successor is appointed and qualifies.9 [(iv)] (4) An ex officio member serves a term concurrent with the
10 member's term of office.11 [(v)] (5) A member who is appointed after a term has begun serves
12 only for the rest of the term and until a successor is appointed and qualifies.13 (c) (1) [In Cecil County, the] THE PLANNING commission may not appoint a
14 director of planning and zoning.15 (2) The Board of County Commissioners of Cecil County shall appoint a
16 director of planning and zoning for the County and the director shall serve at the
17 pleasure of the County Commissioners.18 (d) (1) Notwithstanding [subsection (a) of this section, in Cecil County] §
19 4.07(A) OF THIS ARTICLE, the board OF APPEALS has five regular members and one
20 alternate member.

21 (2) Board members serve for 3-year staggered terms.

22 [(3)] (3) At the end of a term, a member continues to serve until a successor is
23 appointed and qualifies.24 (4) A member who is appointed after a term has begun serves only for
25 the rest of the term and until a successor is appointed and qualifies.]

26 14.05. CHARLES COUNTY.

27 (A) THIS SECTION APPLIES TO CHARLES COUNTY.

28 (b) [(i)] (1) The Charles County planning commission is comprised of 7
29 members and shall represent as many different geographical areas of Charles County
30 as is possible.31 [(ii)] (2) Members may receive such compensation as deemed
32 appropriate by the Charles County Commissioners.

1 [(iii)] (3) The members serve for [four-year] 4-YEAR terms or until
2 their successors are appointed and qualified. The respective terms of the members
3 shall be on a staggered basis.

4 [(iv)] (4) The chairperson shall be appointed annually by the
5 Charles County Commissioners.

6 [(v)] A member of the Charles County Commissioners may sit on the
7 Charles County planning commission in an ex officio capacity through December 31,
8 1988. The member shall have voting privileges on all matters except matters on
9 which the member would be called on to vote again in the capacity as a member of the
10 Charles County Commissioners, such as zoning and rezoning matters. This member
11 shall be counted as one of the 7 members.

12 [(vi)] (5) [Beginning January 1, 1989, a] A member of the Charles
13 County Commissioners may not sit on the Charles County planning commission.

14 (c) [(1)] This subsection applies to Charles County.]

15 [(2)] (1) The local legislative body may authorize the planning director
16 or other designee to grant administrative adjustments from height, setback, bulk,
17 parking, loading, dimensional, area, or similar requirements of the zoning ordinance;
18 and

19 [(3)] (2) The local legislative body shall consult with the planning
20 commission and the board of appeals in developing criteria and procedures for
21 administrative adjustments under this subsection.

22 [(4)] (3) The local legislative body shall adopt the criteria and
23 procedures after reasonable public notice, public hearing, and opportunity for review
24 and comment by the public.

25 [(5)] (4) Criteria for administrative adjustments shall include:

26 (i) Standards for actions on requests;

27 (ii) Standards for classes of development eligible for administrative
28 adjustments; and

29 (iii) Maximum variation from a zoning requirement allowable under
30 an administrative adjustment.

31 [(6)] (5) Procedures for administrative adjustments may include:

32 (i) Applications;

33 (ii) Notice to the public and parties in interest;

34 (iii) Opportunity for public hearing;

35 (iv) Taking of testimony and evidence; and

1 (v) Decision making.

2 [(7)] (6) A decision on an application for an administrative adjustment
3 shall include written findings of fact.

4 [(8)] (7) The local legislative body may provide, by ordinance or other
5 adopted procedure, for the appeal of a decision to approve or deny an administrative
6 adjustment to the board of appeals.

7 (d) Notwithstanding [subsection (a) of this section, in Charles County] §
8 4.07(A) OF THIS ARTICLE, [board] members OF THE BOARD OF APPEALS shall be
9 appointed to staggered terms of 4 years.

10 (e) (1) This subsection applies only:

11 (i) In Charles County; and

12 (ii) To] TO an application for a special exception for surface mining,
13 an asphalt plant, concrete plant, or sand and gravel washing, crushing, or screening.

14 (2) Notwithstanding [any other provision of this section] § 4.07 OF THIS
15 ARTICLE, the County Commissioners may hear and decide a special exception under
16 an appeal filed by a property owner aggrieved by a decision of the board of appeals on
17 the special exception, in accordance with rules and procedures adopted by the County
18 Commissioners.

19 (3) If the County Commissioners adopt rules and procedures for
20 considering a special exception under this subsection, the decision of the [county
21 commissioners] COUNTY COMMISSIONERS to grant, deny, modify, or remand the
22 application for the special exception is a final decision from which an appeal may be
23 taken to the circuit court under § 4.08 of this [subtitle] ARTICLE.

24 (f) [In Charles and St. Mary's Counties this section] SECTION 5.05 OF THIS
25 ARTICLE does not apply to the sale or negotiation for sale of industrial property.

26 [(a)] (g) (1) Notwithstanding any other provision of this article, if an
27 application or permit or series of applications or permits is granted within Charles
28 County to an owner or owners of land which allows the applicant to proceed with the
29 development of land for purposes of constructing residential dwelling units, whether
30 single or multiple, detached or attached, in a manner that the [County] COUNTY or
31 the State will have to provide additional school sites or school facilities for the use and
32 benefit of new residents who will populate the developed land, the owner or owners of
33 the land, in accordance with regulations or procedures which may be promulgated by
34 the County Commissioners, shall compensate the [County] COUNTY for the burden
35 the development will impose in terms of the additional public school facilities which
36 will have to be provided in an amount equal to the cost attributable to the proposed
37 development of the land involved.

38 [(b) (1)] (2) (i) The costs to be compensated by the land owner or owners
39 shall be determined annually by the County Commissioners after a public hearing.

1 Proportionate division and provisions for payment of these costs shall be made
2 according to reasonable schedules approved by the County Commissioners. However,
3 in no case may this amount exceed \$5,000 per unit.

4 [(2) (i)] (ii) 1. The County Commissioners shall conduct an annual
5 study to determine the reasonableness of these costs before the public hearing.

6 [(ii)] 2. The study shall include an analysis of the effect of the
7 impact fee on the cost of housing in the [County] COUNTY. The analysis shall be
8 made available to the public at the time of the public hearing.

9 [(iii)] 3. Any new or increased costs may not take effect until at
10 least 90 days after the public hearing.

11 [(3)] (iii) These schedules shall reflect the impact of the development
12 over time and provide for the timely acquisition of land and other facilities by the
13 [County] COUNTY, State, or the land owners, as the case may be, designed to serve
14 residents of the development.

15 [(4)] (iv) Up to 20% of any fee imposed under this section for any
16 residential dwelling unit may be required to be paid at or after the approval of a
17 preliminary subdivision plan for lots that include the residential dwelling unit. The
18 balance of the fee shall be paid before the issuance of the occupancy permit for the
19 residential dwelling unit.

20 [(c) (3) Moneys received by the [County] COUNTY for compensation under
21 this [section] SUBSECTION shall be placed in a separate fund. The funds shall be
22 used for public school facilities. This special fund shall be administered by the County
23 Commissioners and is subject to investment or expenditure by the County
24 Commissioners, in their absolute discretion solely for the purposes of this [section]
25 SUBSECTION.

26 [(d) (1)] (4) (i) On or before October 1, 1998, the County Commissioners
27 shall adopt an impact fee ordinance on impact fees for public school facilities.

28 [(2)] (ii) The ordinance shall include regulations and procedures
29 necessary to establish an impact fee program and to allow applications for impact fee
30 credits for designated residential dwelling units.

31 [(3)] (iii) The impact fee program shall include the 5-year capital
32 improvement needs of the County Board of Education.

33 14.06. FREDERICK COUNTY.

34 (A) THIS SECTION APPLIES TO FREDERICK COUNTY.

35 (b) Notwithstanding any other provision in this article, [in Frederick County,]
36 the Board of County Commissioners may overrule the action of the Frederick County
37 planning commission by a majority vote of the membership of the Board of County
38 Commissioners.

1 (c) Notwithstanding [subsection (a) of this section, in Frederick County and
 2 St. Mary's County] § 4.07(A) OF THIS ARTICLE, the [board] members OF THE BOARD
 3 OF APPEALS may be appointed to staggered terms varying from [one to three] 1 TO 3
 4 years.

5 (D) SECTION 5.05 OF THIS ARTICLE DOES NOT APPLY TO THE CONTRACT FOR
 6 SALE OR NEGOTIATION FOR SALE OF PROPERTY ZONED INDUSTRIAL, COMMERCIAL,
 7 OR BOTH INDUSTRIAL AND COMMERCIAL, IF A PLAT IS APPROVED AND RECORDED IN
 8 ACCORDANCE WITH THIS ARTICLE BEFORE THE TRANSFER OF LAND.

9 14.07. ST. MARY'S COUNTY.

10 (A) THIS SECTION APPLIES TO ST. MARY'S COUNTY.

11 (b) (1) [(i) In St. Mary's County, land] LAND and buildings may not be
 12 used for chemical or catalytic manufacturing, chemical fabrication, gasoline
 13 processing, or refining of petroleum or petroleum products.

14 [(ii) (2) This prohibition does not apply to land and buildings if
 15 they were used:

16 [1.] (I) On or before July 23, 1974, for chemical or catalytic
 17 manufacturing, chemical fabrication, gasoline fabrication, gasoline processing, or
 18 refining of petroleum or petroleum products; or

19 [2.] (II) On or after July 1, 1980, for manufacturing alcohol
 20 fuel.

21 [(2) (i) (C) (1) [In St. Mary's County, except] EXCEPT as provided in
 22 [subparagraph (ii) of this] paragraph (2) OF THIS SUBSECTION, any land and
 23 buildings that are used for races or speed contests involving automobiles or other
 24 vehicles, as defined in § 11-176 of the Transportation Article, shall be restricted to
 25 hours of operation that cease:

26 [1.] (I) At 12:30 a.m.; or

27 [2.] (II) If a race or speed contest is in progress at 12:30 a.m.,
 28 within 30 minutes after the conclusion of that race or speed contest.

29 [(ii) (2) The required closing time for land and buildings under
 30 [subparagraph (i) of this] paragraph (1) OF THIS SUBSECTION does not apply to areas
 31 used for the operation of concessions or to passages used for ingress and egress to
 32 these concession areas.

33 (D) NOTWITHSTANDING § 4.07(A) OF THIS ARTICLE, THE MEMBERS OF THE
 34 BOARD OF APPEALS MAY BE APPOINTED TO STAGGERED TERMS VARYING FROM 1 TO
 35 3 YEARS.

36 (E) SECTION 5.05 OF THIS ARTICLE DOES NOT APPLY TO THE SALE OR
 37 NEGOTIATION FOR SALE OF INDUSTRIAL PROPERTY.

1 (f) Notwithstanding [the provisions of subsection (a)] § 5.05(A) of this
2 [section] ARTICLE, [in St. Mary's County] the [county commissioners] COUNTY
3 COMMISSIONERS may provide a civil penalty for a subdivision violation. In a
4 proceeding before the district court, the subdivision violation shall be enforced in the
5 same manner and to the same extent as set forth for municipal infractions in Article
6 23A, § 3(b) of the Code.

7 14.08. WORCESTER COUNTY.

8 (A) THIS SECTION APPLIES TO WORCESTER COUNTY.

9 (b) [In Worcester County, notwithstanding] NOTWITHSTANDING any other
10 provisions of the law, the County Commissioners, upon the zoning or rezoning of any
11 land or lands, may impose such restrictions, conditions or limitations as may be
12 deemed by them to be appropriate to preserve, improve or protect the general
13 character and design of the lands and improvements being zoned or rezoned, or of the
14 surrounding or adjacent lands and improvements, and may, upon the zoning or
15 rezoning of any land or lands, retain or reserve the power and authority to approve or
16 disapprove the design of buildings, construction, landscaping or other improvements,
17 alterations, and changes made or to be made on the subject land or lands to assure
18 conformity with the intent and purpose of this article and of the county zoning
19 ordinance. The powers in this subsection shall be applicable only if the County
20 Commissioners adopt an ordinance which shall include enforcement procedures and
21 requirements for adequate notice of public hearings and conditions sought to be
22 imposed.

23 (c) [In Worcester County, notwithstanding] NOTWITHSTANDING any other
24 provisions to this article or of the local laws of Worcester County, any application for
25 zoning classification or reclassification must contain the following information:

26 (1) If the applicant is a corporation, the names and residences of the
27 officers, directors, and all stockholders owning more than [20 percent] 20% of the
28 capital stock of the corporation;

29 (2) If the applicant is a partnership, whether a general or limited
30 partnership, the names and residences of all partners who own more than [twenty
31 percent] 20% of the interest of the partnership;

32 (3) If the applicant is an individual, [his] THE APPLICANT'S name and
33 residence; OR

34 (4) If the applicant is a joint venture, unincorporated association, real
35 estate investment trust, or other business trust, the names and residences of all
36 persons holding an interest of more than [twenty percent] 20% in the joint venture,
37 unincorporated association, real estate investment trust, or other business trust.

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2 5-7A-02.

3 (d) Each local jurisdiction shall report on or before [February] APRIL 1 of each
4 year to the State Economic Growth, Resource Protection, and Planning Commission
5 on the number and type of projects approved under subsection (b)(2) of this section
6 during the preceding calendar year, including a description of the extraordinary
7 circumstances existing and the alternatives considered, together with any additional
8 information required by the Commission. THIS REPORT MAY BE INCLUDED AS PART
9 OF THE ANNUAL REPORT PREPARED BY THE LOCAL PLANNING COMMISSION UNDER
10 ARTICLE 66B, § 3.09 OF THE CODE.

11 SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 3.05(b) and
12 4.09 of Article 66B - Zoning and Planning of the Annotated Code of Maryland be
13 repealed and reenacted, with amendments, and transferred to the Session Laws, to
14 read as follows:

IMPLEMENTATION OF THE VISIONS

15 [3.05.] 1.

17 [(b) (1)] (A) Any plan whose preparation or revision begins or is required to
18 begin after October 1, 1992 shall include all elements required in [subsection (a) of
19 this section] ARTICLE 66B, § 3.05(A) OF THE CODE and the visions set forth in ARTICLE
20 66B, § 3.06(b) [of this article].

21 [(2)] (B) On or before July 1, 1997 all local jurisdictions shall adopt and
22 include in their plans all elements required in [subsection (a) of this section]
23 ARTICLE 66B, § 3.05(A) and the visions set forth in ARTICLE 66B, § 3.06(b) [of this
24 article].

25 [(3)] (C) The planning commission, at intervals of no more than 6 years,
26 shall review and if necessary revise or amend a plan to include all elements required
27 in [subsection (a) of this section] ARTICLE 66B, § 3.05(A) and the visions set forth in
28 ARTICLE 66B, § 3.06(b) [of this article].

29 [(4)] (D) A planning commission may elect to prepare plans for 1 or more
30 major geographic sections or divisions of the jurisdiction, provided that the plan for
31 each geographic section or division is reviewed and if necessary revised or amended
32 within each 6-year interval.

33 [4.09.] 2.

34 (a) On or before July 1, 1997, and subsequently at intervals of no more than 6
35 years which correspond to the plan revision under ARTICLE 66B, § 3.05(b) of [this
36 article] THE CODE, a local jurisdiction shall ensure that the implementation of the
37 provisions of the plan that comply with ARTICLE 66B, §§ 3.05(a)(1)(vi) and (viii) and
38 3.06(b) of [this article] THE CODE are achieved through the adoption of applicable
39 zoning ordinances and regulations, planned development ordinances and regulations,

1 subdivision ordinances and regulations, and other land use ordinances and
2 regulations that are consistent with the plan.

3 (b) Unless comprehensive rezoning is required to comply with subsection (a) of
4 this section, nothing in subsection (a) of this section shall require or limit the
5 authority of a local jurisdiction to undertake or adopt a comprehensive rezoning prior
6 to July 1, 1997.

7 SECTION 4. AND BE IT FURTHER ENACTED, That Article 66B - Zoning and
8 Planning of the Annotated Code of Maryland be renamed to be Article 66B - Land
9 Use.

10 SECTION 5. AND BE IT FURTHER ENACTED, That, notwithstanding any
11 other provision of law, a jurisdiction that files a report with the Commission under
12 Art. 66B, § 3.09 of the Code on a basis other than the calendar year basis as of the
13 effective date of this Act may not be required to file subsequent reports on a calendar
14 year basis prior to the report due on April 1, 2001.

15 SECTION 6. AND BE IT FURTHER ENACTED, That the catchlines contained
16 in this Act are not law and may not be considered to have been enacted as a part of
17 this Act.

18 SECTION 7. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 1999.