SENATE BILL 647

Unofficial Copy 1999 Regular Session
L6 9lr2107
CF 9lr2108

By: **Senator Miller**
Introduced and read first time: February 5, 1999
Assigned to: Economic and Environmental Affairs

A BILL ENTITLED

AN ACT concerning

Growth Management - Land Use Definitions and Controls

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

BY renumbering
Article 66B - Zoning and Planning
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), 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), 5.05(d), and 4.05 (f) and (g), respectively
to be Section 14.01, 14.02, 14.03(b) and (c), 14.04(b), (c), and (d), 14.05(b), (c), (d),

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

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

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

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

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

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

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

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

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 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), 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), 5.05(d), and 4.05(f) and (g), respectively, of Article 66B - Zoning and Planning of the Annotated Code of Maryland be renumbered to be Section(s) 14.01, 14.02, 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 (c), 14.07(b) and (f), and 14.08(b) and (c), respectively, to be under the new subtitle "Miscellaneous Local Provisions".

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

Article 66B - Zoning and Planning

1.00.

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

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

(1) THE MODIFICATION IS CONSISTENT WITH THE PLAN;

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

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

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

(1) IS CONSISTENT WITH THE PLAN;

(2) IS NOT CONTRARY TO THE PUBLIC INTEREST;

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

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

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

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

(2) TAKEN IN ACCORDANCE WITH THE PLAN; AND

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

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

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

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

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

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

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

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

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

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

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

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

(M) "SENSITIVE AREAS" INCLUDE:

(1) STREAMS AND THEIR BUFFERS;

(2) 100-YEAR FLOODPLAINS;

(3) HABITATS OF THREATENED AND ENDANGERED SPECIES;

(4) STEEP SLOPES; AND

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

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

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

(1) IS CONSISTENT WITH THE PLAN; AND

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

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

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

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

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

1.01.

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

(1) DEVELOPMENT IS CONCENTRATED IN SUITABLE AREAS;

(2) SENSITIVE AREAS ARE PROTECTED;

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

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

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

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

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

3.02.

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

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

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

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

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

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

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

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

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

3.04.

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

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

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

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

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

3.05.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Streams and their buffers;

2. 100-year floodplains;

3. Habitats of threatened and endangered species; and

4. Steep slopes.

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

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

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

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

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

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

1. Loading and unloading finfish and shellfish;

2. Processing finfish and shellfish; and

3. Docking and mooring commercial fishing boats and vessels.

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

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

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

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

(I) POPULATION - CHARACTERISTICS AND NEEDS;

(II) ECONOMIC ACTIVITY;

(III) LAND USE AND LAND DEMAND;

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

(V) TRANSPORTATION FACILITIES AND NEEDS;

(VI) HOUSING CONDITIONS AND NEEDS;

(VII) FISCAL CONSIDERATIONS;

(VIII) GROWTH MANAGEMENT NEEDS; AND

(IX) NATURAL RESOURCES AND THE ENVIRONMENT.

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

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

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

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

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

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

(I) LAND USE, INCLUDING:

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

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

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

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

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

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

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

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

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

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

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

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

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

1. APPLICABLE AGRICULTURAL AND SILVICULTURAL RESOURCES;

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

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

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

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

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

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

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

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

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

(III) COMMUNITY DESIGN;

(IV) HISTORIC AND ARCHAEOLOGICAL PRESERVATION; AND

(V) CULTURAL ASPECTS OF THE COMMUNITY.

(3) EACH PLAN ELEMENT SHALL INCLUDE:

(I) A STATEMENT OF GOALS AND POLICIES; AND

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3.06.

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

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

(1) Development is concentrated in suitable areas;

(2) Sensitive areas are protected;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3.07.

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

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

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

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

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

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

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

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

(B) THE LOCAL LEGISLATIVE BODY SHALL ADOPT:

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

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

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

3.08.

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

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

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

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

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

3.09.

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

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

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

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

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

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

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

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

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

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

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

4.01.

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

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

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

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

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

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

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

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

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

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

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

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

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

4.04.

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

4.05.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) CRITERIA FOR ADMINISTRATIVE ADJUSTMENTS SHALL INCLUDE:

(I) STANDARDS FOR ACTIONS ON REQUESTS;

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

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

(5) PROCEDURES FOR ADMINISTRATIVE ADJUSTMENTS MAY INCLUDE:

(I) APPLICATIONS;

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

(III) OPPORTUNITY FOR PUBLIC HEARING;

(IV) TAKING OF TESTIMONY AND EVIDENCE; AND

(V) DECISION MAKING.

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

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

4.05.1.

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

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

4.06.

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

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

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

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

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

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

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

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

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

(V) ARCHITECTURE AND CONSTRUCTION ENGINEERING; AND

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

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

4.07.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4.08.

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

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

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

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

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

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

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

5.01.

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

5.02.

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

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

5.03.

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

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

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

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

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

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

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

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

(3) THE NOTICE SHALL CONTAIN:

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

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

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

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

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

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

5.04.

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

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

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

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

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

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

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

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

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

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

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

5.05.

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

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

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

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

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

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

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

5.06.

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

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

5.07.

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

7.01.

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

7.02.

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

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

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

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

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

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

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

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

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

7.03.

(a) [Except as provided in §§ 3.05(a)(1)(iii), (v), (vi), and (viii), (4), and (b), 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 article, and subject to subsection (b)] SUBJECT TO SUBSECTIONS (B) AND (C) of this section, this article does not apply to the chartered counties of Maryland. This section supersedes § 7.02 of this article and any inconsistent provision of Article 28 of the Code.

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

(1) 1.00(M) (DEFINITION OF "SENSITIVE AREAS");

(2) 1.01 (VISIONS);

(3) 3.05(E)(1)(V), (F)(2) AND (3), AND (H) (COMPREHENSIVE PLAN);

(4) 3.06(C), (D), AND (E) (IMPLEMENTATION AND AUTHORITY);

(5) 4.01(A)(2) (BICYCLE PARKING REGULATION);

(6) 5.03(E) (BURIAL SITE EASEMENT);

(7) 7.01(C) (CIVIL PENALTY FOR ZONING VIOLATION);

(8) 10.01 (ADEQUATE PUBLIC FACILITIES ORDINANCES);

(9) 11.01 (TRANSFER OF DEVELOPMENT RIGHTS);

(10) 12.01 (INCLUSIONARY ZONING); AND

(11) 13.01 (DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENTS).

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

MISCELLANEOUS LOCAL PROVISIONS

14.01. ALLEGANY COUNTY.

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

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

14.02. BALTIMORE COUNTY.

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

14.03. CARROLL COUNTY.

(A) THIS SECTION APPLIES TO CARROLL COUNTY.

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

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

14.04. CECIL COUNTY.

(A) THIS SECTION APPLIES TO CECIL COUNTY.

(b) [(i)] (1) [In Cecil County, the] THE planning commission has six regular members and one alternate member.

[(ii)] (2) Members of the planning commission serve for 3-year staggered terms.

[(iii)] (3) At the end of a term, an appointed member continues to serve until a successor is appointed and qualifies.

[(iv)] (4) An ex officio member serves a term concurrent with the member's term of office.

[(v)] (5) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(c) (1) [In Cecil County, the] THE PLANNING commission may not appoint a director of planning and zoning.

(2) The Board of County Commissioners of Cecil County shall appoint a director of planning and zoning for the County and the director shall serve at the pleasure of the County Commissioners.

(d) (1) Notwithstanding [subsection (a) of this section, in Cecil County] § 4.07(A) OF THIS ARTICLE, the board OF APPEALS has five regular members and one alternate member.

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

[(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.]

14.05. CHARLES COUNTY.

(A) THIS SECTION APPLIES TO CHARLES COUNTY.

(b) [(i)] (1) The Charles County planning commission is comprised of 7 members and shall represent as many different geographical areas of Charles County as is possible.

[(ii)] (2) Members may receive such compensation as deemed appropriate by the Charles County Commissioners.

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

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

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

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

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

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

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

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

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

(i) Standards for actions on requests;

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

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

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

(i) Applications;

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

(iii) Opportunity for public hearing;

(iv) Taking of testimony and evidence; and

(v) Decision making.

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

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

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

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

(i) In Charles County; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14.06. FREDERICK COUNTY.

(A) THIS SECTION APPLIES TO FREDERICK COUNTY.

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

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

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

14.07. ST. MARY'S COUNTY.

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

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

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

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

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

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

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

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

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

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

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

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

14.08. WORCESTER COUNTY.

(A) THIS SECTION APPLIES TO WORCESTER COUNTY.

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

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

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

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

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

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

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

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

IMPLEMENTATION OF THE VISIONS

[3.05.] 1.

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

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

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

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

[4.09.] 2.

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

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

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

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

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

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

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