

SENATE BILL 404

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2004 Regular Session  
4r1754  
CF 4r1369

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By: **Senators Hollinger, Brinkley, Britt, Colburn, Conway, Dyson, Forehand, Giannetti, Green, Grosfeld, Hafer, Jacobs, Klausmeier, Middleton, and Pinsky**

Introduced and read first time: February 5, 2004  
Assigned to: Education, Health, and Environmental Affairs

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A BILL ENTITLED

1 AN ACT concerning

2 **Municipal Corporations - Annexations - Limitations on Uses of Land and**  
3 **Densities of Development**

4 FOR the purpose of authorizing a county, as a condition of approving an annexation of  
5 land by a municipal corporation, to require the municipal corporation to limit  
6 the uses of land or densities of development of the annexed land in a certain  
7 manner; authorizing a municipal corporation to provide in an annexation  
8 resolution for the special treatment of the residents and property in the area to  
9 be annexed as to allowable uses of land and densities of development under  
10 certain circumstances; authorizing a municipal corporation and a property  
11 owner to enter into an agreement that imposes conditions on the future use and  
12 development of the area to be annexed under certain circumstances; authorizing  
13 a local legislative body to impose certain limitations on the uses of land or  
14 densities of development in an annexation agreement on the zoning or rezoning  
15 of land under certain circumstances; establishing a certain exception to a certain  
16 provision regarding uniformity of regulations within a zoning district; and  
17 generally relating to limitations on uses of land and densities of development on  
18 land annexed by municipal corporations.

19 BY repealing and reenacting, with amendments,  
20 Article 23A - Corporations - Municipal  
21 Section 9(c) and 19(n)  
22 Annotated Code of Maryland  
23 (2001 Replacement Volume and 2003 Supplement)

24 BY adding to  
25 Article 23A - Corporations - Municipal  
26 Section 19(t)  
27 Annotated Code of Maryland  
28 (2001 Replacement Volume and 2003 Supplement)

29 BY repealing and reenacting, with amendments,

1 Article 66B - Land Use  
2 Section 4.01(c)(1) and 4.02  
3 Annotated Code of Maryland  
4 (2003 Replacement Volume)

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

7 **Article 23A - Corporations - Municipal**

8 9.

9 (c) (1) (I) A municipal corporation which is subject to the provisions of  
10 Article XI-E of the Maryland Constitution may not amend its charter or exercise its  
11 powers of annexation, incorporation or repeal of charter as to affect or impair in any  
12 respect the powers relating to sanitation, including sewer, water and similar facilities,  
13 and zoning, of the Washington Suburban Sanitary Commission or of the  
14 Maryland-National Capital Park and Planning Commission.

15 (II) Except that where any area is annexed to a municipality  
16 authorized to have and having then a planning and zoning authority, the municipality  
17 shall have exclusive jurisdiction over planning and zoning and subdivision control  
18 within the area annexed; provided nothing in this exception shall be construed or  
19 interpreted to grant planning and zoning authority or subdivision control to a  
20 municipality not authorized to exercise that authority at the time of such annexation;  
21 and further provided, that no municipality annexing land may for a period of five  
22 years following annexation, place that land in a zoning classification which permits a  
23 land use substantially different from the use for the land specified in the current and  
24 duly adopted master plan or plans or if there is no adopted or approved master plan,  
25 the adopted or approved general plan or plans of the county or agency having  
26 planning and zoning jurisdiction over the land prior to its annexation without the  
27 express approval of the board of county commissioners or county council of the county  
28 in which the municipality is located. NOTWITHSTANDING ANY PROVISION OF  
29 ARTICLE 66B OF THE CODE THAT MAY REQUIRE USES OF LAND OR DENSITIES OF  
30 DEVELOPMENT TO BE UNIFORM WITHIN EACH ZONING DISTRICT, THE BOARD OF  
31 COUNTY COMMISSIONERS OR COUNTY COUNCIL, AS A CONDITION OF APPROVING AN  
32 ANNEXATION OF LAND BY A MUNICIPALITY, MAY REQUIRE THE MUNICIPALITY TO  
33 LIMIT THE USES OR DENSITIES OF THE ANNEXED LAND TO FEWER THAN ALL OF THE  
34 USES OR DENSITIES OTHERWISE ALLOWED UNDER THE ZONING CLASSIFICATION TO  
35 BE PLACED ON THE LAND BY THE MUNICIPALITY IN CONJUNCTION WITH THE  
36 ANNEXATION.

37 (2) If the county expressly approves, the municipality, without regard to  
38 the provisions of Article 66B, § 4.05(a) of the Code, may place the annexed land in a  
39 zoning classification that permits a land use substantially different from the use for  
40 the land specified in the current and duly adopted master plan or general plan of the  
41 county or agency having planning and zoning jurisdiction over the land prior to its  
42 annexation.

1 19.

2 (n) The resolution to add to the corporate boundaries of a municipal  
3 corporation shall provide generally that the persons residing in the area to be  
4 annexed, and their property, shall be added to the corporate boundaries, generally  
5 subject or not subject, as the case may be, to the provisions of the charter of the  
6 municipal corporation; except that for stated periods and under specific conditions  
7 provision may be made for special treatment of the residents and property in the area  
8 to be annexed, as to rates of municipal [taxation and as to] TAXATION, municipal  
9 services and facilities, AND ALLOWABLE USES OF LAND AND DENSITIES OF  
10 DEVELOPMENT. No change shall be made in these provisions for special treatment for  
11 stated periods and under specific conditions, except by resolution enacted in  
12 accordance with the provisions and requirements of this section.

13 (T) IN ADDITION TO THOSE PURPOSES FOR WHICH A MUNICIPAL  
14 CORPORATION AND A PROPERTY OWNER MAY ENTER INTO AN AGREEMENT THAT  
15 ESTABLISHES TERMS AND CONDITIONS UNDER WHICH THE MUNICIPAL  
16 CORPORATION WILL ANNEX LAND, A MUNICIPAL CORPORATION AND A PROPERTY  
17 OWNER MAY ENTER INTO AN AGREEMENT THAT IMPOSES CONDITIONS ON THE  
18 FUTURE USE AND DEVELOPMENT OF THE AREA TO BE ANNEXED FOR THE BENEFIT  
19 OF THE AREA TO BE ANNEXED OR FOR THE PROTECTION OF NEARBY AREAS.  
20 NOTWITHSTANDING THE PROVISIONS OF ARTICLE 66B OF THE CODE, THESE  
21 AGREEMENTS MAY INCLUDE LIMITATIONS ON THE USES OF LAND OR DENSITIES OF  
22 DEVELOPMENT OF THE ANNEXED AREA TO FEWER THAN ALL OF THE USES OR  
23 DENSITIES OTHERWISE ALLOWED UNDER THE ZONING CLASSIFICATION TO BE  
24 PLACED ON THE LAND BY THE MUNICIPAL CORPORATION IN CONJUNCTION WITH  
25 THE ANNEXATION.

26

#### **Article 66B - Land Use**

27 4.01.

28 (c) (1) On the zoning or rezoning of any land under this article, a local  
29 legislative body may impose any additional restrictions, conditions, or limitations  
30 that the local legislative body considers appropriate, INCLUDING IN AN ANNEXATION  
31 AGREEMENT LIMITATIONS ON THE USES OF LAND AND DENSITIES OF  
32 DEVELOPMENT OTHERWISE ALLOWED IN THE ZONING DISTRICT WHERE THE LAND  
33 IS LOCATED, to preserve, improve, or protect the general character and design of:

34 (i) The lands and improvements being zoned or rezoned; or

35 (ii) The surrounding or adjacent lands and improvements.

36 4.02.

37 (a) A local legislative body may divide the local jurisdiction into districts of  
38 any number, shape, and area that the local legislative body considers best suited to  
39 execute the purposes of this article.

1 (b) (1) Within the districts created, the local legislative body may regulate  
2 and restrict the erection, construction, reconstruction, alteration, repair, or use of  
3 buildings, structures, or land.

4 (2) [All] EXCEPT AS PROVIDED IN THIS ARTICLE OR OTHERWISE  
5 AUTHORIZED BY LAW, ALL regulations shall be uniform for each class or kind of  
6 development throughout each district, but the regulations in one district may differ  
7 from those in other districts.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 October 1, 2004.