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By: **Delegates Bozman, Healey, Barkley, Conroy, Conway, D. Davis, Donoghue, Eckardt, Elliott, Elmore, Gaines, Gordon, Haddaway, Hixson, Hubbard, Jones, King, Lawton, McComas, McHale, Menes, Moe, Montgomery, Ross, Rudolph, Shank, Sossi, and Weldon**

Introduced and read first time: March 1, 2006

Assigned to: Rules and Executive Nominations

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A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Growth Management Act of 2006**

3 FOR the purpose of requiring certain planning commissions to include growth  
4 boundaries as part of a certain comprehensive plan; authorizing a county and a  
5 municipal corporation to enter in a certain joint planning agreement for certain  
6 purposes; providing for the contents of a joint planning agreement; providing  
7 that a joint planning agreement shall become effective on the enactment of  
8 certain ordinances by the county and municipal corporation; requiring a county  
9 and a municipal corporation to send a copy of a certain joint planning agreement  
10 to the Maryland Department of Planning under certain circumstances;  
11 requiring a county and a municipal corporation to integrate a certain joint  
12 planning agreement into their respective comprehensive master plans under  
13 certain circumstances; providing for a time period during which a certain joint  
14 planning agreement shall be effective; authorizing a county and municipal  
15 corporation to agree on a process to amend a certain joint planning agreement;  
16 requiring a county and a municipal corporation to send a copy of an amendment  
17 to a certain joint planning agreement to the Department of Planning; requiring  
18 a local jurisdiction to submit a certain plan for development of land outside a  
19 certain growth boundary to the Department of Planning for approval under  
20 certain circumstances; requiring the Department of Planning to notify the local  
21 jurisdiction of a certain determination within a certain time period; requiring  
22 the Department of Planning to consider certain criteria when making a certain  
23 determination; requiring a local planning commission to make, approve, and  
24 recommend certain growth boundaries to a local legislative body under certain  
25 circumstances; requiring a local jurisdiction to establish growth boundaries in  
26 certain areas; requiring a certain planning commission to consider certain  
27 criteria when determining growth boundaries; authorizing a county or  
28 municipal corporation to challenge certain proposed growth boundaries within a  
29 certain time period; requiring the county and municipal corporation to meet and  
30 confer with each other regarding certain proposed growth boundaries; requiring  
31 a county and municipal corporation to submit to the Department of Planning for  
32 binding arbitration under certain circumstances; making certain provisions of

1 this Act applicable to charter counties and Baltimore City; and generally  
2 relating to growth boundaries and joint planning agreements.

3 BY repealing and reenacting, with amendments,  
4 Article 66B - Land Use  
5 Section 1.02, 1.03(a)(1), and 3.05(a)(4)  
6 Annotated Code of Maryland  
7 (2003 Replacement Volume and 2005 Supplement)

8 BY adding to  
9 Article 66B - Land Use  
10 Section 1.04, 1.05, and 3.08.1  
11 Annotated Code of Maryland  
12 (2003 Replacement Volume and 2005 Supplement)

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

15 **Article 66B - Land Use**

16 1.02.

17 (a) Except as provided in this section, this article does not apply to charter  
18 counties.

19 (b) The following sections of this article apply to a charter county:

- 20 (1) § 1.00(j) (Definition of "sensitive areas");
- 21 (2) § 1.01 (Visions);
- 22 (3) § 1.03 (Charter county - Comprehensive plans);
- 23 (4) § 1.04 (JOINT PLANNING AGREEMENTS);
- 24 (5) § 1.05 (DEVELOPMENT OUTSIDE GROWTH BOUNDARIES);
- 25 (6) § 3.08.1 (GROWTH BOUNDARIES);
- 26 [(4)] (7) § 4.01(b)(2) (Regulation of bicycle parking);
- 27 [(5)] (8) § 5.03(d) (Easements for burial sites);
- 28 [(6)] (9) § 7.02 (Civil penalty for zoning violation);
- 29 [(7)] (10) § 10.01 (Adequate Public Facilities Ordinances);
- 30 [(8)] (11) § 11.01 (Transfer of Development Rights);

1            [(9)]    (12)    § 12.01 (Inclusionary Zoning);  
2            [(10)]   (13)    Except in Montgomery County or Prince George's County, §  
3 13.01 (Development rights and responsibilities agreements); and  
4            [(11)]   (14)    For Baltimore County only, § 14.02.

5        (c)        This section supersedes any inconsistent provision of Article 28 of the  
6 Code.  
7 1.03.

8        (a)        (1)        When developing a comprehensive plan for a charter county, a  
9 planning commission shall include:

10                    (i)        A transportation plan element which shall:

11                                    1.        Propose the most appropriate and desirable patterns for  
12 the general location, character, and extent of the channels, routes, and terminals for  
13 transportation facilities, and for the circulation of persons and goods on a schedule  
14 that extends as far into the future as is reasonable;

15                                    2.        Provide for bicycle and pedestrian access and travelways;  
16 and

17                                    3.        Include an estimate of the probable utilization of any  
18 proposed improvement;

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

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

24                                    2.        Identifies appropriate postexcavation uses for the land  
25 that are consistent with the county's land planning process;

26                                    3.        Incorporates land use policies and recommendations for  
27 regulations:

28                                    A.        To balance mineral resource extraction with other land  
29 uses; and

30                                    B.        To the extent feasible, to prevent the preemption of  
31 mineral resources extraction by other uses; and

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

1 (iii) An element which contains the planning commission's  
2 recommendation for land development regulations to implement the comprehensive  
3 plan and which encourages:

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

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

9 3. Economic development in areas designated for growth in  
10 the comprehensive plan through the use of innovative techniques; [and]

11 (iv) A sensitive areas element that contains goals, objectives,  
12 principles, policies, and standards designed to protect sensitive areas from the  
13 adverse effects of development; AND

14 (V) EXCEPT IN BALTIMORE CITY, IN ACCORDANCE WITH § 3.08.1 OF  
15 THIS ARTICLE, GROWTH BOUNDARIES.

16 1.04.

17 (A) (1) A COUNTY AND A MUNICIPAL CORPORATION MAY ENTER INTO A  
18 JOINT PLANNING AGREEMENT TO COORDINATE FUTURE GROWTH BOTH INSIDE AND  
19 OUTSIDE ESTABLISHED GROWTH BOUNDARIES.

20 (2) A JOINT PLANNING AGREEMENT SHALL INCLUDE:

21 (I) AN ANALYSIS OF THE CAPACITY OF LAND AREAS AVAILABLE  
22 FOR DEVELOPMENT WITHIN THE MUNICIPAL CORPORATION AND COUNTY,  
23 INCLUDING IN-FILL AND REDEVELOPMENT;

24 (II) A DESCRIPTION OF THE RELATIONSHIP OF THE JOINT  
25 PLANNING AGREEMENT TO A LONG TERM DEVELOPMENT POLICY FOR PROMOTING  
26 AN ORDERLY EXPANSION OF GROWTH AND AN EFFICIENT USE OF LAND AND PUBLIC  
27 SERVICES;

28 (III) AN ANALYSIS OF THE LAND AREA NEEDED TO SATISFY  
29 DEMAND FOR DEVELOPMENT AT DENSITIES CONSISTENT WITH THE LONG TERM  
30 DEVELOPMENT POLICY;

31 (IV) A DESCRIPTION OF THE GROWTH BOUNDARIES;

32 (V) A DESCRIPTION OF THE MANNER AND TIMING BY WHICH THE  
33 NECESSARY PUBLIC SERVICES AND INFRASTRUCTURE WILL BE PROVIDED TO AREAS  
34 WITHIN ANY GROWTH BOUNDARIES, INCLUDING THOSE NECESSARY FOR:

- 1                           1.       PUBLIC SCHOOLS, SUFFICIENT TO ACCOMMODATE  
2 STUDENT POPULATION CONSISTENT WITH STATE RATED CAPACITY STANDARDS  
3 ESTABLISHED BY THE INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION;
- 4                           2.       LIBRARIES;
- 5                           3.       PUBLIC SAFETY, INCLUDING EMERGENCY MEDICAL  
6 RESPONSE;
- 7                           4.       WATER AND SEWERAGE FACILITIES;
- 8                           5.       STORMWATER MANAGEMENT SYSTEMS SUFFICIENT TO  
9 ASSURE WATER QUALITY BOTH INSIDE AND OUTSIDE OF THE PROPOSED GROWTH  
10 BOUNDARY; AND
- 11                          6.       RECREATION;

12                          (VI)    A PLAN FOR PROTECTING SENSITIVE AREAS THAT COULD BE  
13 IMPACTED BY DEVELOPMENT PLANNED WITHIN A GROWTH BOUNDARY; AND

14                          (VII)   AN ANALYSIS OF ANY BURDEN ON SERVICES AND  
15 INFRASTRUCTURE FOR WHICH THE COUNTY OR MUNICIPAL CORPORATION WOULD  
16 BE RESPONSIBLE FOR DEVELOPMENT IN AREAS PROXIMATE TO AND OUTSIDE A  
17 GROWTH BOUNDARY.

18       (B)   (1)    A JOINT PLANNING AGREEMENT SHALL BECOME EFFECTIVE ON THE  
19 ENACTMENT OF ORDINANCES BY THE COUNTY AND THE MUNICIPAL CORPORATION  
20 ADOPTING THE JOINT PLANNING AGREEMENT.

21                          (2)    ON ENACTMENT OF THE ORDINANCES BY THE COUNTY AND THE  
22 MUNICIPAL CORPORATION ADOPTING THE JOINT PLANNING AGREEMENT, THE  
23 COUNTY AND THE MUNICIPAL CORPORATION SHALL:

24                          (I)     JOINTLY SEND A COPY OF THE JOINT PLANNING AGREEMENT  
25 TO THE MARYLAND DEPARTMENT OF PLANNING; AND

26                          (II)    INTEGRATE THE JOINT PLANNING AGREEMENT INTO THE  
27 COMPREHENSIVE MASTER PLANS OF BOTH THE COUNTY AND THE MUNICIPAL  
28 CORPORATION THROUGH AMENDMENT OF THOSE PLANS.

29                          (3)    A JOINT PLANNING AGREEMENT SHALL REMAIN IN EFFECT FOR 10  
30 YEARS FROM THE DATE OF ADOPTION OR AS AGREED ON BY THE COUNTY AND THE  
31 MUNICIPAL CORPORATION.

32       (C)   (1)    THE COUNTY AND THE MUNICIPAL CORPORATION MAY AGREE ON A  
33 PROCESS TO AMEND A JOINT PLANNING AGREEMENT.

34                          (2)    IF A COUNTY AND MUNICIPAL CORPORATION AMEND A JOINT  
35 PLANNING AGREEMENT, THE COUNTY AND MUNICIPAL CORPORATION SHALL

1 JOINTLY SEND A COPY OF THE AMENDMENT TO THE MARYLAND DEPARTMENT OF  
2 PLANNING.

3 1.05.

4 (A) NOTWITHSTANDING ANY OTHER LAW, BEFORE A LOCAL JURISDICTION  
5 MAY APPROVE DEVELOPMENT OF LAND OUTSIDE ESTABLISHED GROWTH  
6 BOUNDARIES, THE LOCAL JURISDICTION SHALL SUBMIT THE PLAN FOR  
7 DEVELOPMENT TO THE MARYLAND DEPARTMENT OF PLANNING FOR APPROVAL.

8 (B) THE DEPARTMENT OF PLANNING SHALL NOTIFY THE LOCAL  
9 JURISDICTION OF ITS DETERMINATION OF WHETHER TO APPROVE A PLAN FOR  
10 DEVELOPMENT OF LAND OUTSIDE ESTABLISHED GROWTH BOUNDARIES WITHIN 90  
11 DAYS AFTER RECEIVING THE PLAN.

12 (C) IN DETERMINING WHETHER TO APPROVE DEVELOPMENT OF LAND  
13 OUTSIDE ESTABLISHED GROWTH BOUNDARIES, THE DEPARTMENT OF PLANNING  
14 SHALL CONSIDER THE CRITERIA FOR THE ESTABLISHMENT OF GROWTH  
15 BOUNDARIES IN § 3.08.1(C) OF THIS ARTICLE.

16 3.05.

17 (a) (4) The plan shall contain at a minimum the following elements:

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

21 (ii) A land use plan element, which:

22 1. Shall propose the most appropriate and desirable patterns  
23 for the general location, character, extent, and interrelationship of the uses of public  
24 and private land, on a schedule that extends as far into the future as is reasonable;  
25 and

26 2. May include public and private, residential, commercial,  
27 industrial, agricultural, and recreational land uses;

28 (iii) A transportation plan element which shall:

29 1. Propose the most appropriate and desirable patterns for  
30 the general location, character, and extent of the channels, routes, and terminals for  
31 transportation facilities, and for the circulation of persons and goods on a schedule  
32 that extends as far into the future as is reasonable;

33 2. Provide for bicycle and pedestrian access and travelways;  
34 and

35 3. Include an estimate of the probable utilization of any  
36 proposed improvement;

- 1 (iv) A community facilities plan element, which:
- 2 1. Shall propose the most appropriate and desirable patterns  
3 for the general location, character, and extent of public and semipublic buildings,  
4 land, and facilities on a schedule that extends as far into the future as is reasonable;  
5 and
- 6 2. May include parks and recreation areas, schools and other  
7 educational and cultural facilities, libraries, churches, hospitals, social welfare and  
8 medical facilities, institutions, fire stations, police stations, jails, or other public office  
9 or administrative facilities;
- 10 (v) If current geological information is available, a mineral  
11 resources plan element that:
- 12 1. Identifies undeveloped land that should be kept in its  
13 undeveloped state until the land can be used to provide or assist in providing a  
14 continuous supply of minerals, as defined in § 15-801(i) of the Environment Article;
- 15 2. Identifies appropriate post-excavation uses for the land  
16 that are consistent with the county's land planning process;
- 17 3. Incorporates land use policies and recommendations for  
18 regulations:
- 19 A. To balance mineral resource extraction with other land  
20 uses; and
- 21 B. To the extent feasible, to prevent the preemption of  
22 mineral resources extraction by other uses; and
- 23 4. Has been reviewed by the Department of the Environment  
24 to determine whether the proposed plan is consistent with the programs and goals of  
25 the Department;
- 26 (vi) An element which shall contain the planning commission's  
27 recommendation for land development regulations to implement the plan and which  
28 encourages the following:
- 29 1. Streamlined review of applications for development,  
30 including permit review and subdivision plat review within the areas designated for  
31 growth in the plan;
- 32 2. The use of flexible development regulations to promote  
33 innovative and cost-saving site design and protect the environment; and
- 34 3. Economic development in areas designated for growth in  
35 the plan through the use of innovative techniques;

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

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

6 (IX) IN ACCORDANCE WITH § 3.08.1 OF THIS ARTICLE, GROWTH  
7 BOUNDARIES.

8 3.08.1.

9 (A) A LOCAL PLANNING COMMISSION SHALL MAKE AND APPROVE GROWTH  
10 BOUNDARIES FOR THE LOCAL JURISDICTION WHICH THE COMMISSION SHALL  
11 RECOMMEND TO THE LOCAL LEGISLATIVE BODY FOR ADOPTION AS PART OF THE  
12 PLAN IN ACCORDANCE WITH § 1.04 OR § 3.05 OF THIS ARTICLE.

13 (B) (1) A COUNTY SHALL ESTABLISH GROWTH BOUNDARIES AROUND  
14 EXISTING OR PLANNED UNINCORPORATED POPULATION CENTERS.

15 (2) A MUNICIPAL CORPORATION SHALL ESTABLISH GROWTH  
16 BOUNDARIES AROUND THE BOUNDARIES OF THE MUNICIPAL CORPORATION.

17 (C) WHEN DETERMINING GROWTH BOUNDARIES, THE PLANNING  
18 COMMISSION SHALL CONSIDER THE FOLLOWING CRITERIA:

19 (1) PAST GROWTH PATTERNS OF THE LOCAL JURISDICTION;

20 (2) THE CAPACITY OF LAND AREAS AVAILABLE FOR DEVELOPMENT  
21 WITHIN THE LOCAL JURISDICTION, INCLUDING IN-FILL AND REDEVELOPMENT;

22 (3) THE LAND AREA NEEDED TO SATISFY DEMAND FOR DEVELOPMENT  
23 AT DENSITIES CONSISTENT WITH THE LONG TERM DEVELOPMENT POLICY;

24 (4) THE PUBLIC SERVICES AND INFRASTRUCTURE NEEDED TO SUPPORT  
25 NEW DEVELOPMENT, INCLUDING:

26 (I) PUBLIC SCHOOLS;

27 (II) LIBRARIES;

28 (III) PUBLIC SAFETY, INCLUDING EMERGENCY MEDICAL RESPONSE;

29 (IV) WATER AND SEWERAGE FACILITIES;

30 (V) STORMWATER MANAGEMENT SYSTEMS, SUFFICIENT TO  
31 ASSURE WATER QUALITY BOTH INSIDE AND OUTSIDE OF THE PROPOSED GROWTH  
32 BOUNDARY; AND

33 (VI) RECREATION;

1 (5) ANTICIPATED FINANCING MECHANISMS TO SUPPORT NECESSARY  
2 PUBLIC SERVICES AND INFRASTRUCTURE;

3 (6) THE BURDEN ON SERVICES AND INFRASTRUCTURE FOR WHICH THE  
4 LOCAL JURISDICTION WOULD BE RESPONSIBLE FOR DEVELOPMENT IN AREAS  
5 PROXIMATE TO AND OUTSIDE A GROWTH BOUNDARY;

6 (7) THE PROTECTION OF SENSITIVE AREAS THAT COULD BE IMPACTED  
7 BY DEVELOPMENT PLANNED WITHIN A GROWTH BOUNDARY;

8 (8) POPULATION GROWTH PROJECTIONS; AND

9 (9) THE RELATIONSHIP OF THE LONG TERM DEVELOPMENT POLICY TO  
10 A VISION OF THE LOCAL JURISDICTION'S FUTURE CHARACTER.

11 (D) (1) WITHIN 90 DAYS AFTER A PLANNING COMMISSION RECOMMENDS  
12 THE ESTABLISHMENT OF GROWTH BOUNDARIES:

13 (I) A COUNTY MAY CHALLENGE THE PROPOSED GROWTH  
14 BOUNDARIES OF A MUNICIPAL CORPORATION THAT LIES WITHIN THE COUNTY'S  
15 BOUNDARIES; AND

16 (II) A MUNICIPAL CORPORATION IN A COUNTY MAY CHALLENGE  
17 THE PROPOSED GROWTH BOUNDARIES SET BY THAT COUNTY.

18 (2) IF A COUNTY OR MUNICIPAL CORPORATION CHALLENGES THE  
19 ESTABLISHMENT OF THE GROWTH BOUNDARIES, THE COUNTY AND MUNICIPAL  
20 CORPORATION SHALL MEET AND CONFER WITH EACH OTHER REGARDING THE  
21 PROPOSED GROWTH BOUNDARIES.

22 (3) IF THE COUNTY AND MUNICIPAL CORPORATION DO NOT AGREE TO  
23 THE ESTABLISHMENT OF THE PROPOSED GROWTH BOUNDARIES WITHIN 180 DAYS  
24 AFTER THE PLANNING COMMISSION RECOMMENDS THE ESTABLISHMENT OF THE  
25 GROWTH BOUNDARIES, THE PARTIES SHALL SUBMIT TO THE MARYLAND  
26 DEPARTMENT OF PLANNING FOR BINDING ARBITRATION.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
28 October 1, 2006.