

HOUSE BILL 445

M3

2lr0120
CF SB 236

By: **The Speaker (By Request – Administration) and Delegates Bobo, Carr, Feldman, Frush, Gaines, Glenn, Hucker, Lafferty, McIntosh, Niemann, S. Robinson, and Rosenberg**

Introduced and read first time: February 1, 2012

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Sustainable Growth and Agricultural Preservation Act of 2012**

3 FOR the purpose of altering the contents of certain elements that are required in a
4 certain plan; prohibiting the approval of a residential major subdivision if a
5 local jurisdiction has established certain tiers unless a planning board reviews
6 and recommends the approval under certain circumstances; establishing the
7 requirements for the review of a residential major subdivision by a planning
8 board; requiring a planning board to hold a certain hearing under certain
9 circumstances; requiring a planning board to publish a certain notice in a
10 certain manner; requiring a planning board to provide copies of a proposed
11 major subdivision to certain units and jurisdictions within a certain period of
12 time; requiring a planning board to recommend a proposed major subdivision in
13 a certain manner; requiring a planning board to send a certain resolution and
14 certain documents to the Department of the Environment and the Department
15 of Planning under certain circumstances; establishing certain requirements for
16 the approval of a residential subdivision plat by the Department of the
17 Environment, or the Department's designee; authorizing a local jurisdiction to
18 request a verification of a certain overall yield under certain circumstances;
19 requiring the Department of Planning to verify a certain overall yield after
20 consultation with the Maryland Sustainable Growth Commission; requiring the
21 Department of the Environment to submit a certain subdivision plat to the
22 Department of Planning for certain advice; prohibiting the Department of the
23 Environment from approving a major residential subdivision under certain
24 circumstances on or before a certain date; requiring a local jurisdiction to notify
25 the Department of Planning under certain circumstances; prohibiting the
26 subdivision or resubdivision of a certain tract or parcel of land or a minor
27 residential subdivision under certain circumstances on or after a certain date;
28 requiring the subdivision plat of a residential minor subdivision to state certain
29 information; authorizing the subdivision or resubdivision of a certain tract or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 parcel of land or a minor residential subdivision under certain circumstances on
2 or after a certain date; establishing certain requirements for the approval of a
3 shared facility or community sewerage system; defining certain terms; requiring
4 the Department of the Environment to adopt regulations to require certain
5 residential subdivisions to receive a permit; establishing the intent of the
6 General Assembly; providing for the application of certain provisions of this Act;
7 providing for the construction of this Act; providing for the effective date of
8 certain provisions of this Act; providing for the termination of certain provisions
9 of this Act; and generally relating to the subdivision of land and planning for
10 growth.

11 BY repealing and reenacting, with amendments,
12 Article – Environment
13 Section 9–206
14 Annotated Code of Maryland
15 (2007 Replacement Volume and 2011 Supplement)

16 BY adding to
17 Article – Environment
18 Section 9–1110
19 Annotated Code of Maryland
20 (2007 Replacement Volume and 2011 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article 66B – Land Use
23 Section 1.00, 1.03, 1.04(b)(1)(iv), and 3.05(a)(4)(ii)
24 Annotated Code of Maryland
25 (2010 Replacement Volume and 2011 Supplement)

26 BY repealing and reenacting, without amendments,
27 Article 66B – Land Use
28 Section 1.04(a) and 3.05(a)(4)(i)
29 Annotated Code of Maryland
30 (2010 Replacement Volume and 2011 Supplement)

31 BY adding to
32 Article 66B – Land Use
33 Section 1.04(b)(5), 1.05, and 3.05(a)(9)
34 Annotated Code of Maryland
35 (2010 Replacement Volume and 2011 Supplement)

36 BY repealing and reenacting, with amendments,
37 Article – Environment
38 Section 9–206(a)(10), (b)(2)(iv), and (d)(1)
39 Annotated Code of Maryland
40 (2007 Replacement Volume and 2011 Supplement)
41 (As enacted by Section 1 of this Act)

1 BY repealing and reenacting, with amendments,
2 Article – Land Use
3 Section 1–401, 1–407, 3–103, and 5–104
4 Annotated Code of Maryland
5 (As enacted by Chapter ____ (H.B. ____)(2lr0396) of the Acts of the General
6 Assembly of 2012)

7 BY repealing and reenacting, without amendments,
8 Article – Land Use
9 Section 1–405 and 3–101(a)
10 Annotated Code of Maryland
11 (As enacted by Chapter ____ (H.B. ____)(2lr0396) of the Acts of the General
12 Assembly of 2012)

13 BY adding to
14 Article – Land Use
15 Section 5–104
16 Annotated Code of Maryland
17 (As enacted by Chapter ____ (H.B. ____)(2lr0396) of the Acts of the General
18 Assembly of 2012)

19 BY repealing and reenacting, with amendments,
20 Article – Land Use
21 Section 5–104
22 Annotated Code of Maryland
23 (As enacted by Chapter ____ (H.B. ____)(2lr0396) of the Acts of the General
24 Assembly of 2012)

25 Preamble

26 WHEREAS, Governor O'Malley on April 18, 2011, issued an Executive Order
27 creating the Task Force on Sustainable Growth and Wastewater Disposal, which
28 consisted of a broad cross-section of representatives from business, agriculture,
29 science, environmental advocacy, and government from throughout Maryland; and

30 WHEREAS, The Task Force was charged with recommending regulatory,
31 statutory and other actions to address the impact of major developments served by
32 on-site sewage disposal systems, commonly known as septic systems, and their effects
33 on pollution, land preservation, agri-business, and smart growth; and

34 WHEREAS, The Task Force met several times from July 2011 until November
35 2011 and created several workgroups to review, study, and make findings and
36 recommendations to the entire Task Force; and

37 WHEREAS, The Task Force reported its findings in December 2011 to the
38 Governor, the Speaker of the House, the President of the Senate, the House

1 Environmental Matters Committee and the Senate Education, Health, and
2 Environmental Affairs Committee; and

3 WHEREAS, The Sustainable Growth and Agricultural Preservation Act of 2012
4 embodies the nearly unanimous recommendations of the Task Force on planning for
5 growth served by on-site sewage disposal systems and where major subdivisions
6 served by on-site sewage disposal systems and shared facilities can be located; and

7 WHEREAS, Maryland has approximately 426,000 on-site sewage disposal
8 systems on developed parcels and roughly 411,000 of these are on residential parcels;
9 and

10 WHEREAS, On-site sewage disposal systems release nitrogen and other
11 pollutants into drinking water aquifers and other ground waters that feed surface
12 waters, including streams, rivers, and the Chesapeake Bay and Atlantic Coastal Bays;
13 and

14 WHEREAS, Maryland is expected to grow by approximately 500,000 new
15 households in the next 25 years and how that development occurs is critical for our
16 existing communities, farms, other resource lands, and waters, including the
17 Chesapeake Bay; and

18 WHEREAS, If current trends continue, 120,000 new on-site sewage disposal
19 systems will be added over the next 25 years, resulting in a 31% increase in the State's
20 total nitrogen load from on-site sewage disposal systems; and

21 WHEREAS, The number of new households projected to use public sewerage
22 systems is three times the number projected to use on-site sewage disposal systems,
23 but the wastewater and stormwater nitrogen load from new development of on-site
24 sewage disposal systems is likely to be twice that from new development using public
25 sewerage systems; and

26 WHEREAS, In 2010 the U.S. Environmental Protection Agency (EPA) set limits
27 on the amount of nutrient and sediment pollution that can enter the Chesapeake Bay,
28 known as Total Maximum Daily Loads (TMDLs); and

29 WHEREAS, As required by EPA, Maryland submitted and EPA approved Phase
30 I Watershed Implementation Plans (WIP) which allocate the allowable pollution load
31 among different sources and identify strategies for reducing nutrients and sediments
32 that harm the Chesapeake Bay; and

33 WHEREAS, Maryland is in the process of developing the Phase II WIP, which
34 will refine the Phase I WIP and provide additional detail on pollution reductions; and

35 WHEREAS, The Phase II WIP will also identify a set of specific actions that,
36 once implemented, will achieve the reductions necessary to meet the nutrient and
37 sediment limits by 2025; and

1 WHEREAS, Without action to reduce the nitrogen loads from new development
2 served by on-site sewage disposal systems, the Phase II WIP will force other sources,
3 such as wastewater treatment plants, urban stormwater, and various agricultural
4 sources to reduce their loads even further, constraining economic growth and placing
5 additional burdens on the agricultural community and other sources; and

6 WHEREAS, The use of on-site sewage disposal systems has other land use
7 impacts such as increasing land consumption outside of growth areas and fragmenting
8 our agricultural and forest lands; and

9 WHEREAS, On-site sewage disposal systems can lead to increased public costs
10 for extending sewer service to failing systems and providing additional roads, schools,
11 and other public services; and

12 WHEREAS, Planning for growth served by on-site sewage disposal systems and
13 shared systems should be done through established planning processes such as the
14 local comprehensive plan, the water and sewer plan, and subdivision plan approval;
15 now, therefore,

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

18 **Article – Environment**

19 9–206.

20 **(A) (1) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE**
21 **MEANINGS INDICATED.**

22 **(2) “COMMUNITY SEWERAGE SYSTEM” MEANS A PUBLICLY OR**
23 **PRIVATELY OWNED SEWERAGE SYSTEM THAT SERVES AT LEAST TWO LOTS.**

24 **(3) “LOT” INCLUDES A PART OF A SUBDIVISION THAT:**

25 **(I) IS USED OR IS INTENDED TO BE USED AS A BUILDING**
26 **SITE; AND**

27 **(II) IS NOT INTENDED TO BE FURTHER SUBDIVIDED.**

28 **(4) “MAJOR SUBDIVISION” MEANS THE SUBDIVISION OF LAND**
29 **INTO NEW LOTS, PLATS, BUILDING SITES, OR OTHER DIVISIONS OF LAND**
30 **DEFINED IN THE LOCAL LAW AS A MAJOR SUBDIVISION IN EFFECT ON OR**
31 **BEFORE JANUARY 1, 2012.**

1 **(5) “MINOR SUBDIVISION” MEANS THE SUBDIVISION OF LAND**
2 **INTO NEW LOTS, PLATS, BUILDING SITES, OR OTHER DIVISIONS OF LAND**
3 **DEFINED IN THE LOCAL LAW AS A MINOR SUBDIVISION IN EFFECT ON OR**
4 **BEFORE JANUARY 1, 2012.**

5 **(6) “ON-SITE SEWAGE DISPOSAL” MEANS THE DISPOSAL OF**
6 **SEWAGE BENEATH THE SOIL SURFACE.**

7 **(7) (I) “ON-SITE SEWAGE DISPOSAL SYSTEM” MEANS A SEWAGE**
8 **TREATMENT UNIT, COLLECTION SYSTEM, DISPOSAL AREA, AND RELATED**
9 **APPURTENANCES.**

10 **(II) “ON-SITE SEWAGE DISPOSAL SYSTEM” INCLUDES A**
11 **SHARED FACILITY OR COMMUNITY SEWERAGE SYSTEM THAT DISPOSES OF**
12 **SEWAGE EFFLUENT BENEATH THE SOIL SURFACE.**

13 **(8) “SHARED FACILITY” MEANS A SEWERAGE SYSTEM THAT:**

14 **(I) SERVES MORE THAN ONE:**

- 15 1. **LOT AND IS OWNED IN COMMON BY THE USERS;**
16 2. **CONDOMINIUM UNIT AND IS OWNED IN COMMON**
17 **BY THE USERS OR BY A CONDOMINIUM ASSOCIATION;**
18 3. **USER AND IS LOCATED ON INDIVIDUAL LOTS**
19 **OWNED BY THE USERS; OR**
20 4. **USER ON ONE LOT AND IS OWNED IN COMMON BY**
21 **THE USERS; OR**

22 **(II) IS LOCATED WHOLLY OR PARTLY ON ANY OF THE**
23 **COMMON ELEMENTS OF A CONDOMINIUM; OR**

24 **(III) SERVES A HOUSING OR ANOTHER MULTIPLE**
25 **OWNERSHIP COOPERATIVE.**

26 **(9) (I) “SUBDIVISION” MEANS A DIVISION OF A TRACT OR**
27 **PARCEL OF LAND INTO AT LEAST TWO LOTS FOR THE IMMEDIATE OR FUTURE**
28 **PURPOSE OF SALE OR BUILDING DEVELOPMENT.**

29 **(II) “SUBDIVISION” INCLUDES:**

1 1. A CHANGE IN STREET LINES OR LOT LINES,
2 UNLESS THE SECRETARY, OR THE SECRETARY'S DESIGNEE, DETERMINES THAT
3 THE CHANGE WILL NOT ADVERSELY AFFECT THE SAFETY AND ADEQUACY OF
4 WELL SITES OR SEWAGE DISPOSAL AREAS; OR

5 2. RESUBDIVISION.

6 (10) "TIER I", "TIER II", "TIER III", AND "TIER IV" MEAN THE
7 RESPECTIVE AREAS FOR GROWTH SO DESIGNATED IN A LOCAL COMPREHENSIVE
8 PLAN ESTABLISHED BY A LOCAL JURISDICTION IN ACCORDANCE WITH ARTICLE
9 66B, § 1.04 OR § 3.05 OF THE CODE.

10 (B) (1) THIS SUBSECTION DOES NOT APPLY TO AN APPLICATION FOR
11 APPROVAL OF A SUBDIVISION UNDER § 9-512(E) OF THIS TITLE IF:

12 (I) 1. THE APPLICATION IS MADE ON OR BEFORE JULY
13 1, 2012; AND

14 2. THE SUBDIVISION PLAT IS RECORDED ON OR
15 BEFORE DECEMBER 31, 2013; OR

16 (II) 1. THE APPLICATION IS MADE ON OR AFTER JULY 1,
17 2012; AND

18 2. THE SUBDIVISION PLAT IS RECORDED ON OR
19 BEFORE DECEMBER 31, 2012.

20 (2) EXCEPT AS PROVIDED IN SUBSECTION (E)(2) OF THIS
21 SECTION, THE DEPARTMENT, OR THE DEPARTMENT'S DESIGNEE, MAY APPROVE
22 A RESIDENTIAL SUBDIVISION PLAT ONLY IF:

23 (I) ALL LOTS PROPOSED IN AN AREA DESIGNATED FOR
24 TIER I GROWTH WILL BE SERVED BY PUBLIC SEWER;

25 (II) ALL LOTS PROPOSED IN AN AREA DESIGNATED FOR
26 TIER II GROWTH:

27 1. WILL BE SERVED BY PUBLIC SEWER; OR

28 2. IF THE SUBDIVISION IS A MINOR SUBDIVISION,
29 MAY BE SERVED BY ON-SITE SEWAGE DISPOSAL SYSTEMS;

1 **(III) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS**
2 **SECTION, THE SUBDIVISION IS A MINOR SUBDIVISION UTILIZING INDIVIDUAL**
3 **ON-SITE SEWAGE DISPOSAL SYSTEMS IN A TIER III OR TIER IV AREA; OR**

4 **(IV) THE SUBDIVISION IS A MAJOR SUBDIVISION SERVED BY**
5 **ON-SITE SEWAGE DISPOSAL SYSTEMS, A COMMUNITY SYSTEM, OR A SHARED**
6 **FACILITY LOCATED IN A TIER III AREA, SUBJECT TO THE FOLLOWING:**

7 **1. THE SUBDIVISION HAS BEEN RECOMMENDED BY**
8 **THE LOCAL PLANNING BOARD IN ACCORDANCE WITH ARTICLE 66B, § 1.05 OF**
9 **THE CODE; AND**

10 **2. IN CONSULTATION WITH THE DEPARTMENT OF**
11 **PLANNING, THE DEPARTMENT HAS DETERMINED THAT THE TIER III OR TIER**
12 **IV AREA IS CONSISTENT WITH:**

13 **A. THE REQUIREMENTS OF A TIER III OR TIER IV**
14 **AREA IN ARTICLE 66B, § 1.04 OR § 3.05 OF THE CODE, AS APPROPRIATE; AND**

15 **B. THE MUNICIPAL GROWTH ELEMENT AND THE**
16 **PRIORITY PRESERVATION ELEMENT, IF APPLICABLE.**

17 **(C) (1) THE LIMITATION OF MINOR SUBDIVISIONS IN SUBSECTION**
18 **(B)(2)(III) OF THIS SECTION DOES NOT APPLY TO A LOCAL JURISDICTION, IF THE**
19 **SUBDIVISION AND ZONING REQUIREMENTS IN THEIR CUMULATIVE TIER IV**
20 **AREAS RESULT IN A ACTUAL OVERALL YIELD OF NOT MORE THAN ONE**
21 **DWELLING UNIT PER 25 ACRES THAT HAS BEEN VERIFIED BY THE DEPARTMENT**
22 **OF PLANNING.**

23 **(2) A LOCAL JURISDICTION MAY REQUEST, IN WRITING, A**
24 **VERIFICATION OF THE ACTUAL OVERALL YIELD FROM THE DEPARTMENT OF**
25 **PLANNING.**

26 **(3) THE DEPARTMENT OF PLANNING SHALL VERIFY THE ACTUAL**
27 **OVERALL YIELD AFTER CONSULTATION WITH THE MARYLAND SUSTAINABLE**
28 **GROWTH COMMISSION, ESTABLISHED IN § 5-702 OF THE STATE FINANCE AND**
29 **PROCUREMENT ARTICLE.**

30 **(D) BEFORE THE DEPARTMENT APPROVES THE INITIAL SUBDIVISION**
31 **PLAT UNDER SUBSECTION (B) OF THIS SECTION, THE DEPARTMENT SHALL**
32 **SUBMIT THE INITIAL SUBDIVISION PLAT TO THE DEPARTMENT OF PLANNING**
33 **FOR ADVICE ON WHETHER THE TIER III OR TIER IV AREA IS CONSISTENT WITH:**

1 **(1) THE REQUIREMENTS OF A TIER III OR TIER IV AREA IN**
2 **ARTICLE 66B, § 1.04 OR § 3.05 OF THE CODE, AS APPROPRIATE; AND**

3 **(2) THE MUNICIPAL GROWTH ELEMENT, THE PRIORITY**
4 **PRESERVATION ELEMENT, IF APPLICABLE, AND THE WATER RESOURCES**
5 **ELEMENT OF THE LOCAL COMPREHENSIVE PLAN.**

6 **(E) ON OR AFTER DECEMBER 31, 2012, THE DEPARTMENT OR THE**
7 **DEPARTMENT'S DESIGNEE:**

8 **(1) MAY NOT APPROVE A MAJOR RESIDENTIAL SUBDIVISION**
9 **SERVED BY ON-SITE SEWAGE DISPOSAL SYSTEMS, COMMUNITY SEWERAGE**
10 **SYSTEMS, OR SHARED SYSTEMS UNTIL THE LOCAL JURISDICTION AMENDS THE**
11 **LOCAL COMPREHENSIVE PLAN TO INCLUDE THE TIER I, TIER II, TIER III, AND**
12 **TIER IV AREAS; OR**

13 **(2) IF THE LOCAL JURISDICTION HAS NOT AMENDED THE LOCAL**
14 **COMPREHENSIVE PLAN TO INCLUDE TIER I, TIER II, TIER III, OR TIER IV**
15 **AREAS, MAY APPROVE:**

16 **(I) A MINOR RESIDENTIAL SUBDIVISION SERVED BY**
17 **ON-SITE SEWAGE DISPOSAL SYSTEMS IF THE RESIDENTIAL SUBDIVISION**
18 **OTHERWISE MEETS THE REQUIREMENTS OF THIS TITLE; OR**

19 **(II) A MAJOR OR MINOR SUBDIVISION SERVED BY PUBLIC**
20 **SEWER.**

21 **(F) (1) IF A LOCAL JURISDICTION AMENDS A TIER III OR TIER IV**
22 **AREA, THE DEPARTMENT OF PLANNING SHALL NOTIFY THE DEPARTMENT OF**
23 **THE AMENDMENT.**

24 **(2) AFTER THE AMENDMENT OF A TIER III OR TIER IV AREA, THE**
25 **DEPARTMENT SHALL SEND THE FIRST SUBDIVISION PLAT TO THE DEPARTMENT**
26 **OF PLANNING FOR ADVICE UNDER SUBSECTION (D) OF THIS SECTION.**

27 **(3) THE APPROVAL OF THE FIRST SUBDIVISION PLAT AFTER AN**
28 **AMENDMENT TO A TIER III OR TIER IV AREA SHALL BE COMPLETED IN**
29 **ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.**

30 **[(a)] (G) With respect to land that is platted for subdivision, a person may**
31 **not offer any of the land for sale or development or erect a permanent building on the**
32 **land, unless there have been submitted to the Department:**

33 **(1) A plat of the subdivision;**

1 (2) A statement of the methods, consistent with Subtitle 5 of this title,
2 by which the subdivision is to be supplied with water and sewerage service; and

3 (3) Any other information that the Department requires.

4 **[(b)] (H)** On the basis of information provided under subsection **[(a)] (G)** of
5 this section, the Department may order:

6 (1) Preparation and submission, within any time the Department sets,
7 of any plans and specifications that the Department considers necessary to provide for
8 adequate water supply and sewerage service to the subdivision; and

9 (2) Installation, within any time the Department sets, of the whole or
10 any part of a water supply system or sewerage system for the subdivision that:

11 (i) Conforms to the plans submitted to the Department and to
12 any revision of the plans that the Department approves; and

13 (ii) In the judgment of the Department, is needed for the public
14 health.

15 **(I) (1) THIS SUBSECTION APPLIES TO A MINOR RESIDENTIAL**
16 **SUBDIVISION IN A TIER II, TIER III, OR TIER IV AREA.**

17 **(2) EXCEPT AS PROVIDED IN PARAGRAPHS (4) AND (5) OF THIS**
18 **SUBSECTION, ON OR AFTER DECEMBER 31, 2012, IF A TRACT OR PARCEL OF**
19 **LAND IS SUBDIVIDED INTO A RESIDENTIAL MINOR SUBDIVISION LEAVING ANY**
20 **REMAINDER PARCEL OR TRACT OF LAND:**

21 **(I) THE RESIDENTIAL MINOR SUBDIVISION MAY NOT BE**
22 **RESUBDIVIDED OR FURTHER SUBDIVIDED; AND**

23 **(II) THE REMAINDER PARCEL OR TRACT OF LAND MAY NOT**
24 **BE SUBDIVIDED.**

25 **(3) EXCEPT AS PROVIDED IN PARAGRAPHS (4) AND (5) OF THIS**
26 **SUBSECTION, ON OR AFTER DECEMBER 31, 2012, THE SUBDIVISION PLAT OF**
27 **THE RESIDENTIAL MINOR SUBDIVISION SHALL STATE THAT:**

28 **(I) THE RESIDENTIAL MINOR SUBDIVISION MAY NOT BE**
29 **RESUBDIVIDED OR FURTHER SUBDIVIDED; AND**

30 **(II) THE REMAINDER PARCEL OR TRACT OF LAND MAY NOT**
31 **BE SUBDIVIDED.**

1 **(4) ON OR AFTER DECEMBER 31, 2012, IF A TRACT OR PARCEL OF**
2 **LAND IS SUBDIVIDED INTO A RESIDENTIAL MINOR SUBDIVISION, THE**
3 **RESIDENTIAL MINOR SUBDIVISION OR THE REMAINDER PARCEL OR TRACT OF**
4 **LAND MAY BE RESUBDIVIDED OR FURTHER SUBDIVIDED IF THE SUBDIVISION OR**
5 **THE REMAINDER PARCEL OR TRACT OF LAND IS:**

6 **(I) WITHIN A PRIORITY FUNDING AREA AS DEFINED IN**
7 **TITLE 5, SUBTITLE 7B OF THE STATE FINANCE AND PROCUREMENT ARTICLE;**
8 **AND**

9 **(II) DESIGNATED FOR PUBLIC SEWERAGE SERVICE WITHIN**
10 **10 YEARS IN THE APPROVED WATER AND SEWER PLAN.**

11 **(5) (I) A TRACT OR PARCEL OF LAND MAY BE SUBDIVIDED**
12 **INTO A RESIDENTIAL MINOR SUBDIVISION IN TIER II, TIER III, OR TIER IV**
13 **AREAS OVER TIME IF EACH TIME A NEW LOT OR PARCEL IS CREATED, THE**
14 **SUBDIVISION PLAT STATES THE NUMBER OF NEW LOTS, PLATS, BUILDING SITES,**
15 **OR OTHER DIVISIONS OF LAND THAT ARE LEFT WITH THE NUMBER OF LOTS,**
16 **PLATS, BUILDING SITES, OR OTHER DIVISIONS OF LAND ALLOWED AS A**
17 **SUBDIVISION.**

18 **(II) EXCEPT AS PROVIDED IN PARAGRAPH (III) OF THIS**
19 **PARAGRAPH, WHEN THE TRACT OR PARCEL OF LAND THAT IS SUBDIVIDED OVER**
20 **TIME REACHES THE TOTAL NUMBER OF LOTS, PLATS, BUILDING SITES, OR**
21 **OTHER DIVISIONS OF LAND THAT ARE ALLOWED AS A RESIDENTIAL MINOR**
22 **SUBDIVISION, THE SUBDIVISION PLAT SHALL STATE THAT:**

23 **1. THE RESIDENTIAL MINOR SUBDIVISION MAY NOT**
24 **BE RESUBDIVIDED OR FURTHER SUBDIVIDED; AND**

25 **2. THE REMAINDER PARCEL OR TRACT OF LAND MAY**
26 **NOT BE SUBDIVIDED.**

27 **(III) A REMAINDER PARCEL OR TRACT OF LAND MAY BE**
28 **SUBDIVIDED FOR NONRESIDENTIAL AGRICULTURAL PURPOSES.**

29 **9-1110.**

30 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
31 **MEANINGS INDICATED.**

1 **(2) “COMMUNITY SEWERAGE SYSTEM” MEANS A PUBLICLY OR**
2 **PRIVATELY OWNED SEWERAGE SYSTEM THAT SERVES AT LEAST TWO LOTS.**

3 **(3) “CONTROLLING AUTHORITY” MEANS A UNIT OF**
4 **GOVERNMENT, A BODY PUBLIC AND CORPORATE, OR AN INTERCOUNTY AGENCY**
5 **AUTHORIZED BY THE STATE, A COUNTY, OR A MUNICIPAL CORPORATION TO**
6 **PROVIDE FOR THE MANAGEMENT, OPERATION, AND MAINTENANCE OF A**
7 **COMMUNITY SEWERAGE SYSTEM, SHARED FACILITY, OR MULTIUSE SEWERAGE**
8 **SYSTEM.**

9 **(4) “SHARED FACILITY” MEANS A SEWERAGE SYSTEM THAT:**

10 **(I) SERVES MORE THAN ONE:**

11 1. **LOT AND IS OWNED IN COMMON BY THE USERS;**

12 2. **CONDOMINIUM UNIT AND IS OWNED IN COMMON**
13 **BY THE USERS OR BY A CONDOMINIUM ASSOCIATION;**

14 3. **USER AND IS LOCATED ON INDIVIDUAL LOTS**
15 **OWNED BY THE USERS; OR**

16 4. **USER ON ONE LOT AND IS OWNED IN COMMON BY**
17 **THE USERS;**

18 **(II) IS LOCATED WHOLLY OR PARTLY ON ANY OF THE**
19 **COMMON ELEMENTS OF A CONDOMINIUM; OR**

20 **(III) SERVES A HOUSING COOPERATIVE OR OTHER MULTIPLE**
21 **OWNERSHIP COOPERATIVE.**

22 **(B) A SHARED FACILITY OR COMMUNITY SEWERAGE SYSTEM MAY BE**
23 **APPROVED ONLY IF THE SYSTEM:**

24 **(1) IS MANAGED, OPERATED, AND MAINTAINED BY:**

25 **(I) A CONTROLLING AUTHORITY; OR**

26 **(II) A THIRD PARTY UNDER CONTRACT WITH THE**
27 **CONTROLLING AUTHORITY; AND**

28 **(2) DISCHARGES:**

1 **(I) TO THE SURFACE WATERS OF THE STATE IN**
2 **ACCORDANCE WITH A PERMIT ISSUED UNDER § 9-323 OF THIS TITLE;**

3 **(II) BY WAY OF LAND APPLICATION UNDER A NUTRIENT**
4 **MANAGEMENT PLAN REQUIRED UNDER § 8-803.1 OF THE AGRICULTURE**
5 **ARTICLE THAT ASSURES 100% OF THE NITROGEN AND PHOSPHORUS IN THE**
6 **APPLIED EFFLUENT WILL BE TAKEN UP BY VEGETATION; OR**

7 **(III) BY WAY OF AN ON-SITE SEWERAGE SYSTEM.**

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

10 **Article 66B – Land Use**

11 1.00.

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

14 (b) “Adaptive reuse” means a change granted by a local legislative body,
15 under § 4.05 of this article, to the use restrictions in a zoning classification, as those
16 restrictions are applied to a particular improved property.

17 (c) “Development” means any activity, other than normal agricultural
18 activity, which materially affects the existing condition or use of any land or structure.

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

23 (e) (1) “Local executive” means the chief executive of a political
24 subdivision.

25 (2) “Local executive” includes:

26 (i) A county executive;

27 (ii) A board of county commissioners;

28 (iii) An executive head; or

29 (iv) A mayor.

1 (f) (1) “Local legislative body” means the elected body of a political
2 subdivision.

3 (2) “Local legislative body” includes:

4 (i) A board of county commissioners;

5 (ii) A county council; or

6 (iii) A governing body of a municipal corporation.

7 (g) “Local jurisdiction” means a county or municipal corporation and the
8 territory within which its powers may be exercised.

9 (h) (1) “Plan” means the policies, statements, goals, and interrelated
10 plans for private and public land use, transportation, and community facilities
11 documented in texts and maps which constitute the guide for the area’s future
12 development.

13 (2) “Plan” includes a general plan, master plan, comprehensive plan,
14 or community plan adopted in accordance with §§ 1.04 and 3.01 through 3.09 of this
15 article.

16 **(I) “PRIORITY FUNDING AREA” HAS THE MEANING STATED IN §**
17 **5-7B-02 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

18 **[(i)] (J)** “Regulation” means any rule of general applicability and future
19 effect, including any map or plan.

20 **[(j)] (K)** “Sensitive areas” includes:

21 (1) Streams, wetlands, and their buffers;

22 (2) 100-year flood plains;

23 (3) Habitats of threatened and endangered species;

24 (4) Steep slopes;

25 (5) Agricultural and forest lands intended for resource protection or
26 conservation; and

27 (6) Other areas in need of special protection, as determined in the
28 plan.

29 **[(k)] (L)** “Special exception” means a grant of a specific use that would not
30 be appropriate generally or without restriction and shall be based upon a finding that

1 certain conditions governing special exceptions as detailed in the zoning ordinance
 2 exist, that the use is consistent with the plan and is compatible with the existing
 3 neighborhood.

4 **[(1)] (M)** (1) “Subdivision” means the division of a lot, tract, or parcel of
 5 land into two or more lots, plats, sites, or other divisions of land for the immediate or
 6 future purposes of selling the land or of building development.

7 (2) (i) “Subdivision” includes resubdivision.

8 (ii) As appropriate to the context, “subdivision” may include
 9 either the process of resubdividing or the land or territory resubdivided.

10 **[(m)] (N)** “Variance” means a modification only of density, bulk, or area
 11 requirements in the zoning ordinance that is:

12 (1) Not contrary to the public interest; and

13 (2) Specified by the local governing body in a zoning ordinance to avoid
 14 a literal enforcement of the ordinance that, because of conditions peculiar to the
 15 property and not any action taken by the applicant, would result in unnecessary
 16 hardship or practical difficulty.

17 1.03.

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

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

21 (1) **[\S 1.00(j) (Definition of “sensitive areas”)] § 1.00(H), (I), (K), AND**
 22 **(M) (DEFINITIONS OF “PLAN”, “PRIORITY FUNDING AREA”, “SENSITIVE AREAS”,**
 23 **AND “SUBDIVISION”);**

24 (2) § 1.01 (Visions);

25 (3) § 1.02 (Consistency with comprehensive plans);

26 (4) § 1.04 (Charter county – Comprehensive plans);

27 **(5) § 1.05 (MAJOR SUBDIVISION – REVIEW);**

28 **[(5)] (6)** § 3.02(h) (Planning Commission – Education);

29 **[(6)] (7)** § 3.09 (Annual report – Preparation and filing);

1 [1.] A. Streamlined review of applications for
2 development, including permit review and subdivision plat review within the areas
3 designated for growth in the comprehensive plan;

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

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

8 **2. MAY INCLUDE MAPPED AREAS DESIGNATED FOR**
9 **TIER I GROWTH IF THE TIER I AREAS ARE PRIORITY FUNDING AREAS THAT**
10 **HAVE RECEIVED NO COMMENTS FROM THE DEPARTMENT OF PLANNING AND**
11 **ARE:**

12 **A. SERVED BY COMMUNITY, SHARED, OR MULTIUSE**
13 **SEWERAGE SYSTEMS; OR**

14 **B. PLANNED TO BE SERVED BY COMMUNITY,**
15 **SHARED, OR MULTIUSE SEWERAGE SYSTEMS;**

16 **3. MAY INCLUDE MAPPED AREAS DESIGNATED FOR**
17 **TIER II GROWTH IF THE TIER II AREAS ARE PLANNED TO BE SERVED BY**
18 **COMMUNITY, SHARED, AND MULTIUSE SEWERAGE SYSTEMS AND:**

19 **A. I. ARE PRIORITY FUNDING AREAS THAT HAVE**
20 **BEEN COMMENTED ON BY THE DEPARTMENT OF PLANNING; OR**

21 **II. ARE MAPPED LOCALLY DESIGNATED GROWTH**
22 **AREAS; AND**

23 **B. THE TIER II AREAS ARE NEEDED TO SATISFY**
24 **DEMAND FOR DEVELOPMENT AT DENSITIES CONSISTENT WITH THE LONG-TERM**
25 **DEVELOPMENT POLICY AFTER CONSIDERATION OF THE CAPACITY OF LAND**
26 **AREAS AVAILABLE FOR DEVELOPMENT, INCLUDING IN-FILL AND**
27 **REDEVELOPMENT, WITHIN THE LOCAL JURISDICTION;**

28 **4. MAY INCLUDE MAPPED AREAS DESIGNATED FOR**
29 **TIER III GROWTH IF:**

30 **A. THE TIER III AREAS ARE NOT PLANNED FOR**
31 **SEWERAGE SERVICE; AND**

1 **B. THE AREAS ARE PRIORITY FUNDING AREAS,**
2 **MAPPED LOCALLY DESIGNATED GROWTH AREAS, OR AREAS PLANNED AND**
3 **ZONED FOR LARGE LOT AND RURAL DEVELOPMENT THAT:**

4 **I. ARE NOT PLANNED OR ZONED FOR**
5 **AGRICULTURAL PROTECTION, RURAL PROTECTION, RESOURCE PROTECTION OR**
6 **SIMILAR ZONES WITH THE PRIMARY PURPOSE BEING LAND PRESERVATION;**

7 **II. ARE DOMINATED BY EXISTING LOW DENSITY**
8 **DEVELOPMENT; OR**

9 **III. ARE AREAS NOT DOMINATED BY FARMLAND OR**
10 **FOREST LAND; AND**

11 **5. MAY INCLUDE MAPPED AREAS DESIGNATED FOR**
12 **TIER IV GROWTH IF THE TIER IV AREAS ARE NOT PLANNED FOR SEWERAGE**
13 **SERVICE AND ARE:**

14 **A. AREAS PLANNED OR ZONED FOR LAND**
15 **PRESERVATION, AGRICULTURAL PRESERVATION, OR RESOURCE**
16 **CONSERVATION;**

17 **B. AREAS DOMINATED BY AGRICULTURAL LANDS,**
18 **FOREST LANDS, OR OTHER NATURAL AREAS; OR**

19 **C. RURAL LEGACY AREAS, PRIORITY PRESERVATION**
20 **AREAS, AREAS MAPPED FOR ECOLOGICAL PRESERVATION BY THE DEPARTMENT**
21 **OF NATURAL RESOURCES AT THE TIME OF THE ADOPTION OF THE PLAN OR**
22 **AMENDMENT OR AREAS MAPPED FOR AGRICULTURAL PRESERVATION BY THE**
23 **DEPARTMENT OF PLANNING AT THE TIME OF THE ADOPTION OF THE PLAN OR**
24 **AMENDMENT.**

25 **(5) (i) IF A LOCAL JURISDICTION PROPOSES TIERS IN THE**
26 **PLAN UNDER PARAGRAPH (1)(IV) OF THIS SUBSECTION, THE LOCAL**
27 **JURISDICTION SHALL PROVIDE TO THE DEPARTMENT OF PLANNING A**
28 **DESCRIPTION OF THE PROPOSED TIERS NOT LESS THAN 60 DAYS BEFORE THE**
29 **PUBLIC HEARING ON THE TIERS.**

30 **(ii) IF THE PLAN INCLUDES TIER I, TIER II, TIER III, OR**
31 **TIER IV AREAS, THE LOCAL JURISDICTION SHALL PROVIDE TO THE**
32 **DEPARTMENT OF PLANNING ALL INFORMATION NECESSARY TO DEMONSTRATE**
33 **THE PRECISE LOCATION OF THE AREA, INCLUDING A MAP OF THE AREA**

1 SHOWING PLANNING AND ZONING CHARACTERISTICS, AND EXISTING AND
2 PLANNED WATER AND SEWER SERVICES AS APPROPRIATE.

3 (III) THE DEPARTMENT OF PLANNING, AS APPROPRIATE,
4 SHALL PROVIDE TO EACH STATE UNIT THAT APPROVES SUBDIVISION PLANS
5 COPIES OF MAPS ILLUSTRATING:

6 1. THE TIERS IDENTIFIED BY THE LOCAL
7 JURISDICTION; AND

8 2. ANY COMMENTS BY THE DEPARTMENT OF
9 PLANNING ON THE AREAS IDENTIFIED.

10 1.05.

11 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
12 MEANINGS INDICATED.

13 (2) "COMMUNITY SEWERAGE SYSTEM" MEANS A PUBLICLY OR
14 PRIVATELY OWNED SEWERAGE SYSTEM THAT SERVES AT LEAST TWO LOTS.

15 (3) "MAJOR SUBDIVISION" MEANS THE SUBDIVISION OF LAND
16 INTO NEW LOTS, PLATS, BUILDING SITES, OR OTHER DIVISIONS OF LAND
17 DEFINED IN LOCAL LAW AS A MAJOR SUBDIVISION IN EFFECT BEFORE JANUARY
18 1, 2012.

19 (4) "ON-SITE SEWAGE DISPOSAL SYSTEM" HAS THE MEANING
20 STATED IN § 9-206 OF THE ENVIRONMENT ARTICLE.

21 (5) "SHARED FACILITY" HAS THE MEANING STATED IN § 9-206 OF
22 THE ENVIRONMENT ARTICLE.

23 (6) (I) "PLANNING BOARD" MEANS A PLANNING BOARD
24 ESTABLISHED UNDER THIS ARTICLE.

25 (II) "PLANNING BOARD" INCLUDES A PLANNING
26 COMMISSION OR BOARD ESTABLISHED UNDER ARTICLE 25A OR ARTICLE 28 OF
27 THE CODE.

28 (B) IF A LOCAL JURISDICTION ESTABLISHES TIERS FOR GROWTH IN THE
29 LAND DEVELOPMENT ELEMENT OF THE PLAN UNDER § 1.04 OF THIS
30 SUBHEADING OR § 3.05 OF THIS ARTICLE, A RESIDENTIAL MAJOR SUBDIVISION
31 MAY NOT BE APPROVED UNLESS THE PLANNING BOARD HAS REVIEWED AND

1 RECOMMENDED THE APPROVAL OF THE MAJOR SUBDIVISION IN A TIER III
2 AREA SERVED BY:

3 (1) ON-SITE SEWAGE DISPOSAL SYSTEMS;

4 (2) A COMMUNITY SEWERAGE SYSTEM; OR

5 (3) A SHARED FACILITY.

6 (C) (1) BEFORE RECOMMENDING THE APPROVAL OF A PROPOSED
7 MAJOR SUBDIVISION SERVED BY ON-SITE SEWAGE DISPOSAL SYSTEMS, A
8 COMMUNITY SEWERAGE SYSTEM, OR A SHARED FACILITY IN A TIER III AREA,
9 THE PLANNING BOARD SHALL HOLD AT LEAST ONE PUBLIC HEARING.

10 (2) THE PLANNING BOARD SHALL CONDUCT THE PUBLIC
11 HEARING IN ACCORDANCE WITH ITS RULES AND PROCEDURES.

12 (D) THE REVIEW OF THE MAJOR SUBDIVISION BY THE PLANNING BOARD
13 SHALL INCLUDE:

14 (1) THE COST OF PROVIDING LOCAL GOVERNMENTAL SERVICES
15 TO THE MAJOR SUBDIVISION;

16 (2) THE ENVIRONMENTAL IMPACT OF THE PROPOSED MAJOR
17 SUBDIVISION; AND

18 (3) ANY NUTRIENT OFFSETS, ACCORDING TO STATE POLICY,
19 THAT WILL BE REQUIRED FOR THE PROPOSED MAJOR SUBDIVISION.

20 (E) THE PLANNING BOARD SHALL RECOMMEND THE PROPOSED MAJOR
21 SUBDIVISION BY RESOLUTION OF THE PLANNING BOARD.

22 3.05.

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

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

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

28 1. Shall propose the most appropriate and desirable
29 patterns for the general location, character, extent, and interrelationship of the uses of

1 public and private land, on a schedule that extends as far into the future as is
2 reasonable; [and]

3 2. May include public and private, residential,
4 commercial, industrial, agricultural, forestry, in accordance with § 5–101 of the
5 Natural Resources Article, and recreational land uses;

6 **3. MAY INCLUDE MAPPED AREAS DESIGNATED FOR**
7 **TIER I GROWTH IF THE TIER I AREAS ARE PRIORITY FUNDING AREAS THAT**
8 **HAVE RECEIVED NO COMMENTS FROM THE DEPARTMENT OF PLANNING AND**
9 **ARE:**

10 **A. SERVED BY COMMUNITY, SHARED, OR MULTIUSE**
11 **SEWERAGE SYSTEMS; OR**

12 **B. PLANNED TO BE SERVED BY COMMUNITY,**
13 **SHARED, OR MULTIUSE SEWERAGE SYSTEMS;**

14 **4. MAY INCLUDE MAPPED AREAS DESIGNATED FOR**
15 **TIER II GROWTH IF THE TIER II AREAS ARE:**

16 **A. PLANNED TO BE SERVED BY COMMUNITY,**
17 **SHARED, AND MULTIUSE SEWERAGE SYSTEMS;**

18 **B. NEEDED TO SATISFY DEMAND FOR DEVELOPMENT**
19 **AT DENSITIES CONSISTENT WITH THE LONG–TERM DEVELOPMENT POLICY**
20 **AFTER CONSIDERATION OF THE CAPACITY OF LAND AREAS AVAILABLE FOR**
21 **DEVELOPMENT, INCLUDING IN–FILL AND REDEVELOPMENT, WITHIN THE LOCAL**
22 **JURISDICTION; AND**

23 **C. I. PRIORITY FUNDING AREAS THAT HAVE**
24 **BEEN COMMENTED ON BY THE DEPARTMENT OF PLANNING; OR**

25 **II. MAPPED LOCALLY DESIGNATED GROWTH AREAS;**

26 **5. MAY INCLUDE MAPPED AREAS DESIGNATED FOR**
27 **TIER III GROWTH IF:**

28 **A. THE TIER III AREAS ARE NOT PLANNED FOR**
29 **SEWERAGE SERVICE; AND**

30 **B. THE AREAS ARE PRIORITY FUNDING AREAS,**
31 **MAPPED LOCALLY DESIGNATED GROWTH AREAS, OR AREAS PLANNED AND**
32 **ZONED FOR LARGE LOT AND RURAL DEVELOPMENT THAT:**

1 I. ARE NOT PLANNED OR ZONED FOR
2 AGRICULTURAL PROTECTION, RURAL PROTECTION, RESOURCE PROTECTION OR
3 SIMILAR ZONES WITH THE PRIMARY PURPOSE BEING LAND PRESERVATION;

4 II. ARE DOMINATED BY EXISTING LOW DENSITY
5 DEVELOPMENT; OR

6 III. ARE AREAS NOT DOMINATED BY FARMLAND OR
7 FOREST LAND; AND

8 6. MAY INCLUDE MAPPED AREAS DESIGNATED FOR
9 TIER IV GROWTH IF THE TIER IV AREAS ARE NOT PLANNED FOR SEWERAGE
10 SERVICE AND ARE:

11 A. AREAS PLANNED OR ZONED FOR LAND
12 PRESERVATION, AGRICULTURAL PRESERVATION, OR RESOURCE
13 CONSERVATION;

14 B. AREAS DOMINATED BY AGRICULTURAL LANDS,
15 FOREST LANDS, OR OTHER NATURAL AREAS; OR

16 C. RURAL LEGACY AREAS, PRIORITY PRESERVATION
17 AREAS, AREAS MAPPED FOR ECOLOGICAL PRESERVATION BY THE DEPARTMENT
18 OF NATURAL RESOURCES AT THE TIME OF THE ADOPTION OF THE PLAN OR
19 AMENDMENT OR AREAS MAPPED FOR AGRICULTURAL PRESERVATION BY THE
20 DEPARTMENT OF PLANNING AT THE TIME OF THE ADOPTION OF THE PLAN OR
21 AMENDMENT.

22 (9) (I) IF A LOCAL JURISDICTION PROPOSES TIERS IN THE
23 PLAN UNDER PARAGRAPH (4)(II) OF THIS SUBSECTION, THE LOCAL
24 JURISDICTION SHALL PROVIDE TO THE DEPARTMENT OF PLANNING A
25 DESCRIPTION OF THE PROPOSED TIERS NOT LESS THAN 60 DAYS BEFORE THE
26 PUBLIC HEARING ON THE TIERS.

27 (II) IF THE PLAN INCLUDES TIER I, TIER II, TIER III, OR
28 TIER IV AREAS, THE LOCAL JURISDICTION SHALL PROVIDE TO THE
29 DEPARTMENT OF PLANNING ALL INFORMATION NECESSARY TO DEMONSTRATE
30 THE PRECISE LOCATION OF EACH AREA, INCLUDING A MAP OF THE AREA
31 SHOWING PLANNING AND ZONING CHARACTERISTICS, AND EXISTING AND
32 PLANNED WATER AND SEWER SERVICES AS APPROPRIATE.

1 **(III) THE DEPARTMENT OF PLANNING, AS APPROPRIATE,**
2 **SHALL PROVIDE TO EACH STATE UNIT THAT APPROVES SUBDIVISION PLANS**
3 **COPIES OF MAPS ILLUSTRATING:**

4 **1. THE TIERS IDENTIFIED BY THE LOCAL**
5 **JURISDICTION; AND**

6 **2. ANY COMMENTS BY THE DEPARTMENT OF**
7 **PLANNING ON THE AREAS IDENTIFIED.**

8 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
9 read as follows:

10 **Article – Environment**

11 9–206.

12 (a) (10) “Tier I”, “Tier II”, “Tier III”, and “Tier IV” mean the respective
13 areas for growth so designated in **THE DEVELOPMENT REGULATIONS ELEMENT OF**
14 a local comprehensive plan established by a local jurisdiction in accordance with
15 **[Article 66B, § 1.04 or § 3.05 of the Code] § 1–407 OR § 3–103 OF THE LAND USE**
16 **ARTICLE.**

17 (b) (2) Except as provided in subsection (e)(2) of this section, the
18 Department, or the Department’s designee, may only approve a residential subdivision
19 plat if:

20 (iv) The subdivision is a major subdivision served by on–site
21 sewage disposal systems, a community system, or a shared facility located in a Tier III
22 area, subject to the following:

23 1. The subdivision has been recommended by the local
24 planning board in accordance with **[Article 66B, § 1.05 of the Code] § 5–104 OF THE**
25 **LAND USE ARTICLE;** and

26 2. In consultation with the Department of Planning, the
27 Department has determined that the Tier III or Tier IV area is consistent with:

28 A. The requirements of a Tier III or Tier IV area in
29 **[Article 66B, § 1.04 or § 3.05 of the Code] § 1–407 OR § 3–103 OF THE LAND USE**
30 **ARTICLE,** as appropriate; and

31 B. The municipal growth element and the priority
32 preservation element, if applicable.

1 (d) Before the Department approves the initial subdivision plat under
2 subsection (b) of this section, the Department shall submit the initial subdivision plat
3 to the Department of Planning for advice on whether the Tier III or Tier IV area is
4 consistent with:

5 (1) The requirements of a Tier III or Tier IV area in [Article 66B, §
6 1.04 or § 3.05 of the Code] **§ 1-407 OR § 3-103 OF THE LAND USE ARTICLE**, as
7 appropriate; and

8 Article – Land Use

9 1-401.

10 (a) Except as provided in this section, this division does not apply to charter
11 counties.

12 (b) The following provisions of this division apply to a charter county:

13 (1) this subtitle, including Parts II and III (Charter county –
14 Comprehensive plans);

15 (2) **§ [1-101(o)] 1-101(L), (M), (O), AND (R)** (Definitions – “**PLAN**”,
16 “**PRIORITY FUNDING AREA**”, “Sensitive area”, AND “**SUBDIVISION**”);

17 (3) § 1-201 (Visions);

18 (4) § 1-206 (Required education);

19 (5) § 1-207 (Annual report – In general);

20 (6) § 1-208 (Annual report – Measures and indicators);

21 (7) Title 1, Subtitle 3 (Consistency);

22 (8) § 4-104(b) (Limitations – Bicycle parking);

23 (9) § 4-208 (Exceptions – Maryland Accessibility Code);

24 (10) § 5-102(d) (Subdivision regulations – Burial sites);

25 **(11) § 5-104 (MAJOR SUBDIVISION – REVIEW);**

26 **[(11)] (12)** Title 7, Subtitle 1 (Development Mechanisms);

27 **[(12)] (13)** Title 7, Subtitle 2 (Transfer of Development Rights);

1 [(13)] **(14)** Except in Montgomery County or Prince George’s County,
2 Title 7, Subtitle 3 (Development Rights and Responsibilities Agreements);

3 [(14)] **(15)** Title 7, Subtitle 4 (Inclusionary Zoning);

4 [(15)] **(16)** § 8–401 (Conversion of overhead facilities);

5 [(16)] **(17)** For Baltimore County only, Title 9, Subtitle 3
6 (Single–County Provisions – Baltimore County);

7 [(17)] **(18)** For Howard County only, Title 9, Subtitle 13 (Single–County
8 Provisions – Howard County); and

9 [(18)] **(19)** Title 11, Subtitle 2 (Civil Penalty).

10 (c) This section supersedes any inconsistent provision of Division II of this
11 article.

12 1–405.

13 A charter county shall enact, adopt, amend, and execute a plan in accordance
14 with this part and Part III of this subtitle.

15 1–407.

16 (a) The development regulations element shall include the planning
17 commission’s recommendation for land development regulations to implement the
18 plan.

19 (b) The development regulations element shall encourage:

20 (1) the use of flexible development regulations to promote innovative
21 and cost–saving site design and protect the environment; and

22 (2) within the areas designated for growth in the plan:

23 (i) economic development through the use of innovative
24 techniques; and

25 (ii) streamlined review of applications for development,
26 including permit review and subdivision plat review.

27 **(C) THE DEVELOPMENT REGULATIONS ELEMENT MAY INCLUDE**
28 **MAPPED AREAS DESIGNATED FOR:**

29 **(1) TIER I GROWTH IF THE TIER I AREAS ARE:**

1 **(I) PRIORITY FUNDING AREAS THAT HAVE RECEIVED NO**
2 **COMMENTS FROM THE DEPARTMENT OF PLANNING; AND**

3 **(II) 1. SERVED BY COMMUNITY, SHARED, OR MULTIUSE**
4 **SEWERAGE SYSTEMS; OR**

5 **2. PLANNED TO BE SERVED BY COMMUNITY,**
6 **SHARED, OR MULTIUSE SEWERAGE SYSTEMS;**

7 **(2) TIER II GROWTH IF THE TIER II AREAS ARE:**

8 **(I) PLANNED TO BE SERVED BY COMMUNITY, SHARED, AND**
9 **MULTIUSE SEWERAGE SYSTEMS;**

10 **(II) NEEDED TO SATISFY DEMAND FOR DEVELOPMENT AT**
11 **DENSITIES CONSISTENT WITH THE LONG-TERM DEVELOPMENT POLICY AFTER**
12 **CONSIDERATION OF THE CAPACITY OF LAND AREAS AVAILABLE FOR**
13 **DEVELOPMENT, INCLUDING IN-FILL AND REDEVELOPMENT, IN THE LOCAL**
14 **JURISDICTION; AND**

15 **(III) 1. PRIORITY FUNDING AREAS THAT HAVE BEEN**
16 **COMMENTED ON BY THE DEPARTMENT OF PLANNING; OR**

17 **2. MAPPED LOCALLY DESIGNATED GROWTH AREAS;**

18 **(3) TIER III GROWTH IF THE TIER III AREAS ARE:**

19 **(I) NOT PLANNED FOR SEWERAGE SERVICE; AND**

20 **(II) PRIORITY FUNDING AREAS, MAPPED LOCALLY**
21 **DESIGNATED GROWTH AREAS, OR AREAS PLANNED AND ZONED FOR LARGE LOT**
22 **AND RURAL DEVELOPMENT THAT ARE:**

23 **1. NOT PLANNED OR ZONED FOR AGRICULTURAL**
24 **PROTECTION, RURAL PROTECTION, RESOURCE PROTECTION, OR SIMILAR**
25 **ZONES WITH THE PRIMARY PURPOSE BEING LAND PRESERVATION;**

26 **2. DOMINATED BY EXISTING LOW DENSITY**
27 **DEVELOPMENT; OR**

28 **3. NOT DOMINATED BY FARMLAND OR FOREST LAND;**
29 **AND**

1 **(4) TIER IV GROWTH IF THE TIER IV AREAS ARE:**

2 **(I) NOT PLANNED FOR SEWERAGE SERVICE; AND**

3 **(II) 1. AREAS PLANNED OR ZONED FOR LAND**
4 **PRESERVATION, AGRICULTURAL PRESERVATION, OR RESOURCE**
5 **CONSERVATION;**

6 **2. AREAS DOMINATED BY AGRICULTURAL LANDS,**
7 **FOREST LANDS, OR OTHER NATURAL AREAS;**

8 **3. RURAL LEGACY AREAS OR PRIORITY**
9 **PRESERVATION AREAS; OR**

10 **4. AT THE TIME OF THE ADOPTION OF THE PLAN OR**
11 **AMENDMENT:**

12 **A. AREAS MAPPED FOR ECOLOGICAL PRESERVATION**
13 **BY THE DEPARTMENT OF NATURAL RESOURCES; OR**

14 **B. AREAS MAPPED FOR AGRICULTURAL**
15 **PRESERVATION BY THE DEPARTMENT OF PLANNING.**

16 **(D) (1) IF A LOCAL JURISDICTION PROPOSES TIERS IN THE PLAN**
17 **REQUIRED UNDER § 1-405 OF THIS SUBTITLE, THE LOCAL JURISDICTION SHALL**
18 **PROVIDE TO THE DEPARTMENT OF PLANNING A DESCRIPTION OF THE**
19 **PROPOSED TIERS NOT LESS THAN 60 DAYS BEFORE THE PUBLIC HEARING ON**
20 **THE TIERS.**

21 **(2) IF THE PLAN INCLUDES TIER I, TIER II, TIER III, OR TIER IV**
22 **AREAS, THE LOCAL JURISDICTION SHALL PROVIDE TO THE DEPARTMENT OF**
23 **PLANNING ALL INFORMATION NECESSARY TO DEMONSTRATE THE PRECISE**
24 **LOCATION OF EACH AREA, INCLUDING A MAP OF THE AREA SHOWING PLANNING**
25 **AND ZONING CHARACTERISTICS, AND EXISTING AND PLANNED WATER AND**
26 **SEWER SERVICES AS APPROPRIATE.**

27 **(3) THE DEPARTMENT OF PLANNING, AS APPROPRIATE, SHALL**
28 **PROVIDE TO EACH STATE UNIT THAT APPROVES SUBDIVISION PLANS COPIES OF**
29 **MAPS ILLUSTRATING:**

30 **(I) THE TIERS IDENTIFIED BY THE LOCAL JURISDICTION;**
31 **AND**

1 **(II) ANY COMMENTS BY THE DEPARTMENT OF PLANNING**
2 **ON THE AREAS IDENTIFIED.**

3 3–101.

4 (a) A local jurisdiction shall enact, adopt, amend, and execute a plan in
5 accordance with this division.

6 3–103.

7 (a) The development regulations element shall include the planning
8 commission's recommendation for land development regulations to implement the
9 plan.

10 (b) The development regulations element shall encourage:

11 (1) the use of flexible development regulations to promote innovative
12 and cost-saving site design and protect the environment; and

13 (2) within the areas designated for growth in the plan:

14 (i) economic development through the use of innovative
15 techniques; and

16 (ii) streamlined review of applications for development,
17 including permit review and subdivision plat review.

18 **(C) THE DEVELOPMENT REGULATIONS ELEMENT MAY INCLUDE**
19 **MAPPED AREAS DESIGNATED FOR:**

20 **(1) TIER I GROWTH IF THE TIER I AREAS ARE:**

21 **(I) PRIORITY FUNDING AREAS THAT HAVE RECEIVED NO**
22 **COMMENTS FROM THE DEPARTMENT OF PLANNING; AND**

23 **(II) 1. SERVED BY COMMUNITY, SHARED, OR MULTIUSE**
24 **SEWERAGE SYSTEMS; OR**

25 **2. PLANNED TO BE SERVED BY COMMUNITY,**
26 **SHARED, OR MULTIUSE SEWERAGE SYSTEMS;**

27 **(2) TIER II GROWTH IF THE TIER II AREAS ARE:**

1 **(I) PLANNED TO BE SERVED BY COMMUNITY, SHARED, AND**
2 **MULTIUSE SEWERAGE SYSTEMS;**

3 **(II) NEEDED TO SATISFY DEMAND FOR DEVELOPMENT AT**
4 **DENSITIES CONSISTENT WITH THE LONG-TERM DEVELOPMENT POLICY AFTER**
5 **CONSIDERATION OF THE CAPACITY OF LAND AREAS AVAILABLE FOR**
6 **DEVELOPMENT, INCLUDING IN-FILL AND REDEVELOPMENT, IN THE LOCAL**
7 **JURISDICTION; AND**

8 **(III) 1. PRIORITY FUNDING AREAS THAT HAVE BEEN**
9 **COMMENTED ON BY THE DEPARTMENT OF PLANNING; OR**

10 **2. MAPPED LOCALLY DESIGNATED GROWTH AREAS;**

11 **(3) TIER III GROWTH IF THE TIER III AREAS ARE:**

12 **(I) NOT PLANNED FOR SEWERAGE SERVICE; AND**

13 **(II) PRIORITY FUNDING AREAS, MAPPED LOCALLY**
14 **DESIGNATED GROWTH AREAS, OR AREAS PLANNED AND ZONED FOR LARGE LOT**
15 **AND RURAL DEVELOPMENT THAT ARE:**

16 **1. NOT PLANNED OR ZONED FOR AGRICULTURAL**
17 **PROTECTION, RURAL PROTECTION, RESOURCE PROTECTION, OR SIMILAR**
18 **ZONES WITH THE PRIMARY PURPOSE BEING LAND PRESERVATION;**

19 **2. DOMINATED BY EXISTING LOW DENSITY**
20 **DEVELOPMENT; OR**

21 **3. NOT DOMINATED BY FARMLAND OR FOREST LAND;**
22 **AND**

23 **(4) TIER IV GROWTH IF THE TIER IV AREAS ARE:**

24 **(I) NOT PLANNED FOR SEWERAGE SERVICE; AND**

25 **(II) 1. AREAS PLANNED OR ZONED FOR LAND**
26 **PRESERVATION, AGRICULTURAL PRESERVATION, OR RESOURCE**
27 **CONSERVATION;**

28 **2. AREAS DOMINATED BY AGRICULTURAL LANDS,**
29 **FOREST LANDS, OR OTHER NATURAL AREAS;**

1 **3. RURAL LEGACY AREAS OR PRIORITY**
2 **PRESERVATION AREAS; OR**

3 **4. AT THE TIME OF THE ADOPTION OF THE PLAN OR**
4 **AMENDMENT:**

5 **A. AREAS MAPPED FOR ECOLOGICAL PRESERVATION**
6 **BY THE DEPARTMENT OF NATURAL RESOURCES; OR**

7 **B. AREAS MAPPED FOR AGRICULTURAL**
8 **PRESERVATION BY THE DEPARTMENT OF PLANNING.**

9 **(D) (1) IF A LOCAL JURISDICTION PROPOSES TIERS IN THE PLAN**
10 **REQUIRED UNDER § 3-101 OF THIS SUBTITLE, THE LOCAL JURISDICTION SHALL**
11 **PROVIDE TO THE DEPARTMENT OF PLANNING A DESCRIPTION OF THE**
12 **PROPOSED TIERS NOT LESS THAN 60 DAYS BEFORE THE PUBLIC HEARING ON**
13 **THE TIERS.**

14 **(2) IF THE PLAN INCLUDES TIER I, TIER II, TIER III, OR TIER IV**
15 **AREAS, THE LOCAL JURISDICTION SHALL PROVIDE TO THE DEPARTMENT OF**
16 **PLANNING ALL INFORMATION NECESSARY TO DEMONSTRATE THE PRECISE**
17 **LOCATION OF EACH AREA, INCLUDING A MAP OF THE AREA SHOWING PLANNING**
18 **AND ZONING CHARACTERISTICS, AND EXISTING AND PLANNED WATER AND**
19 **SEWER SERVICES AS APPROPRIATE.**

20 **(3) THE DEPARTMENT OF PLANNING, AS APPROPRIATE, SHALL**
21 **PROVIDE TO EACH STATE UNIT THAT APPROVES SUBDIVISION PLANS COPIES OF**
22 **MAPS ILLUSTRATING:**

23 **(I) THE TIERS IDENTIFIED BY THE LOCAL JURISDICTION;**
24 **AND**

25 **(II) ANY COMMENTS BY THE DEPARTMENT OF PLANNING**
26 **ON THE AREAS IDENTIFIED.**

27 **5-104.**

28 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
29 **MEANINGS INDICATED.**

30 **(2) “COMMUNITY SEWERAGE SYSTEM” MEANS A PUBLICLY OR**
31 **PRIVATELY OWNED SEWERAGE SYSTEM THAT SERVES AT LEAST TWO LOTS.**

1 **(3) “MAJOR SUBDIVISION” MEANS THE SUBDIVISION OF LAND**
2 **INTO NEW LOTS, PLATS, BUILDING SITES, OR OTHER DIVISIONS OF LAND**
3 **DEFINED IN LOCAL LAW AS A MAJOR SUBDIVISION IN EFFECT BEFORE JANUARY**
4 **1, 2012.**

5 **(4) “ON-SITE SEWAGE DISPOSAL SYSTEM” HAS THE MEANING**
6 **STATED IN § 9-206 OF THE ENVIRONMENT ARTICLE.**

7 **(5) “SHARED FACILITY” HAS THE MEANING STATED IN § 9-206 OF**
8 **THE ENVIRONMENT ARTICLE.**

9 **(6) (I) “PLANNING BOARD” MEANS A PLANNING BOARD**
10 **ESTABLISHED UNDER THIS ARTICLE.**

11 **(II) “PLANNING BOARD” INCLUDES A PLANNING**
12 **COMMISSION OR BOARD ESTABLISHED UNDER DIVISION II OF THIS ARTICLE OR**
13 **ARTICLE 25A OF THE CODE.**

14 **(B) IF A LOCAL JURISDICTION ESTABLISHES TIERS FOR GROWTH IN THE**
15 **DEVELOPMENT REGULATIONS ELEMENT OF THE PLAN UNDER § 1-407 OR §**
16 **3-103 OF THIS ARTICLE, A RESIDENTIAL MAJOR SUBDIVISION MAY NOT BE**
17 **APPROVED UNLESS THE PLANNING BOARD HAS REVIEWED AND RECOMMENDED**
18 **THE APPROVAL OF THE MAJOR SUBDIVISION IN A TIER III AREA SERVED BY:**

19 **(1) ON-SITE SEWAGE DISPOSAL SYSTEMS;**

20 **(2) A COMMUNITY SEWERAGE SYSTEM; OR**

21 **(3) A SHARED FACILITY.**

22 **(C) (1) BEFORE RECOMMENDING THE APPROVAL OF A PROPOSED**
23 **MAJOR SUBDIVISION SERVED BY ON-SITE SEWAGE DISPOSAL SYSTEMS, A**
24 **COMMUNITY SEWERAGE SYSTEM, OR A SHARED FACILITY IN A TIER III AREA,**
25 **THE PLANNING BOARD SHALL HOLD AT LEAST ONE PUBLIC HEARING.**

26 **(2) THE PLANNING BOARD SHALL CONDUCT THE PUBLIC**
27 **HEARING IN ACCORDANCE WITH ITS RULES AND PROCEDURES.**

28 **(D) THE REVIEW OF THE MAJOR SUBDIVISION BY THE PLANNING BOARD**
29 **SHALL INCLUDE:**

30 **(1) THE COST OF PROVIDING LOCAL GOVERNMENTAL SERVICES**
31 **TO THE MAJOR SUBDIVISION;**

1 **(2) THE ENVIRONMENTAL IMPACT OF THE PROPOSED MAJOR**
2 **SUBDIVISION; AND**

3 **(3) ANY NUTRIENT OFFSETS, ACCORDING TO STATE POLICY, THAT**
4 **WILL BE REQUIRED FOR THE PROPOSED MAJOR SUBDIVISION.**

5 **(E) THE PLANNING BOARD SHALL RECOMMEND THE PROPOSED MAJOR**
6 **SUBDIVISION BY RESOLUTION OF THE PLANNING BOARD.**

7 **[5-104.] 5-105.**

8 (a) After a planning commission begins to exercise control over subdivisions
9 under this subtitle, the authority of the planning commission over plats shall be
10 exclusive within the territory under its jurisdiction.

11 (b) Unless otherwise provided in this division, all statutory control over plats
12 or subdivisions granted by other statutes shall be considered transferred to the
13 planning commission of the local jurisdiction.

14 SECTION 4. AND BE IT FURTHER ENACTED, That the Department of the
15 Environment shall adopt regulations requiring major residential subdivisions to
16 receive a permit.

17 SECTION 5. AND BE IT FURTHER ENACTED, That:

18 (a) (1) It is the intent of the General Assembly that local jurisdictions
19 should use their existing comprehensive plan and zoning ordinance, if desired, to
20 create the tiers as provided in Article 66B, §§ 1.04 and 3.05 of the Code and §§ 1-407
21 and 3-103 of the Land Use Article, as enacted by this Act.

22 (2) The tiers may be adopted as an amendment to the comprehensive
23 plan and be included as an appendix that delineates the tiers and the comprehensive
24 plan land use categories and zoning ordinance districts that are included in each tier.

25 (b) This Act may not be construed to imply that local comprehensive plans,
26 including the land use and development regulation elements of the plans, may not be
27 amended in accordance with the process set forth in either State law or local law.

28 SECTION 6. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall
29 take effect on the taking effect of Chapter ____ (H.B. ____)(2lr0396) of the Acts of the
30 General Assembly of 2012. If Section 3 of this Act takes effect, Section 2 of this Act
31 shall be abrogated and of no further force and effect.

32 SECTION 7. AND BE IT FURTHER ENACTED, That, subject to the provisions
33 of Section 6 of this Act, this Act shall take effect July 1, 2012.