

SENATE BILL 236

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By: **The President (By Request – Administration) and Senators Pinsky, Frosh, Madaleno, Montgomery, and Raskin**

Introduced and read first time: January 20, 2012

Assigned to: Education, Health, and Environmental Affairs

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; authorizing the
26 Department of the Environment to adopt certain regulations to require offsets
27 for new subdivisions; prohibiting the subdivision or resubdivision of a certain
28 tract or parcel of land or a minor residential subdivision under certain
29 circumstances on or after a certain date; requiring the subdivision plat of a
30 residential minor subdivision to state certain information; authorizing the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

13 BY repealing and reenacting, with amendments,
14 Article – Environment
15 Section 9–206
16 Annotated Code of Maryland
17 (2007 Replacement Volume and 2011 Supplement)

18 BY adding to
19 Article – Environment
20 Section 9–1110
21 Annotated Code of Maryland
22 (2007 Replacement Volume and 2011 Supplement)

23 BY repealing and reenacting, with amendments,
24 Article 66B – Land Use
25 Section 1.00, 1.03, 1.04(b)(1)(iv), and 3.05(a)(4)(ii)
26 Annotated Code of Maryland
27 (2010 Replacement Volume and 2011 Supplement)

28 BY repealing and reenacting, without amendments,
29 Article 66B – Land Use
30 Section 1.04(a) and 3.05(a)(4)(i)
31 Annotated Code of Maryland
32 (2010 Replacement Volume and 2011 Supplement)

33 BY adding to
34 Article 66B – Land Use
35 Section 1.04(b)(5), 1.05, and 3.05(a)(9)
36 Annotated Code of Maryland
37 (2010 Replacement Volume and 2011 Supplement)

38 BY repealing and reenacting, with amendments,
39 Article – Environment
40 Section 9–206(a)(10), (b)(2)(iv), and (d)(1)
41 Annotated Code of Maryland

1 (2007 Replacement Volume and 2011 Supplement)
2 (As enacted by Section 1 of this Act)

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

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

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

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

27 Preamble

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

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

36 WHEREAS, The Task Force met several times from July 2011 until November
37 2011 and created several workgroups to review, study, and make findings and
38 recommendations to the entire Task Force; and

1 WHEREAS, The Task Force reported its findings in December 2011 to the
2 Governor, the Speaker of the House, the President of the Senate, the House
3 Environmental Matters Committee and the Senate Education, Health, and
4 Environmental Affairs Committee; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 **Article – Environment**

22 9-206.

23 **(A) (1) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE**
24 **MEANINGS INDICATED.**

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

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

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

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

31 **(4) “MAJOR SUBDIVISION” MEANS THE SUBDIVISION OF LAND**
32 **INTO NEW LOTS, PLATS, BUILDING SITES, OR OTHER DIVISIONS OF LAND**

1 DEFINED IN THE LOCAL LAW AS A MAJOR SUBDIVISION IN EFFECT ON OR
2 BEFORE JANUARY 1, 2012.

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

7 (6) "ON-SITE SEWAGE DISPOSAL" MEANS THE DISPOSAL OF
8 SEWAGE BENEATH THE SOIL SURFACE.

9 (7) (I) "ON-SITE SEWAGE DISPOSAL SYSTEM" MEANS A SEWAGE
10 TREATMENT UNIT, COLLECTION SYSTEM, DISPOSAL AREA, AND RELATED
11 APPURTENANCES.

12 (II) "ON-SITE SEWAGE DISPOSAL SYSTEM" INCLUDES A
13 SHARED FACILITY OR COMMUNITY SEWERAGE SYSTEM THAT DISPOSES OF
14 SEWAGE EFFLUENT BENEATH THE SOIL SURFACE.

15 (8) "SHARED FACILITY" MEANS A SEWERAGE SYSTEM THAT:

16 (I) SERVES MORE THAN ONE:

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

18 2. CONDOMINIUM UNIT AND IS OWNED IN COMMON
19 BY THE USERS OR BY A CONDOMINIUM ASSOCIATION;

20 3. USER AND IS LOCATED ON INDIVIDUAL LOTS
21 OWNED BY THE USERS; OR

22 4. USER ON ONE LOT AND IS OWNED IN COMMON BY
23 THE USERS; OR

24 (II) IS LOCATED WHOLLY OR PARTLY ON ANY OF THE
25 COMMON ELEMENTS OF A CONDOMINIUM; OR

26 (III) SERVES A HOUSING OR ANOTHER MULTIPLE
27 OWNERSHIP COOPERATIVE.

28 (9) (I) "SUBDIVISION" MEANS A DIVISION OF A TRACT OR
29 PARCEL OF LAND INTO AT LEAST TWO LOTS FOR THE IMMEDIATE OR FUTURE
30 PURPOSE OF SALE OR BUILDING DEVELOPMENT.

1 (II) "SUBDIVISION" INCLUDES:

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

6 2. RESUBDIVISION.

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

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

13 (I) 1. THE APPLICATION IS MADE ON OR BEFORE JULY
14 1, 2012; AND

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

17 (II) 1. THE APPLICATION IS MADE ON OR AFTER JULY 1,
18 2012; AND

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

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

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

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

28 1. WILL BE SERVED BY PUBLIC SEWER; OR

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

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

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

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

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

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

17 **B. THE MUNICIPAL GROWTH ELEMENT AND THE**
18 **PRIORITY PRESERVATION ELEMENT, IF APPLICABLE.**

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

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

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

32 **(D) BEFORE THE DEPARTMENT APPROVES THE INITIAL SUBDIVISION**
33 **PLAT UNDER SUBSECTION (B) OF THIS SECTION, THE DEPARTMENT SHALL**

1 SUBMIT THE INITIAL SUBDIVISION PLAT TO THE DEPARTMENT OF PLANNING
2 FOR ADVICE ON WHETHER THE TIER III OR TIER IV AREA IS CONSISTENT WITH:

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

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

8 (E) ON OR AFTER DECEMBER 31, 2012, THE DEPARTMENT OR THE
9 DEPARTMENT'S DESIGNEE:

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

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

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

21 (II) A MAJOR OR MINOR SUBDIVISION SERVED BY PUBLIC
22 SEWER.

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

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

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

1 **(G) THE DEPARTMENT MAY ESTABLISH REGULATIONS REQUIRING**
2 **NUTRIENT OFFSETS FOR ALL NEW SUBDIVISIONS.**

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

6 (1) A plat of the subdivision;

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

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

10 **[(b) (I)]** On the basis of information provided under subsection **[(a) (H)]** of
11 this section, the Department may order:

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

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

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

19 (ii) In the judgment of the Department, is needed for the public
20 health.

21 **(J) (1) THIS SUBSECTION APPLIES TO A MINOR RESIDENTIAL**
22 **SUBDIVISION IN A TIER II, TIER III, OR TIER IV AREA.**

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

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

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

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

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

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

8 **(4) ON OR AFTER DECEMBER 31, 2012, IF A TRACT OR PARCEL OF**
9 **LAND IS SUBDIVIDED INTO A RESIDENTIAL MINOR SUBDIVISION, THE**
10 **RESIDENTIAL MINOR SUBDIVISION OR THE REMAINDER PARCEL OR TRACT OF**
11 **LAND MAY BE RESUBDIVIDED OR FURTHER SUBDIVIDED IF THE SUBDIVISION OR**
12 **THE REMAINDER PARCEL OR TRACT OF LAND IS:**

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

16 **(II) DESIGNATED FOR PUBLIC SEWERAGE SERVICE WITHIN**
17 **10 YEARS IN THE APPROVED WATER AND SEWER PLAN.**

18 **(5) (I) A TRACT OR PARCEL OF LAND MAY BE SUBDIVIDED**
19 **INTO A RESIDENTIAL MINOR SUBDIVISION IN TIER II, TIER III, OR TIER IV**
20 **AREAS OVER TIME IF EACH TIME A NEW LOT OR PARCEL IS CREATED, THE**
21 **SUBDIVISION PLAT STATES THE NUMBER OF NEW LOTS, PLATS, BUILDING SITES,**
22 **OR OTHER DIVISIONS OF LAND THAT ARE LEFT WITH THE NUMBER OF LOTS,**
23 **PLATS, BUILDING SITES, OR OTHER DIVISIONS OF LAND ALLOWED AS A**
24 **SUBDIVISION.**

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

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

32 **2. THE REMAINDER PARCEL OR TRACT OF LAND MAY**
33 **NOT BE SUBDIVIDED.**

1 (III) A REMAINDER PARCEL OR TRACT OF LAND MAY BE
2 SUBDIVIDED FOR NONRESIDENTIAL AGRICULTURAL PURPOSES.

3 9-1110.

4 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
5 MEANINGS INDICATED.

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

8 (3) "CONTROLLING AUTHORITY" MEANS A UNIT OF
9 GOVERNMENT, A BODY PUBLIC AND CORPORATE, OR AN INTERCOUNTY AGENCY
10 AUTHORIZED BY THE STATE, A COUNTY, OR A MUNICIPAL CORPORATION TO
11 PROVIDE FOR THE MANAGEMENT, OPERATION, AND MAINTENANCE OF A
12 COMMUNITY SEWERAGE SYSTEM, SHARED FACILITY, OR MULTIUSE SEWERAGE
13 SYSTEM.

14 (4) "SHARED FACILITY" MEANS A SEWERAGE SYSTEM THAT:

15 (I) SERVES MORE THAN ONE:

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

17 2. CONDOMINIUM UNIT AND IS OWNED IN COMMON
18 BY THE USERS OR BY A CONDOMINIUM ASSOCIATION;

19 3. USER AND IS LOCATED ON INDIVIDUAL LOTS
20 OWNED BY THE USERS; OR

21 4. USER ON ONE LOT AND IS OWNED IN COMMON BY
22 THE USERS;

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

25 (III) SERVES A HOUSING COOPERATIVE OR OTHER MULTIPLE
26 OWNERSHIP COOPERATIVE.

27 (B) A SHARED FACILITY OR COMMUNITY SEWERAGE SYSTEM MAY BE
28 APPROVED ONLY IF THE SYSTEM:

29 (1) IS MANAGED, OPERATED, AND MAINTAINED BY:

1 (I) A CONTROLLING AUTHORITY; OR

2 (II) A THIRD PARTY UNDER CONTRACT WITH THE
3 CONTROLLING AUTHORITY; AND

4 (2) DISCHARGES:

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

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

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

12 (C) THE DEPARTMENT SHALL ESTABLISH THE NUTRIENT OFFSET
13 REQUIREMENTS FOR SHARED FACILITIES AND COMMUNITY SEWERAGE
14 SYSTEMS.

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

17 **Article 66B – Land Use**

18 1.00.

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

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

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

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

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

3 (2) “Local executive” includes:

4 (i) A county executive;

5 (ii) A board of county commissioners;

6 (iii) An executive head; or

7 (iv) A mayor.

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

10 (2) “Local legislative body” includes:

11 (i) A board of county commissioners;

12 (ii) A county council; or

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

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

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

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

23 **(I) “PRIORITY FUNDING AREA” HAS THE MEANING STATED IN §**
24 **5–7B–02 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

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

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

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

29 (2) 100–year flood plains;

1 (3) Habitats of threatened and endangered species;

2 (4) Steep slopes;

3 (5) Agricultural and forest lands intended for resource protection or
4 conservation; and

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

7 **[(k)] (L)** “Special exception” means a grant of a specific use that would not
8 be appropriate generally or without restriction and shall be based upon a finding that
9 certain conditions governing special exceptions as detailed in the zoning ordinance
10 exist, that the use is consistent with the plan and is compatible with the existing
11 neighborhood.

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

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

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

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

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

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

25 1.03.

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

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

29 (1) **[\$ 1.00(j) (Definition of “sensitive areas”)] § 1.00(H), (I), (K), AND**
30 **(M) (DEFINITIONS OF “PLAN”, “PRIORITY FUNDING AREA”, “SENSITIVE AREAS”,**
31 **AND “SUBDIVISION”);**

- 1 (2) § 1.01 (Visions);
- 2 (3) § 1.02 (Consistency with comprehensive plans);
- 3 (4) § 1.04 (Charter county – Comprehensive plans);
- 4 **(5) § 1.05 (MAJOR SUBDIVISION – REVIEW);**
- 5 **[(5)] (6)** § 3.02(h) (Planning Commission – Education);
- 6 **[(6)] (7)** § 3.09 (Annual report – Preparation and filing);
- 7 **[(7)] (8)** § 3.10 (Annual report – Smart Growth goals, measures, and
8 indicators);
- 9 **[(8)] (9)** § 4.01(b)(2) (Regulation of bicycle parking);
- 10 **[(9)] (10)** § 4.04(c) (Exceptions related to the Maryland Accessibility
11 Code);
- 12 **[(10)] (11)** § 4.07(i) (Board of Appeals – Education);
- 13 **[(11)] (12)** § 5.03(d) (Easements for burial sites);
- 14 **[(12)] (13)** § 7.02 (Civil penalty for zoning violation);
- 15 **[(13)] (14)** § 10.01 (Adequate Public Facilities Ordinances);
- 16 **[(14)] (15)** § 11.01 (Transfer of Development Rights);
- 17 **[(15)] (16)** § 12.01 (Inclusionary Zoning);
- 18 **[(16)] (17)** Except in Montgomery County or Prince George’s County, §
19 13.01 (Development rights and responsibilities agreements);
- 20 **[(17)] (18)** For Baltimore County only, § 14.02; and
- 21 **[(18)] (19)** For Howard County only, § 14.06.1.
- 22 (c) This section supersedes any inconsistent provision of Article 28 of the
23 Code.
- 24 1.04.

1 (a) A charter county shall enact, adopt, amend, and execute a plan as
2 provided in this section.

3 (b) (1) When developing a comprehensive plan for a charter county, a
4 planning commission shall include:

5 (iv) An element which contains the planning commission's
6 recommendation for land development regulations to implement the comprehensive
7 plan and which [encourages]:

8 **1. ENCOURAGES:**

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

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

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

16 **2. MAY INCLUDE MAPPED AREAS DESIGNATED FOR**
17 **TIER I GROWTH IF THE TIER I AREAS ARE PRIORITY FUNDING AREAS THAT**
18 **HAVE RECEIVED NO COMMENTS FROM THE DEPARTMENT OF PLANNING AND**
19 **ARE:**

20 **A. SERVED BY COMMUNITY, SHARED, OR MULTIUSE**
21 **SEWERAGE SYSTEMS; OR**

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

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

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

29 **II. ARE MAPPED LOCALLY DESIGNATED GROWTH**
30 **AREAS; AND**

1 **B. THE TIER II AREAS ARE NEEDED TO SATISFY**
2 **DEMAND FOR DEVELOPMENT AT DENSITIES CONSISTENT WITH THE LONG-TERM**
3 **DEVELOPMENT POLICY AFTER CONSIDERATION OF THE CAPACITY OF LAND**
4 **AREAS AVAILABLE FOR DEVELOPMENT, INCLUDING IN-FILL AND**
5 **REDEVELOPMENT, WITHIN THE LOCAL JURISDICTION;**

6 4. **MAY INCLUDE MAPPED AREAS DESIGNATED FOR**
7 **TIER III GROWTH IF:**

8 A. **THE TIER III AREAS ARE NOT PLANNED FOR**
9 **SEWERAGE SERVICE; AND**

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

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

16 II. **ARE DOMINATED BY EXISTING LOW DENSITY**
17 **DEVELOPMENT; OR**

18 III. **ARE AREAS NOT DOMINATED BY FARMLAND OR**
19 **FOREST LAND; AND**

20 5. **MAY INCLUDE MAPPED AREAS DESIGNATED FOR**
21 **TIER IV GROWTH IF THE TIER IV AREAS ARE NOT PLANNED FOR SEWERAGE**
22 **SERVICE AND ARE:**

23 A. **AREAS PLANNED OR ZONED FOR LAND**
24 **PRESERVATION, AGRICULTURAL PRESERVATION, OR RESOURCE**
25 **CONSERVATION;**

26 B. **AREAS DOMINATED BY AGRICULTURAL LANDS,**
27 **FOREST LANDS, OR OTHER NATURAL AREAS; OR**

28 C. **RURAL LEGACY AREAS, PRIORITY PRESERVATION**
29 **AREAS, AREAS MAPPED FOR ECOLOGICAL PRESERVATION BY THE DEPARTMENT**
30 **OF NATURAL RESOURCES AT THE TIME OF THE ADOPTION OF THE PLAN OR**
31 **AMENDMENT OR AREAS MAPPED FOR AGRICULTURAL PRESERVATION BY THE**
32 **DEPARTMENT OF PLANNING AT THE TIME OF THE ADOPTION OF THE PLAN OR**
33 **AMENDMENT.**

1 **(5) (I) IF A LOCAL JURISDICTION PROPOSES TIERS IN THE**
2 **PLAN UNDER PARAGRAPH (1)(IV) OF THIS SUBSECTION, THE LOCAL**
3 **JURISDICTION SHALL PROVIDE TO THE DEPARTMENT OF PLANNING A**
4 **DESCRIPTION OF THE PROPOSED TIERS NOT LESS THAN 60 DAYS BEFORE THE**
5 **PUBLIC HEARING ON THE TIERS.**

6 **(II) IF THE PLAN INCLUDES TIER I, TIER II, TIER III, OR**
7 **TIER IV AREAS, THE LOCAL JURISDICTION SHALL PROVIDE TO THE**
8 **DEPARTMENT OF PLANNING ALL INFORMATION NECESSARY TO DEMONSTRATE**
9 **THE PRECISE LOCATION OF THE AREA, INCLUDING A MAP OF THE AREA**
10 **SHOWING PLANNING AND ZONING CHARACTERISTICS, AND EXISTING AND**
11 **PLANNED WATER AND SEWER SERVICES AS APPROPRIATE.**

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

15 **1. THE TIERS IDENTIFIED BY THE LOCAL**
16 **JURISDICTION; AND**

17 **2. ANY COMMENTS BY THE DEPARTMENT OF**
18 **PLANNING ON THE AREAS IDENTIFIED.**

19 **1.05.**

20 **(A) (1) IN THIS SECTION 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) “MAJOR SUBDIVISION” MEANS THE SUBDIVISION OF LAND**
25 **INTO NEW LOTS, PLATS, BUILDING SITES, OR OTHER DIVISIONS OF LAND**
26 **DEFINED IN LOCAL LAW AS A MAJOR SUBDIVISION IN EFFECT BEFORE JANUARY**
27 **1, 2012.**

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

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

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

3 **(II) “PLANNING BOARD” INCLUDES A PLANNING**
4 **COMMISSION OR BOARD ESTABLISHED UNDER ARTICLE 25A OR ARTICLE 28 OF**
5 **THE CODE.**

6 **(B) IF A LOCAL JURISDICTION ESTABLISHES TIERS FOR GROWTH IN THE**
7 **LAND DEVELOPMENT ELEMENT OF THE PLAN UNDER § 1.04 OF THIS**
8 **SUBHEADING OR § 3.05 OF THIS ARTICLE, A RESIDENTIAL MAJOR SUBDIVISION**
9 **MAY NOT BE APPROVED UNLESS THE PLANNING BOARD HAS REVIEWED AND**
10 **RECOMMENDED THE APPROVAL OF THE MAJOR SUBDIVISION IN A TIER III**
11 **AREA SERVED BY:**

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

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

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

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

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

21 **(D) THE REVIEW OF THE MAJOR SUBDIVISION BY THE PLANNING BOARD**
22 **SHALL INCLUDE:**

23 **(1) THE COST OF PROVIDING LOCAL GOVERNMENTAL SERVICES**
24 **TO THE MAJOR SUBDIVISION;**

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

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

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

1 3.05.

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

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

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

7 1. Shall propose the most appropriate and desirable
8 patterns for the general location, character, extent, and interrelationship of the uses of
9 public and private land, on a schedule that extends as far into the future as is
10 reasonable; [and]

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

14 **3. MAY INCLUDE MAPPED AREAS DESIGNATED FOR**
15 **TIER I GROWTH IF THE TIER I AREAS ARE PRIORITY FUNDING AREAS THAT**
16 **HAVE RECEIVED NO COMMENTS FROM THE DEPARTMENT OF PLANNING AND**
17 **ARE:**

18 **A. SERVED BY COMMUNITY, SHARED, OR MULTIUSE**
19 **SEWERAGE SYSTEMS; OR**

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

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

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

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

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

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

2 **5. MAY INCLUDE MAPPED AREAS DESIGNATED FOR**
3 **TIER III GROWTH IF:**

4 **A. THE TIER III AREAS ARE NOT PLANNED FOR**
5 **SEWERAGE SERVICE; AND**

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

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

12 **II. ARE DOMINATED BY EXISTING LOW DENSITY**
13 **DEVELOPMENT; OR**

14 **III. ARE AREAS NOT DOMINATED BY FARMLAND OR**
15 **FOREST LAND; AND**

16 **6. MAY INCLUDE MAPPED AREAS DESIGNATED FOR**
17 **TIER IV GROWTH IF THE TIER IV AREAS ARE NOT PLANNED FOR SEWERAGE**
18 **SERVICE AND ARE:**

19 **A. AREAS PLANNED OR ZONED FOR LAND**
20 **PRESERVATION, AGRICULTURAL PRESERVATION, OR RESOURCE**
21 **CONSERVATION;**

22 **B. AREAS DOMINATED BY AGRICULTURAL LANDS,**
23 **FOREST LANDS, OR OTHER NATURAL AREAS; OR**

24 **C. RURAL LEGACY AREAS, PRIORITY PRESERVATION**
25 **AREAS, AREAS MAPPED FOR ECOLOGICAL PRESERVATION BY THE DEPARTMENT**
26 **OF NATURAL RESOURCES AT THE TIME OF THE ADOPTION OF THE PLAN OR**
27 **AMENDMENT OR AREAS MAPPED FOR AGRICULTURAL PRESERVATION BY THE**
28 **DEPARTMENT OF PLANNING AT THE TIME OF THE ADOPTION OF THE PLAN OR**
29 **AMENDMENT.**

30 **(9) (i) IF A LOCAL JURISDICTION PROPOSES TIERS IN THE**
31 **PLAN UNDER PARAGRAPH (4)(II) OF THIS SUBSECTION, THE LOCAL**
32 **JURISDICTION SHALL PROVIDE TO THE DEPARTMENT OF PLANNING A**

1 DESCRIPTION OF THE PROPOSED TIERS NOT LESS THAN 60 DAYS BEFORE THE
2 PUBLIC HEARING ON THE TIERS.

3 (II) IF THE PLAN INCLUDES TIER I, TIER II, TIER III, OR
4 TIER IV AREAS, THE LOCAL JURISDICTION SHALL PROVIDE TO THE
5 DEPARTMENT OF PLANNING ALL INFORMATION NECESSARY TO DEMONSTRATE
6 THE PRECISE LOCATION OF EACH AREA, INCLUDING A MAP OF THE AREA
7 SHOWING PLANNING AND ZONING CHARACTERISTICS, AND EXISTING AND
8 PLANNED WATER AND SEWER SERVICES AS APPROPRIATE.

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

12 1. THE TIERS IDENTIFIED BY THE LOCAL
13 JURISDICTION; AND

14 2. ANY COMMENTS BY THE DEPARTMENT OF
15 PLANNING ON THE AREAS IDENTIFIED.

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

18 **Article – Environment**

19 9–206.

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

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

28 (iv) The subdivision is a major subdivision served by on-site
29 sewage disposal systems, a community system, or a shared facility located in a Tier III
30 area, subject to the following:

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

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

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

6 B. The municipal growth element and the priority
7 preservation element, if applicable.

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

12 (1) The requirements of a Tier III or Tier IV area in [Article 66B, §
13 1.04 or § 3.05 of the Code] **§ 1-407 OR § 3-103 OF THE LAND USE ARTICLE**, as
14 appropriate; and

15 **Article – Land Use**

16 1-401.

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

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

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

22 (2) § [1-101(o)] **1-101(L), (M), (O), AND (R)** (Definitions – **“PLAN”**,
23 **“PRIORITY FUNDING AREA”**, **“Sensitive area”**, **AND “SUBDIVISION”**);

24 (3) § 1-201 (Visions);

25 (4) § 1-206 (Required education);

26 (5) § 1-207 (Annual report – In general);

27 (6) § 1-208 (Annual report – Measures and indicators);

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

29 (8) § 4-104(b) (Limitations – Bicycle parking);

1 (9) § 4–208 (Exceptions – Maryland Accessibility Code);

2 (10) § 5–102(d) (Subdivision regulations – Burial sites);

3 **(11) § 5–104 (MAJOR SUBDIVISION – REVIEW);**

4 **[(11)] (12)** Title 7, Subtitle 1 (Development Mechanisms);

5 **[(12)] (13)** Title 7, Subtitle 2 (Transfer of Development Rights);

6 **[(13)] (14)** Except in Montgomery County or Prince George’s County,
7 Title 7, Subtitle 3 (Development Rights and Responsibilities Agreements);

8 **[(14)] (15)** Title 7, Subtitle 4 (Inclusionary Zoning);

9 **[(15)] (16)** § 8–401 (Conversion of overhead facilities);

10 **[(16)] (17)** For Baltimore County only, Title 9, Subtitle 3
11 (Single–County Provisions – Baltimore County);

12 **[(17)] (18)** For Howard County only, Title 9, Subtitle 13 (Single–County
13 Provisions – Howard County); and

14 **[(18)] (19)** Title 11, Subtitle 2 (Civil Penalty).

15 (c) This section supersedes any inconsistent provision of Division II of this
16 article.

17 1–405.

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

20 1–407.

21 (a) The development regulations element shall include the planning
22 commission’s recommendation for land development regulations to implement the
23 plan.

24 (b) The development regulations element shall encourage:

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

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

1 (i) economic development through the use of innovative
2 techniques; and

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

5 (C) THE DEVELOPMENT REGULATIONS ELEMENT MAY INCLUDE
6 MAPPED AREAS DESIGNATED FOR:

7 (1) TIER I GROWTH IF THE TIER I AREAS ARE:

8 (I) PRIORITY FUNDING AREAS THAT HAVE RECEIVED NO
9 COMMENTS FROM THE DEPARTMENT OF PLANNING; AND

10 (II) 1. SERVED BY COMMUNITY, SHARED, OR MULTIUSE
11 SEWERAGE SYSTEMS; OR

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

14 (2) TIER II GROWTH IF THE TIER II AREAS ARE:

15 (I) PLANNED TO BE SERVED BY COMMUNITY, SHARED, AND
16 MULTIUSE SEWERAGE SYSTEMS;

17 (II) NEEDED TO SATISFY DEMAND FOR DEVELOPMENT AT
18 DENSITIES CONSISTENT WITH THE LONG-TERM DEVELOPMENT POLICY AFTER
19 CONSIDERATION OF THE CAPACITY OF LAND AREAS AVAILABLE FOR
20 DEVELOPMENT, INCLUDING IN-FILL AND REDEVELOPMENT, IN THE LOCAL
21 JURISDICTION; AND

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

24 2. MAPPED LOCALLY DESIGNATED GROWTH AREAS;

25 (3) TIER III GROWTH IF THE TIER III AREAS ARE:

26 (I) NOT PLANNED FOR SEWERAGE SERVICE; AND

27 (II) PRIORITY FUNDING AREAS, MAPPED LOCALLY
28 DESIGNATED GROWTH AREAS, OR AREAS PLANNED AND ZONED FOR LARGE LOT
29 AND RURAL DEVELOPMENT THAT ARE:

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

4 2. DOMINATED BY EXISTING LOW DENSITY
5 DEVELOPMENT; OR

6 3. NOT DOMINATED BY FARMLAND OR FOREST LAND;
7 AND

8 (4) TIER IV GROWTH IF THE TIER IV AREAS ARE:

9 (I) NOT PLANNED FOR SEWERAGE SERVICE; AND

10 (II) 1. AREAS PLANNED OR ZONED FOR LAND
11 PRESERVATION, AGRICULTURAL PRESERVATION, OR RESOURCE
12 CONSERVATION;

13 2. AREAS DOMINATED BY AGRICULTURAL LANDS,
14 FOREST LANDS, OR OTHER NATURAL AREAS;

15 3. RURAL LEGACY AREAS OR PRIORITY
16 PRESERVATION AREAS; OR

17 4. AT THE TIME OF THE ADOPTION OF THE PLAN OR
18 AMENDMENT:

19 A. AREAS MAPPED FOR ECOLOGICAL PRESERVATION
20 BY THE DEPARTMENT OF NATURAL RESOURCES; OR

21 B. AREAS MAPPED FOR AGRICULTURAL
22 PRESERVATION BY THE DEPARTMENT OF PLANNING.

23 (D) (1) IF A LOCAL JURISDICTION PROPOSES TIERS IN THE PLAN
24 REQUIRED UNDER § 1-405 OF THIS SUBTITLE, THE LOCAL JURISDICTION SHALL
25 PROVIDE TO THE DEPARTMENT OF PLANNING A DESCRIPTION OF THE
26 PROPOSED TIERS NOT LESS THAN 60 DAYS BEFORE THE PUBLIC HEARING ON
27 THE TIERS.

28 (2) IF THE PLAN INCLUDES TIER I, TIER II, TIER III, OR TIER IV
29 AREAS, THE LOCAL JURISDICTION SHALL PROVIDE TO THE DEPARTMENT OF
30 PLANNING ALL INFORMATION NECESSARY TO DEMONSTRATE THE PRECISE
31 LOCATION OF EACH AREA, INCLUDING A MAP OF THE AREA SHOWING PLANNING

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

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

6 (I) THE TIERS IDENTIFIED BY THE LOCAL JURISDICTION;
7 AND

8 (II) ANY COMMENTS BY THE DEPARTMENT OF PLANNING
9 ON THE AREAS IDENTIFIED.

10 3-101.

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

13 3-103.

14 (a) The development regulations element shall include the planning
15 commission's recommendation for land development regulations to implement the
16 plan.

17 (b) The development regulations element shall encourage:

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

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

21 (i) economic development through the use of innovative
22 techniques; and

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

25 (C) THE DEVELOPMENT REGULATIONS ELEMENT MAY INCLUDE
26 MAPPED AREAS DESIGNATED FOR:

27 (1) TIER I GROWTH IF THE TIER I AREAS ARE:

28 (I) PRIORITY FUNDING AREAS THAT HAVE RECEIVED NO
29 COMMENTS FROM THE DEPARTMENT OF PLANNING; AND

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

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

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

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

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

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

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

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

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

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

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

24 **2. DOMINATED BY EXISTING LOW DENSITY**
25 **DEVELOPMENT; OR**

26 **3. NOT DOMINATED BY FARMLAND OR FOREST LAND;**
27 **AND**

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

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

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

4 **2. AREAS DOMINATED BY AGRICULTURAL LANDS,**
5 **FOREST LANDS, OR OTHER NATURAL AREAS;**

6 **3. RURAL LEGACY AREAS OR PRIORITY**
7 **PRESERVATION AREAS; OR**

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

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

12 **B. AREAS MAPPED FOR AGRICULTURAL**
13 **PRESERVATION BY THE DEPARTMENT OF PLANNING.**

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

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

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

28 **(I) THE TIERS IDENTIFIED BY THE LOCAL JURISDICTION;**
29 **AND**

30 **(II) ANY COMMENTS BY THE DEPARTMENT OF PLANNING**
31 **ON THE AREAS IDENTIFIED.**

1 **5-104.**

2 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
3 MEANINGS INDICATED.

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

6 (3) "MAJOR SUBDIVISION" MEANS THE SUBDIVISION OF LAND
7 INTO NEW LOTS, PLATS, BUILDING SITES, OR OTHER DIVISIONS OF LAND
8 DEFINED IN LOCAL LAW AS A MAJOR SUBDIVISION IN EFFECT BEFORE JANUARY
9 1, 2012.

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

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

14 (6) (I) "PLANNING BOARD" MEANS A PLANNING BOARD
15 ESTABLISHED UNDER THIS ARTICLE.

16 (II) "PLANNING BOARD" INCLUDES A PLANNING
17 COMMISSION OR BOARD ESTABLISHED UNDER DIVISION II OF THIS ARTICLE OR
18 ARTICLE 25A OF THE CODE.

19 (B) IF A LOCAL JURISDICTION ESTABLISHES TIERS FOR GROWTH IN THE
20 DEVELOPMENT REGULATIONS ELEMENT OF THE PLAN UNDER § 1-407 OR §
21 3-103 OF THIS ARTICLE, A RESIDENTIAL MAJOR SUBDIVISION MAY NOT BE
22 APPROVED UNLESS THE PLANNING BOARD HAS REVIEWED AND RECOMMENDED
23 THE APPROVAL OF THE MAJOR SUBDIVISION IN A TIER III AREA SERVED BY:

24 (1) ON-SITE SEWAGE DISPOSAL SYSTEMS;

25 (2) A COMMUNITY SEWERAGE SYSTEM; OR

26 (3) A SHARED FACILITY.

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

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

3 **(D) THE REVIEW OF THE MAJOR SUBDIVISION BY THE PLANNING BOARD**
4 **SHALL INCLUDE:**

5 **(1) THE COST OF PROVIDING LOCAL GOVERNMENTAL SERVICES**
6 **TO THE MAJOR SUBDIVISION;**

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

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

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

13 **[5-104.] 5-105.**

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

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

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

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

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

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

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

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

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