

HOUSE BILL 1449

L6, D3

4lr2397
CF SB 1045

By: **Delegate Lehman**

Introduced and read first time: February 9, 2024

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Zoning – Board of Appeals Decisions or Zoning Actions – Judicial Review**

3 FOR the purpose of applying to charter counties and the City of Baltimore certain
4 provisions relating to a request for judicial review of certain decisions of a board of
5 appeals or a zoning action; specifying when a person is aggrieved by a board of
6 appeals decision or a zoning action of a legislative body for purposes of requesting
7 judicial review by a circuit court; authorizing certain corporations, unincorporated
8 associations, and other organizations to file a request for judicial review of a board
9 of appeals decision or a zoning action, except under certain circumstances; repealing
10 a certain provision of law that limits the applicability of the law to certain standards
11 for judicial review of zoning actions; clarifying that a zoning action includes a
12 comprehensive planning or rezoning action; and generally relating to judicial review
13 of a decision of a board of appeals or a zoning action.

14 BY repealing and reenacting, with amendments,
15 Article – Land Use
16 Section 1–401, 4–401, and 10–103
17 Annotated Code of Maryland
18 (2012 Volume and 2023 Supplement)

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

21 **Article – Land Use**

22 1–401.

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 (2) § 1–101(l), (m), and (o) (Definitions – “Plan”, “Priority funding area”,
4 and “Sensitive area”);

5 (3) § 1–201 (Visions);

6 (4) § 1–206 (Required education);

7 (5) § 1–207 (Annual report – In general);

8 (6) § 1–208 (Annual report – Measures and indicators);

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

10 (8) Title 1, Subtitle 5 (Growth Tiers);

11 (9) § 4–104(b) (Limitations – Bicycle parking);

12 (10) § 4–208 (Exceptions – Maryland Accessibility Code);

13 (11) § 4–210 (Permits and variances – Solar panels);

14 (12) § 4–211 (Change in zoning classification – Energy generating systems);

15 (13) § 4–212 (Agritourism);

16 (14) § 4–213 (Alcohol production);

17 (15) § 4–214 (Agricultural alcohol production);

18 (16) § 4–215 (Pollinator–friendly vegetation management);

19 (17) **§ 4–401 (JUDICIAL REVIEW – PROCEDURE);**

20 **(18)** § 5–102(d) (Subdivision regulations – Burial sites);

21 **[(18)] (19)** § 5–104 (Major subdivision – Review);

22 **[(19)] (20)** Title 7, Subtitle 1 (Development Mechanisms);

23 **[(20)] (21)** Title 7, Subtitle 2 (Transfer of Development Rights);

1 [(21)] **(22)** except in Montgomery County or Prince George’s County, Title
2 7, Subtitle 3 (Development Rights and Responsibilities Agreements);

3 [(22)] **(23)** Title 7, Subtitle 4 (Inclusionary Zoning);

4 [(23)] **(24)** § 8–401 (Conversion of overhead facilities);

5 [(24)] **(25)** for Baltimore County only, Title 9, Subtitle 3 (Single–County
6 Provisions – Baltimore County);

7 [(25)] **(26)** for Frederick County only, Title 9, Subtitle 10 (Single–County
8 Provisions – Frederick County);

9 [(26)] **(27)** for Howard County only, Title 9, Subtitle 13 (Single–County
10 Provisions – Howard County);

11 [(27)] **(28)** for Talbot County only, Title 9, Subtitle 18 (Single–County
12 Provisions – Talbot County); and

13 [(28)] **(29)** Title 11, Subtitle 2 (Civil Penalty).

14 (c) This section supersedes any inconsistent provision of Division II of this article.
15 4–401.

16 (a) Any of the following persons may file a request for judicial review of a decision
17 of a board of appeals or a zoning action, **INCLUDING A COMPREHENSIVE PLANNING OR**
18 **REZONING ACTION**, of a legislative body by the circuit court of the county:

19 (1) a person aggrieved by the decision or action;

20 (2) **A CORPORATION, AN ASSOCIATION, OR ANY OTHER**
21 **ORGANIZATION DESCRIBED IN SUBSECTION (C) OF THIS SECTION;**

22 (3) a taxpayer; or

23 [(3)] (4) an officer or unit of the local jurisdiction.

24 **(B) (1) IN THIS SUBSECTION:**

25 (I) **“INJURY IN FACT” MEANS AN INVASION OF A LEGALLY**
26 **PROTECTED INTEREST THAT IS:**

27 1. **CONCRETE AND PARTICULARIZED;**

1 2. ACTUAL OR IMMINENT; AND

2 3. NOT CONJECTURAL OR HYPOTHETICAL; AND

3 (II) “INJURY IN FACT” INCLUDES:

4 1. A PROPERTY RIGHT OR PERSONAL INTEREST THAT IS
5 DISTINCT FROM, OR SPECIFICALLY AFFECTED IN A WAY THAT IS DISTINCT FROM, A
6 PROPERTY RIGHT OR PERSONAL INTEREST OF THE GENERAL PUBLIC; AND

7 2. A NEGATIVE IMPACT, OR THE THREAT OF A NEGATIVE
8 IMPACT, TO A PERSON’S HEALTH OR USE AND ENJOYMENT OF A NATURAL RESOURCE
9 OR THE ENVIRONMENT, INCLUDING A NEGATIVE IMPACT TO AESTHETIC,
10 RECREATIONAL, CONSERVATIONAL, AND ECONOMIC INTERESTS SHARED AMONG
11 COMMUNITY MEMBERS.

12 (2) A PERSON IS AGGRIEVED BY A DECISION OR ACTION UNDER
13 SUBSECTION (A)(1) OF THIS SECTION IF THE PERSON CAN DEMONSTRATE THAT AS A
14 RESULT OF THE DECISION OR ACTION THE PERSON IS LIKELY TO SUFFER AN INJURY
15 IN FACT.

16 (C) (1) A CORPORATION, AN UNINCORPORATED ASSOCIATION, OR ANY
17 OTHER ORGANIZATION MAY FILE A REQUEST FOR JUDICIAL REVIEW UNDER
18 SUBSECTION (A)(2) OF THIS SECTION IF:

19 (I) THE CORPORATION, UNINCORPORATED ASSOCIATION, OR
20 OTHER ORGANIZATION CONSISTS OF TWO OR MORE MEMBERS JOINED BY MUTUAL
21 CONSENT FOR A COMMON PURPOSE;

22 (II) ONE OR MORE MEMBERS OF THE CORPORATION,
23 UNINCORPORATED ASSOCIATION, OR OTHER ORGANIZATION HAVE STANDING
24 UNDER SUBSECTION (A) OF THIS SECTION;

25 (III) THE INTERESTS THAT THE CORPORATION,
26 UNINCORPORATED ASSOCIATION, OR OTHER ORGANIZATION SEEKS TO PROTECT
27 ARE RELATED TO THE PURPOSE FOR WHICH THE CORPORATION, ASSOCIATION, OR
28 OTHER ORGANIZATION IS ESTABLISHED; AND

29 (IV) THE CLAIM ASSERTED AND RELIEF REQUESTED DO NOT
30 REQUIRE THE PARTICIPATION OF A MEMBER OF THE CORPORATION,
31 UNINCORPORATED ASSOCIATION, OR OTHER ORGANIZATION.

1 **(2) A CORPORATION, AN UNINCORPORATED ASSOCIATION, OR ANY**
2 **OTHER ORGANIZATION MAY NOT FILE A REQUEST FOR JUDICIAL REVIEW UNDER**
3 **SUBSECTION (A) OF THIS SECTION IF THE DECISION OF THE BOARD OF APPEALS OR**
4 **ZONING ACTION IS RELATED TO:**

5 **(I) DEVELOPMENT OF AFFORDABLE HOUSING UNDER AN**
6 **AFFORDABLE HOUSING PROGRAM AUTHORIZED IN § 1-1308 OF THE LOCAL**
7 **GOVERNMENT ARTICLE;**

8 **(II) DEVELOPMENT OF A BROWNFIELD SITE AS DEFINED IN §**
9 **7-237 OF THE TAX – PROPERTY ARTICLE; OR**

10 **(III) REDEVELOPMENT OF PREVIOUSLY DEVELOPED PROPERTY.**

11 **[(b) (D)]** The judicial review shall be in accordance with Title 7, Chapter 200 of
12 the Maryland Rules.

13 **[(c)]** This section does not change the existing standards for judicial review of a
14 zoning action.]

15 10-103.

16 (a) Except as provided in this section, this division does not apply to Baltimore
17 City.

18 (b) The following provisions of this division apply to Baltimore City:

19 (1) this title;

20 (2) § 1-101(m) (Definitions – “Priority funding area”);

21 (3) § 1-101(o) (Definitions – “Sensitive area”);

22 (4) § 1-201 (Visions);

23 (5) § 1-206 (Required education);

24 (6) § 1-207 (Annual report – In general);

25 (7) § 1-208 (Annual report – Measures and indicators);

26 (8) Title 1, Subtitle 3 (Consistency);

27 (9) Title 1, Subtitle 4, Parts II and III (Home Rule Counties –
28 Comprehensive Plans; Implementation);

- 1 (10) § 4–104(b) (Limitations – Bicycle parking);
- 2 (11) § 4–205 (Administrative adjustments);
- 3 (12) § 4–207 (Exceptions – Maryland Accessibility Code);
- 4 (13) § 4–210 (Permits and variances – Solar panels);
- 5 (14) § 4–211 (Change in zoning classification – Energy generating systems);
- 6 (15) § 4–215 (Pollinator–friendly vegetation management);
- 7 (16) **§ 4–401 (JUDICIAL REVIEW – PROCEDURE);**
- 8 **(17) § 5–102(d)** (Subdivision regulations – Burial sites);
- 9 **[(17)] (18)** Title 7, Subtitle 1 (Development Mechanisms);
- 10 **[(18)] (19)** Title 7, Subtitle 2 (Transfer of Development Rights);
- 11 **[(19)] (20)** Title 7, Subtitle 3 (Development Rights and Responsibilities
12 Agreements);
- 13 **[(20)] (21)** Title 7, Subtitle 4 (Inclusionary Zoning); and
- 14 **[(21)] (22)** Title 11, Subtitle 2 (Civil Penalty).

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2024.