

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 733 (Senator M. Washington)
Education, Energy, and the Environment

Land Use - Definitions and Boards of Appeals

This bill, modifying provisions within Division I of the Land Use Article, (1) adds and modifies specified definitions and (2) modifies and repeals specified provisions governing boards of appeals that apply to commission counties and municipalities (and potentially certain code counties) (see Current Law regarding the application of provisions under Division I). **The bill takes effect July 1, 2026.**

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State finances.

Local Effect: Local government finances may be affected, as discussed below.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Definitions under Division I of the Land Use Article

Additions

The bill adds the following definitions:

“Board of appeals” means an independent, quasi-judicial body that interprets and applies local zoning, licensing, and land-use ordinances.

“Development rights” means the rights to use, control, preserve, or develop land, whether or not exercised, as authorized by State or local law or applicable land use or zoning regulations.

“Permit” means an official document or authorization from a State or local government unit to perform a specific development activity subject to expiration dates and certain conditions for approval, revocation, and renewal.

“Resident” means a person who exercises the right of occupancy or lives in a dwelling unit located within a specific zoning district or State or local jurisdiction that is subject to specific laws, ordinances, and codes.

Modifications

The bill modifies the following definitions by establishing that:

- “Development” means an activity that materially affects the physical condition of land, water, or air, including modifications to structures, utilities, or natural features, instead of meaning an activity that materially affects the existing condition or use of any land or structure; and
- “Zoning law” means the legislative implementation of regulations for zoning by a local jurisdiction under authority granted by the Land Use Article, including an ordinance, a regulation, a code, or an administrative procedure for planning, permitting, or decision making under the article, instead of meaning the legislative implementation of regulations for zoning by a local jurisdiction, including a zoning ordinance, zoning regulation, zoning code, and any similar legislative action to implement zoning controls in a local jurisdiction.

Board of Appeals – Title 4, Subtitle 3 of the Land Use Article (Under Division I)

The bill modifies provisions governing boards of appeals under Title 4, Subtitle 3 of the Land Use Article (which is applicable to commission counties and municipalities (and potentially certain code counties) – see Current Law regarding the application of Division I of the Land Use Article), as follows:

- *Establishment* – The bill requires the legislative body of each local jurisdiction to establish a board of appeals, in place of requiring that the legislative body provide for the appointment of a board of appeals. In addition, in place of an existing provision that prohibits a legislative body from serving as the board of appeals, the bill establishes that a member of a legislative body may not serve on the board of appeals for the local jurisdiction for which the individual is a member of the legislative body.

- *Appointment* – The bill modifies a provision establishing that a member of a board of appeals must be appointed by the local executive and confirmed by the legislative body, by establishing that the provision only applies if there is a single elected local executive and otherwise the members of a board of appeals must be appointed by the legislative body or the person designated as the appointing authority in the local law establishing the board of appeals.
- *Removal* – The bill modifies provisions that establish the grounds for removal of a member of a board of appeals by the local executive, by repealing a ground focusing on a member’s failure to attend meetings and authorizing removal of a member in the manner provided under § 10-1701 of the State Government Article for the removal of a member of a State board or commission, which focuses on removal for misconduct, incompetence, neglect of duties, or other good cause.
- *Authority and Responsibility Regarding Appeals* – The bill replaces provisions that authorize a board of appeals to hear specified appeals/cases (see Current Law) with a provision establishing that a board of appeals must (1) hear appeals concerning any order, requirement, implementation mechanism, decision, or determination made by an administrative officer or unit under a local jurisdiction’s zoning authority, including the granting or denying of a variance or special exception to the terms of the land use laws, ordinances, procedures, or requirements under the Land Use Article and (2) render findings and decisions on appeals related to zoning, licenses, and permits and executive, administrative, and adjudicatory orders.
- *Appellants and Appeal Procedures* – The bill modifies provisions governing the persons that may file an appeal, and procedures that must be followed, by establishing that (1) for an appeal under Title 3 (Comprehensive Plan) and Title 4 (Zoning) of the Land Use Article, a *resident* (in addition to a *person*) aggrieved by a decision of an administrative officer or unit may file an appeal (along with an officer or unit of the jurisdiction affected by a decision of the administrative officer or unit); (2) an appeal must be filed within 30 days (instead of a “reasonable time provided by rules of the board”); (3) a notice of intent to appeal must be filed in writing with the board of appeals which then transmits, within five days, the notice to the administrative officer or unit whose action is being appealed (currently an appellant files a notice of appeal with both the board and the administrative officer or unit); and (4) the notice must specify the order, requirement, implementation mechanism, decision, or determination being appealed (in addition to the grounds of the appeal).

The bill repeals provisions, as follows:

- *Costs of a Recording or Transcript* – The bill repeals a provision that establishes that if a recording or a transcript of a recording is not prepared in the normal course

of the board’s proceedings, the party who requests a copy of the recording or its transcript must pay the cost of preparing the recording or transcript.

- *Record on Appeal* – The bill repeals a statutory requirement that the administrative officer or unit from whose action an appeal is taken must transmit promptly to the board all papers constituting the record of the action appealed.
- *Stay of Proceedings* – The bill repeals an exception – to an existing requirement that an appeal stays all proceedings in furtherance of the action appealed – in which the board of appeals or circuit court may stay the proceedings only for good cause shown if the administrative officer or unit certifies facts that indicate to the administrative officer or unit that a stay would cause imminent peril to life or property.
- *Modification or Issuance of Orders* – The bill repeals provisions (1) that authorize a board of appeals, in conformity with Division I of the Land Use Article, to modify the order, requirement, or decision that is the subject of the appeal, or issue a new order, requirement, or decision, and (2) that give the board of appeals all the powers of the administrative officer or unit from whose action the appeal is taken. This leaves the board of appeals only with authority to wholly or partly reverse or affirm the order, requirement, or decision.

Current Law:

Definitions (under Division I of the Land Use Article)

“Development” means an activity that materially affects the existing condition or use of any land or structure.

“Zoning law” means the legislative implementation of regulations for zoning by a local jurisdiction and includes a zoning ordinance, zoning regulation, zoning code, and any similar legislative action to implement zoning controls in a local jurisdiction.

Board of Appeals (under Title 4, Subtitle 3 of the Land Use Article – Within Division I)

In General

Under Title 4, Subtitle 3 of the Land Use Article – which applies to commission counties and municipalities (and potentially certain code counties) (see below) – a legislative body must provide for the appointment of a board of appeals and the legislative body may not serve as the board of appeals.

A board of appeals consists of at least three members that (1) are appointed by the local executive and confirmed by the legislative body to a three-year term of office and (2) may be removed by the local executive for incompetence, misconduct, or in the same

manner as for a member of a State board or commission's failure to attend meetings under § 8-501 of the State Government Article, or conviction of a crime in accordance with § 8-502 of the State Government Article.

A board of appeals may (1) hear and decide appeals when it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer or unit under Division I of the Land Use Article or of any local law adopted under Division I; (2) hear and decide special exceptions to the terms of a local law on which the board is required to pass under the local law; and (3) authorize on appeal in specific cases a variance from the terms of a local law.

A board of appeals must (1) make a recording of all proceedings with a contemporaneous written record showing the vote of each member on each question or the member's absence or failure to vote and (2) immediately file the recording of its proceedings in the office of the board. The recording is a public record. If a recording or transcript of a recording is not prepared in the normal course of the board's proceedings, the party who requests a copy of the recording or its transcript must pay the cost of preparing the recording or transcript.

Appellants and Appeal Procedures

An appeal to the board of appeals may be filed by (1) a person aggrieved by a decision of the administrative officer or unit or (2) an officer or unit of the jurisdiction affected by a decision of the administrative officer or unit. A person must file an appeal within a reasonable time provided by the rules of the board of appeals by filing with the administrative officer or unit from whose action the appeal is taken and with the board of appeals a notice of appeal specifying the grounds of the appeal. The administrative officer or unit from whose action the appeal is taken must transmit promptly to the board all papers constituting the record of the action appealed.

An appeal to a board of appeals stays all proceedings in furtherance of the action appealed; however, if an administrative officer or unit certifies to the board of appeals facts stated in the certificate that indicate to the administrative officer or unit that a stay would cause imminent peril to life or property, the board of appeals or the circuit court may stay the proceedings (1) only for good cause shown and (2) through issuing a restraining order after notice is given to the administrative officer or unit.

A board of appeals:

- must (1) establish a reasonable time for the hearing of an appeal; (2) give public notice of the existence of the appeal and of the hearing; (3) give due notice to the parties in interest and to other persons entitled to notice under local law or the rules of the board of appeals; and (4) decide the appeal within a reasonable time;

- may, in conformity with Division I of the Land Use Article, wholly or partly reverse, wholly or partly affirm, modify, or issue a new order, requirement, or decision; and
- has all the powers of the administrative officer or unit from whose action the appeal is taken.

Land Use

In General

The regulation of land use in the State, through planning and zoning, is implemented by local governments, subject to applicable State law. Planning and zoning authority is delegated by the State to local governments primarily under the Land Use Article and, for certain counties, the Express Powers Act (Title 10 of the Local Government Article).

Division I of the Land Use Article

Most of Division I of the Land Use Article applies only to commission counties and municipalities (and any code counties that have not chosen to exercise the powers related to land use in the Express Powers Act). Sections 1-401(a), 1-402(b), and 10-103(a) of the Land Use Article (regarding charter counties, code counties, and Baltimore City, respectively) establish that only certain provisions of Division I – those listed in §§ 1-401(b) and 10-103(b) – apply to charter counties, code counties that choose to exercise the powers related to land use in the Express Powers Act, and Baltimore City. (Title 4, Subtitle 3, within Division I – governing boards of appeals - is not included under §§ 1-401(b) or 10-103(b).)

Local Fiscal Effect: To the extent the bill expands the jurisdiction of boards of appeals in affected counties and municipalities, the operations of the boards are affected and expenditures may increase; however, it is unclear to what extent, in practice, the bill results in a broader range of appeals filed.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Baltimore City; Calvert and Prince George’s counties; Maryland Association of Counties; Maryland-National Capital Park and Planning Commission; City of Annapolis; Maryland Municipal League; Office of the Attorney General; Judiciary
SB 733/ Page 6

(Administrative Office of the Courts); Maryland Department of the Environment; Department of Natural Resources; Maryland Department of Planning; Maryland Department of Transportation; Office of Administrative Hearings; Department of Legislative Services

Fiscal Note History: First Reader - March 9, 2026
jg/sdk

Analysis by: Joanne E. Tetlow

Direct Inquiries to:
(410) 946-5510
(301) 970-5510