

Chapter 149

(Senate Bill 236)

AN ACT concerning

Sustainable Growth and Agricultural Preservation Act of 2012

FOR the purpose of ~~altering~~ authorizing a local jurisdiction to adopt ~~and certify to the Department of Planning~~ certain growth tier designations; requiring a local jurisdiction under certain circumstances to alter the contents of ~~certain elements that are required in~~ a certain plan; ~~authorizing a local jurisdiction to submit proposed tier designations to the Department of Planning before certification~~ adoption for certain purposes; establishing certain mandatory and certain discretionary provisions relating to the adoption of certain tiers by certain local jurisdictions; requiring a local jurisdiction to provide documentation to the Department of Planning if the jurisdiction does not adopt a certain tier; requiring growth tiers ~~certified~~ adopted by a local jurisdiction to ~~meet certain criteria~~; prohibiting the approval of a residential major subdivision if a local jurisdiction has established certain tiers unless a planning board reviews and recommends ~~the~~ approval under certain circumstances; establishing the requirements for the review of a residential major subdivision by a planning board; requiring a planning board to hold a certain hearing under certain circumstances; ~~requiring a planning board to publish a certain notice in a certain manner; requiring a planning board to provide copies of a proposed major subdivision to certain units and jurisdictions within a certain period of time~~ requiring the Department of Planning to provide certain information to certain State agencies and post certain information on the Department's Web site; requiring a planning board to recommend a proposed major subdivision in a certain manner; ~~requiring a planning board to send a certain resolution and certain documents to the Department of the Environment and the Department of Planning under certain circumstances~~ prohibiting the Department of the Environment or the Department's designee from approving a local jurisdiction from authorizing a certain residential subdivision until the local jurisdiction adopts certain growth tiers; authorizing ~~the Department or the Department's designee~~ a local jurisdiction, if a local jurisdiction has not adopted certain growth tiers, to approve a certain residential subdivision under certain circumstances; ~~authorizing the Department to extend the time period for recordation of a subdivision plat in certain circumstances~~; establishing certain requirements for the approval of a residential subdivision plat by the Department of the Environment, or the Department's designee; authorizing a local jurisdiction to request a verification of a certain overall yield under certain circumstances; requiring the Department of Planning to verify a certain overall yield after consultation with the Maryland Sustainable Growth Commission; providing for the resolution of conflicting tier designations; ~~requiring the~~

~~Department of the Environment to submit a certain subdivision plat to the Department of Planning for certain advice; prohibiting the Department of the Environment from approving a major residential subdivision under certain circumstances on or before a certain date; requiring a local jurisdiction to notify provide certain information to the Department of Planning under certain circumstances; authorizing the Department of the Environment to adopt certain regulations to require offsets for new subdivisions requiring the Department of Planning to provide a certain notification to the Department of the Environment;~~ prohibiting the subdivision or resubdivision of a certain tract or parcel of land or a minor residential subdivision under certain circumstances on or after a certain date; requiring the subdivision plat of a residential minor subdivision to state certain information; authorizing the subdivision or resubdivision of a certain tract or parcel of land or a minor residential subdivision under certain circumstances on or after a certain date; authorizing the owner of certain property used for agricultural activities to install certain numbers of on-site sewage disposal systems in accordance with certain requirements; requiring certain on-site sewage disposal systems installed on certain property to be clustered together under certain circumstances; authorizing a local jurisdiction to enact a local law or ordinance for the transfer of certain rights of an owner to subdivide certain property used for agricultural activities to the owner of certain other property used for agricultural activities under certain circumstances; establishing certain requirements for the approval of a shared facility or community sewerage system; ~~requiring the Department of the Environment to establish certain requirements for a shared facility and a community sewerage system;~~ defining certain terms; ~~requiring the Department of the Environment to adopt regulations to require certain residential subdivisions to receive a permit;~~ establishing certain requirements for the verification by the Department of Planning of a certain yield for zoning; requiring a local jurisdiction to submit to the Department of Planning on or before a certain date a certain definition or description; requiring the Department of Planning to prepare a list of certain definitions and descriptions for publication on certain Web sites on or after a certain date; providing that this Act may not be construed to limit certain authority granted to the Critical Area Commission; requiring the Department of the Environment to propose certain regulations by a certain date; requiring the Department of the Environment to consult with certain counties and stakeholders in drafting certain proposed regulations; requiring the Department of the Environment to brief certain committees of the General Assembly on certain proposed regulations; requiring the Department of Planning, in consultation with the Department of the Environment, to submit a certain report to the General Assembly by a certain date; establishing the intent of the General Assembly; providing for the application of certain provisions of this Act; providing for the construction of this Act; providing for the effective date of certain provisions of this Act; providing for the termination of certain provisions of this Act; and generally relating to the subdivision of land and planning for growth.

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

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

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

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

BY adding to
 Article 66B – Land Use
 Section ~~1.04(b)(5), 1.05, and 3.05(a)(9)~~ 1.06
 Annotated Code of Maryland
 (2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
 Article – Environment
~~Section 9–206(a)(10), (b)(2)(iv), and (d)(1)~~
Section 9–206(a)(3), (d)(1), (g)(1)(iv) and (2), and (j)(1)
 Annotated Code of Maryland
 (2007 Replacement Volume and 2011 Supplement)
 (As enacted by Section 1 of this Act)

BY repealing and reenacting, with amendments,
 Article – Land Use
 Section 1–401, ~~1–407, 3–103,~~ and 5–104
 Annotated Code of Maryland
 (As enacted by Chapter 426 (H.B. ____)(2lr0396) of the Acts of the General
 Assembly of 2012)

~~BY repealing and reenacting, without amendments,~~

~~Article – Land Use~~

~~Section 1–405 and 3–101(a)~~

~~Annotated Code of Maryland~~

~~(As enacted by Chapter _____ (H.B. _____)(2lr0396) of the Acts of the General Assembly of 2012)~~

BY adding to

Article – Land Use

Section 1–501 through 1–507 1–509 to be under the new subtitle “Subtitle 5. Growth Tiers”; and 5–104

Annotated Code of Maryland

(As enacted by Chapter 426 (H.B. _____)(2lr0396) of the Acts of the General Assembly of 2012)

~~BY repealing and reenacting, with amendments,~~

~~Article – Land Use~~

~~Section 5–104~~

~~Annotated Code of Maryland~~

~~(As enacted by Chapter _____ (H.B. _____)(2lr0396) of the Acts of the General Assembly of 2012)~~

Preamble

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Article – Environment

9-206.

(A) (1) ~~IN THIS SUBSECTION~~ SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

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

(3) “GROWTH TIERS” MEANS THE TIERS ADOPTED BY A LOCAL JURISDICTION IN ACCORDANCE WITH ARTICLE 66B, § 1.05 OF THE CODE.

~~(3)~~ (4) “LOT” INCLUDES A PART OF A SUBDIVISION THAT:

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

(II) IS NOT INTENDED TO BE FURTHER SUBDIVIDED.

~~(4)~~ (5) “MAJOR SUBDIVISION” MEANS ~~THE~~:

(I) THE SUBDIVISION OF LAND: ~~INTO~~

1. INTO NEW LOTS, PLATS, BUILDING SITES, OR OTHER DIVISIONS OF LAND DEFINED OR DESCRIBED AS A MAJOR SUBDIVISION IN ~~THE A LOCAL LAW AS A MAJOR SUBDIVISION~~ ORDINANCE OR REGULATION:

A. THAT IS IN EFFECT ON OR BEFORE JANUARY 1, 2012; OR

B. ~~IF ADOPTED ON OR BEFORE DECEMBER 31, 2012,~~ IF A LOCAL JURISDICTION CHOOSES TO CREATE A DEFINITION OR DESCRIPTION APPLICABLE SOLELY TO THIS SECTION OR IF A LOCAL ORDINANCE OR REGULATION DOES NOT DEFINE OR DESCRIBE A MAJOR SUBDIVISION UNDER ITEM A OF THIS ITEM, ~~THAT IS ADOPTED ON OR BEFORE DECEMBER 31, 2012;~~ OR

2. IF A LOCAL JURISDICTION HAS NOT ADOPTED A DEFINITION OR DESCRIPTION OF A MAJOR SUBDIVISION ON OR BEFORE DECEMBER 31, 2012, UNDER ITEM 1 OF THIS ITEM, INTO FIVE OR MORE NEW LOTS, PLATS, BUILDING SITES, OR OTHER DIVISIONS OF LAND; AND

(II) IF THE LOCAL ORDINANCE OR REGULATION HAS ~~TWO~~ MULTIPLE DEFINITIONS OR DESCRIPTIONS OF A MAJOR SUBDIVISION UNDER PARAGRAPH (I) OF THIS SUBSECTION, THE DEFINITION OR DESCRIPTION OF A MAJOR SUBDIVISION THAT IS DETERMINED BY THE LOCAL JURISDICTION TO APPLY FOR THE PURPOSES OF THIS SECTION.

~~(5)~~ (6) "MINOR SUBDIVISION" MEANS ~~THE~~:

(I) THE SUBDIVISION OF LAND: ~~INTO~~

1. INTO NEW LOTS, PLATS, BUILDING SITES, OR OTHER DIVISIONS OF LAND DEFINED OR DESCRIBED AS A MINOR SUBDIVISION IN ~~THE~~ A LOCAL LAW AS A MINOR SUBDIVISION ORDINANCE OR REGULATION:

A. THAT IS IN EFFECT ON OR BEFORE JANUARY 1, 2012; OR

B. ~~IF ADOPTED ON OR BEFORE DECEMBER 31, 2012,~~ IF A LOCAL JURISDICTION CHOOSES TO CREATE A DEFINITION OR DESCRIPTION APPLICABLE SOLELY TO THIS SECTION OR IF A LOCAL ORDINANCE OR REGULATION DOES NOT DEFINE OR DESCRIBE A MINOR SUBDIVISION UNDER ITEM A OF THIS ITEM, ~~ADOPTED ON OR BEFORE DECEMBER 31, 2012,~~ PROVIDED THAT A MINOR SUBDIVISION DEFINED OR DESCRIBED IN THE ADOPTED ORDINANCE OR REGULATION DOES NOT EXCEED SEVEN NEW LOTS, PLATS, BUILDING SITES, OR OTHER DIVISIONS OF LAND; OR

2. IF A LOCAL JURISDICTION HAS NOT ADOPTED A DEFINITION OR DESCRIPTION OF A MINOR SUBDIVISION ON OR BEFORE

DECEMBER 31, 2012, UNDER ITEM 1 OF THIS ITEM, INTO FEWER THAN FIVE NEW LOTS, PLATS, BUILDING SITES, OR OTHER DIVISIONS OF LAND; AND

(II) IF THE LOCAL ORDINANCE OR REGULATION HAS ~~TWO~~ MULTIPLE DEFINITIONS OR DESCRIPTIONS OF A MINOR SUBDIVISION UNDER ITEM (I) OF THIS PARAGRAPH, THE DEFINITION OR DESCRIPTION OF A MINOR SUBDIVISION THAT IS DETERMINED BY THE LOCAL JURISDICTION TO APPLY FOR THE PURPOSES OF THIS SECTION.

~~(6)~~ (7) “ON-SITE SEWAGE DISPOSAL” MEANS THE DISPOSAL OF SEWAGE BENEATH THE SOIL SURFACE.

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

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

(9) “PUBLIC SEWER” MEANS A COMMUNITY, SHARED, OR MULTIUSE SEWERAGE SYSTEM.

~~(8)~~ (10) “SHARED FACILITY” MEANS A SEWERAGE SYSTEM THAT:

(I) SERVES MORE THAN ONE:

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

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

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

(11) “STATE AGENCY” MEANS:

- (I) THE MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION;**
- (II) THE MARYLAND ENVIRONMENTAL TRUST;**
- (III) THE DEPARTMENT OF NATURAL RESOURCES; OR**
- (IV) THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION.**

~~(9)~~ **(12) (H) “SUBDIVISION” MEANS A DIVISION OF A TRACT OR PARCEL OF LAND INTO AT LEAST TWO LOTS FOR THE IMMEDIATE OR FUTURE PURPOSE OF SALE OR BUILDING DEVELOPMENT.**

~~(H)~~ **“SUBDIVISION” INCLUDES:**

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

~~2. RESUBDIVISION.~~

~~(H) “SUBDIVISION” DOES NOT INCLUDE A CHANGE IN STREET LINES OR LOT LINES IF THE CHANGE IN THE STREET OR LOT LINES DOES NOT:~~

~~1. RESULT IN A NET INCREASE IN THE NUMBER OF LOTS; AND~~

~~2. ADVERSELY AFFECT THE SAFETY AND ADEQUACY OF WELL SITES OR SEWAGE DISPOSAL AREAS, AS DETERMINED BY THE SECRETARY OR THE SECRETARY’S DESIGNEE.~~

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

(B) (1) THIS SUBSECTION DOES SUBSECTIONS (F) THROUGH (K) AND SUBSECTION (N) OF THIS SECTION APPLY TO RESIDENTIAL SUBDIVISIONS.

~~(2) SUBSECTIONS (F) THROUGH (K) AND SUBSECTION (N) OF THIS SECTION;~~

~~(I) APPLY TO A SUBDIVISION PLAT APPROVAL BY THE DEPARTMENT OR THE DEPARTMENT'S DESIGNEE; AND~~

~~(II) DO NOT APPLY TO A SUBDIVISION PLAT APPROVAL BY A LOCAL JURISDICTION;~~

~~(3) (2) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, SUBSECTIONS (F) THROUGH (K) DO NOT APPLY TO AN APPLICATION FOR APPROVAL OF A RESIDENTIAL SUBDIVISION UNDER § 9-512(E) OF THIS TITLE IF:~~

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

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

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

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

~~(I) 1. BY OCTOBER 1, 2012, A SUBMISSION FOR PRELIMINARY PLAN APPROVAL IS MADE TO A LOCAL JURISDICTION THAT INCLUDES, AT A MINIMUM, THE PRELIMINARY ENGINEERING, DENSITY, ROAD NETWORK, LOT LAYOUT, AND EXISTING FEATURES OF THE PROPOSED SITE DEVELOPMENT;~~

~~2. BY JULY 1, 2012, IN A LOCAL JURISDICTION THAT REQUIRES A SOIL PERCOLATION TEST BEFORE A SUBMISSION FOR PRELIMINARY APPROVAL:~~

~~A. AN APPLICATION FOR A SOIL PERCOLATION TEST APPROVAL FOR ALL LOTS THAT WILL BE INCLUDED IN THE SUBMISSION FOR PRELIMINARY APPROVAL IS MADE TO THE LOCAL HEALTH DEPARTMENT; AND~~

~~B. WITHIN 18 MONTHS AFTER APPROVAL OF THE SOIL PERCOLATION TESTS FOR THE LOTS THAT WILL BE INCLUDED IN THE SUBMISSION FOR PRELIMINARY APPROVAL, A SUBMISSION FOR PRELIMINARY~~

APPROVAL IS MADE TO A LOCAL JURISDICTION THAT INCLUDES, AT A MINIMUM, THE PRELIMINARY ENGINEERING, DENSITY, ROAD NETWORK, LOT LAYOUT, AND EXISTING FEATURES OF THE PROPOSED SITE DEVELOPMENT; OR

3. BY JULY 1, 2012, IN A LOCAL JURISDICTION THAT REQUIRES A SOIL PERCOLATION TEST BEFORE A SUBMISSION FOR PRELIMINARY APPROVAL AND THE LOCAL JURISDICTION DOES NOT ACCEPT APPLICATIONS FOR SOIL PERCOLATION TESTS YEAR ROUND:

A. DOCUMENTATION THAT A MARYLAND PROFESSIONAL ENGINEER OR SURVEYOR HAS PREPARED AND CERTIFIED UNDER SEAL A SITE PLAN IN ANTICIPATION OF AN APPLICATION FOR SOIL PERCOLATION TESTS;

B. AN APPLICATION FOR A SOIL PERCOLATION TEST APPROVAL FOR ALL LOTS THAT WILL BE INCLUDED IN THE SUBMISSION FOR PRELIMINARY APPROVAL IS MADE TO THE LOCAL HEALTH DEPARTMENT AT THE NEXT AVAILABLE SOIL PERCOLATION TEST SEASON; AND

C. WITHIN 18 MONTHS AFTER APPROVAL OF THE SOIL PERCOLATION TESTS FOR THE LOTS THAT WILL BE INCLUDED IN THE SUBMISSION FOR PRELIMINARY APPROVAL, A SUBMISSION FOR PRELIMINARY APPROVAL IS MADE TO A LOCAL JURISDICTION THAT INCLUDES, AT A MINIMUM, THE PRELIMINARY ENGINEERING, DENSITY, ROAD NETWORK, LOT LAYOUT, AND EXISTING FEATURES OF THE PROPOSED SITE DEVELOPMENT; AND

(II) BY OCTOBER 1, 2016, THE PRELIMINARY PLAN IS APPROVED.

~~(2)(4) THE DEPARTMENT MAY EXTEND THE DATE FOR RECORDATION OF A SUBDIVISION PLAT UNDER PARAGRAPH (3) OF THIS SUBSECTION BY ONE ADDITIONAL 6 MONTH PERIOD IF THE APPLICANT DEMONSTRATES TO THE DEPARTMENT OR THE DEPARTMENT'S DESIGNEE THAT THE APPLICANT IS UNABLE TO RECORD THE PLAT BECAUSE THE APPLICANT CANNOT PERFORM THE REQUIRED TESTS FOR ADEQUACY OF AN ON SITE SEWAGE DISPOSAL SYSTEM IN ACCORDANCE WITH THE REGULATIONS ADOPTED BY THE DEPARTMENT.~~

(C) (1) SUBSECTIONS (F) THROUGH (K) AND SUBSECTION (N) OF THIS SECTION DO NOT APPLY TO COVENANTS, RESTRICTIONS, CONDITIONS, OR CONSERVATION EASEMENTS THAT WERE CREATED OR ENTERED INTO AT ANY TIME UNDER § 2-118 OF THE REAL PROPERTY ARTICLE FOR THE BENEFIT OF,

OR HELD BY, A STATE AGENCY OR A LOCAL JURISDICTION FOR THE PURPOSE OF CONSERVING NATURAL RESOURCES OR AGRICULTURAL LAND.

(2) SUBSECTIONS (F) THROUGH (K) OF THIS SECTION MAY NOT BE CONSTRUED AS GRANTING ANY ADDITIONAL RIGHTS IN COVENANTS, RESTRICTIONS, CONDITIONS, OR CONSERVATION EASEMENTS THAT WERE CREATED OR ENTERED INTO AT ANY TIME UNDER § 2-118 OF THE REAL PROPERTY ARTICLE FOR THE BENEFIT OF, OR HELD BY, A STATE AGENCY OR A LOCAL JURISDICTION FOR THE PURPOSE OF CONSERVING NATURAL RESOURCES OR AGRICULTURAL LAND.

(D) SUBSECTIONS (F) THROUGH ~~(K)~~ (I) AND SUBSECTION ~~(N)~~ (L) OF THIS SECTION DO NOT:

(1) AFFECT A LOCAL TRANSFER OF DEVELOPMENT RIGHTS PROGRAM AUTHORIZED UNDER ARTICLE 25A, § 5(X), ARTICLE 28, § 8-101, OR ARTICLE 66B, § 11.01 OF THE CODE; OR

(2) DIMINISH THE LOCAL DEVELOPMENT RIGHTS TRANSFERRED IN THESE TRANSFER OF DEVELOPMENT RIGHTS PROGRAMS.

(E) SUBSECTIONS (F) THROUGH ~~(K)~~ (I) AND SUBSECTION ~~(N)~~ (L) OF THIS SECTION MAY NOT BE CONSTRUED AS PROHIBITING A LOCAL JURISDICTION FROM ALTERING THE DEFINITION OR DESCRIPTION OF A MAJOR OR MINOR SUBDIVISION IN A LOCAL ORDINANCE OR REGULATION FOR LOCAL ZONING OR DEVELOPMENT PURPOSES.

(F) ON OR AFTER DECEMBER 31, 2012, ~~THE DEPARTMENT OR THE DEPARTMENT'S DESIGNEE~~ A LOCAL JURISDICTION:

(1) MAY NOT ~~APPROVE~~ AUTHORIZE A RESIDENTIAL MAJOR ~~RESIDENTIAL~~ SUBDIVISION SERVED BY ON-SITE SEWAGE DISPOSAL SYSTEMS, COMMUNITY SEWERAGE SYSTEMS, OR SHARED SYSTEMS UNTIL THE LOCAL JURISDICTION ADOPTS THE GROWTH TIERS IN ACCORDANCE WITH ARTICLE 66B, § 1.05 OF THE CODE; OR

(2) IF THE LOCAL JURISDICTION HAS NOT ADOPTED THE GROWTH TIERS IN ACCORDANCE WITH ARTICLE 66B, § 1.05 OF THE CODE, MAY ~~APPROVE~~ AUTHORIZE:

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

(II) A MAJOR OR MINOR SUBDIVISION SERVED BY PUBLIC SEWER IN A TIER I AREA.

(G) (1) EXCEPT AS PROVIDED IN SUBSECTION ~~(E)(2)~~ (F)(2) OF THIS SECTION AND SUBJECT TO SUBSECTION (I) OF THIS SECTION, THE DEPARTMENT, OR THE DEPARTMENT'S DESIGNEE, MAY APPROVE A LOCAL JURISDICTION MAY AUTHORIZE A RESIDENTIAL SUBDIVISION PLAT ONLY IF:

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

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

1. WILL BE SERVED BY PUBLIC SEWER; OR

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

(III) EXCEPT AS PROVIDED IN SUBSECTION ~~(E)~~ (H) OF THIS SECTION, THE SUBDIVISION IS A MINOR SUBDIVISION ~~UTILIZING~~ SERVED BY INDIVIDUAL ON-SITE SEWAGE DISPOSAL SYSTEMS IN A TIER III OR TIER IV AREA; OR

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

~~1. THE SUBDIVISION AND HAS BEEN RECOMMENDED BY THE LOCAL PLANNING BOARD IN ACCORDANCE WITH ARTICLE 66B, § 1.05 1.06 OF THE CODE; AND~~

~~2. IN CONSULTATION WITH THE DEPARTMENT OF PLANNING IN ACCORDANCE WITH SUBSECTIONS (I) AND (J) OF THIS SECTION, THE DEPARTMENT HAS DETERMINED THAT THE TIER III OR TIER IV AREA IS GROWTH TIERS ARE CONSISTENT WITH: ARTICLE 66B, § 1.05 OF THE CODE.~~

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

~~B. THE MUNICIPAL GROWTH ELEMENT AND THE PRIORITY PRESERVATION ELEMENT, IF APPLICABLE.~~

(2) ANY DELAY IN THE APPROVAL OF A RESIDENTIAL SUBDIVISION PLAT UNDER THIS SUBSECTION MAY NOT BE CONSTRUED AS APPLYING TO ANY DEADLINE FOR APPROVING OR DISAPPROVING A SUBDIVISION PLAT UNDER ARTICLE 28 OF THE CODE, ARTICLE 66B, § 5.04 OF THE CODE, OR A LOCAL ORDINANCE.

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

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

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

(1) (1) IF TWO OR MORE LOCAL JURISDICTIONS ADOPT CONFLICTING GROWTH TIER DESIGNATIONS FOR THE SAME AREA, THE DEPARTMENT AND THE DEPARTMENT OF PLANNING SHALL CONFER WITH THE LOCAL JURISDICTIONS TO SEEK RESOLUTION OF THE CONFLICTING DESIGNATIONS.

(2) IF A CONFLICT IN GROWTH TIER DESIGNATIONS IS NOT RESOLVED, THE DEPARTMENT OF PLANNING SHALL RECOMMEND TO THE DEPARTMENT AND THE DEPARTMENT MAY APPROVE THE PREFERRED LOCAL JURISDICTION DESIGNATIONS AS ~~DETERMINED~~ RECOMMENDED BY THE DEPARTMENT OF PLANNING BASED ON THE FOLLOWING BEST PLANNING PRACTICES OR FACTORS:

(I) THE COMPREHENSIVE PLAN, INCLUDING THE MUNICIPAL GROWTH ELEMENT, THE WATER RESOURCES ELEMENT, THE LAND USE ELEMENT, AND, IF APPLICABLE, THE PRIORITY PRESERVATION ELEMENT;

(II) GROWTH PROJECTIONS AND DEVELOPMENT CAPACITY;
AND

(III) AVAILABILITY OF INFRASTRUCTURE.

~~(D)(J) BEFORE THE DEPARTMENT APPROVES THE INITIAL SUBDIVISION PLAT FOR A MAJOR SUBDIVISION IN A TIER III AREA UNDER SUBSECTION (B) (C)(1)(IV) OF THIS SECTION, THE DEPARTMENT SHALL SUBMIT THE INITIAL SUBDIVISION PLAT TO THE DEPARTMENT OF PLANNING FOR ADVICE ON WHETHER THE TIER III OR TIER IV AREA IS GROWTH TIERS ARE CONSISTENT WITH:~~

~~(1) THE REQUIREMENTS OF A TIER III OR TIER IV AREA FOR THE GROWTH TIERS IN ARTICLE 66B, § 1.04 OR § 3.05 § 1.05 OF THE CODE, AS APPROPRIATE; AND~~

~~(2) THE COMPREHENSIVE PLAN, INCLUDING THE MUNICIPAL GROWTH ELEMENT, THE WATER RESOURCES ELEMENT, THE LAND USE ELEMENT, AND, IF APPLICABLE, THE PRIORITY PRESERVATION ELEMENT, IF APPLICABLE, AND THE WATER RESOURCES ELEMENT OF THE LOCAL COMPREHENSIVE PLAN.~~

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

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

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

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

~~(ii) A MAJOR OR MINOR SUBDIVISION SERVED BY PUBLIC SEWER.~~

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

~~(2) AFTER THE AMENDMENT OF A TIER III OR TIER IV AREA, THE DEPARTMENT SHALL SEND THE FIRST SUBDIVISION PLAT FOR A MAJOR~~

~~SUBDIVISION IN A TIER III AREA TO THE DEPARTMENT OF PLANNING FOR
ADVICE UNDER SUBSECTION (D) OF THIS SECTION.~~

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

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

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

(1) A plat of the subdivision;

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

(3) DOCUMENTATION BY THE LOCAL JURISDICTION THAT A
MAJOR SUBDIVISION ON-SITE SEWAGE DISPOSAL SYSTEM, A COMMUNITY
SEWERAGE SYSTEM, OR A SHARED FACILITY IS IN A:

(I) TIER III AREA AS ADOPTED BY THE LOCAL
JURISDICTION; OR

(II) TIER IV AREA IN A LOCAL JURISDICTION THAT IS
EXEMPT FROM THE LIMITATION OF MINOR SUBDIVISIONS AS PROVIDED IN
SUBSECTION (H) OF THIS SECTION; AND

~~(3)~~ (4) Any other information that the Department requires.

[(b)] ~~(H) (M)~~ (K) On the basis of information provided under subsection [(a)] ~~(H) (L)~~ (I) of this section, the Department may order:

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

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

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

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

~~(J) (N) (L)~~ (1) THIS SUBSECTION APPLIES TO A RESIDENTIAL MINOR ~~RESIDENTIAL~~ SUBDIVISION IN A TIER II, TIER III, OR TIER IV AREA.

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

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

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

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

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

(II) THE REMAINDER PARCEL OR TRACT OF LAND MAY NOT BE SUBDIVIDED; AND

(III) THE SUBDIVISION PLAT IS SUBJECT TO STATE LAW AND LOCAL ORDINANCES AND REGULATIONS.

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

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

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

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

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

1. THE RESIDENTIAL MINOR SUBDIVISION MAY NOT BE RESUBDIVIDED OR FURTHER SUBDIVIDED; ~~AND~~

2. THE REMAINDER PARCEL OR TRACT OF LAND MAY NOT BE SUBDIVIDED; AND

3. THE SUBDIVISION PLAT IS SUBJECT TO STATE LAW AND LOCAL ORDINANCES AND REGULATIONS.

(iii) A REMAINDER PARCEL OR TRACT OF LAND MAY BE SUBDIVIDED FOR NONRESIDENTIAL AGRICULTURAL PURPOSES, INCLUDING A FARM MARKET, AGRICULTURAL PROCESSING FACILITY, OR CREAMERY, AND THE OWNER MAY APPLY FOR APPROVAL OF AN ON-SITE SEWAGE DISPOSAL SYSTEM TO SERVE THE NONRESIDENTIAL AGRICULTURAL PURPOSES.

~~(o)~~ (M) (1) IN THIS SUBSECTION ~~AND SUBSECTION (P) (N)~~ OF THIS SECTION, "AGRICULTURAL ACTIVITIES" INCLUDES:

(i) PLOWING, TILLAGE, CROPPING, SEEDING, CULTIVATING, AND HARVESTING FOR THE PRODUCTION OF FOOD AND FIBER PRODUCTS; AND

(ii) THE GRAZING OF LIVESTOCK.

~~(2) THIS SUBSECTION APPLIES ONLY TO LAND THAT IS ZONED FOR AGRICULTURAL USE USED FOR AGRICULTURAL ACTIVITIES IN A TIER III OR TIER IV AREA.~~

~~(3) NOTWITHSTANDING ANY OTHER LAW EXCEPT AS PROVIDED IN SUBSECTION (H) OF THIS SECTION, AN OWNER OF PROPERTY USED FOR AGRICULTURAL ACTIVITIES MAY INSTALL, IF APPROVED, THE FOLLOWING NUMBER OF ON-SITE SEWAGE DISPOSAL SYSTEMS:~~

~~(i) THREE ON-SITE SEWAGE DISPOSAL SYSTEMS FOR A PROPERTY THAT IS NO MORE THAN 25 ACRES;~~

~~(ii) FOUR ON-SITE SEWAGE DISPOSAL SYSTEMS FOR A PROPERTY THAT IS AT LEAST 25 ACRES AND LESS THAN 75 ACRES;~~

~~(iii) FIVE ON-SITE SEWAGE DISPOSAL SYSTEMS FOR A PROPERTY THAT IS AT LEAST 75 ACRES AND LESS THAN 125 ACRES;~~

~~(iv) SIX ON-SITE SEWAGE DISPOSAL SYSTEMS FOR A PROPERTY THAT IS AT LEAST 125 ACRES AND LESS THAN 175 ACRES; AND~~

~~(v) SEVEN ON-SITE SEWAGE DISPOSAL SYSTEMS FOR A PROPERTY THAT IS 175 ACRES OR MORE.~~

~~(4) EXCEPT FOR AN ON-SITE SEWAGE DISPOSAL SYSTEM THAT SERVES THE MAIN FARM HOUSE ON THE PROPERTY, THE ON-SITE SEWAGE DISPOSAL SYSTEMS SHALL BE CLUSTERED TOGETHER.~~

~~(P)(N) (1)(2) A LOCAL JURISDICTION MAY ENACT A LOCAL LAW OR ORDINANCE FOR THE TRANSFER OF THE RIGHT TO SUBDIVIDE, UP TO 7 LOTS, AS PROVIDED IN THIS SECTION, BY AN OWNER OF PROPERTY USED FOR AGRICULTURAL ACTIVITIES TO THE OWNER OF ANOTHER PROPERTY USED FOR AGRICULTURAL ACTIVITIES IN ACCORDANCE WITH THIS SUBSECTION.~~

~~(2)(3) THE LOCAL LAW OR ORDINANCE SHALL PROVIDE FOR THE RECORDATION OF ANY RIGHTS TO SUBDIVIDE THAT ARE TRANSFERRED UNDER THIS SUBSECTION.~~

~~(3)(4) A PROPERTY USED FOR AGRICULTURAL ACTIVITIES THE OWNER OF WHICH RECEIVES RIGHTS TO SUBDIVIDE UNDER THIS SUBSECTION:~~

~~(i) IS LIMITED TO A TOTAL OF 15 LOTS; AND~~

~~(ii) SHALL CLUSTER THE LOTS ON THE PROPERTY.~~

~~(4)(5) RIGHTS TO SUBDIVIDE MAY NOT BE TRANSFERRED FROM THE OWNER OF PROPERTY USED FOR AGRICULTURAL ACTIVITIES IN A~~

TIER III AREA TO THE OWNER OF PROPERTY USED FOR AGRICULTURAL ACTIVITIES IN A TIER IV AREA.

9-1110.

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

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

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

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

(I) SERVES MORE THAN ONE:

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

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

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

(B) THIS SECTION MAY NOT BE CONSTRUED AS REQUIRING A LOCAL JURISDICTION TO:

(1) BE A CONTROLLING AUTHORITY; OR

(2) AUTHORIZE OR ALLOW THE USE OF A SHARED FACILITY OR A COMMUNITY SEWERAGE SYSTEM WITHIN THE LOCAL JURISDICTION.

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

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

(I) A CONTROLLING AUTHORITY; OR

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

(2) DISCHARGES:

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

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

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

~~**(C) THE DEPARTMENT SHALL ESTABLISH THE NUTRIENT OFFSET REQUIREMENTS FOR SHARED FACILITIES AND COMMUNITY SEWERAGE SYSTEMS.**~~

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

Article 66B – Land Use

1.00.

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

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

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

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

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

(2) “Local executive” includes:

- (i) A county executive;
- (ii) A board of county commissioners;
- (iii) An executive head; or
- (iv) A mayor.

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

(2) “Local legislative body” includes:

- (i) A board of county commissioners;
- (ii) A county council; or
- (iii) A governing body of a municipal corporation.

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

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

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

(i) “PRIORITY FUNDING AREA” HAS THE MEANING STATED IN § ~~5-7B-02~~ TITLE 5, SUBTITLE 2 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

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

[(j)] (K) “Sensitive areas” includes:

- (1) Streams, wetlands, and their buffers;
- (2) 100–year flood plains;
- (3) Habitats of threatened and endangered species;
- (4) Steep slopes;
- (5) Agricultural and forest lands intended for resource protection or conservation; and
- (6) Other areas in need of special protection, as determined in the plan.

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

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

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

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

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

(1) Not contrary to the public interest; and

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

1.03.

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

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

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

(2) § 1.01 (Visions);

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

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

(5) § 1.05 (ADOPTION OF GROWTH TIERS);

(6) § 1.06 (MAJOR SUBDIVISION – REVIEW);

[(5) ~~(6)~~ **(7)** § 3.02(h) (Planning Commission – Education);

[(6) ~~(7)~~ **(8)** § 3.09 (Annual report – Preparation and filing);

[(7) ~~(8)~~ **(9)** § 3.10 (Annual report – Smart Growth goals, measures, and indicators);

[(8) ~~(9)~~ **(10)** § 4.01(b)(2) (Regulation of bicycle parking);

[(9) ~~(10)~~ **(11)** § 4.04(c) (Exceptions related to the Maryland Accessibility Code);

[(10) ~~(11)~~ **(12)** § 4.07(i) (Board of Appeals – Education);

[(11) ~~(12)~~ **(13)** § 5.03(d) (Easements for burial sites);

[(12) ~~(13)~~ **(14)** § 7.02 (Civil penalty for zoning violation);

[(13) ~~(14)~~ **(15)** § 10.01 (Adequate Public Facilities Ordinances);

[(14) ~~(15)~~ **(16)** § 11.01 (Transfer of Development Rights);

[(15) ~~(16)~~ **(17)** § 12.01 (Inclusionary Zoning);

[(16) ~~(17)~~ **(18)** Except in Montgomery County or Prince George’s County, § 13.01 (Development rights and responsibilities agreements);

~~[(17)]~~ ~~(18)~~ (19) For Baltimore County only, § 14.02; and

~~[(18)]~~ ~~(19)~~ (20) For Howard County only, § 14.06.1.

(c) This section supersedes any inconsistent provision of Article 28 of the Code.

~~1.04.~~

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

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

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

~~1. ENCOURAGES:~~

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

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

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

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

~~A. SERVED BY COMMUNITY, SHARED, OR MULTIUSE SEWERAGE SYSTEMS; OR~~

~~B. PLANNED TO BE SERVED BY COMMUNITY, SHARED, OR MULTIUSE SEWERAGE SYSTEMS;~~

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

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

~~II. ARE MAPPED LOCALLY DESIGNATED GROWTH AREAS; AND~~

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

~~4. MAY INCLUDE MAPPED AREAS DESIGNATED FOR TIER III GROWTH IF:~~

~~A. THE TIER III AREAS ARE NOT PLANNED FOR SEWERAGE SERVICE; AND~~

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

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

~~II. ARE DOMINATED BY EXISTING LOW DENSITY DEVELOPMENT; OR~~

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

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

~~A. AREAS PLANNED OR ZONED FOR LAND PRESERVATION, AGRICULTURAL PRESERVATION, OR RESOURCE CONSERVATION;~~

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

~~C. RURAL LEGACY AREAS, PRIORITY PRESERVATION AREAS, AREAS MAPPED FOR ECOLOGICAL PRESERVATION BY THE DEPARTMENT OF NATURAL RESOURCES AT THE TIME OF THE ADOPTION OF THE PLAN OR AMENDMENT OR AREAS MAPPED FOR AGRICULTURAL PRESERVATION BY THE DEPARTMENT OF PLANNING AT THE TIME OF THE ADOPTION OF THE PLAN OR AMENDMENT.~~

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

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

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

~~1. THE TIERS IDENTIFIED BY THE LOCAL JURISDICTION; AND~~

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

1.05.

(A) IN THIS SECTION, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(1) "PLANNING BOARD" MEANS A PLANNING BOARD ESTABLISHED UNDER THIS ARTICLE.

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

~~(B)~~ ON OR BEFORE DECEMBER 31, 2012, A LOCAL JURISDICTION MAY CERTIFY TO THE DEPARTMENT OF PLANNING ADOPT THE MAPPED GROWTH TIERS DESIGNATED BY THE LOCAL JURISDICTION IN ACCORDANCE WITH THIS SECTION.

~~(B)~~ (C) BEFORE CERTIFICATION ADOPTION OF THE GROWTH TIERS, A LOCAL JURISDICTION MAY SUBMIT THE PROPOSED TIERS AND ANY RELEVANT INFORMATION TO THE DEPARTMENT OF PLANNING FOR:

- (1) TECHNICAL ASSISTANCE, REVIEW, AND COMMENT; AND
- (2) THE OPPORTUNITY FOR PUBLIC REVIEW.

~~(C)~~ (D) ON CERTIFICATION AFTER ADOPTION OF THE GROWTH TIERS, THE LOCAL JURISDICTION SHALL PROVIDE TO THE DEPARTMENT OF PLANNING ALL INFORMATION NECESSARY TO DEMONSTRATE THE PRECISE LOCATION OF THE TIERS, INCLUDING, AS APPROPRIATE:

- (1) A MAP OF THE AREA SHOWING PLANNING AND ZONING CHARACTERISTICS OF EACH TIER; AND
- (2) EXISTING AND PLANNED WATER AND SEWER SERVICES.

~~(D)~~ (E) THE DEPARTMENT OF PLANNING, AS APPROPRIATE, SHALL PROVIDE TO EACH STATE AGENCY AND POST ON THE DEPARTMENT OF PLANNING'S WEB SITE, COPIES OF MAPS ILLUSTRATING:

- (1) GROWTH TIERS CERTIFIED BY LOCAL JURISDICTIONS; AND
- (2) ANY COMMENTS BY THE DEPARTMENT OF PLANNING ON THE CERTIFIED TIERS MAY COMMENT ON THE GROWTH TIERS ADOPTED BY THE LOCAL JURISDICTIONS.

~~(E)~~ (F) (1) SUBJECT TO PARAGRAPHS (2), (3), AND (4) OF THIS SUBSECTION, A LOCAL JURISDICTION THAT CHOOSES TO CERTIFY ADOPT GROWTH TIERS TO THE DEPARTMENT OF PLANNING IS NOT REQUIRED TO ADOPT ALL OF THE TIERS.

(2) A MUNICIPAL CORPORATION THAT EXERCISES PLANNING AND ZONING AUTHORITY SHALL ADOPT TIER I AND MAY ADOPT TIER II.

(3) A COUNTY SHALL ADOPT TIERS I, III, AND IV, AND MAY ADOPT TIER II.

(4) IF A LOCAL JURISDICTION DOES NOT ADOPT ALL OF THE TIERS AUTHORIZED UNDER THIS SECTION, THE LOCAL JURISDICTION SHALL PROVIDE DOCUMENTATION TO THE DEPARTMENT OF PLANNING OF DOCUMENT THE REASONS THE JURISDICTION IS NOT ADOPTING A PARTICULAR TIER.

(G) (1) IF THE DEPARTMENT OF PLANNING COMMENTS UNDER SUBSECTION (E) OF THIS SECTION ON ANY OF THE TIERS OR ON AN AREA WITHIN ONE OF THE TIERS, THE LOCAL LEGISLATIVE BODY OR THE PLANNING BOARD SHALL HOLD AT LEAST ONE PUBLIC HEARING ON THE COMMENTS BY THE DEPARTMENT OF PLANNING.

(2) THE LOCAL LEGISLATIVE BODY OR THE PLANNING BOARD SHALL REVIEW THE MAPPED GROWTH TIERS ADOPTED BY THE LOCAL JURISDICTION IN LIGHT OF THE COMMENTS BY THE DEPARTMENT OF PLANNING.

(3) IF THE PLANNING BOARD HOLDS THE PUBLIC HEARING UNDER PARAGRAPH (1) OF THIS SECTION, AFTER THE PUBLIC HEARING AND THE CONSIDERATION OF THE COMMENTS BY THE DEPARTMENT OF PLANNING, THE PLANNING BOARD SHALL RECOMMEND TO THE LOCAL JURISDICTION THAT EITHER THE TIERS OR AN AREA WITHIN THE TIERS:

(i) BE CHANGED; OR

(ii) THAT THE ADOPTED TIERS REMAIN UNCHANGED.

(4) IF THE PLANNING BOARD RECOMMENDS THAT THE TIERS OR AN AREA WITHIN THE TIERS BE CHANGED UNDER PARAGRAPH (3) OF THIS SUBSECTION, THE PLANNING BOARD SHALL PROVIDE THE RECOMMENDED MAPPED GROWTH TIER CHANGES TO THE LOCAL JURISDICTION.

~~(F)~~ (H) THE GROWTH TIERS ~~CERTIFIED~~ ADOPTED BY A LOCAL JURISDICTION SHALL MEET THE FOLLOWING CRITERIA:

(1) TIER I AREAS ARE AREAS THAT ARE:

(i) SERVED BY PUBLIC SEWERAGE SYSTEMS AND MAPPED LOCALLY DESIGNATED GROWTH AREAS; OR

(ii) A MUNICIPAL CORPORATION THAT IS A PRIORITY FUNDING AREA THAT IS SERVED BY PUBLIC SEWERAGE SYSTEMS;

(2) TIER II AREAS ARE AREAS THAT ARE:

(I) 1. PLANNED TO BE SERVED BY PUBLIC SEWERAGE SYSTEMS AND IN THE MUNICIPAL GROWTH ELEMENT; OR

2. MAPPED LOCALLY DESIGNATED GROWTH AREAS;
AND

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

(3) TIER III AREAS ARE AREAS THAT ~~ARE:~~

(I) ~~NOT~~ ARE NOT PLANNED FOR SEWERAGE SERVICE AND NOT DOMINATED BY AGRICULTURAL OR FOREST LAND; ~~AND~~

(II) ARE NOT PLANNED OR ZONED BY A LOCAL JURISDICTION FOR LAND, AGRICULTURAL, OR RESOURCE PROTECTION, PRESERVATION, OR CONSERVATION; AND

~~(H)~~ (III) ~~ONE~~ ARE ONE OF THE FOLLOWING:

1. MUNICIPAL CORPORATIONS NOT SERVED BY A PUBLIC SEWERAGE SYSTEM;

~~2. ESTABLISHED COMMUNITIES PLANNED AND ZONED FOR DEVELOPMENT;~~

~~3. 2. RURAL VILLAGES AS DESCRIBED IN § 5-7B-03(F) OF THE STATE FINANCE AND PROCUREMENT ARTICLE; OR~~

~~4. 3. MAPPED LOCALLY DESIGNATED GROWTH AREAS;~~
OR

4. AREAS PLANNED AND ZONED FOR LARGE LOT AND RURAL DEVELOPMENT; AND

~~(H) ADJOINING AND CONTIGUOUS TO ONE OF THE FOLLOWING;~~

~~1. MUNICIPAL CORPORATIONS NOT SERVED BY A WASTEWATER TREATMENT PLANT;~~

~~2. ESTABLISHED COMMUNITIES PLANNED AND ZONED FOR DEVELOPMENT; OR~~

~~3. RURAL VILLAGES AS DESCRIBED IN § 5-7B-03(F) OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND~~

(4) TIER IV AREAS ARE AREAS THAT ARE NOT PLANNED FOR SEWERAGE SERVICE AND ARE:

(I) AREAS PLANNED OR ZONED BY A LOCAL JURISDICTION FOR LAND, AGRICULTURAL, OR RESOURCE PROTECTION, PRESERVATION, OR CONSERVATION;

(II) AREAS DOMINATED BY AGRICULTURAL LANDS, FOREST LANDS, OR OTHER NATURAL AREAS; OR

(III) 1. RURAL LEGACY AREAS, PRIORITY PRESERVATION AREAS, OR AREAS MAPPED FOR ECOLOGICAL PRESERVATION BY THE DEPARTMENT OF NATURAL RESOURCES AT THE TIME OF THE ADOPTION OF THE PLAN OR AMENDMENT; OR

2. AREAS MAPPED FOR AGRICULTURAL PRESERVATION BY THE DEPARTMENT OF PLANNING AT THE TIME OF THE ADOPTION OF THE PLAN OR AMENDMENT SUBJECT TO COVENANTS, RESTRICTIONS, CONDITIONS, OR CONSERVATION EASEMENTS FOR THE BENEFIT OF, OR HELD BY A STATE AGENCY, AS DEFINED IN § 9-206 OF THE ENVIRONMENT ARTICLE, OR A LOCAL JURISDICTION FOR THE PURPOSE OF CONSERVING NATURAL RESOURCES OR AGRICULTURAL LAND.

(G) (1) A LOCAL JURISDICTION SHALL STRIVE TO AVOID CREATING A TIER III AREA THAT IS BOUNDED ON ALL SIDES BY LAND IN A TIER IV AREA.

(2) IF AN AREA NOT PLANNED FOR SEWERAGE SERVICE DOES NOT MEET THE DESCRIPTION OF A TIER III OR TIER IV AREA, THEN THE AREA IS A TIER IV AREA.

(H) (1) A LOCAL JURISDICTION THAT CERTIFIES ADOPTS GROWTH TIERS TO THE DEPARTMENT OF PLANNING SHALL INCORPORATE THE TIERS INTO THE LOCAL COMPREHENSIVE PLAN OR AN ELEMENT OF THE PLAN:

(I) WHEN THE LOCAL JURISDICTION CONDUCTS THE 6-YEAR REVIEW OF THE PLAN UNDER §§ 1.04(D) AND 3.05(B) OF THIS ARTICLE; AND

(II) IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION.

(2) IF A LOCAL JURISDICTION DOES NOT INCORPORATE ALL OF THE GROWTH TIERS AUTHORIZED UNDER THIS SECTION INTO THE LOCAL COMPREHENSIVE PLAN OR AN ELEMENT OF THE PLAN, THE LOCAL JURISDICTION SHALL STATE THAT A TIER IS NOT ADOPTED.

1.06.

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

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

~~(3) “MAJOR SUBDIVISION” MEANS THE SUBDIVISION OF LAND INTO NEW LOTS, PLATS, BUILDING SITES, OR OTHER DIVISIONS OF LAND DEFINED IN LOCAL LAW AS A MAJOR SUBDIVISION IN EFFECT BEFORE JANUARY 1, 2012 HAS THE MEANING STATED IN § 9-206 OF THE ENVIRONMENT ARTICLE.~~

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

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

~~(6)~~ (5) (I) “PLANNING BOARD” MEANS A PLANNING BOARD ESTABLISHED UNDER THIS ARTICLE.

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

(6) “SHARED FACILITY” HAS THE MEANING STATED IN § 9-206 OF THE ENVIRONMENT ARTICLE.

(B) THIS SECTION APPLIES ONLY TO A RESIDENTIAL MAJOR SUBDIVISION IN A TIER III AREA SERVED BY:

- (1) ON-SITE SEWAGE DISPOSAL SYSTEMS;
- (2) A SHARED FACILITY; OR
- (3) A COMMUNITY SEWERAGE SYSTEM.

~~(C)~~ (C) IF A LOCAL JURISDICTION ESTABLISHES ~~TIER~~ TIER FOR THE GROWTH ~~IN~~ IN THE LAND DEVELOPMENT ELEMENT OF THE PLAN ~~TIER~~ TIER UNDER ~~§ 1.04~~ § 1.05 OF THIS SUBHEADING OR ~~§ 3.05~~ OF THIS ARTICLE, A RESIDENTIAL MAJOR SUBDIVISION IN A TIER III AREA MAY NOT BE APPROVED UNLESS THE PLANNING BOARD HAS REVIEWED AND RECOMMENDED THE APPROVAL OF THE MAJOR SUBDIVISION IN A THE TIER III AREA ~~SERVED BY:~~

- ~~(1)~~ (1) ~~ON-SITE SEWAGE DISPOSAL SYSTEMS;~~
- ~~(2)~~ (2) ~~A COMMUNITY SEWERAGE SYSTEM; OR~~
- ~~(3)~~ (3) ~~A SHARED FACILITY.~~

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

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

~~(E)~~ (E) THE REVIEW OF ~~THE~~ A RESIDENTIAL MAJOR SUBDIVISION BY THE PLANNING BOARD SHALL INCLUDE:

(1) THE COST OF PROVIDING LOCAL GOVERNMENTAL SERVICES TO THE RESIDENTIAL MAJOR SUBDIVISION UNLESS A LOCAL JURISDICTION'S ADEQUATE PUBLIC FACILITIES ORDINANCE ALREADY REQUIRES A REVIEW OF GOVERNMENT SERVICES; AND

(2) THE POTENTIAL ENVIRONMENTAL ~~IMPACT OF~~ ISSUES OR A NATURAL RESOURCES INVENTORY RELATED TO THE PROPOSED RESIDENTIAL MAJOR SUBDIVISION; AND

~~(3) ANY NUTRIENT OFFSETS, ACCORDING TO IF REQUIRED BY STATE POLICY, THAT WILL BE REQUIRED FOR THE AS A RESULT OF THE APPROVAL OF THE PROPOSED RESIDENTIAL MAJOR SUBDIVISION.~~

~~(E)~~ **(F) THE PLANNING BOARD SHALL RECOMMEND THE PROPOSED RESIDENTIAL MAJOR SUBDIVISION BY RESOLUTION OF THE PLANNING BOARD.**

~~3.05.~~

- (a) ~~(4)~~ ~~The plan shall contain at a minimum the following elements:~~
- ~~(i) A statement of goals and objectives, principles, policies, and standards, which shall serve as a guide for the development and economic and social well-being of the local jurisdiction;~~
 - ~~(ii) A land use plan element, which:~~
 - ~~1. Shall propose the most appropriate and desirable patterns for the general location, character, extent, and interrelationship of the uses of public and private land, on a schedule that extends as far into the future as is reasonable; [and]~~
 - ~~2. May include public and private, residential, commercial, industrial, agricultural, forestry, in accordance with § 5-101 of the Natural Resources Article, and recreational land uses;~~
 - ~~3. MAY INCLUDE MAPPED AREAS DESIGNATED FOR TIER I GROWTH IF THE TIER I AREAS ARE PRIORITY FUNDING AREAS THAT HAVE RECEIVED NO COMMENTS FROM THE DEPARTMENT OF PLANNING AND ARE:~~
 - ~~A. SERVED BY COMMUNITY, SHARED, OR MULTIUSE SEWERAGE SYSTEMS; OR~~
 - ~~B. PLANNED TO BE SERVED BY COMMUNITY, SHARED, OR MULTIUSE SEWERAGE SYSTEMS;~~
 - ~~4. MAY INCLUDE MAPPED AREAS DESIGNATED FOR TIER II GROWTH IF THE TIER II AREAS ARE:~~
 - ~~A. PLANNED TO BE SERVED BY COMMUNITY, SHARED, AND MULTIUSE SEWERAGE SYSTEMS;~~
 - ~~B. NEEDED TO SATISFY DEMAND FOR DEVELOPMENT AT DENSITIES CONSISTENT WITH THE LONG TERM DEVELOPMENT POLICY AFTER CONSIDERATION OF THE CAPACITY OF LAND AREAS AVAILABLE FOR DEVELOPMENT, INCLUDING IN-FILL AND REDEVELOPMENT, WITHIN THE LOCAL JURISDICTION; AND~~

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

~~II. MAPPED LOCALLY DESIGNATED GROWTH AREAS;~~

~~5. MAY INCLUDE MAPPED AREAS DESIGNATED FOR TIER III GROWTH IF:~~

~~A. THE TIER III AREAS ARE NOT PLANNED FOR SEWERAGE SERVICE; AND~~

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

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

~~II. ARE DOMINATED BY EXISTING LOW DENSITY DEVELOPMENT; OR~~

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

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

~~A. AREAS PLANNED OR ZONED FOR LAND PRESERVATION, AGRICULTURAL PRESERVATION, OR RESOURCE CONSERVATION;~~

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

~~C. RURAL LEGACY AREAS, PRIORITY PRESERVATION AREAS, AREAS MAPPED FOR ECOLOGICAL PRESERVATION BY THE DEPARTMENT OF NATURAL RESOURCES AT THE TIME OF THE ADOPTION OF THE PLAN OR AMENDMENT OR AREAS MAPPED FOR AGRICULTURAL PRESERVATION BY THE DEPARTMENT OF PLANNING AT THE TIME OF THE ADOPTION OF THE PLAN OR AMENDMENT.~~

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

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

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

~~1. THE TIERS IDENTIFIED BY THE LOCAL JURISDICTION; AND~~

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

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

Article – Environment

9–206.

(a) ~~(10) (3)~~ ~~“Tier I”, “Tier II”, “Tier III”, and “Tier IV” mean the respective areas for growth so designated in THE DEVELOPMENT REGULATIONS ELEMENT OF a local comprehensive plan established by a local jurisdiction in accordance with [Article 66B, § 1.04 or § 3.05 of the Code] § 1 407 OR § 3 103~~ “Growth tiers” means the tiers adopted by a local jurisdiction in accordance with [Article 66B, § 1.05 of the Code] TITLE 1, SUBTITLE 5 OF THE LAND USE ARTICLE.

(d) Subsections (f) through (k) and subsection (n) of this section do not:

(1) Affect a local transfer of development rights program authorized under Article 25A, § 5(x) [, Article 28, § 8–101, or Article 66B, § 11.01] of the Code OR TITLE 7, SUBTITLE 2 OR § 22–105 OF THE LAND USE ARTICLE; or

~~(b) (2) (c) (g) (1)~~ Except as provided in subsection ~~(e)(2) (H)(2) (f)(2)~~ of this section, ~~the Department, or the Department's designee, may only approve and subject to subsection (i) of this section, a local jurisdiction may authorize~~ a residential subdivision plat ~~ONLY~~ only if:

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

~~1. The subdivision~~ has been recommended by the local planning board in accordance with ~~[Article 66B, § 1.05 1.06 of the Code] § 5-104 OF THE LAND USE ARTICLE;~~ and

~~2. In consultation with the Department of Planning IN ACCORDANCE WITH SUBSECTIONS (I) AND (J) OF THIS SECTION, the Department has determined that the Tier III or Tier IV area is GROWTH TIERS ARE consistent with: [Article 66B, § 1.05 of the Code] TITLE 1, SUBTITLE 5 OF THE LAND USE ARTICLE~~

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

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

(2) Any delay in the approval of a residential subdivision plat under this section may not be construed as applying to any deadline for approving or disapproving a subdivision plat under [Article 66B, § 5.04 of the Code] ARTICLE 28 OF THE CODE, § 5-201 OF THE LAND USE ARTICLE, or a local ordinance.

~~(d) (J) Before the Department approves the initial subdivision plat FOR A MAJOR SUBDIVISION IN A TIER III AREA under subsection (b) (D) of this section, the Department shall submit the initial subdivision plat to the Department of Planning for advice on whether the Tier III or Tier IV area is GROWTH TIERS ARE consistent with:~~

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

Article – Land Use

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

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

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

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

(3) § 1-201 (Visions);

(4) § 1-206 (Required education);

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

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

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

(8) TITLE 1, SUBTITLE 5 (GROWTH TIERS);

~~(9)~~ **(9)** § 4-104(b) (Limitations – Bicycle parking);

~~(10)~~ **(10)** § 4-208 (Exceptions – Maryland Accessibility Code);

~~(11)~~ **(11)** § 5-102(d) (Subdivision regulations – Burial sites);

~~(12)~~ **(12)** § 5-104 (MAJOR SUBDIVISION – REVIEW);

[(11)] ~~(12)~~ **(13)** Title 7, Subtitle 1 (Development Mechanisms);

[(12)] ~~(13)~~ **(14)** Title 7, Subtitle 2 (Transfer of Development Rights);

[(13)] ~~(14)~~ **(15)** Except in Montgomery County or Prince George’s County, Title 7, Subtitle 3 (Development Rights and Responsibilities Agreements);

[(14)] ~~(15)~~ **(16)** Title 7, Subtitle 4 (Inclusionary Zoning);

[(15)] ~~(16)~~ **(17)** § 8-401 (Conversion of overhead facilities);

[(16)] ~~(17)~~ **(18)** For Baltimore County only, Title 9, Subtitle 3 (Single-County Provisions – Baltimore County);

~~[(17)]~~ ~~(18)~~ (19) For Howard County only, Title 9, Subtitle 13 (Single-County Provisions – Howard County); and

~~[(18)]~~ ~~(19)~~ (20) Title 11, Subtitle 2 (Civil Penalty).

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

~~1-405.~~

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

~~1-407.~~

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

~~(b) The development regulations element shall encourage:~~

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

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

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

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

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

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

~~(i) PRIORITY FUNDING AREAS THAT HAVE RECEIVED NO COMMENTS FROM THE DEPARTMENT OF PLANNING; AND~~

~~(ii) 1. SERVED BY COMMUNITY, SHARED, OR MULTIUSE SEWERAGE SYSTEMS; OR~~

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

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

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

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

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

~~2. MAPPED LOCALLY DESIGNATED GROWTH AREAS;~~

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

~~(I) NOT PLANNED FOR SEWERAGE SERVICE; AND~~

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

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

~~2. DOMINATED BY EXISTING LOW DENSITY DEVELOPMENT; OR~~

~~3. NOT DOMINATED BY FARMLAND OR FOREST LAND;~~

~~AND~~

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

~~(I) NOT PLANNED FOR SEWERAGE SERVICE; AND~~

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

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

~~3. RURAL LEGACY AREAS OR PRIORITY PRESERVATION AREAS; OR~~

~~4. AT THE TIME OF THE ADOPTION OF THE PLAN OR AMENDMENT:~~

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

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

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

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

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

~~(I) THE TIERS IDENTIFIED BY THE LOCAL JURISDICTION;~~
~~AND~~

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

~~§ 101.~~

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

~~§ 103.~~

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

~~(b) The development regulations element shall encourage:~~

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

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

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

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

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

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

~~(i) PRIORITY FUNDING AREAS THAT HAVE RECEIVED NO COMMENTS FROM THE DEPARTMENT OF PLANNING; AND~~

~~(ii) 1. SERVED BY COMMUNITY, SHARED, OR MULTIUSE SEWERAGE SYSTEMS; OR~~

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

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

~~(i) PLANNED TO BE SERVED BY COMMUNITY, SHARED, AND MULTIUSE SEWERAGE SYSTEMS;~~

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

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

~~2. MAPPED LOCALLY DESIGNATED GROWTH AREAS;~~

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

~~(I) NOT PLANNED FOR SEWERAGE SERVICE; AND~~

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

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

~~2. DOMINATED BY EXISTING LOW DENSITY DEVELOPMENT; OR~~

~~3. NOT DOMINATED BY FARMLAND OR FOREST LAND;~~
~~AND~~

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

~~(I) NOT PLANNED FOR SEWERAGE SERVICE; AND~~

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

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

~~3. RURAL LEGACY AREAS OR PRIORITY PRESERVATION AREAS; OR~~

~~4. AT THE TIME OF THE ADOPTION OF THE PLAN OR AMENDMENT:~~

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

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

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

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

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

~~(I) THE TIERS IDENTIFIED BY THE LOCAL JURISDICTION;~~
AND

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

SUBTITLE 5. GROWTH TIERS.

1-501.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “PLANNING BOARD” MEANS A PLANNING BOARD ESTABLISHED UNDER THIS ARTICLE.

(C) “PLANNING BOARD” INCLUDES A PLANNING COMMISSION OR BOARD ESTABLISHED UNDER ARTICLE 25A OR ARTICLE 28 OF THE CODE.

1-502.

ON OR BEFORE DECEMBER 31, 2012, A LOCAL JURISDICTION MAY CERTIFY TO THE DEPARTMENT OF PLANNING ADOPT THE MAPPED GROWTH

~~TIERS DESIGNATED BY THE LOCAL JURISDICTION~~ IN ACCORDANCE WITH THIS SUBTITLE.

~~1-502.~~ 1-503.

BEFORE ~~CERTIFICATION~~ ADOPTION OF THE GROWTH TIERS, A LOCAL JURISDICTION MAY SUBMIT THE PROPOSED TIERS AND ANY RELEVANT INFORMATION TO THE DEPARTMENT OF PLANNING FOR:

- (1) TECHNICAL ASSISTANCE, REVIEW, AND COMMENT; AND
- (2) THE OPPORTUNITY FOR PUBLIC REVIEW.

~~1-503.~~ 1-504.

~~ON CERTIFICATION~~ AFTER ADOPTION OF THE GROWTH TIERS, THE LOCAL JURISDICTION SHALL PROVIDE TO THE DEPARTMENT OF PLANNING ALL INFORMATION NECESSARY TO DEMONSTRATE THE PRECISE LOCATION OF THE TIERS, INCLUDING, AS APPROPRIATE:

- (1) A MAP OF THE AREA SHOWING PLANNING AND ZONING CHARACTERISTICS OF EACH TIER; AND
- (2) EXISTING AND PLANNED WATER AND SEWER SERVICES.

~~1-504.~~ 1-505.

THE DEPARTMENT OF PLANNING, ~~AS APPROPRIATE,~~ SHALL PROVIDE TO EACH STATE AGENCY AND POST ON THE DEPARTMENT OF PLANNING'S WEB SITE, COPIES OF MAPS ILLUSTRATING:

- (1) ~~GROWTH TIERS CERTIFIED BY LOCAL JURISDICTIONS; AND~~
- (2) ~~ANY COMMENTS BY THE DEPARTMENT OF PLANNING ON THE CERTIFIED TIERS~~ MAY COMMENT ON THE GROWTH TIERS ADOPTED BY THE LOCAL JURISDICTIONS.

~~1-505.~~ 1-506.

(A) SUBJECT TO SUBSECTIONS (B), (C), AND (D) OF THIS SECTION, A LOCAL JURISDICTION THAT CHOOSES TO ~~CERTIFY~~ ADOPT GROWTH TIERS ~~TO THE DEPARTMENT OF PLANNING~~ IS NOT REQUIRED TO ADOPT ALL OF THE TIERS.

(B) A MUNICIPAL CORPORATION THAT EXERCISES PLANNING AND ZONING AUTHORITY SHALL ADOPT TIER I AND MAY ADOPT TIER II.

(C) A COUNTY SHALL ADOPT TIERS I, III, AND IV, AND MAY ADOPT TIER II.

(D) IF A LOCAL JURISDICTION DOES NOT ADOPT ALL OF THE TIERS AUTHORIZED UNDER THIS SECTION, THE LOCAL JURISDICTION SHALL ~~PROVIDE DOCUMENTATION TO THE DEPARTMENT OF PLANNING OF~~ DOCUMENT THE REASONS THE JURISDICTION IS NOT ADOPTING A PARTICULAR TIER.

1-507.

(A) IF THE DEPARTMENT OF PLANNING COMMENTS UNDER § 5-105 OF THIS SUBTITLE ON ANY OF THE TIERS OR ON AN AREA WITHIN ONE OF THE TIERS, THE LOCAL LEGISLATIVE BODY OR THE PLANNING BOARD SHALL HOLD AT LEAST ONE PUBLIC HEARING ON THE COMMENTS BY THE DEPARTMENT OF PLANNING.

(B) THE LOCAL LEGISLATIVE BODY OR THE PLANNING BOARD SHALL REVIEW THE MAPPED GROWTH TIERS ADOPTED BY THE LOCAL JURISDICTION IN LIGHT OF THE COMMENTS BY THE DEPARTMENT OF PLANNING.

(C) IF THE PLANNING BOARD HOLDS THE PUBLIC HEARING UNDER SUBSECTION (A) OF THIS SECTION, AFTER THE PUBLIC HEARING AND THE CONSIDERATION OF THE COMMENTS BY THE DEPARTMENT OF PLANNING, THE PLANNING BOARD SHALL RECOMMEND TO THE LOCAL JURISDICTION THAT EITHER THE TIERS OR AN AREA WITHIN THE TIERS:

(1) BE CHANGED; OR

(2) THAT THE ADOPTED TIERS REMAIN UNCHANGED.

(D) IF THE PLANNING BOARD RECOMMENDS THAT THE TIERS OR AN AREA WITHIN THE TIERS BE CHANGED UNDER SUBSECTION (C) OF THIS SECTION, THE PLANNING BOARD SHALL PROVIDE THE RECOMMENDED MAPPED GROWTH TIER CHANGES TO THE LOCAL JURISDICTION.

~~1-506.~~ 1-508.

(A) THE GROWTH TIERS ~~CERTIFIED~~ ADOPTED BY A LOCAL JURISDICTION SHALL MEET THE FOLLOWING CRITERIA:

(1) TIER I AREAS ARE AREAS THAT ARE:

(I) SERVED BY PUBLIC SEWERAGE SYSTEMS AND MAPPED LOCALLY DESIGNATED GROWTH AREAS; OR

(II) A MUNICIPAL CORPORATION THAT IS A PRIORITY FUNDING AREA THAT IS SERVED BY PUBLIC SEWERAGE SYSTEMS;

(2) TIER II AREAS ARE AREAS THAT ARE:

(I) 1. PLANNED TO BE SERVED BY PUBLIC SEWERAGE SYSTEMS AND IN THE MUNICIPAL GROWTH ELEMENT; OR

2. MAPPED LOCALLY DESIGNATED GROWTH AREAS;
AND

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

(3) TIER III AREAS ARE AREAS THAT ~~ARE~~:

(I) ~~NOT~~ ARE NOT PLANNED FOR SEWERAGE SERVICE AND NOT DOMINATED BY AGRICULTURAL OR FOREST LAND; ~~AND~~

(II) ARE NOT PLANNED OR ZONED BY A LOCAL JURISDICTION FOR LAND, AGRICULTURAL, OR RESOURCE PROTECTION, PRESERVATION, OR CONSERVATION; AND

~~(II)~~ (III) ~~ONE~~ ARE ONE OF THE FOLLOWING:

1. MUNICIPAL CORPORATIONS NOT SERVED BY A PUBLIC SEWERAGE SYSTEM;

~~2. ESTABLISHED COMMUNITIES PLANNED AND ZONED FOR DEVELOPMENT;~~

~~3.~~ 2. RURAL VILLAGES AS DESCRIBED IN § 5-7B-03(F) OF THE STATE FINANCE AND PROCUREMENT ARTICLE; OR

~~4.~~ 3. MAPPED LOCALLY DESIGNATED GROWTH AREAS;
OR

4. AREAS PLANNED AND ZONED FOR LARGE LOT AND RURAL DEVELOPMENT; AND

~~(H) ADJOINING AND CONTIGUOUS TO ONE OF THE FOLLOWING:~~

~~1. MUNICIPAL CORPORATIONS NOT SERVED BY A WASTEWATER TREATMENT PLANT;~~

~~2. ESTABLISHED COMMUNITIES PLANNED AND ZONED FOR DEVELOPMENT; OR~~

~~3. RURAL VILLAGES AS DESCRIBED IN § 5-7B-03(F) OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND~~

(4) TIER IV AREAS ARE AREAS THAT ARE NOT PLANNED FOR SEWERAGE SERVICE AND ARE:

(I) AREAS PLANNED OR ZONED BY A LOCAL JURISDICTION FOR LAND, AGRICULTURAL, OR RESOURCE PROTECTION, PRESERVATION, OR CONSERVATION;

(II) AREAS DOMINATED BY AGRICULTURAL LANDS, FOREST LANDS, OR OTHER NATURAL AREAS; OR

(III) RURAL LEGACY AREAS, PRIORITY PRESERVATION AREAS, OR AREAS MAPPED FOR ECOLOGICAL PRESERVATION BY THE DEPARTMENT OF NATURAL RESOURCES AT THE TIME OF THE ADOPTION OF THE PLAN OR AMENDMENT OR AREAS MAPPED FOR AGRICULTURAL PRESERVATION BY THE DEPARTMENT OF PLANNING AT THE TIME OF THE ADOPTION OF THE PLAN OR AMENDMENT SUBJECT TO COVENANTS, RESTRICTIONS, CONDITIONS, OR CONSERVATION EASEMENTS FOR THE BENEFIT OF, OR HELD BY A STATE AGENCY, AS DEFINED IN § 9-206 OF THE ENVIRONMENT ARTICLE, OR A LOCAL JURISDICTION FOR THE PURPOSE OF CONSERVING NATURAL RESOURCES OR AGRICULTURAL LAND.

(B) A LOCAL JURISDICTION SHALL STRIVE TO AVOID CREATING A TIER III AREA THAT IS BOUNDED ON ALL SIDES BY LAND IN A TIER IV AREA.

~~(C) IF AN AREA NOT PLANNED FOR SEWERAGE SERVICE DOES NOT MEET THE DESCRIPTION OF A TIER III OR TIER IV AREA, THEN THE AREA IS A TIER IV AREA.~~

~~1-507.~~ 1-509.

(A) A LOCAL JURISDICTION THAT ~~CERTIFIES~~ ADOPTS GROWTH TIERS TO THE DEPARTMENT OF PLANNING SHALL INCORPORATE THE TIERS INTO THE DEVELOPMENT REGULATIONS ELEMENT OF THE COMPREHENSIVE PLAN OR AN ELEMENT OF THE PLAN:

(1) WHEN THE LOCAL JURISDICTION CONDUCTS THE 6-YEAR REVIEW OF THE PLAN UNDER §§ 1-416(A) AND 3-301(A) OF THIS ARTICLE; AND

(2) IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION.

(B) IF A LOCAL JURISDICTION DOES NOT INCORPORATE ALL OF THE GROWTH TIERS AUTHORIZED UNDER THIS SECTION INTO THE DEVELOPMENT REGULATIONS ELEMENT OF THE COMPREHENSIVE PLAN OR AN ELEMENT OF THE PLAN, THE LOCAL JURISDICTION SHALL STATE THAT A TIER IS NOT ADOPTED.

5-104.

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

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

(3) "MAJOR SUBDIVISION" ~~MEANS THE SUBDIVISION OF LAND INTO NEW LOTS, PLATS, BUILDING SITES, OR OTHER DIVISIONS OF LAND DEFINED IN LOCAL LAW AS A MAJOR SUBDIVISION IN EFFECT BEFORE JANUARY 1, 2012~~ HAS THE MEANING STATED IN § 9-206 OF THE ENVIRONMENT ARTICLE.

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

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

~~(6)~~ (5) (I) "PLANNING BOARD" MEANS A PLANNING BOARD ESTABLISHED UNDER THIS ARTICLE.

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

(6) “SHARED FACILITY” HAS THE MEANING STATED IN § 9-206 OF THE ENVIRONMENT ARTICLE.

(B) THIS SECTION APPLIES ONLY TO A RESIDENTIAL MAJOR SUBDIVISION IN A TIER III AREA SERVED BY:

- (1) ON-SITE SEWAGE DISPOSAL SYSTEMS;**
- (2) A SHARED FACILITY; OR**
- (3) A COMMUNITY SEWERAGE SYSTEM.**

(C) IF A LOCAL JURISDICTION ESTABLISHES TIERS FOR THE GROWTH IN THE DEVELOPMENT REGULATIONS ELEMENT OF THE PLAN TIERS UNDER § 1-407 OR § TITLE 1, SUBTITLE 5 3-103 OF THIS ARTICLE, A RESIDENTIAL MAJOR SUBDIVISION IN A TIER III AREA MAY NOT BE APPROVED UNLESS THE PLANNING BOARD HAS REVIEWED AND RECOMMENDED THE APPROVAL OF THE MAJOR SUBDIVISION IN A THE TIER III AREA SERVED BY:

- (1) ON-SITE SEWAGE DISPOSAL SYSTEMS;**
- (2) A COMMUNITY SEWERAGE SYSTEM; OR**
- (3) A SHARED FACILITY.**

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

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

(E) THE REVIEW OF THE A RESIDENTIAL MAJOR SUBDIVISION BY THE PLANNING BOARD SHALL INCLUDE:

(1) THE COST OF PROVIDING LOCAL GOVERNMENTAL SERVICES TO THE RESIDENTIAL MAJOR SUBDIVISION UNLESS A LOCAL JURISDICTION’S ADEQUATE PUBLIC FACILITIES ORDINANCE ALREADY REQUIRES A REVIEW OF GOVERNMENT SERVICES; AND

(2) THE POTENTIAL ENVIRONMENTAL ~~IMPACT OF~~ ISSUES OR A NATURAL RESOURCES INVENTORY RELATED TO THE PROPOSED RESIDENTIAL MAJOR SUBDIVISION; ~~AND~~

~~(3) ANY NUTRIENT OFFSETS, ACCORDING TO IF REQUIRED BY STATE POLICY, THAT WILL BE REQUIRED FOR THE AS A RESULT OF THE APPROVAL OF THE PROPOSED RESIDENTIAL MAJOR SUBDIVISION.~~

~~(E)~~ (F) THE PLANNING BOARD SHALL RECOMMEND THE PROPOSED RESIDENTIAL MAJOR SUBDIVISION BY RESOLUTION OF THE PLANNING BOARD.

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

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

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

~~SECTION 4. AND BE IT FURTHER ENACTED, That the Department of the Environment shall adopt regulations requiring major residential subdivisions served by on-site septic systems to receive a permit.~~

SECTION ~~5~~ 4. AND BE IT FURTHER ENACTED, That:

(a) (1) It is the intent of the General Assembly that local jurisdictions should use their existing comprehensive plan and zoning ordinance, if desired, to create the tiers as provided in Article 66B, ~~§§ 1.04 and 3.05~~ § 1.05 of the Code and ~~§§ 1-407 Title 1, Subtitle 5 and 3-103~~ of the Land Use Article, as enacted by this Act.

(2) The tiers may be adopted as an amendment to the comprehensive plan under Article 66B, § 1.05 of the Code or Title 1, Subtitle 5 of the Land Use Article and be included as an appendix that delineates the tiers and the comprehensive plan land use categories and zoning ordinance districts that are included in each tier.

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

SECTION ~~6~~ 5. AND BE IT FURTHER ENACTED, That, if requested by a local jurisdiction to verify the actual overall yield for zoning in a Tier IV area under § 9-206(h) of the Environment Article, the Department of Planning shall:

(a) review the local zoning code, along with any relevant subdivision or development regulations or rules, to help determine the overall development yield;

(b) request, if appropriate, information from the local jurisdiction to help determine the overall yield of development in Tier IV;

(c) examine any additional information that the local jurisdiction provides supporting qualification of the jurisdiction's zoning districts; and

(d) discuss any discrepancies or questions with the local jurisdiction before determining if the jurisdiction's Tier IV area meets the overall actual yield of one dwelling unit per ~~25~~ 20 acres within the Tier IV area.

SECTION ~~7~~ 6. AND BE IT FURTHER ENACTED, That:

(a) each local jurisdiction shall submit any definition or description of a major or minor subdivision in the jurisdiction's local ordinance or regulation to the Department of Planning on or before December 31, 2012, in accordance with the provisions of § 9-206 of the Environment Article; and

(b) the Department of Planning shall prepare a list of definitions and descriptions of major and minor subdivisions submitted by local jurisdictions for publication on the Web sites of the Department of Planning and the Department of the Environment on or after December 31, 2012.

SECTION ~~8~~ 7. AND BE IT FURTHER ENACTED, That the provisions of this Act may not be construed to limit the authority granted to the Critical Area Commission under Chapter 119 of the Acts of 2008 to adopt regulations under § 8-1806(b) of the Natural Resources Article.

SECTION 8. AND BE IT FURTHER ENACTED, That:

(a) on or before December 31, 2012, the Department of the Environment shall propose regulations that establish nutrient offset requirements for new residential major subdivisions within Tier III areas that are to be served by on-site sewage disposal systems or shared systems;

(b) the Department shall consult with the counties and other stakeholder groups during the drafting of the proposed regulations required under subsection (a) of this section;

(c) the Department shall brief the House Environmental Matters Committee and the Senate Education, Health, and Environmental Affairs Committee before the submission of the proposed regulations required under subsection (a) of this section to the Joint Committee on Administrative, Executive, and Legislative Review; and

(d) this section does not apply to, or limit the ability of the Department to develop nutrient trading and offset programs related to Maryland's Chesapeake Bay TMDL Watershed Implementation Plan.

SECTION 9. AND BE IT FURTHER ENACTED, That, on or before February 1, 2013, the Department of Planning, in consultation with the Department of the Environment, shall report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on:

(a) the adoption of the tiers, as provided in Article 66B, § 1.05 of the Code and Title 1, Subtitle 5 of the Land Use Article, as enacted by this Act, by each local jurisdiction, including mapped areas of the tiers;

(b) each jurisdiction that has adopted or altered a local ordinance or regulation in implementing the provisions of this Act, including a description of the adopted or altered local ordinance or regulation; and

(c) each jurisdiction for which the Department of Planning has provided comments on any of the tiers or an area within one of the tiers under Article 66B, § 1.05 of the Code and § 1-505 of the Land Use Article, as enacted by this Act.

SECTION ~~6~~ ~~9~~ ~~8~~ 10. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take effect on the taking effect of Chapter 426 (H.B. ____)(2lr0396) of the Acts of the General Assembly of 2012. If Section 3 of this Act takes effect, Section 2 of this Act shall be abrogated and of no further force and effect.

SECTION ~~7~~ ~~10~~ ~~9~~ 11. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section ~~6~~ ~~9~~ ~~8~~ 10 of this Act, this Act shall take effect July 1, 2012.

Approved by the Governor, May 2, 2012.