

# HOUSE BILL 1220

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HB 1345/18 – ENV

9lr1731

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By: **Delegates Rose, Kittleman, Krebs, and Shoemaker**

Introduced and read first time: February 8, 2019

Assigned to: Environment and Transportation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Sewerage Systems – Residential Major Subdivisions in Tier III and Tier IV**  
3 **Areas**

4 FOR the purpose of authorizing a local jurisdiction to authorize a residential major  
5 subdivision served by on-site sewage disposal systems, community sewerage  
6 systems, or shared systems in Tier III and Tier IV areas under certain  
7 circumstances; exempting certain residential major subdivisions from certain  
8 provisions of law; specifying that this Act does not create new development rights;  
9 and generally relating to sewerage systems.

10 BY repealing and reenacting, without amendments,  
11 Article – Environment  
12 Section 9–206(a), (b), (c), and (e)  
13 Annotated Code of Maryland  
14 (2014 Replacement Volume and 2018 Supplement)

15 BY repealing and reenacting, with amendments,  
16 Article – Environment  
17 Section 9–206(d), (f), and (g)  
18 Annotated Code of Maryland  
19 (2014 Replacement Volume and 2018 Supplement)

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

22 **Article – Environment**

23 9–206.

24 (a) (1) In this section the following words have the meanings indicated.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           (2) “Community sewerage system” means a publicly or privately owned  
2 sewerage system that serves at least two lots.

3           (3) “Growth tiers” means the tiers adopted by a local jurisdiction in  
4 accordance with Title 1, Subtitle 5 of the Land Use Article.

5           (4) “Lot” includes a part of a subdivision that:

6                   (i) Is used or is intended to be used as a building site; and

7                   (ii) Is not intended to be further subdivided.

8           (5) “Major subdivision” means:

9                   (i) The subdivision of land:

10                           1. Into new lots, plats, building sites, or other divisions of  
11 land defined or described as a major subdivision in a local ordinance or regulation:

12                                   A. That is in effect on or before January 1, 2012; or

13                                   B. Adopted on or before December 31, 2012, if a local  
14 jurisdiction chooses to create a definition or description applicable solely to this section or  
15 if a local ordinance or regulation does not define or describe a major subdivision under item  
16 A of this item; or

17                           2. If a local jurisdiction has not adopted a definition or  
18 description of a major subdivision on or before December 31, 2012, under item 1 of this  
19 item, into five or more new lots, plats, building sites, or other divisions of land; and

20                           (ii) If the local ordinance or regulation has multiple definitions or  
21 descriptions of a major subdivision under item (i) of this paragraph, the definition or  
22 description of a major subdivision that is determined by the local jurisdiction to apply for  
23 the purposes of this section.

24           (6) “Minor subdivision” means:

25                   (i) The subdivision of land:

26                           1. Into new lots, plats, building sites, or other divisions of  
27 land defined or described as a minor subdivision in a local ordinance or regulation:

28                                   A. That is in effect on or before January 1, 2012; or

29                                   B. Adopted on or before December 31, 2012, if a local  
30 jurisdiction chooses to create a definition or description applicable solely to this section or  
31 if a local ordinance or regulation does not define or describe a minor subdivision under item

1 A of this item, provided that a minor subdivision defined or described in the adopted  
2 ordinance or regulation does not exceed seven new lots, plats, building sites, or other  
3 divisions of land; or

4                   2. If a local jurisdiction has not adopted a definition or  
5 description of a minor subdivision on or before December 31, 2012, under item 1 of this  
6 item, into fewer than five new lots, plats, building sites, or other divisions of land; and

7                   (ii) If the local ordinance or regulation has multiple definitions or  
8 descriptions of a minor subdivision under item (i) of this paragraph, the definition or  
9 description of a minor subdivision that is determined by the local jurisdiction to apply for  
10 the purposes of this section.

11                   (7) “On-site sewage disposal” means the disposal of sewage beneath the  
12 soil surface.

13                   (8) (i) “On-site sewage disposal system” means a sewage treatment  
14 unit, collection system, disposal area, and related appurtenances.

15                   (ii) “On-site sewage disposal system” includes a shared facility or  
16 community sewerage system that disposes of sewage effluent beneath the soil surface.

17                   (9) “Public sewer” means a community, shared, or multiuse sewerage  
18 system.

19                   (10) “Shared facility” means a sewerage system that:

20                   (i) Serves more than one:

21                           1. Lot and is owned in common by the users;

22                           2. Condominium unit and is owned in common by the users  
23 or by a condominium association;

24                           3. User and is located on individual lots owned by the users;  
25 or

26                           4. User on one lot and is owned in common by the users; or

27                   (ii) Is located wholly or partly on any of the common elements of a  
28 condominium; or

29                   (iii) Serves a housing or another multiple ownership cooperative.

30                   (11) “State agency” means:

31                   (i) The Maryland Agricultural Land Preservation Foundation;

- 1 (ii) The Maryland Environmental Trust;
- 2 (iii) The Department of Natural Resources; or
- 3 (iv) The Maryland–National Capital Park and Planning  
4 Commission.

5 (12) “Subdivision” means a division of a tract or parcel of land into at least  
6 two lots for the immediate or future purpose of sale or building development.

7 (b) (1) Subsections (f) through (i) and subsection (l) of this section apply to  
8 residential subdivisions.

9 (2) Subsections (f) through (i) do not apply to an application for approval of  
10 a residential subdivision under § 9–512(e) of this title if:

11 (i) 1. By October 1, 2012, a submission for preliminary plan  
12 approval is made to a local jurisdiction that includes, at a minimum, the preliminary  
13 engineering, density, road network, lot layout, and existing features of the proposed site  
14 development;

15 2. By July 1, 2012, in a local jurisdiction that requires a soil  
16 percolation test before a submission for preliminary approval:

17 A. An application for a soil percolation test approval for all  
18 lots that will be included in the submission for preliminary approval is made to the local  
19 health department; and

20 B. Within 18 months after approval of the soil percolation  
21 tests for the lots that will be included in the submission for preliminary approval, a  
22 submission for preliminary approval is made to a local jurisdiction that includes, at a  
23 minimum, the preliminary engineering, density, road network, lot layout, and existing  
24 features of the proposed site development; or

25 3. By July 1, 2012, in a local jurisdiction that requires a soil  
26 percolation test before a submission for preliminary approval and the local jurisdiction does  
27 not accept applications for soil percolation tests year round:

28 A. Documentation that a Maryland professional engineer or  
29 surveyor has prepared and certified under seal a site plan in anticipation of an application  
30 for soil percolation tests;

31 B. An application for a soil percolation test approval for all  
32 lots that will be included in the submission for preliminary approval is made to the local  
33 health department at the next available soil percolation test season; and

1 C. Within 18 months after approval of the soil percolation  
2 tests for the lots that will be included in the submission for preliminary approval, a  
3 submission for preliminary approval is made to a local jurisdiction that includes, at a  
4 minimum, the preliminary engineering, density, road network, lot layout, and existing  
5 features of the proposed site development; and

6 (ii) By October 1, 2016, the preliminary plan is approved.

7 (c) (1) Subsections (f) through (i) and subsection (l) of this section do not apply  
8 to covenants, restrictions, conditions, or conservation easements that were created or  
9 entered into at any time under § 2–118 of the Real Property Article for the benefit of, or  
10 held by, a State agency or a local jurisdiction for the purpose of conserving natural resources  
11 or agricultural land.

12 (2) Subsections (f) through (i) of this section may not be construed as  
13 granting any additional rights in covenants, restrictions, conditions, or conservation  
14 easements that were created or entered into at any time under § 2–118 of the Real Property  
15 Article for the benefit of, or held by, a State agency or a local jurisdiction for the purpose of  
16 conserving natural resources or agricultural land.

17 (d) (1) Subsections (f) through (i) and subsection (l) of this section do not:

18 [(1)] (I) Affect a local transfer of development rights program authorized  
19 under § 10–324 of the Local Government Article or Title 7, Subtitle 2 or § 22–105 of the  
20 Land Use Article; or

21 [(2)] (II) Diminish the local development rights transferred in these  
22 transfer of development rights programs.

23 (2) **SUBSECTION (F)(2) AND (3) OF THIS SECTION DOES NOT CREATE**  
24 **NEW DEVELOPMENT RIGHTS.**

25 (e) Subsections (f) through (i) and subsection (l) of this section may not be  
26 construed as prohibiting a local jurisdiction from altering the definition or description of a  
27 major or minor subdivision in a local ordinance or regulation for local zoning or  
28 development purposes.

29 (f) (1) On or after December 31, 2012, a local jurisdiction:

30 [(1)] (I) May not authorize a residential major subdivision served by  
31 on-site sewage disposal systems, community sewerage systems, or shared systems until  
32 the local jurisdiction adopts the growth tiers in accordance with § 5–104 of the Land Use  
33 Article; or

34 [(2)] (II) If the local jurisdiction has not adopted the growth tiers in  
35 accordance with § 5–104 of the Land Use Article, may authorize:

1                    [(i)] 1. A residential minor subdivision served by on-site sewage  
2 disposal systems if the residential subdivision otherwise meets the requirements of this  
3 title; or

4                    [(ii)] 2. A major or minor subdivision served by public sewer in a  
5 Tier I area.

6                    **(2) A LOCAL JURISDICTION MAY AUTHORIZE A RESIDENTIAL MAJOR**  
7 **SUBDIVISION SERVED BY ON-SITE SEWAGE DISPOSAL SYSTEMS, COMMUNITY**  
8 **SEWERAGE SYSTEMS, OR SHARED SYSTEMS IN TIER III AREAS IF:**

9                    **(I) 1. THE DEVELOPMENT RIGHTS LIMITED UNDER**  
10 **PARAGRAPH (1) OF THIS SUBSECTION AND SUBSECTION (G) OF THIS SECTION**  
11 **EXISTED ON DECEMBER 1, 2012; OR**

12                    **2. THE DEVELOPMENT RIGHTS LIMITED UNDER**  
13 **PARAGRAPH (1) OF THIS SUBSECTION AND SUBSECTION (G) OF THIS SECTION**  
14 **EXISTED UNDER THE MANNER IN WHICH AN AREA, A PLAT, OR A LOT WAS ZONED ON**  
15 **OR BEFORE DECEMBER 1, 2012;**

16                    **(II) AT LEAST 10% OF THE REMAINING PORTION OF THE LOCAL**  
17 **JURISDICTION'S TIER III AREA IS PROTECTED AS:**

18                    **1. A FEDERAL, STATE, OR LOCAL PARK, FOREST,**  
19 **NATURAL AREA, OR EDUCATIONAL AREA;**

20                    **2. A FEDERAL, STATE, OR LOCAL CULTURAL AREA OR**  
21 **HISTORIC AREA; OR**

22                    **3. A FEDERAL, STATE, OR LOCAL NATURAL RESOURCE**  
23 **EASEMENT, HISTORIC PRESERVATION EASEMENT, OR AGRICULTURAL**  
24 **CONSERVATION EASEMENT; AND**

25                    **(III) AT LEAST 25% OF THE REMAINING PORTION OF THE LOCAL**  
26 **JURISDICTION'S TOTAL LAND IS PROTECTED FROM DEVELOPMENT AS:**

27                    **1. A FEDERAL, STATE, OR LOCAL PARK, FOREST,**  
28 **NATURAL AREA, OR EDUCATIONAL AREA;**

29                    **2. A FEDERAL, STATE, OR LOCAL CULTURAL AREA OR**  
30 **HISTORIC AREA; OR**

31                    **3. A FEDERAL, STATE, OR LOCAL NATURAL RESOURCE**

1 EASEMENT, HISTORIC PRESERVATION EASEMENT, OR AGRICULTURAL  
2 CONSERVATION EASEMENT.

3 (3) A LOCAL JURISDICTION MAY AUTHORIZE A RESIDENTIAL MAJOR  
4 SUBDIVISION SERVED BY ON-SITE SEWAGE DISPOSAL SYSTEMS, COMMUNITY  
5 SEWERAGE SYSTEMS, OR SHARED SYSTEMS IN TIER IV AREAS IF:

6 (I) 1. THE DEVELOPMENT RIGHTS LIMITED UNDER  
7 PARAGRAPH (1) OF THIS SUBSECTION AND SUBSECTION (G) OF THIS SECTION  
8 EXISTED ON DECEMBER 1, 2012; OR

9 2. THE DEVELOPMENT RIGHTS LIMITED UNDER  
10 PARAGRAPH (1) OF THIS SUBSECTION AND SUBSECTION (G) OF THIS SECTION  
11 EXISTED UNDER THE MANNER IN WHICH AN AREA, A PLAT, OR A LOT WAS ZONED ON  
12 OR BEFORE DECEMBER 1, 2012;

13 (II) AT LEAST 20% OF THE REMAINING PORTION OF THE LOCAL  
14 JURISDICTION'S TIER IV AREA IS PROTECTED AS:

15 1. A FEDERAL, STATE, OR LOCAL PARK, FOREST,  
16 NATURAL AREA, OR EDUCATIONAL AREA;

17 2. A FEDERAL, STATE, OR LOCAL CULTURAL AREA OR  
18 HISTORIC AREA; OR

19 3. A FEDERAL, STATE, OR LOCAL NATURAL RESOURCE  
20 EASEMENT, HISTORIC PRESERVATION EASEMENT, OR AGRICULTURAL  
21 CONSERVATION EASEMENT; AND

22 (III) AT LEAST 30% OF THE REMAINING PORTION OF THE LOCAL  
23 JURISDICTION'S TOTAL LAND IS PROTECTED FROM DEVELOPMENT AS:

24 1. A FEDERAL, STATE, OR LOCAL PARK, FOREST,  
25 NATURAL AREA, OR EDUCATIONAL AREA;

26 2. A FEDERAL, STATE, OR LOCAL CULTURAL AREA OR  
27 HISTORIC AREA; OR

28 3. A FEDERAL, STATE, OR LOCAL NATURAL RESOURCE  
29 EASEMENT, HISTORIC PRESERVATION EASEMENT, OR AGRICULTURAL  
30 CONSERVATION EASEMENT.

31 (g) (1) Except as provided in subsection [(f)(2)] (F)(1)(II), (2), AND (3) of this

1 section and subject to subsection (i) of this section, a local jurisdiction may authorize a  
2 residential subdivision plat only if:

3 (i) All lots proposed in an area designated for Tier I growth will be  
4 served by public sewer;

5 (ii) All lots proposed in an area designated for Tier II growth:

6 1. Will be served by public sewer; or

7 2. If the subdivision is a minor subdivision, may be served by  
8 on-site sewage disposal systems;

9 (iii) Except as provided in subsection (h) of this section, the  
10 subdivision is a minor subdivision served by individual on-site sewage disposal systems in  
11 a Tier III or Tier IV area; or

12 (iv) The subdivision is a major subdivision served by on-site sewage  
13 disposal systems, a community system, or a shared facility located in a Tier III area and  
14 has been recommended by the local planning board in accordance with § 5-104 of the Land  
15 Use Article.

16 (2) Any delay in the approval of a residential subdivision plat under this  
17 subsection may not be construed as applying to any deadline for approving or disapproving  
18 a subdivision plat under Division II or § 5-201 of the Land Use Article or a local ordinance.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
20 October 1, 2019.