

SENATE BILL 236

M3

2lr0119
CF HB 445

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

Introduced and read first time: January 20, 2012

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 21, 2012

CHAPTER _____

1 AN ACT concerning

2 **Sustainable Growth and Agricultural Preservation Act of 2012**

3 FOR the purpose of ~~altering~~ authorizing a local jurisdiction to adopt and certify to the
4 Department of Planning certain growth tier designations; requiring a local
5 jurisdiction under certain circumstances to alter the contents of certain
6 elements that are required in a certain plan; authorizing a local jurisdiction to
7 submit proposed tier designations to the Department of Planning before
8 certification adoption for certain purposes; establishing certain mandatory and
9 certain discretionary provisions relating to the adoption of certain tiers by
10 certain local jurisdictions; requiring a local jurisdiction to provide
11 documentation to the Department of Planning if the jurisdiction does not adopt
12 a certain tier; requiring growth tiers certified adopted by a local jurisdiction to
13 meet certain criteria; prohibiting the approval of a residential major subdivision
14 if a local jurisdiction has established certain tiers unless a planning board
15 reviews and recommends the approval under certain circumstances;
16 establishing the requirements for the review of a residential major subdivision
17 by a planning board; requiring a planning board to hold a certain hearing under
18 certain circumstances; requiring a planning board to publish a certain notice in
19 a certain manner; requiring a planning board to provide copies of a proposed
20 major subdivision to certain units and jurisdictions within a certain period of
21 time requiring the Department of Planning to provide certain information to
22 certain State agencies and post certain information on the Department's Web
23 site; requiring a planning board to recommend a proposed major subdivision in
24 a certain manner; requiring a planning board to send a certain resolution and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



~~1 certain documents to the Department of the Environment and the Department
2 of Planning under certain circumstances prohibiting the Department of the
3 Environment or the Department's designee from approving a local jurisdiction
4 from authorizing a certain residential subdivision until the local jurisdiction
5 adopts certain growth tiers; authorizing the Department or the Department's
6 designee a local jurisdiction, if a local jurisdiction has not adopted certain
7 growth tiers, to approve a certain residential subdivision under certain
8 circumstances; authorizing the Department to extend the time period for
9 recordation of a subdivision plat in certain circumstances; establishing certain
10 requirements for the approval of a residential subdivision plat by the
11 Department of the Environment, or the Department's designee; authorizing a
12 local jurisdiction to request a verification of a certain overall yield under certain
13 circumstances; requiring the Department of Planning to verify a certain overall
14 yield after consultation with the Maryland Sustainable Growth Commission;
15 providing for the resolution of conflicting tier designations; requiring the
16 Department of the Environment to submit a certain subdivision plat to the
17 Department of Planning for certain advice; prohibiting the Department of the
18 Environment from approving a major residential subdivision under certain
19 circumstances on or before a certain date; requiring a local jurisdiction to notify
20 provide certain information to the Department of Planning under certain
21 circumstances; authorizing the Department of the Environment to adopt certain
22 regulations to require offsets for new subdivisions requiring the Department of
23 Planning to provide a certain notification to the Department of the
24 Environment; prohibiting the subdivision or resubdivision of a certain tract or
25 parcel of land or a minor residential subdivision under certain circumstances on
26 or after a certain date; requiring the subdivision plat of a residential minor
27 subdivision to state certain information; authorizing the subdivision or
28 resubdivision of a certain tract or parcel of land or a minor residential
29 subdivision under certain circumstances on or after a certain date; authorizing
30 the owner of certain property used for agricultural activities to install certain
31 numbers of on-site sewage disposal systems in accordance with certain
32 requirements; requiring certain on-site sewage disposal systems installed on
33 certain property to be clustered together under certain circumstances;
34 authorizing a local jurisdiction to enact a local law or ordinance for the transfer
35 of certain rights of an owner to subdivide certain property used for agricultural
36 activities to the owner of certain other property used for agricultural activities
37 under certain circumstances; establishing certain requirements for the approval
38 of a shared facility or community sewerage system; requiring the Department of
39 the Environment to establish certain requirements for a shared facility and a
40 community sewerage system; defining certain terms; requiring the Department
41 of the Environment to adopt regulations to require certain residential
42 subdivisions to receive a permit; establishing certain requirements for the
43 verification by the Department of Planning of a certain yield for zoning;
44 requiring a local jurisdiction to submit to the Department of Planning on or
45 before a certain date a certain definition or description; requiring the
46 Department of Planning to prepare a list of certain definitions and descriptions
47 for publication on certain Web sites on or after a certain date; providing that~~

1 this Act may not be construed to limit certain authority granted to the Critical
 2 Area Commission; establishing the intent of the General Assembly; providing
 3 for the application of certain provisions of this Act; providing for the
 4 construction of this Act; providing for the effective date of certain provisions of
 5 this Act; providing for the termination of certain provisions of this Act; and
 6 generally relating to the subdivision of land and planning for growth.

7 BY repealing and reenacting, with amendments,
 8 Article – Environment
 9 Section 9–206
 10 Annotated Code of Maryland
 11 (2007 Replacement Volume and 2011 Supplement)

12 BY adding to
 13 Article – Environment
 14 Section 9–1110
 15 Annotated Code of Maryland
 16 (2007 Replacement Volume and 2011 Supplement)

17 BY repealing and reenacting, with amendments,
 18 Article 66B – Land Use
 19 Section 1.00~~7~~, and 1.03, ~~1.04(b)(1)(iv), and 3.05(a)(4)(ii)~~
 20 Annotated Code of Maryland
 21 (2010 Replacement Volume and 2011 Supplement)

22 ~~BY repealing and reenacting, without amendments,~~
 23 ~~Article 66B – Land Use~~
 24 ~~Section 1.04(a) and 3.05(a)(4)(i)~~
 25 ~~Annotated Code of Maryland~~
 26 ~~(2010 Replacement Volume and 2011 Supplement)~~

27 BY adding to
 28 Article 66B – Land Use
 29 Section ~~1.04(b)(5)~~, 1.05~~7~~, and ~~3.05(a)(9)~~ 1.06
 30 Annotated Code of Maryland
 31 (2010 Replacement Volume and 2011 Supplement)

32 BY repealing and reenacting, with amendments,
 33 Article – Environment
 34 ~~Section 9–206(a)(10), (b)(2)(iv), and (d)(1)~~
 35 Section 9–206(a)(3), (d)(1), (g)(1)(iv) and (2), and (j)(1)
 36 Annotated Code of Maryland
 37 (2007 Replacement Volume and 2011 Supplement)
 38 (As enacted by Section 1 of this Act)

39 BY repealing and reenacting, with amendments,
 40 Article – Land Use

1 Section 1-401,~~1-407, 3-103~~, and 5-104
 2 Annotated Code of Maryland
 3 (As enacted by Chapter ____ (H.B. ____)(2lr0396) of the Acts of the General
 4 Assembly of 2012)

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

11 BY adding to
 12 Article – Land Use
 13 Section 1-501 through 1-507 1-509 to be under the new subtitle “Subtitle 5.
 14 Growth Tiers”; and 5-104
 15 Annotated Code of Maryland
 16 (As enacted by Chapter ____ (H.B. ____)(2lr0396) of the Acts of the General
 17 Assembly of 2012)

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

24 Preamble

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

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

33 WHEREAS, The Task Force met several times from July 2011 until November
 34 2011 and created several workgroups to review, study, and make findings and
 35 recommendations to the entire Task Force; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 **Article - Environment**

19 9-206.

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

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

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

26 ~~(3)~~ (4) “LOT” INCLUDES A PART OF A SUBDIVISION THAT:

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

29 (II) IS NOT INTENDED TO BE FURTHER SUBDIVIDED.

30 ~~(4)~~ (5) “MAJOR SUBDIVISION” MEANS ~~THE~~:

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

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

4 A. THAT IS IN EFFECT ON OR BEFORE JANUARY 1,
 5 2012; OR

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

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

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

21 ~~(5)~~ (6) “MINOR SUBDIVISION” MEANS ~~THE~~:

22 (i) THE SUBDIVISION OF LAND: ~~INTO~~

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

26 A. THAT IS IN EFFECT ON OR BEFORE JANUARY 1,
 27 2012; OR

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

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

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

10 **~~(6)~~ (7) “ON-SITE SEWAGE DISPOSAL” MEANS THE DISPOSAL OF**
 11 **SEWAGE BENEATH THE SOIL SURFACE.**

12 **~~(7)~~ (8) (I) “ON-SITE SEWAGE DISPOSAL SYSTEM” MEANS A**
 13 **SEWAGE TREATMENT UNIT, COLLECTION SYSTEM, DISPOSAL AREA, AND**
 14 **RELATED APPURTENANCES.**

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

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

20 **~~(8)~~ (10) “SHARED FACILITY” MEANS A SEWERAGE SYSTEM THAT:**

21 **(I) SERVES MORE THAN ONE:**

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

23 **2. CONDOMINIUM UNIT AND IS OWNED IN COMMON**
 24 **BY THE USERS OR BY A CONDOMINIUM ASSOCIATION;**

25 **3. USER AND IS LOCATED ON INDIVIDUAL LOTS**
 26 **OWNED BY THE USERS; OR**

27 **4. USER ON ONE LOT AND IS OWNED IN COMMON BY**
 28 **THE USERS; OR**

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

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

3 (11) "STATE AGENCY" MEANS:

4 (I) THE MARYLAND AGRICULTURAL LAND PRESERVATION
5 FOUNDATION;

6 (II) THE MARYLAND ENVIRONMENTAL TRUST;

7 (III) THE DEPARTMENT OF NATURAL RESOURCES; OR

8 (IV) THE MARYLAND-NATIONAL CAPITAL PARK AND
9 PLANNING COMMISSION.

10 ~~(9) (12) (4)~~ "SUBDIVISION" MEANS A DIVISION OF A TRACT OR
11 PARCEL OF LAND INTO AT LEAST TWO LOTS FOR THE IMMEDIATE OR FUTURE
12 PURPOSE OF SALE OR BUILDING DEVELOPMENT.

13 ~~(H) "SUBDIVISION" INCLUDES:~~

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

18 ~~2. RESUBDIVISION.~~

19 ~~(H) "SUBDIVISION" DOES NOT INCLUDE A CHANGE IN~~
20 ~~STREET LINES OR LOT LINES IF THE CHANGE IN THE STREET OR LOT LINES~~
21 ~~DOES NOT:~~

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

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

27 ~~(10) "TIER I", "TIER II", "TIER III", AND "TIER IV" MEAN THE~~
28 ~~RESPECTIVE AREAS FOR GROWTH SO DESIGNATED IN A LOCAL COMPREHENSIVE~~
29 ~~PLAN ESTABLISHED BY A LOCAL JURISDICTION IN ACCORDANCE WITH ARTICLE~~
30 ~~66B, § 1.04 OR § 3.05 OF THE CODE.~~

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

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

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

7 ~~(II) DO NOT APPLY TO A SUBDIVISION PLAT APPROVAL BY A~~
8 ~~LOCAL JURISDICTION.~~

9 ~~(3) (2) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS~~
10 ~~SUBSECTION, SUBSECTIONS~~ SUBSECTIONS (F) THROUGH (K) DO NOT APPLY TO
11 AN APPLICATION FOR APPROVAL OF A RESIDENTIAL SUBDIVISION UNDER §
12 9-512(E) OF THIS TITLE IF:

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

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

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

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

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

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

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

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

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

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

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

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

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

27 ~~(2) (4) THE DEPARTMENT MAY EXTEND THE DATE FOR~~
28 ~~RECORDATION OF A SUBDIVISION PLAT UNDER PARAGRAPH (3) OF THIS~~
29 ~~SUBSECTION BY ONE ADDITIONAL 6 MONTH PERIOD IF THE APPLICANT~~
30 ~~DEMONSTRATES TO THE DEPARTMENT OR THE DEPARTMENT'S DESIGNEE THAT~~
31 ~~THE APPLICANT IS UNABLE TO RECORD THE PLAT BECAUSE THE APPLICANT~~
32 ~~CANNOT PERFORM THE REQUIRED TESTS FOR ADEQUACY OF AN ON SITE~~
33 ~~SEWAGE DISPOSAL SYSTEM IN ACCORDANCE WITH THE REGULATIONS ADOPTED~~
34 ~~BY THE DEPARTMENT.~~

35 (C) (1) SUBSECTIONS (F) THROUGH (K) AND SUBSECTION (N) OF THIS
36 SECTION DO NOT APPLY TO COVENANTS, RESTRICTIONS, CONDITIONS, OR

1 CONSERVATION EASEMENTS THAT WERE CREATED OR ENTERED INTO AT ANY
2 TIME UNDER § 2-118 OF THE REAL PROPERTY ARTICLE FOR THE BENEFIT OF,
3 OR HELD BY, A STATE AGENCY OR A LOCAL JURISDICTION FOR THE PURPOSE OF
4 CONSERVING NATURAL RESOURCES OR AGRICULTURAL LAND.

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

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

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

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

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

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

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

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

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

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

6 **(G) (1) EXCEPT AS PROVIDED IN SUBSECTION ~~(E)(2)~~ (F)(2) OF THIS**
 7 **SECTION, ~~THE DEPARTMENT, OR THE DEPARTMENT'S DESIGNEE, MAY APPROVE~~**
 8 **A LOCAL JURISDICTION MAY AUTHORIZE A RESIDENTIAL SUBDIVISION PLAT**
 9 **ONLY IF:**

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

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

14 **1. WILL BE SERVED BY PUBLIC SEWER; OR**

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

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

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

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

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

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

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

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

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

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

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

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

25 (2) IF A CONFLICT IN GROWTH TIER DESIGNATIONS IS NOT
 26 RESOLVED, THE DEPARTMENT OF PLANNING SHALL RECOMMEND TO THE
 27 DEPARTMENT THE PREFERRED LOCAL JURISDICTION DESIGNATIONS AS
 28 DETERMINED BY THE DEPARTMENT OF PLANNING BASED ON THE FOLLOWING
 29 BEST PLANNING PRACTICES OR FACTORS:

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

33 (II) GROWTH PROJECTIONS AND DEVELOPMENT CAPACITY;
 34 AND

35 (III) AVAILABILITY OF INFRASTRUCTURE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (1) A plat of the subdivision;

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

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

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

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

22 ~~(3)~~ (4) Any other information that the Department requires.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (II) DESIGNATED FOR PUBLIC SEWERAGE SERVICE WITHIN
31 10 YEARS IN THE APPROVED WATER AND SEWER PLAN.

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

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

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

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

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

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

24 ~~(O)~~ **(M) (1) IN THIS SUBSECTION AND SUBSECTION ~~(P)~~ (N) OF THIS**
 25 **SECTION, "AGRICULTURAL ACTIVITIES" INCLUDES:**

26 **(I) PLOWING, TILLAGE, CROPPING, SEEDING,**
 27 **CULTIVATING, AND HARVESTING FOR THE PRODUCTION OF FOOD AND FIBER**
 28 **PRODUCTS; AND**

29 **(II) THE GRAZING OF LIVESTOCK.**

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

33 **(3) NOTWITHSTANDING ANY OTHER LAW EXCEPT AS PROVIDED**
 34 **IN SUBSECTION (H) OF THIS SECTION, AN OWNER OF PROPERTY USED FOR**

1 AGRICULTURAL ACTIVITIES MAY INSTALL, IF APPROVED, THE FOLLOWING
2 NUMBER OF ON-SITE SEWAGE DISPOSAL SYSTEMS:

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

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

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

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

11 (V) SEVEN ON-SITE SEWAGE DISPOSAL SYSTEMS FOR A
12 PROPERTY THAT IS 175 ACRES OR MORE.

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

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

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

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

26 (I) IS LIMITED TO A TOTAL OF 15 LOTS; AND

27 (II) SHALL CLUSTER THE LOTS ON THE PROPERTY.

28 (4) RIGHTS TO SUBDIVIDE MAY NOT BE TRANSFERRED FROM THE
29 OWNER OF PROPERTY USED FOR AGRICULTURAL ACTIVITIES IN A TIER III AREA
30 TO THE OWNER OF PROPERTY USED FOR AGRICULTURAL ACTIVITIES IN A TIER
31 IV AREA.

1 **9-1110.**

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

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

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

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

13 (I) SERVES MORE THAN ONE:

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

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

17 3. USER AND IS LOCATED ON INDIVIDUAL LOTS
18 OWNED BY THE USERS; OR

19 4. USER ON ONE LOT AND IS OWNED IN COMMON BY
20 THE USERS;

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

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

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

27 (1) BE A CONTROLLING AUTHORITY; OR

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

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

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

4 **(I) A CONTROLLING AUTHORITY; OR**

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

7 **(2) DISCHARGES:**

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

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

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

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

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

20 **Article 66B – Land Use**

21 1.00.

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

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

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

29 (d) “Development rights and responsibilities agreement” means an
 30 agreement made between a governmental body of a jurisdiction and a person having a

1 legal or equitable interest in real property for the purpose of establishing conditions
2 under which development may proceed for a specified time.

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

5 (2) “Local executive” includes:

6 (i) A county executive;

7 (ii) A board of county commissioners;

8 (iii) An executive head; or

9 (iv) A mayor.

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

12 (2) “Local legislative body” includes:

13 (i) A board of county commissioners;

14 (ii) A county council; or

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

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

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

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

25 **(I) “PRIORITY FUNDING AREA” HAS THE MEANING STATED IN §**
26 **~~5-7B-02~~ TITLE 5, SUBTITLE 2 OF THE STATE FINANCE AND PROCUREMENT**
27 **ARTICLE.**

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

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

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

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

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

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

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

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

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

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

27 1.03.

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

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

- 1 (1) [§ 1.00(j) (Definition of “sensitive areas”)] **§ 1.00(H), (I), AND (K)**;
 2 **~~AND (M)~~ (DEFINITIONS OF “PLAN”, “PRIORITY FUNDING AREA”, AND**
 3 **“SENSITIVE AREAS”⁵); ~~AND “SUBDIVISION”⁵);~~**
- 4 (2) § 1.01 (Visions);
- 5 (3) § 1.02 (Consistency with comprehensive plans);
- 6 (4) § 1.04 (Charter county – Comprehensive plans);
- 7 **(5) § 1.05 (ADOPTION OF GROWTH TIERS);**
- 8 **(6) § 1.06 (MAJOR SUBDIVISION – REVIEW);**
- 9 [(5)] ~~(6)~~ **(7)** § 3.02(h) (Planning Commission – Education);
- 10 [(6)] ~~(7)~~ **(8)** § 3.09 (Annual report – Preparation and filing);
- 11 [(7)] ~~(8)~~ **(9)** § 3.10 (Annual report – Smart Growth goals, measures,
 12 and indicators);
- 13 [(8)] ~~(9)~~ **(10)** § 4.01(b)(2) (Regulation of bicycle parking);
- 14 [(9)] ~~(10)~~ **(11)** § 4.04(c) (Exceptions related to the Maryland
 15 Accessibility Code);
- 16 [(10)] ~~(11)~~ **(12)** § 4.07(i) (Board of Appeals – Education);
- 17 [(11)] ~~(12)~~ **(13)** § 5.03(d) (Easements for burial sites);
- 18 [(12)] ~~(13)~~ **(14)** § 7.02 (Civil penalty for zoning violation);
- 19 [(13)] ~~(14)~~ **(15)** § 10.01 (Adequate Public Facilities Ordinances);
- 20 [(14)] ~~(15)~~ **(16)** § 11.01 (Transfer of Development Rights);
- 21 [(15)] ~~(16)~~ **(17)** § 12.01 (Inclusionary Zoning);
- 22 [(16)] ~~(17)~~ **(18)** Except in Montgomery County or Prince George’s
 23 County, § 13.01 (Development rights and responsibilities agreements);
- 24 [(17)] ~~(18)~~ **(19)** For Baltimore County only, § 14.02; and
- 25 [(18)] ~~(19)~~ **(20)** For Howard County only, § 14.06.1.

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

3 ~~1.04.~~

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

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

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

11 ~~1. ENCOURAGES:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ~~DEPARTMENT OF PLANNING AT THE TIME OF THE ADOPTION OF THE PLAN OR~~
2 ~~AMENDMENT.~~

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

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

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

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

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

21 **1.05.**

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

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

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

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

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

4 (1) TECHNICAL ASSISTANCE, REVIEW, AND COMMENT; AND

5 (2) THE OPPORTUNITY FOR PUBLIC REVIEW.

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

10 (1) A MAP OF THE AREA SHOWING PLANNING AND ZONING
 11 CHARACTERISTICS OF EACH TIER; AND

12 (2) EXISTING AND PLANNED WATER AND SEWER SERVICES.

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

16 (1) ~~GROWTH TIERS CERTIFIED BY LOCAL JURISDICTIONS; AND~~

17 (2) ~~ANY COMMENTS BY THE DEPARTMENT OF PLANNING ON THE~~
 18 CERTIFIED TIERS MAY COMMENT ON THE GROWTH TIERS ADOPTED BY THE
 19 LOCAL JURISDICTIONS.

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

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

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

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

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

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

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

15 **(I) BE CHANGED; OR**

16 **(II) THAT THE ADOPTED TIERS REMAIN UNCHANGED.**

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

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

23 **(1) TIER I AREAS ARE AREAS THAT ARE:**

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

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

28 **(2) TIER II AREAS ARE AREAS THAT ARE:**

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

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

32 **AND**

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

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

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

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

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

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

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

17 ~~3.~~ 2. RURAL VILLAGES AS DESCRIBED IN § 5-7B-03(F)
 18 OF THE STATE FINANCE AND PROCUREMENT ARTICLE; OR

19 ~~4.~~ 3. MAPPED LOCALLY DESIGNATED GROWTH AREAS;
 20 OR

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

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

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

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

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

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

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

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

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

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

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

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

24 **(H) (1) A LOCAL JURISDICTION THAT ~~CERTIFIES~~ ADOPTS GROWTH**
 25 **~~TIERS TO THE DEPARTMENT OF PLANNING~~ SHALL INCORPORATE THE TIERS**
 26 **INTO THE LOCAL COMPREHENSIVE PLAN OR AN ELEMENT OF THE PLAN;**

27 **(I) WHEN THE LOCAL JURISDICTION CONDUCTS THE**
 28 **6-YEAR REVIEW OF THE PLAN UNDER §§ 1.04(D) AND 3.05(B) OF THIS ARTICLE;**
 29 **AND**

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

32 **(2) IF A LOCAL JURISDICTION DOES NOT INCORPORATE ALL OF**
 33 **THE GROWTH TIERS AUTHORIZED UNDER THIS SECTION INTO THE LOCAL**

1 COMPREHENSIVE PLAN OR AN ELEMENT OF THE PLAN, THE LOCAL
 2 JURISDICTION SHALL STATE THAT A TIER IS NOT ADOPTED.

3 1.06.

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

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

8 (3) "MAJOR SUBDIVISION" ~~MEANS THE SUBDIVISION OF LAND~~
 9 ~~INTO NEW LOTS, PLATS, BUILDING SITES, OR OTHER DIVISIONS OF LAND~~
 10 ~~DEFINED IN LOCAL LAW AS A MAJOR SUBDIVISION IN EFFECT BEFORE JANUARY~~
 11 ~~1, 2012~~ HAS THE MEANING STATED IN § 9-206 OF THE ENVIRONMENT ARTICLE.

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

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

16 (6) (I) "PLANNING BOARD" MEANS A PLANNING BOARD
 17 ESTABLISHED UNDER THIS ARTICLE.

18 (II) "PLANNING BOARD" INCLUDES A PLANNING
 19 COMMISSION OR BOARD ESTABLISHED UNDER ARTICLE 25A OR ARTICLE 28 OF
 20 THE CODE.

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

23 (1) ON-SITE SEWAGE DISPOSAL SYSTEMS;

24 (2) A SHARED FACILITY; OR

25 (3) A COMMUNITY SEWERAGE SYSTEM.

26 (C) IF A LOCAL JURISDICTION ESTABLISHES ~~TIER~~ TIER ~~FOR THE GROWTH IN~~
 27 ~~THE LAND DEVELOPMENT ELEMENT OF THE PLAN~~ TIER UNDER ~~§ 1.04~~ § 1.05 OF
 28 ~~THIS SUBHEADING OR § 3.05 OF THIS~~ ARTICLE, A RESIDENTIAL MAJOR
 29 SUBDIVISION IN A TIER III AREA MAY NOT BE APPROVED UNLESS THE
 30 PLANNING BOARD HAS REVIEWED AND RECOMMENDED THE APPROVAL OF THE
 31 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.~~

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

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

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

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

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

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

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

24 ~~3.05.~~

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

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

29 ~~(ii) A land use plan element, which:~~

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

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

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

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

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

16 ~~4. MAY INCLUDE MAPPED AREAS DESIGNATED FOR~~
 17 ~~TIER II GROWTH IF THE TIER II AREAS ARE:~~

18 ~~A. PLANNED TO BE SERVED BY COMMUNITY,~~
 19 ~~SHARED, AND MULTIUSE SEWERAGE SYSTEMS;~~

20 ~~B. NEEDED TO SATISFY DEMAND FOR DEVELOPMENT~~
 21 ~~AT DENSITIES CONSISTENT WITH THE LONG TERM DEVELOPMENT POLICY~~
 22 ~~AFTER CONSIDERATION OF THE CAPACITY OF LAND AREAS AVAILABLE FOR~~
 23 ~~DEVELOPMENT, INCLUDING IN FILL AND REDEVELOPMENT, WITHIN THE LOCAL~~
 24 ~~JURISDICTION; AND~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 Article - Environment

11 9-206.

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

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

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

22 ~~(b) (2)~~ **(G) (1)** Except as provided in subsection ~~(c)(2)~~ **(H)(2)** of this
 23 section, the Department, or the Department’s designee, may ~~only~~ approve a residential
 24 subdivision plat ONLY if:

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

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

31 2. In consultation with the Department of Planning IN
 32 ACCORDANCE WITH SUBSECTIONS (I) AND (J) OF THIS SECTION, the Department

1 has determined that the ~~Tier III or Tier IV area is~~ GROWTH TIERS ARE consistent
 2 with: [Article 66B, § 1.05 of the Code] TITLE 1, SUBTITLE 5 OF THE LAND USE
 3 ARTICLE

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

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

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

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

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

21 Article – Land Use

22 1-401.

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

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

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

28 (2) § [1-101(o)] **1-101(L), (M), AND (O), ~~AND (R)~~** (Definitions –
 29 **“PLAN”, “PRIORITY FUNDING AREA”, AND “Sensitive area”, ~~AND~~**
 30 **“SUBDIVISION”**);

31 (3) § 1-201 (Visions);

32 (4) § 1-206 (Required education);

- 1 (5) § 1–207 (Annual report – In general);
- 2 (6) § 1–208 (Annual report – Measures and indicators);
- 3 (7) Title 1, Subtitle 3 (Consistency);
- 4 **(8) TITLE 1, SUBTITLE 5 (GROWTH TIERS);**
- 5 ~~(8)~~ **(9)** § 4–104(b) (Limitations – Bicycle parking);
- 6 ~~(9)~~ **(10)** § 4–208 (Exceptions – Maryland Accessibility Code);
- 7 ~~(10)~~ **(11)** § 5–102(d) (Subdivision regulations – Burial sites);
- 8 ~~(11)~~ **(12)** **§ 5–104 (MAJOR SUBDIVISION – REVIEW);**
- 9 [(11)] ~~(12)~~ **(13)** Title 7, Subtitle 1 (Development Mechanisms);
- 10 [(12)] ~~(13)~~ **(14)** Title 7, Subtitle 2 (Transfer of Development Rights);
- 11 [(13)] ~~(14)~~ **(15)** Except in Montgomery County or Prince George’s
12 County, Title 7, Subtitle 3 (Development Rights and Responsibilities Agreements);
- 13 [(14)] ~~(15)~~ **(16)** Title 7, Subtitle 4 (Inclusionary Zoning);
- 14 [(15)] ~~(16)~~ **(17)** § 8–401 (Conversion of overhead facilities);
- 15 [(16)] ~~(17)~~ **(18)** For Baltimore County only, Title 9, Subtitle 3
16 (Single–County Provisions – Baltimore County);
- 17 [(17)] ~~(18)~~ **(19)** For Howard County only, Title 9, Subtitle 13
18 (Single–County Provisions – Howard County); and
- 19 [(18)] ~~(19)~~ **(20)** Title 11, Subtitle 2 (Civil Penalty).

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

22 ~~1–405.~~

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

25 ~~1–407.~~

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

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

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

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

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

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

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

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

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

17 ~~(II) 1. SERVED BY COMMUNITY, SHARED, OR MULTIUSE~~
18 ~~SEWERAGE SYSTEMS; OR~~

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

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

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

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

29 ~~(III) 1. PRIORITY FUNDING AREAS THAT HAVE BEEN~~
30 ~~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~~

~~(H) 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~~

~~(H) 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~~

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

3 ~~(c) THE DEVELOPMENT REGULATIONS ELEMENT MAY INCLUDE~~
4 ~~MAPPED AREAS DESIGNATED FOR:~~

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

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

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

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

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

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

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

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

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

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

24 ~~(i) NOT PLANNED FOR SEWERAGE SERVICE; AND~~

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

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

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

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

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

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

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

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

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

14 ~~4. AT THE TIME OF THE ADOPTION OF THE PLAN OR~~
 15 ~~AMENDMENT;~~

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

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

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

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

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

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

6 ~~(H) ANY COMMENTS BY THE DEPARTMENT OF PLANNING~~
7 ~~ON THE AREAS IDENTIFIED.~~

8 SUBTITLE 5. GROWTH TIERS.

9 1-501.

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

12 (B) "PLANNING BOARD" MEANS A PLANNING BOARD ESTABLISHED
13 UNDER THIS ARTICLE.

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

16 1-502.

17 ON OR BEFORE DECEMBER 31, 2012, A LOCAL JURISDICTION MAY
18 ~~CERTIFY TO THE DEPARTMENT OF PLANNING~~ ADOPT THE MAPPED GROWTH
19 ~~TIERS DESIGNATED BY THE LOCAL JURISDICTION~~ IN ACCORDANCE WITH THIS
20 SUBTITLE.

21 ~~1-502.~~ 1-503.

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

25 (1) TECHNICAL ASSISTANCE, REVIEW, AND COMMENT; AND

26 (2) THE OPPORTUNITY FOR PUBLIC REVIEW.

27 ~~1-503.~~ 1-504.

28 ~~ON CERTIFICATION~~ AFTER ADOPTION OF THE GROWTH TIERS, THE LOCAL
29 JURISDICTION SHALL PROVIDE TO THE DEPARTMENT OF PLANNING ALL

1 INFORMATION NECESSARY TO DEMONSTRATE THE PRECISE LOCATION OF THE
2 TIERS, INCLUDING, AS APPROPRIATE:

3 (1) A MAP OF THE AREA SHOWING PLANNING AND ZONING
4 CHARACTERISTICS OF EACH TIER; AND

5 (2) EXISTING AND PLANNED WATER AND SEWER SERVICES.

6 ~~1-504.~~ 1-505.

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

10 ~~(1) GROWTH TIERS CERTIFIED BY LOCAL JURISDICTIONS; AND~~

11 ~~(2) ANY COMMENTS BY THE DEPARTMENT OF PLANNING ON THE~~
12 ~~CERTIFIED TIERS~~ MAY COMMENT ON THE GROWTH TIERS ADOPTED BY THE
13 LOCAL JURISDICTIONS.

14 ~~1-505.~~ 1-506.

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

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

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

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

27 1-507.

28 (A) IF THE DEPARTMENT OF PLANNING COMMENTS UNDER § 5-105 OF
29 THIS SUBTITLE ON ANY OF THE TIERS OR ON AN AREA WITHIN ONE OF THE
30 TIERS, THE LOCAL LEGISLATIVE BODY OR THE PLANNING BOARD SHALL HOLD

1 AT LEAST ONE PUBLIC HEARING ON THE COMMENTS BY THE DEPARTMENT OF
 2 PLANNING.

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

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

11 (1) BE CHANGED; OR

12 (2) THAT THE ADOPTED TIERS REMAIN UNCHANGED.

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

17 ~~1-506.~~ 1-508.

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

20 (1) TIER I AREAS ARE AREAS THAT ARE:

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

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

25 (2) TIER II AREAS ARE AREAS THAT ARE:

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

28 2. MAPPED LOCALLY DESIGNATED GROWTH AREAS;

29 AND

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

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

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

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

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

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

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

17 ~~3.~~ 2. RURAL VILLAGES AS DESCRIBED IN § 5-7B-03(F)
 18 OF THE STATE FINANCE AND PROCUREMENT ARTICLE; OR

19 ~~4.~~ 3. MAPPED LOCALLY DESIGNATED GROWTH AREAS;
 20 OR

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

23 ~~(III)~~ ADJOINING AND CONTIGUOUS TO ONE OF THE
 24 FOLLOWING:

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

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

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

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

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

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

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

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

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

23 **~~1-507. 1-509.~~**

24 **(A) A LOCAL JURISDICTION THAT ~~CERTIFIES~~ ADOPTS GROWTH TIERS**
25 **~~TO THE DEPARTMENT OF PLANNING~~ SHALL INCORPORATE THE TIERS INTO THE**
26 **DEVELOPMENT REGULATIONS ELEMENT OF THE COMPREHENSIVE PLAN;**

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

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

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

1 **5-104.**

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

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

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

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

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

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

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

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

21 (1) ON-SITE SEWAGE DISPOSAL SYSTEMS;

22 (2) A SHARED FACILITY; OR

23 (3) A COMMUNITY SEWERAGE SYSTEM.

24 (C) IF A LOCAL JURISDICTION ESTABLISHES ~~TIER~~ TIER ~~FOR THE~~ THE GROWTH ~~IN~~
25 ~~THE DEVELOPMENT REGULATIONS ELEMENT OF THE PLAN TIERS UNDER §~~
26 ~~1-407 OR § TITLE 1, SUBTITLE 5 3-103~~ OF THIS ARTICLE, A RESIDENTIAL
27 MAJOR SUBDIVISION IN A TIER III AREA MAY NOT BE APPROVED UNLESS THE
28 PLANNING BOARD HAS REVIEWED AND RECOMMENDED THE APPROVAL OF THE
29 MAJOR SUBDIVISION IN A THE TIER III AREA ~~SERVED BY:~~

30 (1) ~~ON-SITE SEWAGE DISPOSAL SYSTEMS;~~

1 ~~(2)~~ ~~A COMMUNITY SEWERAGE SYSTEM; OR~~

2 ~~(3)~~ ~~A SHARED FACILITY.~~

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

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

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

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

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

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

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

23 [5-104.] **5-105.**

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

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

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

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

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

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

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

13 SECTION ~~6~~ 5. AND BE IT FURTHER ENACTED, That, if requested by a local
14 jurisdiction to verify the actual overall yield for zoning in a Tier IV area under §
15 9-206(h) of the Environment Article, the Department of Planning shall:

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

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

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

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

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

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

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

34 SECTION ~~8~~ 7. AND BE IT FURTHER ENACTED, That the provisions of this
35 Act may not be construed to limit the authority granted to the Critical Area

1 Commission under Chapter 119 of the Acts of 2008 to adopt regulations under § 8–
 2 1806(b) of the Natural Resources Article.

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

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.