

Article 66B – Land Use

§1.00.

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

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

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

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

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

(2) “Local executive” includes:

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

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

(2) “Local legislative body” includes:

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

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

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

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

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

(j) “Sensitive areas” includes:

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

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

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

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

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

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

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

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§1.01.

In addition to the requirements of § 3.05(c) of this article, a commission shall implement the following visions through the plan described in § 3.05 of this article:

(1) Quality of life and sustainability: a high quality of life is achieved through universal stewardship of the land, water, and air resulting in sustainable communities and protection of the environment;

(2) Public participation: citizens are active partners in the planning and implementation of community initiatives and are sensitive to their responsibilities in achieving community goals;

(3) Growth areas: growth is concentrated in existing population and business centers, growth areas adjacent to these centers, or strategically selected new centers;

(4) Community design: compact, mixed-use, walkable design consistent with existing community character and located near available or planned transit options is encouraged to ensure efficient use of land and transportation resources and preservation and enhancement of natural systems, open spaces, recreational areas, and historical, cultural, and archeological resources;

(5) Infrastructure: growth areas have the water resources and infrastructure to accommodate population and business expansion in an orderly, efficient, and environmentally sustainable manner;

(6) Transportation: a well-maintained, multimodal transportation system facilitates the safe, convenient, affordable, and efficient movement of people, goods, and services within and between population and business centers;

(7) Housing: a range of housing densities, types, and sizes provides residential options for citizens of all ages and incomes;

(8) Economic development: economic development and natural resource-based businesses that promote employment opportunities for all income levels within the capacity of the State's natural resources, public services, and public facilities are encouraged;

(9) Environmental protection: land and water resources, including the Chesapeake and coastal bays, are carefully managed to restore and maintain healthy air and water, natural systems, and living resources;

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(10) Resource conservation: waterways, forests, agricultural areas, open space, natural systems, and scenic areas are conserved;

(11) Stewardship: government, business entities, and residents are responsible for the creation of sustainable communities by collaborating to balance efficient growth with resource protection; and

(12) Implementation: strategies, policies, programs, and funding for growth and development, resource conservation, infrastructure, and transportation are integrated across the local, regional, State, and interstate levels to achieve these visions.

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§1.02.

(a) In this section, “action” means:

(1) The adoption of an ordinance or regulation under:

(i) § 1.00(k) of this article;

(ii) § 1.04(f) of this article; or

(iii) § 4.09 of this article;

(2) A requirement under § 9–505(a)(1) of the Environment Article and § 19(o)(3)(iii) of Article 23A of the Code; and

(3) A required finding under §§ 9–506(a)(1) and 9–507(b)(2) of the Environment Article.

(b) This section applies to the following:

(1) §§ 1.00(k), 1.04(f), and 4.09 of this article;

(2) §§ 9–505(a)(1), 9–506(a)(1), and 9–507(b)(2) of the Environment Article (Water and sewer plan review); and

(3) § 19(o)(3)(iii) of Article 23A of the Code (Annexation plan).

(c) Except as provided in subsection (d) of this section, when a provision in a statute listed under subsection (b) of this section requires that an action be “consistent with” or have “consistency with” a comprehensive plan, the term shall be defined to mean an action taken that will further, and not be contrary to, the following items in the plan:

(1) Policies;

(2) Timing of the implementation of the plan;

(3) Timing of development;

(4) Timing of rezoning;

(5) Development patterns;

(6) Land uses; and

(7) Densities or intensities.

(d) (1) In this subsection, “priority funding area” has the meaning stated in § 5–7B–02 of the State Finance and Procurement Article.

(2) This subsection applies to an action under subsection (a)(1)(ii) and (iii) of this section.

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(3) Within a priority funding area, when the provisions in subsection (a)(1)(ii) and (iii) of this section require that an action be “consistent with” or have “consistency with” a comprehensive plan, the term shall be defined to mean an action taken that will further, and not be contrary to, the following items in the plan:

- (i) Policies;
- (ii) Timing of the implementation of the plan;
- (iii) Timing of development;
- (iv) Timing of rezoning; and
- (v) Development patterns.

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§1.03.

- (a) Except as provided in this section, this article does not apply to charter counties.
- (b) The following sections of this article apply to a charter county:
 - (1) § 1.00(j) (Definition of “sensitive areas”);
 - (2) § 1.01 (Visions);
 - (3) § 1.02 (Consistency with plans);
 - (4) § 1.03 (Charter county – Comprehensive plans);
 - (5) § 3.02(h) (Planning Commission – Education);
 - (6) § 3.09 (Annual report – Preparation and filing);
 - (7) § 3.10 (Annual report – Smart Growth goals, measures, and indicators);
 - (8) § 4.01(b)(2) (Regulation of bicycle parking);
 - (9) § 4.07(i) (Board of Appeals – Education);
 - (10) § 5.03(d) (Easements for burial sites);
 - (11) § 7.02 (Civil penalty for zoning violation);
 - (12) § 10.01 (Adequate Public Facilities Ordinances);
 - (13) § 11.01 (Transfer of Development Rights);
 - (14) § 12.01 (Inclusionary Zoning);
 - (15) Except in Montgomery County or Prince George’s County, § 13.01 (Development rights and responsibilities agreements);
 - (16) For Baltimore County only, § 14.02; and
 - (17) For Howard County only, § 14.06.1.
- (c) This section supersedes any inconsistent provision of Article 28 of the Code.

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§1.04.

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

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

(i) A transportation plan element which shall:

1. Propose the most appropriate and desirable patterns for the general location, character, and extent of the channels, routes, and terminals for transportation facilities, and for the circulation of persons and goods on a schedule that extends as far into the future as is reasonable;

2. Provide for bicycle and pedestrian access and travelways;
and

3. Include an estimate of the probable utilization of any proposed improvement;

(ii) If current geological information is available, a mineral resources plan element that:

1. Identifies undeveloped land that should be kept in its undeveloped state until the land can be used to provide or assist in providing a continuous supply of minerals, as defined in § 15–801(i) of the Environment Article;

2. Identifies appropriate postexcavation uses for the land that are consistent with the county’s land planning process;

3. Incorporates land use policies and recommendations for regulations:

A. To balance mineral resource extraction with other land uses;
and

B. To the extent feasible, to prevent the preemption of mineral resources extraction by other uses; and

4. Has been reviewed by the Department of the Environment to determine whether the proposed comprehensive plan is consistent with the programs and goals of the Department;

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(iii) A water resources plan element that:

1. Identifies drinking water and other water resources that will be adequate for the needs of existing and future development proposed in the land use element of the plan, considering available data provided by the Department of the Environment;

2. Identifies suitable receiving waters and land areas to meet storm water management and wastewater treatment and disposal needs of existing and future development proposed in the land use element of the plan, considering available data provided by the Department of the Environment; and

3. Has been reviewed by the Department of the Environment to determine whether the proposed plan is consistent with the programs and goals of the Department reflected in the general water resources program required under § 5–203 of the Environment Article;

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

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

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

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

(v) A sensitive areas element that:

1. Contains goals, objectives, principles, policies, and standards designed to protect sensitive areas from the adverse effects of development; and

2. Has been reviewed by the Department of the Environment and Department of Natural Resources to determine whether the proposed plan is consistent with the programs and goals of the departments.

(2) The channels, routes, travelways, and terminals required under paragraph (1)(i) of this subsection may include all types of highways or streets, bicycle ways, sidewalks,

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railways, waterways, airways, routings for mass transit, and terminals for people, goods, and vehicles related to highways, airways, waterways, and railways.

(3) The mineral resources plan element required under paragraph (1)(ii) of this subsection shall be incorporated in:

(i) Any new comprehensive plan adopted after July 1, 1986 for all or any part of a jurisdiction; and

(ii) Any amendment or addition that is adopted after July 1, 1986 to a comprehensive plan that was in effect on July 1, 1985.

(4) The Department of the Environment shall provide, on request, technical assistance to a local government on the development of the water resources element of the comprehensive plan.

(c) When developing a comprehensive plan for a charter county, a planning commission may include a priority preservation area element that is developed in accordance with § 2-518 of the Agriculture Article.

(d) (1) A planning commission shall include in its comprehensive plan:

(i) All elements required in subsection (b) of this section and the visions set forth in § 1.01 of this article; and

(ii) If chosen under subsection (c) of this section, its priority preservation area element.

(2) At least once every 6 years, the planning commission shall review and, if necessary, revise or amend a comprehensive plan to include:

(i) All elements required in subsection (b) of this section and the visions set forth in § 1.01 of this article; and

(ii) If chosen under subsection (c) of this section, its priority preservation area element.

(3) If the comprehensive plan for each geographic section or division is reviewed and, if necessary, revised or amended at least once every 6 years, the planning commission may prepare comprehensive plans for one or more major geographic sections or divisions of the local jurisdiction.

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(e) (1) A planning commission shall implement the visions set forth in § 1.01 of this article through the comprehensive plan elements required under subsection (b) of this section.

(2) A local legislative body that has adopted a comprehensive plan may adopt regulations implementing the visions stated in § 1.01 of this article in a comprehensive plan.

(f) On or before July 1, 1997, and subsequently at intervals of not more than 6 years which correspond to the comprehensive plan revision under subsection (d) of this section, a charter county shall ensure that the implementation of the provisions of the comprehensive plan that comply with § 1.01 of this article and subsection (b)(1)(iii) and (iv) of this section are achieved through the adoption of:

(1) Applicable zoning ordinances and regulations;

(2) Planned development ordinances and regulations;

(3) Subdivision ordinances and regulations; and

(4) Other land use ordinances and regulations that are consistent with the comprehensive plan.

(g) (1) Subject to paragraph (2) of this subsection, a charter county must include any plan element required under this section in its comprehensive plan on or before October 1, 2009.

(2) On a request by a charter county that shows good cause for extending the time limit to comply with paragraph (1) of this subsection, the Department of Planning may grant up to two 6-month extensions to that charter county.

(3) A charter county that is not in compliance with paragraph (1) of this subsection after October 1, 2009, or after the expiration of any extensions granted under paragraph (2) of this subsection, may not change the zoning classification of a property until that charter county complies with the requirements of this subsection.

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§2.01.

(a) (1) It is the policy of this State that:

(i) The orderly development and use of land and structures requires comprehensive regulation through the implementation of planning and zoning controls; and

(ii) Planning and zoning controls shall be implemented by local government.

(2) To achieve the public purposes of this regulatory scheme, the General Assembly recognizes that local government action will limit free business enterprise and competition by owners and users of property through the planning and zoning controls set forth in this article and elsewhere in the public local and public general laws.

(b) To promote the health, security, general welfare, and morals of the community, the Mayor and City Council of Baltimore may regulate and restrict, for trade, industry, residence, or other purposes:

(1) The height, number of stories, and size of buildings and other structures;

(2) The percentage of a lot that may be occupied;

(3) Off-street parking;

(4) The size of yards, courts, and other open spaces;

(5) The density of population; and

(6) The location and use of buildings, signs, structures, and land.

(c) The powers granted to the Mayor and City Council of Baltimore under this subtitle do not:

(1) Grant to the Mayor and City Council of Baltimore powers in any substantive area not otherwise granted to the Mayor and City Council of Baltimore by any other public general or public local law;

(2) Restrict the Mayor and City Council of Baltimore from exercising any power granted to the Mayor and City Council of Baltimore by any other public general or public local law, or otherwise;

(3) Authorize the Mayor and City Council of Baltimore or the officers of the City to engage in any activity that is beyond their power under any other public general law, public local law, or otherwise; or

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(4) Preempt or supersede the regulatory authority of any State department or agency under any public general law.

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§2.02.

(a) The Mayor and the City Council of Baltimore may:

(1) Divide the City into districts of a number, shape, and area as they determine are best suited to execute the purposes listed in § 2.03 of this subtitle; and

(2) Within those districts, regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land.

(b) (1) All regulations adopted by the Mayor and City Council of Baltimore under this subtitle shall be uniform for each class or kind of development throughout each district.

(2) The regulations in one district may differ from those in other districts.

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§2.03.

(a) The regulations adopted by the Mayor and City Council of Baltimore under this subtitle shall be written in accordance with the plan.

(b) The regulations adopted by the Mayor and City Council of Baltimore shall be designed to:

- (1) Control congestion in the streets;
- (2) Secure the public safety;
- (3) Promote health and the general welfare;
- (4) Provide adequate light and air;
- (5) Promote the conservation of natural resources;
- (6) Prevent environmental pollution;
- (7) Avoid an undue concentration of population; and
- (8) Facilitate the adequate provision of transportation, water, sewerage, schools,

recreation, parks, and other public requirements.

(c) The regulations adopted by the Mayor and City Council of Baltimore shall include a reasonable consideration of:

- (1) The character of the district and its suitability for particular uses;
- (2) The conservation of the value of buildings; and
- (3) Encouragement for orderly development and the most appropriate use of

land throughout the City of Baltimore.

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§2.04.

(a) The Mayor and City Council of Baltimore shall provide for the manner in which regulations, restrictions, and the boundaries of districts shall be determined, established, enforced, and periodically amended.

(b) (1) A regulation, restriction, or boundary may not become effective until after at least one public hearing is held at which parties in interest and citizens have an opportunity to be heard.

(2) (i) At least 15 days before a public hearing is held under this section, the Mayor and City Council of Baltimore shall publish notice of the time and place of the hearing in an official paper or a paper of general circulation in Baltimore City.

(ii) If the hearing will be on a proposed change in the boundaries of a zoning district, the Mayor and City Council of Baltimore shall:

1. Post a similar notice at a place or at places designated by the respective zoning authorities within the zone proposed to be changed; and

2. Mail notice of the proposed change by first class United States mail to any person whose name last appeared in the tax records of Baltimore City as the owner of the property proposed to be changed.

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§2.05.

(a) (1) The Mayor and City Council of Baltimore may periodically amend or repeal regulations, restrictions, and boundaries.

(2) (i) If the purpose and effect of a proposed amendment is to change the zoning classification of particular property, the City Council shall make findings of fact.

(ii) The findings of fact shall include:

1. Population changes;
2. The availability of public facilities;
3. Present and future transportation patterns;
4. Compatibility with existing and proposed development for the area;
5. The recommendations of the Planning Commission and the Board of Municipal and Zoning Appeals; and
6. The relation of the proposed amendment to the City's plan.

(3) The City Council may grant the amendment based on a finding that there was:

(i) A substantial change in the character of the neighborhood where the property is located; or

(ii) A mistake in the existing zoning classification.

(b) (1) The Mayor and City Council of Baltimore shall refer proposed changes to a district's boundaries to the Baltimore City Planning Commission and to the Board of Municipal and Zoning Appeals.

(2) The Planning Commission and the Board of Municipal and Zoning Appeals shall:

(i) Study the proposed changes in relation to:

1. The plan;
2. The needs of Baltimore City; and
3. The needs of the particular neighborhood in the vicinity of the proposed changes; and

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(ii) Report to the Mayor and City Council their findings and recommendations.

(3) If the Planning Commission and the Board of Municipal and Zoning Appeals recommend disapproval of the proposed changes to a district's boundaries, a majority of the members of the City Council shall vote to approve the changes before the changes can take effect.

(c) Within the 12 months following a denial on the merits of an application for a reclassification of a tract or parcel of land, the City Council may not accept a new application for a reclassification of the same tract or parcel of land.

(d) The provisions of § 2.04 of this subtitle relative to public hearings and official notice shall apply equally to all changes or amendments of regulations, restrictions, and boundaries.

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§2.06.

(a) (1) The City Council may:

(i) Periodically appoint full- and part-time hearing examiners as the City Council considers necessary and appropriate; and

(ii) Delegate to any hearing examiner the power to conduct public hearings as required under § 2.05 of this subtitle.

(2) A hearing examiner shall conduct a hearing in the same manner and subject to the same rules and regulations as a hearing conducted by the City Council.

(b) The City Council shall establish terms of office, qualifications, and compensation for hearing examiners.

(c) (1) The City Council shall establish the time frame, manner, and form for a recommendation by a hearing examiner.

(2) A recommendation by a hearing examiner shall be in writing.

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§2.08.

(a) (1) With the advice and consent of the City Council, the Mayor may provide for the appointment of a Board of Municipal and Zoning Appeals.

(2) (i) The Board of Municipal and Zoning Appeals shall consist of five members.

(ii) 1. A member of the Board of Municipal and Zoning Appeals shall be appointed for a 4-year term.

2. The terms of the members of the Board of Municipal and Zoning Appeals shall be staggered.

(iii) The Mayor, with the advice and consent of the City Council, shall appoint a person to fill the unexpired term of any member.

(iv) On written charges and after a public hearing, the Mayor may remove any member of the Board of Municipal and Zoning Appeals for cause.

(b) (1) The Board of Municipal and Zoning Appeals shall adopt rules in accordance with any ordinance adopted under this article.

(2) Meetings of the Board of Municipal and Zoning Appeals shall be held at the call of the chairman and at other times determined by the Board.

(3) (i) The chairman of the Board of Municipal and Zoning Appeals or, in the chairman's absence, the acting chairman may administer oaths and compel the attendance of witnesses.

(ii) All meetings of the Board of Municipal and Zoning Appeals shall be open to the public.

(iii) 1. The Board of Municipal and Zoning Appeals shall keep minutes of its proceedings.

2. The minutes shall include the vote of each member on each question, or the member's absence or failure to vote.

3. The Board of Municipal and Zoning Appeals shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board.

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4. The records of the Board of Municipal and Zoning Appeals shall be open to the public.

(c) (1) The Board of Municipal and Zoning Appeals may:

(i) Hear and decide appeals if it is alleged that there was an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this article or of any ordinance adopted under this article;

(ii) Hear and decide special exceptions to the terms of an ordinance on which the Board is required to act under the ordinance;

(iii) Authorize, on appeal in specific cases, a variance from the terms of an ordinance;

(iv) Approve buildings and uses limited as to location by any regulation adopted under an ordinance passed by the City Council; and

(v) Consider, when acting on a zoning application, the availability of schools and other public facilities in the area, including flood plain facilities, under regulations adopted under a city ordinance.

(2) If otherwise authorized by the general zoning ordinance of Baltimore City, this section does not prevent the Mayor and City Council of Baltimore from granting variances, special exceptions, or conditional uses by ordinance.

(d) (1) Appeals to the Board of Municipal and Zoning Appeals may be filed by:

(i) Any person aggrieved by a decision of the administrative officer; or

(ii) Any officer, department, board, or bureau of the City of Baltimore affected by any decision of the administrative officer.

(2) A person filing an appeal with the Board of Municipal and Zoning Appeals shall file the appeal within a reasonable time, as provided by the rules of the Board.

(3) (i) A person filing an appeal with the Board of Municipal and Zoning Appeals shall file with the administrative officer from whom the appeal is taken and with the Board a notice of appeal specifying the grounds for the appeal.

(ii) The administrative officer from whom the appeal is taken shall, on receiving the notice of appeal, transmit to the Board of Municipal and Zoning Appeals all papers constituting the record of the action appealed.

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(e) (1) Unless, after receiving the notice of the appeal, the administrative officer from whom an appeal is taken certifies facts to the Board of Municipal and Zoning Appeals that the administrative officer believes show that a stay would cause imminent peril to life or property, an appeal stays all proceedings in the action appealed.

(2) If the administrative officer provides facts showing that a stay would cause imminent peril to life or property, the proceedings may be stayed only by a restraining order granted by the Board of Municipal and Zoning Appeals or by a court of record.

(3) A restraining order may be issued only:

- (i) On application;
- (ii) For good cause shown; and
- (iii) After notice is given to the administrative officer from whom the appeal is taken.

(f) The Board of Municipal and Zoning Appeals shall:

- (1) Fix a reasonable time for the hearing of an appeal;
- (2) Give public notice and due notice to the parties in interest of the appeal; and
- (3) Decide the appeal within a reasonable time.

(g) Any party may appear at an appeal in person or by an agent or attorney.

(h) (1) In exercising its powers under this section, the Board of Municipal and Zoning Appeals may, in conformity with this article:

- (i) Reverse, in whole or part, the order, requirement, decision, or determination that is the subject of the appeal;
- (ii) Affirm, in whole or part, the order, requirement, decision, or determination that is the subject of the appeal; or
- (iii) Modify the order, requirement, decision, or determination that is the subject of the appeal.

(2) The Board of Municipal and Zoning Appeals shall have the powers of the administrative officer from whom the appeal is taken.

(i) (1) If five members of the Board of Municipal and Zoning Appeals are present, the concurring vote of at least four members is necessary to:

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(i) Reverse any order, requirement, decision, or determination of an administrative officer;

(ii) Decide in favor of the applicant on any matter on which it is required to act under an ordinance; or

(iii) Effect any variation in an ordinance.

(2) If only four members of the Board are present, the concurring vote of at least three members is necessary to take any action under this subsection.

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§2.09.

(a) (1) An appeal to the Circuit Court of Baltimore City may be filed jointly or severally by any person, taxpayer, or officer, department, board, or bureau of the City aggrieved by:

- (i) A decision of the Board of Municipal and Zoning Appeals; or
- (ii) A zoning action by the City Council.

(2) A person filing an appeal shall comply with Title 7, Chapter 200 of the Maryland Rules.

(3) This subsection does not change the existing standards for review of any zoning action.

(b) The court may hear the appeal on the record or, if the court believes that additional testimony is required for the proper disposition of the appeal, the court may allow either or both sides to present additional testimony.

(c) The court shall hear the appeal without a jury.

(d) (1) In reviewing a decision of the Board of Municipal and Zoning Appeals, the court may:

- (i) Reverse in whole or part;
- (ii) Affirm in whole or part;
- (iii) Modify; or
- (iv) Remand for further consideration.

(2) If an appeal is remanded for further consideration, any testimony taken in court shall be made available to the Board of Municipal and Zoning Appeals.

(3) The costs of preparing the testimony shall be made a part of the costs of the appeal.

(e) Any decision of the Circuit Court of Baltimore City may be appealed to the Court of Special Appeals.

(f) (1) In addition to the appeal provided in this section, the Mayor and City Council of Baltimore may allow an appeal to the Circuit Court for Baltimore City of any matter arising under the planning and zoning laws of the City of Baltimore.

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(2) A decision of the Circuit Court for Baltimore City under this subsection may be appealed to the Court of Special Appeals.

(3) This subsection does not restrict any charter power or other power of the Mayor and City Council of Baltimore.

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§2.10.

(a) (1) The Mayor and City Council of Baltimore may provide by ordinance for the enforcement of this article and of any ordinance enacted or regulation adopted under this article.

(2) (i) A violation of this article or of an ordinance enacted or regulation adopted under this article is a misdemeanor.

(ii) The Mayor and City Council of Baltimore may:

1. Require punishment by fine or imprisonment or both; and
2. Enact or adopt civil penalties for a violation.

(b) (1) The Mayor and City Council of Baltimore may provide by ordinance that a violation of this article or of an ordinance enacted or regulation adopted under this article is a civil zoning violation.

(2) A civil zoning violation shall be enforced as provided in § 7.02 of this article.

(c) In addition to any other available remedies, the proper local authorities of Baltimore City may institute any appropriate action or proceedings to:

(1) Prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use of a sign, a building, a structure, or land in violation of this article or of any ordinance enacted or regulation adopted under this article;

(2) Restrain, correct, or abate the violation;

(3) Prevent the occupancy of the building, structure, or land; or

(4) Prevent any illegal act, conduct, business, or use in or about the premises of the building, structure, or land.

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§2.11.

(a) If the regulations adopted under this article require a greater width or size of yards, courts, or other open spaces, a lower height of building or a reduced number of stories, or a greater percentage of lot left unoccupied, or impose other higher standards than are required under another statute or local ordinance or regulation, the regulations adopted under this article govern.

(b) If another statute or local ordinance or regulation requires a greater width or size of yards, courts, or other open spaces, a lower height of building or a reduced number of stories, or a greater percentage of lot left unoccupied, or imposes other higher standards than are required by the regulations adopted under this article, the statute or local ordinance or regulation governs.

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§2.12.

(a) To preserve structures and landmarks of historic and architectural value as a public purpose of the State, the Mayor and City Council of Baltimore City may enact laws for historic and landmark zoning and preservation.

(b) This section does not restrict any charter power or other power of Baltimore City.

Article 66B – Land Use

§2.13.

(a) Except as provided in subsection (b) of this section, §§ 3.01 through 8.15 of this article do not apply in Baltimore City.

(b) The following sections of this article apply to Baltimore City:

- (1) § 1.00(j) (Definition of “sensitive areas”);
- (2) § 1.01 (Visions);
- (3) § 1.02 (Consistency with plans);
- (4) § 1.03 (Charter county – Comprehensive plans);
- (5) § 3.02(h) (Planning Commission – Education);
- (6) § 3.09 (Annual report – Preparation and filing);
- (7) § 3.10 (Annual report – Smart Growth goals, measures, and indicators);
- (8) § 4.01(b)(2) (Regulation of bicycle parking);
- (9) § 4.07(i) (Board of Appeals – Education);
- (10) § 5.03(d) (Easements for burial sites);
- (11) § 7.02 (Civil penalty for zoning violation);
- (12) § 10.01 (Adequate Public Facilities Ordinances);
- (13) § 11.01 (Transfer of Development Rights);
- (14) § 12.01 (Inclusionary Zoning); and
- (15) § 13.01 (Development Rights and Responsibilities Agreements).

Article 66B – Land Use

3.01.

(a) A local jurisdiction shall enact, adopt, amend, and execute a plan as provided in this article and may create by ordinance a planning commission with the powers and duties set forth in this article.

(b) A municipal corporation may be included as part of a county plan under this article if:

(1) The legislative body of the municipal corporation, by a resolution directed to the legislative body of the county in which the municipal corporation is located, indicates the intention to participate in the county plan; and

(2) The legislative body of the county approves the resolution.

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§3.02.

(a) (1) Except as otherwise provided in this article, a planning commission created under this subtitle shall consist of three, five or seven members.

(2) One of the members may be a member of the local legislative body, serving in an ex officio capacity concurrent with the member's official term.

(b) (1) The members of a planning commission shall be appointed by the local legislative body or by the person designated as the appointing power in the ordinance creating the commission.

(2) Where there is a single local elected executive, the members of a planning commission shall be appointed by the local executive and confirmed by the local legislative body.

(c) Each member of a planning commission is entitled to the compensation that the local legislative body considers appropriate.

(d) (1) The term of each member is 5 years or until the member's successor takes office.

(2) The terms of the members of a planning commission shall be staggered.

(e) (1) After a public hearing, the local legislative body may remove the members of a planning commission for inefficiency, neglect of duty, or malfeasance in office.

(2) The local legislative body that removes a member of a planning commission shall file a written statement of reasons for the removal.

(f) Vacancies occurring other than through the expiration of a term shall be filled for the unexpired term by the local legislative body or by the person designated in the ordinance as the appointing power.

(g) In a municipal corporation, the local legislative body may designate one alternate member of the commission who may sit on the commission in the absence of any member of the commission. When the alternate is absent, the local legislative body may designate a temporary alternate to sit on the commission.

(h) (1) In this subsection, "planning commission" includes a planning commission or board established under Article 25A or Article 28 of the Code.

Article 66B – Land Use

(2) Within 6 months after appointment to a planning commission, a member shall complete an education course that includes education on:

- (i) The role of the comprehensive plan;
- (ii) If applicable, proper standards for special exceptions and variances;

and

(iii) The jurisdiction's zoning ordinances and regulations, planned development ordinances and regulations, subdivision ordinances and regulations, and other land use ordinances and regulations.

(3) The failure of a member to complete an education course may not:

- (i) Invalidate a decision of the commission; or
- (ii) Be construed to create a private cause of action by any person.

Article 66B – Land Use

§3.03.

(a) (1) A planning commission shall elect a chairman from one of the appointed members of the planning commission and create and fill its other offices as it determines appropriate.

(2) (i) The term of a chairman shall be 1 year.

(ii) A planning commission chairman may be reelected.

(b) A planning commission shall hold at least one regular meeting each month.

(c) (1) A planning commission shall adopt rules for transacting business and shall keep records of its resolutions, transactions, findings, and determinations.

(2) The records of the resolutions, transactions, findings, and determinations of a planning commission shall be open to the public.

Article 66B – Land Use

§3.04.

(a) (1) A planning commission may accept and use gifts and public or private grants for the exercise of its functions.

(2) On a planning commission's request, all public officials shall furnish to the commission within a reasonable time available information that the commission may require for its program.

(3) In the performance of their functions, a planning commission, its members, its officers, and its employees may enter on any land and make examinations and surveys.

(4) A planning commission shall have the powers necessary to enable it to fulfill its functions, promote planning, and execute the purposes of this article.

(b) (1) A planning commission may appoint the employees necessary for its work, and may contract with planners, engineers, architects, and other consultants for services that the commission requires.

(2) (i) The expenditures of a planning commission, exclusive of gifts, shall be under the conditions and within the amounts appropriated for the purpose by the local legislative body.

(ii) The local legislative body shall provide the funds, equipment, and accommodations necessary for the planning commission's work.

Article 66B – Land Use

§3.05.

(a) (1) A planning commission shall make and approve a plan which the commission shall recommend to the local legislative body for adoption.

(2) The plan shall:

(i) Serve as a guide to public and private actions and decisions to insure the development of public and private property in appropriate relationships; and

(ii) Include any areas outside of the boundaries of the plan which, in the planning commission's judgment, bear relation to the planning responsibilities of the commission.

(3) (i) The elements of the plan may be expressed in words, graphics, or any other appropriate form.

(ii) 1. The elements of the plan shall be interrelated.

2. Each element shall describe how it relates to each of the other elements and to the statement of objectives, principles, policies, and standards.

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

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

(ii) A land use plan element, which:

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

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

(iii) A transportation plan element which shall:

1. Propose the most appropriate and desirable patterns for the general location, character, and extent of the channels, routes, and terminals for transportation facilities, and for the circulation of persons and goods on a schedule that extends as far into the future as is reasonable;

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2. Provide for bicycle and pedestrian access and travelways;
and

3. Include an estimate of the probable utilization of any proposed improvement;

(iv) A community facilities plan element, which:

1. Shall propose the most appropriate and desirable patterns for the general location, character, and extent of public and semipublic buildings, land, and facilities on a schedule that extends as far into the future as is reasonable; and

2. May include parks and recreation areas, schools and other educational and cultural facilities, libraries, churches, hospitals, social welfare and medical facilities, institutions, fire stations, police stations, jails, or other public office or administrative facilities;

(v) If current geological information is available, a mineral resources plan element that:

1. Identifies undeveloped land that should be kept in its undeveloped state until the land can be used to provide or assist in providing a continuous supply of minerals, as defined in § 15–801(i) of the Environment Article;

2. Identifies appropriate post–excavation uses for the land that are consistent with the county’s land planning process;

3. Incorporates land use policies and recommendations for regulations:

A. To balance mineral resource extraction with other land uses;
and

B. To the extent feasible, to prevent the preemption of mineral resources extraction by other uses; and

4. Has been reviewed by the Department of the Environment to determine whether the proposed plan is consistent with the programs and goals of the Department;

(vi) A water resources plan element that:

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1. Identifies drinking water and other water resources that will be adequate for the needs of existing and future development proposed in the land use plan element required under this section, considering available data provided by the Department of the Environment;

2. Identifies suitable receiving waters and land areas to meet stormwater management and wastewater treatment and disposal needs of existing and future developments proposed in the land use plan element required under this section, considering available data provided by the Department of the Environment; and

3. Has been reviewed by the Department of the Environment to determine whether the proposed plan is consistent with the programs and goals of the Department reflected in the general water resources program required under § 5–203 of the Environment Article;

(vii) An element which shall contain the planning commission's recommendation for land development regulations to implement the plan and which encourages the following:

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

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

3. Economic development in areas designated for growth in the plan through the use of innovative techniques;

(viii) Recommendations for the determination, identification, and designation of areas within the county that are of critical State concern; and

(ix) A sensitive area element that:

1. Contains goals, objectives, principles, policies, and standards designed to protect sensitive areas from the adverse effects of development; and

2. Has been reviewed by the Department of the Environment and Department of Natural Resources to determine whether the proposed plan is consistent with the programs and goals of the departments; and

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(x) For a municipal corporation that exercises zoning authority, a municipal growth element, developed in accordance with subsection (e) of this section, which shall include consideration of:

1. Anticipated future municipal growth areas outside the existing corporate limits of the municipal corporation;
2. Past growth patterns of the municipal corporation;
3. The capacity of land areas available for development within the municipal corporation, including in-fill and redevelopment;
4. The land area needed to satisfy demand for development at densities consistent with the long-term development policy;
5. Public services and infrastructure needed to accommodate growth within the proposed municipal growth areas, including those necessary for:
 - A. Public schools, sufficient to accommodate student population consistent with State rated capacity standards established by the Interagency Committee on School Construction;
 - B. Libraries;
 - C. Public safety, including emergency medical response;
 - D. Water and sewerage facilities;
 - E. Stormwater management systems, sufficient to assure water quality both inside and outside the proposed municipal growth area; and
 - F. Recreation;
6. Anticipated financing mechanisms to support necessary public services and infrastructure;
7. Rural buffers and transition areas;
8. Any burden on services and infrastructure for which the municipal corporation would be responsible for development in areas proximate to and outside the proposed municipal growth area;
9. Protection of sensitive areas, as defined in Article 66B, § 1.00(j) of the Code, that could be impacted by development planned within the proposed municipal growth area;

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10. Population growth projections; and

11. The relationship of the long-term development policy to a vision of the municipal corporation's future character.

(5) (i) The transportation element may include all types of highways and streets, bicycle ways, sidewalks, railways, waterways, airways, routings for mass transit, and terminals for people, goods, and vehicles related to highways, airways, waterways, and railways.

(ii) The mineral resources plan element shall be incorporated in:

1. Any new plan adopted after July 1, 1986 for all or any part of a local jurisdiction; and

2. Any amendment or addition that is adopted after July 1, 1986 to a plan that was in effect on July 1, 1985.

(6) (i) The plan may include any additional elements which, in the judgment of the planning commission, will further advance the purposes of the plan.

(ii) The additional plan elements may include:

1. Community renewal elements;

2. Housing elements;

3. Flood control elements;

4. Pollution control elements;

5. Conservation elements;

6. Natural resources elements;

7. The general location and extent of public utilities; and

8. Priority preservation areas developed in accordance with § 2-518 of the Agriculture Article.

(7) (i) Each planning commission of a county that is located on the tidal waters of the State and that exercises authority under this article shall include in its plan the designation of areas on the tidal water or in close proximity to the tidal water for the following purposes:

1. Loading and unloading finfish and shellfish;

2. Processing finfish and shellfish; and

3. Docking and mooring commercial fishing boats and vessels.

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(ii) The designated areas under subparagraph (i) of this paragraph shall be geographically located to:

1. Facilitate the commercial harvesting of finfish and shellfish;
- and
2. Assure reasonable access to the waterways of the State by commercial watermen.

(8) The Department of the Environment shall provide, on request, technical assistance to a local government on the development of the water resources element of the comprehensive plan.

(b) (1) Each local jurisdiction shall adopt and include in its plan:

- (i) All of the elements required in subsection (a) of this section and all of the visions set forth in § 1.01 of this article; and
- (ii) If chosen under subsection (a)(6) of this section, a priority preservation area element.

(2) At least once every 6 years, each planning commission shall review and, if necessary, revise or amend the local plan to include:

- (i) All of the elements required in subsection (a) of this section and all of the visions set forth in § 1.01 of this article; and
- (ii) If chosen under subsection (a)(6) of this section, a priority preservation area element.

(3) If the plan for each geographic section or division is reviewed and, if necessary, revised or amended at least once every 6 years, the planning commission may prepare plans for one or more major geographic sections or divisions of the jurisdiction.

(c) (1) In preparing a plan, a planning commission shall carefully and comprehensively survey and study:

- (i) Present conditions;
- (ii) Projections of future growth of the local jurisdiction; and
- (iii) The relation of the local jurisdiction to neighboring jurisdictions.

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(2) The planning commission shall make the plan with the general purpose of guiding and accomplishing the coordinated, adjusted, and harmonious development of the local jurisdiction and its environs.

(3) A plan shall promote, in accordance with present and future needs:

(i) The health, safety, morals, order, convenience, prosperity, and the general welfare of the local jurisdiction; and

(ii) Efficiency and economy in the development process.

(4) A plan shall provide for:

(i) Transportation needs;

(ii) The promotion of public safety;

(iii) Light and air;

(iv) The conservation of natural resources;

(v) The prevention of environmental pollution;

(vi) The promotion of a healthful and convenient distribution of population;

(vii) The promotion of good civic design and arrangement;

(viii) The wise and efficient expenditure of public funds;

(ix) Adequate public utilities; and

(x) An adequate supply of other public requirements.

(d) (1) The commission shall have power to promote public interest in and understanding of the plan.

(2) The commission shall consult with public officials and agencies, public utility companies, civic, educational, professional, and other organizations, and citizens about protecting or executing the plan.

(e) (1) The Department of Planning shall provide, on request, technical assistance to a municipal corporation for the purposes of developing the municipal growth element of the comprehensive plan.

(2) When developing the municipal growth element of the comprehensive plan a municipal corporation shall consult with the county, or counties, in which the municipal corporation is located.

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(3) A municipal corporation and a county or counties in which the municipal corporation is located may enter into a joint planning agreement in order to coordinate implementation of a municipal growth element.

(4) A joint planning agreement shall consider the municipal growth element required under subsection (a)(4)(x) of this section.

(5) Prior to approval of a municipal growth element, a municipal corporation shall:

(i) Provide a copy of the municipal growth element to the county, or counties, in which the municipal corporation is located; and

(ii) For 30 days after providing a copy of the municipal growth element to the county or counties, in which the municipal corporation is located, the municipal corporation shall accept comments from the county or counties.

(6) (i) Within 30 days following the close of the comment period for the county or counties under paragraph (5) of this subsection, a county and a municipal corporation shall meet and confer regarding the municipal growth element.

(ii) On request of either party, the county and municipal corporation shall employ the mediation and conflict resolution office to facilitate the requirements under this paragraph.

(f) (1) Subject to paragraph (2) of this subsection, a county or a municipal corporation must include any plan element required under this section in its comprehensive plan on or before October 1, 2009.

(2) On a request by a county or municipal corporation that shows good cause for extending the time limit to comply with paragraph (1) of this subsection, the Department of Planning may grant up to two 6-month extensions to that county or municipal corporation.

(3) A county or municipal corporation that is not in compliance with paragraph (1) of this subsection after October 1, 2009, or after the expiration of any extensions granted under paragraph (2) of this subsection, may not change the zoning classification of a property until that county or municipal corporation complies with the requirements of this subsection.

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§3.06.

(a) (1) When a local jurisdiction first adopts the zoning powers conferred by this article, the planning commission shall recommend the boundaries of the various original districts and appropriate regulations to be enforced in those districts.

(2) The planning commission shall make a preliminary report and hold at least one public hearing on the preliminary report before submitting its final report.

(3) The local legislative body may not hold a public hearing or take action until it has received the final report of the planning commission.

(b) To implement the plan, the planning commission shall periodically recommend to the appropriate public officials:

(1) Programs for public structures, improvements, and land acquisitions; and

(2) Financing programs.

(c) (1) Except as provided in paragraph (2) of this subsection, only the local legislative body that has adopted the plan may adopt regulations implementing the visions stated in § 1.01 of this article in a plan.

(2) This subsection does not limit the Department of Planning, the State Economic Growth, Resource Protection, and Planning Commission, or any subcommittee of the State Economic Growth, Resource Protection, and Planning Commission from exercising any authority granted under the State Finance and Procurement Article.

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§3.07.

(a) A planning commission may recommend adoption of:

- (1) A whole plan;
- (2) Successive parts of a plan, with parts that correspond to major geographic sections or divisions of the local jurisdiction; and
- (3) Any amendment to the plan.

(b) (1) Before recommending the adoption of the plan or any part or amendment, a planning commission shall hold at least one public hearing.

(2) The planning commission shall publish once a notice of the time and place of the hearing in a newspaper of general circulation in the local jurisdiction.

(c) At least 60 days prior to the public hearing, the planning commission shall provide copies of the recommended plan and all amendments to the plan to:

- (1) All adjoining planning jurisdictions; and
- (2) All State and local jurisdictions that have responsibility for financing or constructing public improvements necessary to implement the plan.

(d) The planning commission shall include the recommendation of each jurisdiction that comments on the plan's recommendations in the planning commission's report to the local legislative body.

(e) (1) The planning commission shall approve the plan or any part or amendment of the plan by resolution of the commission carried by the affirmative votes of not less than a majority of the commission membership.

(2) The resolution shall refer expressly to the text, map, and descriptive, and other matter that the commission intends to form the whole or part of the plan.

(3) The action taken shall be recorded on the map, plan, text or other matter by the identifying signature of:

- (i) The chairman of the planning commission;
- (ii) The secretary of the commission; or
- (iii) Both the secretary and the chairman.

(f) An attested copy of the plan or part of the plan shall be certified to the local legislative body.

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§3.08.

(a) Subject to subsection (b) of this section, if a local legislative body has adopted a whole plan or a plan for one or more geographic sections or divisions of the local jurisdiction, a publicly or privately owned street, square, park or other public way, ground, or open space, or public building or structure, or public utility may not be constructed or authorized in the local jurisdiction or the major geographic section of the local jurisdiction until the location, character, and extent of the development has been submitted to and approved by the planning commission as consistent with the plan.

(b) (1) The planning commission shall communicate its decision and the reasons for its decision to the local legislative body or to the body that has jurisdiction over the financing of the public way, ground, space, building, structure, or utility.

(2) The local legislative body or other body having jurisdiction may overrule the decision by a recorded vote of not less than 2/3 of its entire membership.

(c) (1) If a planning commission fails to act on a submission within 60 days after the date of official submission to the planning commission, the submission shall be considered approved.

(2) (i) If a local legislative body or other body having jurisdiction fails to act within 60 days after the date of submission of the recommendation of the planning commission, the local legislative body or other body with jurisdiction shall be considered to have concurred with the recommendation of the planning commission.

(ii) The local legislative body shall adopt the plan as a whole or for one or more major geographic sections or divisions of the jurisdiction, and further shall adopt any amendment or extension thereof or addition thereto.

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§3.09.

(a) In this section, “planning commission” includes a planning commission or board established under Article 25A or Article 28 of the Code.

(b) A planning commission shall prepare, adopt, and file an annual report, on or before July 1 of each year for the previous calendar year, with the local legislative body.

(c) The annual report shall:

(1) Index and locate on a map all changes in development patterns which occurred during the period covered by the report, including land use, transportation, community facilities patterns, zoning map amendments, and subdivision plats;

(2) State whether these changes are or are not consistent with:

(i) Each other;

(ii) The recommendations of the last annual report;

(iii) The adopted plans of the local jurisdiction;

(iv) The adopted plans of all adjoining local jurisdictions; and

(v) The adopted plans of State and local jurisdictions that have responsibility for financing or constructing public improvements necessary to implement the local jurisdiction’s plan;

(3) Contain statements and recommendations for improving the planning and development process within the local jurisdiction; and

(4) State which ordinances or regulations have been adopted or changed to implement the visions in § 1.01 of this article as required under § 1.04(f) or § 4.09 of this article.

(d) The local legislative body shall review the annual report and direct that any appropriate and necessary studies and other actions be undertaken to insure the continuation of a viable planning and development process.

(e) (1) The annual report shall be made available for public inspection.

(2) A copy of the report shall be mailed to the Secretary of the Department of Planning.

(3) The Department of Planning may submit comments on the report.

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§3.10.

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

(2) “National Center” means the National Center for Smart Growth Research and Education at the University of Maryland College Park.

(3) “Priority funding area” has the meaning stated in § 5–7B–02 of the State Finance and Procurement Article.

(b) (1) The General Assembly finds that:

(i) In addition to reporting on past land use indicators and measures, local jurisdictions should strive to achieve future land use goals that implement and achieve the visions in § 1.01 of this article;

(ii) A statewide land use goal that embodies the visions in § 1.01 of this article and smart and sustainable growth should be established;

(iii) The visions in § 1.01 of this article will not be realized unless local jurisdictions set their own goal to make incremental progress towards achieving a statewide land use goal; and

(iv) Resources are necessary to achieve a statewide goal, including funding necessary for infrastructure inside the priority funding areas and land preservation outside the priority funding areas.

(2) (i) The statewide land use goal is to increase the current percentage of growth located within the priority funding areas and to decrease the percentage of growth located outside the priority funding areas.

(ii) Local jurisdictions shall develop a percentage goal towards achieving the statewide goal.

(c) (1) Except as provided in paragraphs (2) and (3) of this subsection, the annual report required to be filed under § 3.09 of this article shall include the following measures and indicators:

(i) The amount and share of growth that is being located inside and outside the priority funding areas;

(ii) The net density of growth that is being located inside and outside the priority funding areas;

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(iii) The creation of new lots and the issuance of residential and commercial building permits inside and outside the priority funding areas;

(iv) The development capacity analysis, updated once every 3 years or when there is a significant change in zoning or land use patterns;

(v) The number of acres preserved using local agricultural land preservation funding, if applicable; and

(vi) The following information on achieving the statewide goal stated under subsection (b)(2) of this section:

1. The local goal;
2. The time frame for achieving the local goal;
3. The resources necessary for infrastructure inside the priority funding areas and land preservation outside the priority funding areas; and
4. Any incremental progress made towards achieving the local goal.

(2) If all land within the boundaries of a municipal corporation is a priority funding area, the municipal corporation is not required to:

(i) Establish a local goal for achieving the statewide goal stated under subsection (b)(2) of this section; or

(ii) Include information in the annual report on a local goal as required under paragraph(1)(vi) of this subsection.

(3) (i) A county or municipal corporation that issues fewer than 50 building permits for new residential units per year is not required to include information in the annual report on measures and indicators listed under paragraph (1) of this subsection.

(ii) A county or municipal corporation shall provide the Department of Planning documentation annually that less than 50 building permits for new residential units are issued.

(d) (1) In accordance with Title 2, Subtitle 5 and Title 10, Subtitle 1 of the State Government Article, the Department of Planning may adopt regulations that detail the manner in which the measures and indicators required under subsection (c) of this section are submitted and transmitted in the annual report.

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(2) The Department of Planning shall:

(i) Develop measures and indicators that will be collected by the Department; and

(ii) Consider which measures or indicators can be collected by the National Center.

(e) On or before January 1 of each year, the Department of Planning, in consultation with the National Center, shall submit a report to the Governor and General Assembly, in accordance with § 2–1246 of the State Government Article, on the measures and indicators collected under this section.

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§4.01.

(a) (1) It is the policy of this State that:

- (i) The orderly development and use of land and structures requires comprehensive regulation through the implementation of planning and zoning controls; and
- (ii) Planning and zoning controls shall be implemented by local government.

(2) To achieve the public purposes of this regulatory scheme, it is the policy of the General Assembly and this State that local government action will displace or limit economic competition by owners and users of property through the planning and zoning controls set forth in this article and elsewhere in the public local and public general laws.

(b) (1) To promote the health, safety, morals, or general welfare of the community, a local legislative body may regulate and restrict, for trade, industry, residences, and other purposes:

- (i) The height, number of stories, and size of buildings and other structures;
- (ii) The percentage of a lot that may be occupied;
- (iii) Off-street parking;
- (iv) The size of yards, courts, and other open spaces;
- (v) The density of population; and
- (vi) The location and use of buildings, signs, structures and land.

(2) (i) If a local legislative body regulates off-street parking, the local legislative body shall require space for the parking of bicycles in a manner that the local legislative body considers appropriate.

(ii) A local legislative body may allow a reduction in the number of required automobile parking spaces based on the availability of space for parking bicycles.

(c) (1) On the zoning or rezoning of any land under this article, a local legislative body may impose any additional restrictions, conditions, or limitations that the local legislative body considers appropriate to preserve, improve, or protect the general character and design of:

- (i) The lands and improvements being zoned or rezoned; or
- (ii) The surrounding or adjacent lands and improvements.

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(2) A municipal corporation may include in an annexation agreement limitations on the uses of land and densities of development otherwise allowed in the zoning district where the land is located.

(3) On the zoning or rezoning of any land, a local legislative body may retain or reserve the power to approve or disapprove the design of buildings, construction, landscaping, or other improvements, alterations, and changes made or to be made on the land being zoned or rezoned to assure conformity with the intent and purpose of this article and of the local jurisdiction's zoning ordinance.

(4) The powers provided in this subsection shall apply only if the local legislative body adopts an ordinance which shall include enforcement procedures and requirements for adequate notice of public hearings and conditions sought to be imposed.

(d) The powers granted to a local jurisdiction under this section do not:

(1) Grant the local jurisdiction powers in any substantive area not otherwise granted to the local jurisdiction by any other public general or public local law;

(2) Restrict the local jurisdiction from exercising any power granted to the local jurisdiction by any other public general or public local law or otherwise;

(3) Authorize the local jurisdiction or its officers to engage in any activity which is beyond their power under any other public general law, public local law, or otherwise;
or

(4) Preempt or supersede the regulatory authority of any State department or agency under any public general law.

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§4.02.

(a) A local legislative body may divide the local jurisdiction into districts of any number, shape, and area that the local legislative body considers best suited to execute the purposes of this article.

(b) (1) Within the districts created, the local legislative body may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land.

(2) Except as provided in this article or otherwise authorized by law, all regulations shall be uniform for each class or kind of development throughout each district, but the regulations in one district may differ from those in other districts.

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§4.03.

- (a) The regulations adopted by a local legislative body shall be adopted:
 - (1) In accordance with the plan;
 - (2) With reasonable consideration for, among other things, the character of the district and its suitability for particular uses; and
 - (3) With a view to conserving the value of buildings and encouraging orderly development and the most appropriate use of land.
- (b) The regulations shall be designed to:
 - (1) Control congestion in the streets;
 - (2) Secure the public safety;
 - (3) Promote health and the general welfare;
 - (4) Provide adequate light and air;
 - (5) Promote the conservation of natural resources;
 - (6) Prevent environmental pollution and avoid undue concentration of population; and
 - (7) Facilitate the adequate provision of transportation, water, sewerage, schools, recreation, parks and other public requirements.

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§4.04.

(a) A local legislative body shall provide for the manner in which its regulations and restrictions and the boundaries of its districts shall be determined, established, enforced, and periodically amended or repealed.

(b) (1) A regulation, restriction, or boundary may not become effective until 10 days after at least one public hearing on the matter, at which parties in interest and citizens shall have an opportunity to be heard.

(2) (i) The local legislative body shall publish notice of the time and place of a public hearing, together with a summary of the proposed regulation, restriction, or boundary, in at least one newspaper of general circulation in the jurisdiction once each week for 2 successive weeks.

(ii) The local legislative body shall publish the first notice of the hearing at least 14 days before the hearing.

(c) A local legislative body shall provide for exceptions to local zoning ordinances when necessary to bring an existing parking lot into compliance with the van-accessible parking ratio requirement of the Maryland Accessibility Code adopted under § 12-202 of the Public Safety Article.

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§4.05.

(a) (1) Zoning regulations, restrictions, and boundaries may periodically be amended or repealed.

(2) (i) Where the purpose and effect of the proposed amendment is to change the zoning classification, the local legislative body shall make findings of fact that include the following matters:

1. Population change;
2. The availability of public facilities;
3. Present and future transportation patterns;
4. Compatibility with existing and proposed development for the area;
5. The recommendation of the planning commission; and
6. The relationship of the proposed amendment to the local jurisdiction's plan.

(ii) The local legislative body may grant the amendment to change the zoning classification based on a finding that there was:

1. A substantial change in the character of the neighborhood where the property is located; or
2. A mistake in the existing zoning classification.

(3) The local legislative body shall keep a complete record of the hearing and the votes of all members of the local legislative body.

(b) A local legislative body may not accept the filing of an application for a reclassification of the whole or part of any land for which a reclassification has been denied by the local legislative body on the merits in the 12 months before the date of the application.

(c) The provisions of § 4.04 of this subtitle concerning public hearings and official notice apply in the same manner and to the same extent to reclassifications.

(d) (1) A local legislative body may authorize the planning director or another designee to grant administrative adjustments from the following requirements in a zoning ordinance enacted by the local legislative body:

- (i) Local height requirements;

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- (ii) Local setback requirements;
- (iii) Local bulk requirements;
- (iv) Local parking requirements;
- (v) Local loading, dimensional, or area requirements; or
- (vi) Similar local requirements.

(2) Before developing criteria and procedures for administrative adjustments under this subsection, the local legislative body shall:

- (i) Consult with the planning commission and the board of appeals; and
- (ii) Provide:

1. Reasonable public notice of the proposed criteria and procedures;

2. An opportunity for public hearing; and

3. An opportunity for public review and comment.

(3) The criteria for an administrative adjustment shall include:

(i) Standards for actions on requests;

(ii) Standards for the classes of development that are eligible for an administrative adjustment; and

(iii) The maximum variation from a zoning requirement that is allowed under an administrative adjustment.

(4) Procedures for administrative adjustments may include:

(i) Applications;

(ii) Notice to the public and to the parties in interest;

(iii) An opportunity for public hearing;

(iv) An opportunity for the taking of testimony and evidence; and

(v) Decision making.

(5) A decision on an application for an administrative adjustment shall include written findings of fact.

(6) By the enactment of an ordinance or the adoption of a procedure, a local legislative body may authorize the appeal to the board of appeals of a decision to approve or deny an administrative adjustment.

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(7) Nothing in this subsection is intended to authorize a local government to permit an administrative adjustment to State or local requirements that are intended to protect environmentally sensitive areas, such as streams, slopes, wetlands, natural heritage areas, or critical areas.

(e) (1) A local legislative body may authorize, on application by a property owner, how the uses allowed in a zoning classification are to be applied to a particular improved property by granting an adaptive reuse.

(2) Before granting an adaptive reuse, the local legislative body shall make specific findings supported by facts in the record that:

- (i) The change is consistent with the plan for the local jurisdiction;
- (ii) The change is in the public interest and provides a positive benefit to the community; and
- (iii) Literal enforcement of the zoning classification would deprive the owner of all reasonable economically viable use of the property.

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§4.06.

(a) (1) A local legislative body may appoint the full- and part-time hearing examiners that it considers necessary and appropriate.

(2) (i) A local legislative body may delegate to a hearing examiner the power to conduct a public hearing under § 4.05 of this subtitle.

(ii) A hearing shall be conducted under rules and regulations adopted by the local legislative body.

(3) A hearing examiner shall recuse himself or herself from participating in a matter in which the hearing examiner may have a conflict of interest or the appearance of a conflict of interest.

(b) A local legislative body shall determine the term of office, required qualifications, and compensation of a hearing examiner employed by the local jurisdiction.

(c) A hearing examiner shall render a written recommendation in the time, manner, and form required by the local legislative body.

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§4.07.

(a) (1) Each local legislative body shall provide for the appointment of a board of appeals.

(2) A board of appeals consists of at least three members.

(3) The terms of office of the members of a board of appeals are 3 years.

(4) A member of a board of appeals shall be appointed by the local executive and confirmed by the local legislative body.

(5) A member of a board of appeals may be removed:

(i) For cause;

(ii) On written charges; and

(iii) After a public hearing.

(6) The appointing authority shall appoint a new member to fill the unexpired term of any member who leaves a board of appeals.

(7) A member of a board of appeals may receive the compensation that the local legislative body considers appropriate.

(8) A local legislative body may not serve as a board of appeals.

(9) A member of the board of appeals shall recuse himself or herself from participating in a matter in which the member may have a conflict of interest or an appearance of a conflict of interest.

(b) (1) Each local legislative body shall designate one alternate member for the board of appeals who may sit on the board when any other member of the board is absent.

(2) When the alternate member is absent, the local legislative body may designate a temporary alternate.

(c) (1) A board of appeals shall adopt rules in accordance with the provisions of any ordinance adopted under this article.

(2) The meetings of a board of appeals shall be held at the call of the chairman and at other times determined by the board.

(3) The chairman of a board of appeals or the acting chairman may administer oaths and compel the attendance of witnesses.

(4) All meetings of a board of appeals shall be open to the public.

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(5) (i) A board of appeals shall make a transcript of all proceedings, showing the vote of each member on each question, or the member's absence or failure to vote.

(ii) 1. A board of appeals shall immediately file the transcript of its proceedings in the office of the board.

2. A transcript shall be a public record.

(6) If a recording or a transcript of a recording is not prepared in the normal course of the board's proceedings, the party who requests a copy of the recording or its transcript shall pay the cost of preparing the recording or transcript.

(d) A board of appeals shall have the following powers:

(1) Hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of this article or of any ordinance adopted under this article;

(2) Hear and decide special exceptions to the terms of an ordinance on which the board is required to pass under the ordinance; and

(3) Authorize on appeal in specific cases a variance from the terms of an ordinance.

(e) (1) An appeal to the board of appeals may be filed by:

(i) Any person aggrieved by any decision of the administrative officer;
or

(ii) Any officer, department, board, or bureau of the jurisdiction affected by any decision of the administrative officer.

(2) An appeal shall be taken within a reasonable time, as provided by the rules of the board of appeals, by filing with the administrative officer from whom the appeal is taken and with the board of appeals a notice of appeal specifying the grounds of the appeal.

(3) The officer from whom the appeal is taken shall promptly transmit to the board all papers constituting the record on which the action appealed was based.

(f) (1) Except as provided in paragraph (2) of this subsection, an appeal to a board of appeals stays all proceedings in furtherance of the action appealed.

(2) If an administrative officer certifies to the board of appeals facts stated in the certificate that indicate to the administrative officer that a stay would cause imminent peril to

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life or property as provided in paragraph (1) of this subsection, the board of appeals or the court of record may stay the proceedings:

- (i) Only for due cause shown; and
- (ii) Through the issuance of a restraining order after notice is given to the administrative officer.

(g) (1) A board of appeals shall fix a reasonable time for the hearing of an appeal, give public notice of the hearing and due notice to the parties in interest, and decide the appeal within a reasonable time.

(2) At a hearing, a party may appear in person or be represented by an agent or attorney.

(h) (1) In exercising its powers, a board of appeals may, in conformity with the provisions of this article:

- (i) Wholly or partly reverse the order, requirement, decision, or determination from which the appeal is taken;
- (ii) Wholly or partly affirm the order, requirement, decision, or determination from which the appeal is taken;
- (iii) Modify the order, requirement, decision, or determination from which the appeal is taken; or
- (iv) Issue a new order, requirement, decision, or determination.

(2) The board shall have all the powers of the administrative officer from whom the appeal is taken.

(i) (1) In this subsection, “board of appeals” includes a board of appeals established under Article 25A or Article 28 of the Code or § 2.08 of this article.

(2) Within 6 months after appointment to a board of appeals, a member shall complete an education course that includes education on:

- (i) The role of the comprehensive plan;
- (ii) Proper standards for special exceptions and variances; and
- (iii) The jurisdiction’s zoning ordinances and regulations, planned development ordinances and regulations, subdivision ordinances and regulations, and other land use ordinances and regulations.

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- (3) The failure of a member to complete an education course may not:
 - (i) Invalidate a decision of the board; or
 - (ii) Be construed to create a private cause of action by any person.

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§4.08.

(a) (1) Any of the following persons may, jointly or severally, appeal a decision of a board of appeals or a zoning action of a local legislative body to the circuit court of the county:

- (i) A person aggrieved by the decision or action;
- (ii) Any taxpayer; or
- (iii) Any officer, department, board, or bureau of the local jurisdiction.

(2) The appeal shall be taken in accordance with Title 7, Chapter 200 of the Maryland Rules.

(3) This subsection does not change the existing standards for the review of a zoning action.

(b) (1) Except as provided in paragraph (2) of this subsection, an appeal to a circuit court from the decision of a board of appeals or a hearing examiner under this section shall be decided by the circuit court on the record transmitted by the board of appeals or hearing examiner, and may not be heard de novo.

(2) If, after a hearing, the court determines that testimony is necessary for the proper disposition of the matter, the court may take evidence or appoint a referee to take the required evidence and report the evidence to the court with the referee's findings of fact and conclusions of law.

(3) The referee's evidence, findings, and conclusions shall constitute a part of the proceedings on which the determination of the court shall be made.

(c) The circuit court may not allow costs against the board unless it appears to the court that the board, in making the decision that is the subject of the appeal, acted:

- (1) With gross negligence;
- (2) In bad faith; or
- (3) With malice.

(d) All issues in any proceeding under this section shall be scheduled and heard before all other civil actions and proceedings.

(e) (1) After deciding an appeal under this section, the circuit court shall file a formal order embodying its final decision.

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(2) (i) A party may file an appeal from a decision of the circuit court with the Court of Special Appeals, during the period and in the manner prescribed by the Maryland Rules.

(ii) The Court of Special Appeals may award costs in any appeal to that court under this paragraph.

(f) (1) In addition to the appeal provided in this section, a local legislative body may allow an appeal to the circuit court of any matter arising under the planning and zoning laws of the local jurisdiction.

(2) A decision of the circuit court under this subsection may be appealed to the Court of Special Appeals.

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§4.09.

On or before July 1, 1997, and subsequently at intervals of no more than 6 years which correspond to the plan revision under § 3.05(b) of this article, a local jurisdiction shall ensure that the implementation of the provisions of the plan that comply with §§ 1.01 and 3.05(a)(4)(vii) and (ix) of this article are achieved through the adoption of applicable zoning ordinances and regulations, planned development ordinances and regulations, subdivision ordinances and regulations, and other land use ordinances and regulations that are consistent with the plan.

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§5.01.

(a) Except as provided in subsection (b) of this section, the territorial jurisdiction of any planning commission over the subdivision of land shall include only land located in the jurisdiction.

(b) In a local jurisdiction where a county has not adopted subdivision regulations, the territorial jurisdiction of a planning commission of a municipal corporation may include all land located up to 1 mile beyond the corporate limits of the municipal corporation that is not located in any other municipal corporation.

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§5.02.

(a) If a local legislative body has adopted the transportation element of the plan of the territory within its subdivision jurisdiction or part of the territory, and has filed a certified copy of that plan in the office of the clerk of the circuit court of the county in which the territory or part is located, a plat of a subdivision of land within the territory or part may not be filed or recorded until:

(1) The planning commission approves the plat; and

(2) The chairman or secretary of the planning commission marks an approval in writing on the plat.

(b) (1) A planning commission may authorize the zoning administrator or an equivalent administrative officer to approve subdivision plats and site plans under subsection (a) of this section in accordance with nondiscretionary criteria adopted and specified by ordinance.

(2) The zoning administrator or administrative officer shall indicate approval of a plat by marking an approval in writing on the plat.

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§5.03.

(a) (1) Before exercising the powers granted in § 5.02 of this subtitle, the planning commission shall recommend regulations to the local legislative body governing the subdivision of land within the local jurisdiction, for the health, safety, welfare, and common interest of the citizens of the local jurisdiction.

(2) The regulations may include provisions to:

- (i) Adequately control shore erosion;
- (ii) Control sediment and protect from flooding;
- (iii) Properly arrange streets in relation to each other and to the master plan;
- (iv) Adequately and conveniently place public school sites and open spaces for traffic, utilities, access of fire-fighting apparatus, recreation, and light and air;
- (v) Avoid population congestion; and
- (vi) Set minimum lot widths and areas.

(b) (1) The regulations may provide for the extent to which the following actions must be taken as a condition precedent to the approval of a plat:

- (i) The grading and improvement of streets and other ways;
- (ii) The provision of soil erosion or sediment control; and
- (iii) The installation of water and sewer and other utility mains, piping, or other facilities.

(2) (i) The regulations or practice of the planning commission may provide for a tentative approval of a plat before installation.

(ii) Any tentative approval of a plat shall be revocable and may not be entered on the plat.

(3) (i) Instead of requiring the completion of improvements and utilities before the final approval of a plat, a planning commission may accept a bond with surety, an irrevocable letter of credit, or any other form of security acceptable to and approved by the local jurisdiction, to secure to the local jurisdiction the actual construction and installation of the improvements or utilities.

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(ii) The bond security shall specify the time for completion and specifications fixed by or in accordance with the regulations of the planning commission.

(iii) The local jurisdiction may enforce the bond security by any appropriate legal or equitable remedy.

(4) (i) Subject to this paragraph, in Charles County the regulations may provide for the reservation of land for traffic, recreation, or other public purposes.

(ii) A reservation of land in accordance with this paragraph may not continue for longer than 3 years without the written approval of all persons having any legal or equitable interest in the property.

(iii) The regulations shall provide for public notice and an opportunity for a public hearing before a property may be reserved.

(c) (1) Before any regulation may be submitted to the local legislative body for adoption, the local legislative body shall hold a public hearing on the regulation.

(2) The local legislative body shall publish a notice of the public hearing at least once in a weekly or daily newspaper of general circulation in the local jurisdiction.

(3) The published notice shall contain:

(i) The text of the regulation or, if the planning commission believes it would be better, a brief and accurate summary of the nature and contents of the regulation sufficient to inform an individual of ordinary intelligence; and

(ii) The time and place of the public hearing.

(4) When a regulation is adopted by the local legislative body, the local legislative body shall send a certified copy of the regulation to the clerk of the circuit court in which the local jurisdiction is located for recording.

(d) (1) Regulations governing the subdivision of land shall require that an appropriate easement be provided for any burial site located on the land.

(2) The easement shall be subject to the subdivision plat for entry to and exit from the burial site by persons related by blood or marriage or persons in interest, as defined in § 14-121 of the Real Property Article.

(3) The existing right-of-way need not be extended for any improvements on the burial site.

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§5.04.

(a) (1) (i) Subject to paragraph (2) of this subsection, if an applicant has complied with all regulations governing the subdivision of land, a planning commission shall approve or disapprove a final plat within 30 days after the applicant submits the final plat to the planning commission.

(ii) If the planning commission does not approve or disapprove a final plat within 30 days, the plat shall be considered approved and the planning commission shall issue a certificate to that effect on demand.

(2) Notwithstanding paragraph (1) of this subsection, if the planning commission does not approve or disapprove the plat within 30 days, an applicant for the planning commission's approval of a final plat may waive this requirement and consent to an extension of the period for approval.

(3) If a final plat is disapproved, the planning commission shall state the grounds for the planning commission's disapproval in the records of the planning commission.

(b) (1) Every plat approved by the planning commission shall, through the approval, be considered:

(i) An amendment or a detail of the plan; and

(ii) A part of the plan.

(2) Approval of a plat does not constitute or effect an acceptance by the public of any street or other open space shown on the plat.

(3) A planning commission may periodically recommend to the local legislative body amendments of the zoning ordinance or map to conform to the planning commission's recommendations for the zoning regulation of the territory within approved subdivisions.

(c) (1) A planning commission may agree with an applicant on use, height, area or bulk requirements or restrictions that are designed to promote the purposes of the zoning ordinance of the local jurisdiction.

(2) (i) The requirements or restrictions shall be stated on the plat before the plat is approved and recorded.

(ii) The requirements or restrictions shall have the same force of law, shall be enforceable in the same manner and with the same sanctions and penalties, and shall be

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subject to the same power of amendment or repeal as though part of the zoning ordinance or map of the local jurisdiction.

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§5.05.

(a) Except as provided in §§ 14.03(c), 14.05(e), 14.06(d), and 14.07(e) and (f) of this article, an owner or agent of an owner of land located within a subdivision who transfers or sells or agrees to sell or negotiate to sell any land by reference to, exhibition of, or other use of a plat of a subdivision before the plat has been approved by the planning commission and recorded or filed in the office of the appropriate county clerk, shall be subject to a civil penalty of not less than \$200 and not exceeding \$1,000 for each lot or parcel transferred or sold or agreed or negotiated to be sold.

(b) The description of a lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring does not exempt the transaction from the penalties or the remedies provided in this section.

(c) A local jurisdiction may seek to:

- (1) Enjoin the transfer, sale, or agreement in any court of equity; or
- (2) Recover the penalty by civil action in a court of competent jurisdiction.

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§5.06.

(a) A clerk of the circuit court for the county in which the local jurisdiction is located may not record a plat of a subdivision unless the plat has been approved by the planning commission for the local jurisdiction in the manner required by law.

(b) Any plat of a subdivision recorded without the required approval has only the legal effect of an unrecorded plat.

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§5.07.

(a) After a planning commission begins to exercise control over subdivisions under § 5.01 of this subtitle, the authority of the planning commission over plats shall be exclusive within the territory under its jurisdiction.

(b) To the extent that statutory control is in conformity with the provisions of this article, all statutory control over plats or subdivisions of land granted by other statutes shall be considered transferred to the planning commission of the local jurisdiction.

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§6.01.

(a) A planning commission may, after adopting the transportation element of the plan of the territory within its subdivision jurisdiction or of any major section or district of its jurisdiction, periodically:

(1) Conduct surveys to locate street lines and any other part of the transportation element; and

(2) Make a plat of the area or district surveyed, showing the land which the planning commission recommends be reserved for future dedication or acquisition for public streets and any other part of the transportation element.

(b) (1) Before adopting the plat, a planning commission shall hold a public hearing.

(2) Not less than 10 days before the hearing, the planning commission shall publish notice of the time and place of the hearing, with a general description of the district or area covered by the plat, in a newspaper of general circulation in the local jurisdiction in which the district or area is located.

(c) After the public hearing, the planning commission may transmit the plat, as originally made or as amended by the commission, to the local legislative body, with the commission's estimate of the schedule under which the lands shown on the plat as street locations should be acquired by the local jurisdiction.

(d) After receiving the transmitted plat from the planning commission, the local legislative body may, by resolution:

(1) Approve and adopt the plat;

(2) Disapprove the plat;

(3) Modify the plat with the approval of the planning commission; or

(4) If the planning commission disapproves the plat, by a favorable vote of not less than two-thirds of the entire membership of the local legislative body, modify the plat and adopt the modified plat.

(e) (1) In the resolution adopting the plat, the local legislative body shall fix the period of time for which the street locations shown on the plat shall be reserved for future taking or acquisition for public use.

(2) After the plat is adopted, the clerk of the local legislative body shall:

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(i) Transmit one attested copy of the plat to the county recorder of each county in which the platted land is located; and

(ii) Keep one copy of the plat for public examination.

(f) (1) The approval and adoption of a plat reserves the street locations on the plat for future taking or acquisition for public use.

(2) The approval and adoption of a plat does not constitute:

(i) The opening or establishment of a street; or

(ii) The taking of any land for the purpose of creating a street, a public use, or a public improvement.

(3) (i) At any time, a planning commission may negotiate for or secure from the owner of any land reserved for the location of a street:

1. A release of claims for damages or compensation for the reservation of the land; or

2. An agreement indemnifying the local jurisdiction from claims by others for damages or compensation.

(ii) A negotiated release or agreement shall bind the landowner executing the release or agreement and the landowner's successors in title.

(g) (1) At any time after the filing of a plat with the county recorder and during the period specified for the reservation, a planning commission and the owner of any land containing a reserved street location may agree to modify the location of the lines of the proposed street.

(2) An agreement to modify shall include a release by the landowner of any claim for compensation or damages caused by the modification.

(3) After the release is executed, the planning commission may make a plat corresponding to the modification and transmit the plat to the local legislative body for approval.

(4) If the modified plat is approved by the local legislative body, the clerk of the local legislative body shall transmit an attested copy of the modified plat to the clerk of the circuit court of the county in which the local jurisdiction is located.

(5) The modified plat shall replace the original plat.

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(h) At any time, the local legislative body may, by resolution, abandon any reservation and certify the abandonment to the clerk of the circuit court of the county in which the local jurisdiction is located.

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§6.02.

(a) Except as provided in subsection (b) of this section, after recording a street plat approved by the local legislative body under § 6.01 of this subtitle, a local jurisdiction may not issue a permit to develop any part of the land between the lines of a proposed street as platted.

(b) (1) The board of zoning appeals of the local jurisdiction where a platted street is located, or a special board of appeals created for the purpose by the local legislative body, may grant a permit to develop a platted street:

(i) On an appeal filed by the owner of the land on which the street is located; and

(ii) By a vote of a majority of the members of the board of zoning appeals or the special board of appeals.

(2) In order to grant a permit for development, the board of zoning appeals or the special board of appeals must find, from the evidence and arguments presented on appeal, that:

(i) The entire property of the appellant, of which the reserved street location forms a part, cannot yield a reasonable return to the owner unless the permit is granted; and

(ii) After balancing the interest of the local jurisdiction in preserving the integrity of the street plat and the municipal plan and the interest of the owner of the property in the use of the property and in the benefits of property ownership, the grant of the permit is required by reasonable justice and equity.

(3) (i) Before taking action, the board of zoning appeals or the special board of appeals shall hold a hearing at which the parties in interest shall have an opportunity to be heard.

(ii) At least 15 days before the hearing, the board of zoning appeals or the special board of appeals shall:

1. Mail to the appellant, at the address specified in the appeal petition, notice of the time and place of the hearing; and

2. Publish a notice of the hearing in a newspaper of general circulation in the local jurisdiction.

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(4) (i) If the board of zoning appeals or the special board of appeals grants a development permit, the board of zoning appeals or the special board of appeals shall specify the exact location, ground area, height, and other details of the development for which the permit is granted.

(ii) The board of zoning appeals or the special board of appeals also may impose reasonable requirements benefitting the local jurisdiction as a condition of granting the permit.

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§6.03.

(a) A public sewer or other municipal street utility or improvement may not be constructed in a street or highway until the street or highway is placed on the official map.

(b) A permit for development may not be issued unless a street or highway giving access to the proposed development has been placed on the official map.

(c) (1) An applicant for a permit may appeal from a decision of the administrative officer having charge of the issue of permits to a board of appeals if:

(i) The enforcement of this section would entail exceptional difficulty or unwarranted hardship; and

(ii) The circumstances do not require the development to be related to existing or proposed streets or highways.

(2) A board of appeals may, in passing on an appeal under this subsection, make any reasonable exception and issue the permit subject to conditions that will protect any future street or highway layout.

(3) A decision rendered under this subsection shall be subject to review in the same manner and subject to the same provisions of law as an appeal from a decision of a board of appeals on zoning regulations.

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§7.01.

(a) (1) The local legislative body may provide by ordinance for the enforcement of this article and of any ordinance enacted or regulation adopted under this article.

(2) A violation of this article or of an ordinance or regulation adopted under this article is a misdemeanor.

(3) The local legislative body may:

(i) Provide for punishment of a violation by fine or imprisonment or both; and

(ii) Impose civil penalties for a violation.

(b) (1) In addition to any other available remedies, a local jurisdiction may institute any appropriate action or proceeding to:

(i) Prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use of a building, structure, sign, or land in violation of this article or of any ordinance enacted or regulation adopted under this article;

(ii) Restrain, correct, or abate the violation;

(iii) Prevent the occupancy of the building, structure, or land; or

(iv) Prevent any illegal act, conduct, business, or use in or about the premises.

(2) Notwithstanding subsection (a) of this section, the local jurisdiction may not institute an action or proceeding to:

(i) Abate a transfer that has been completed; or

(ii) Prevent the occupancy of a building, structure, or land involved in the transfer as a result of a violation of § 5.05 or § 5.06 of this article.

(3) Any property subdivided in violation of §§ 5.05 and 5.06 of this article shall remain subject to the adopted subdivision regulations.

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§7.02.

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

(2) “Commission” means the planning and zoning commission or a similar body of a county.

(3) “Local legislative body” means:

- (i) A board of county commissioners;
- (ii) A county council; or
- (iii) The Mayor and City Council of Baltimore.

(4) “Zoning official” means a county employee with the duty of enforcing the zoning ordinance.

(b) A local legislative body of a county may provide a civil penalty for a zoning violation, which shall be enforced as provided in this section.

(c) (1) A zoning official may deliver a citation to a person believed to be committing a civil zoning violation.

(2) (i) The zoning official shall keep a copy of the citation.

(ii) The citation shall bear a certification attesting to the truth of the matters set forth in the citation.

(3) The citation shall contain:

- (i) The name and address of the person charged;
- (ii) The nature of the violation;
- (iii) The location and time of the violation;
- (iv) The amount of the fine;
- (v) The manner, location, and time in which the fine may be paid; and
- (vi) The cited person’s right to elect to stand trial for the violation.

(d) (1) A fine not exceeding \$500 may be imposed for each violation.

(2) The local legislative body also may:

- (i) Establish a schedule of additional fines for each violation; and
- (ii) Adopt procedures for the collection of the fines.

(e) (1) A person who receives a citation may elect to stand trial for the offense by filing with the zoning official a notice of intention to stand trial.

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(2) The person electing to stand trial shall give notice at least 5 days before the date set forth in the citation for the payment of fines.

(3) After receiving a notice of intention to stand trial, the zoning official shall forward the notice to the District Court having venue, with a copy of the citation.

(4) After receiving the citation and notice, the District Court shall schedule the case for trial and notify the defendant of the trial date.

(5) All fines, penalties, or forfeitures collected by the District Court for zoning violations shall be remitted to the county in which the zoning violation occurred.

(f) (1) If a person who receives a citation for a violation fails to pay the fine by the date of payment set forth on the citation and fails to file a notice of intention to stand trial, a formal notice of the violation shall be sent to the owner's last known address.

(2) If the citation is not satisfied within 15 days after the date the formal notice of violation is mailed, the person shall be subject to an additional fine not exceeding twice the amount of the original fine.

(3) If the person who receives the citation does not pay the citation by the 36th day after the formal notice of violation is mailed, the zoning official may request the District Court to adjudicate the violation.

(4) After the zoning official requests adjudication, the District Court shall schedule the case for trial and summon the defendant to appear.

(g) In a proceeding before the District Court, a violation shall be prosecuted in the same manner and to the same extent as a municipal infraction under Article 23A, § 3(b)(7) through (15) of the Code.

(h) The governing body of a county may authorize the county attorney to prosecute a civil zoning violation.

(i) If the District Court finds that a person has committed a civil zoning violation, the person shall be liable for the costs of the court proceedings.

(j) The finding by the District Court of a violation under this section is not a criminal conviction and does not impose any of the civil disabilities ordinarily imposed by a criminal conviction.

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§7.03.

(a) If regulations adopted under this article require a greater width or size of yards, courts, or other open spaces, a lower height of building, a reduced number of stories, or a greater percentage of lot left unoccupied, or impose other higher standards than are required under any other statute, local ordinance, or regulations, the provisions of the regulations adopted under this article shall govern.

(b) If the provisions of any other statute, local ordinance, or regulation require a greater width or size of yards, courts, or other open spaces, a lower height of building, a reduced number of stories, or a greater percentage of lot left unoccupied, or impose other higher standards than are required by the regulations adopted under this article, the provisions of the statute, local ordinance, or regulation shall govern.

(c) (1) This subsection applies to the Maryland-Washington Regional District established under Chapter 992 of the Laws of Maryland of 1943, as amended.

(2) Within the limits of the Maryland-Washington Regional District, in Montgomery and Prince George's counties where there is city and regional planning and zoning administered by local agencies, this article does not supplement Chapter 992 of the Laws of Maryland of 1943, as amended.

(3) In the Maryland-Washington Regional District, the additional and supplemental powers vested by this article in a municipality or council may not be considered vested in and may not be exercised by a county council acting as a district council under Chapter 992 of the Laws of Maryland of 1943, as amended.

(4) In the Maryland-Washington Regional District, the powers vested by this article in a planning commission or board of appeals may not be considered vested in and may not be exercised by the Maryland-National Capital Park and Planning Commission, the planning board, or the board of zoning appeals of the county affected.

(5) To the extent that the provisions of this article may be inconsistent with or contrary to the provisions of Chapter 992 of the Laws of Maryland of 1943, as amended, the provisions of this article do not apply within the Maryland-Washington Regional District.

(6) The provisions of this article do not affect the validity of Chapter 992 of the Laws of Maryland of 1943, as amended.

Article 66B – Land Use

§7.04.

If any clause, sentence, part or provision of this article is held unconstitutional, the unconstitutionality may not affect the validity of the remaining provisions of this article.

Article 66B – Land Use

§7.05.

Except as otherwise provided in this article, any law or ordinance that is inconsistent with or contrary to the provisions of this article is repealed to the extent of the inconsistency.

Article 66B – Land Use

§8.01.

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

(2) “Appurtenances” and “environmental settings” include:

- (i) Paved or unpaved walkways and driveways;
- (ii) Trees;
- (iii) Landscaping;
- (iv) Pastures;
- (v) Croplands;
- (vi) Waterways; and
- (vii) Rocks.

(3) “Demolition” includes any willful neglect in the maintenance and repair of a structure, other than the structure’s appurtenances and environmental settings, that:

- (i) Does not result from a financial inability to maintain and repair the structure; and
- (ii) Threatens to result in a substantial deterioration of the exterior features of the structure.

(4) “District” means a significant concentration, linkage, or continuity of sites, structures, or objects united historically or aesthetically by plan or physical development.

(5) “Routine maintenance” means work that does not alter the exterior fabric or features of a site or structure and has no material effect on the historical, archaeological, or architectural significance of the site or structure.

(6) “Site” means the location of an event of historic significance or a standing or ruined structure that possesses historic, archaeological, or cultural significance.

(7) (i) “Structure” means a combination of material to form a construction that is stable.

(ii) “Structure” includes buildings, stadiums, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks and towers, trestles, bridges, piers, paving, bulkheads, wharves, sheds, coal bins, shelters, fences, and display signs visible or intended to be visible from a public way.

Article 66B – Land Use

(iii) “Structure” also includes a natural land formation and an appurtenance and environmental setting.

(iv) “Structure” includes a part of a structure.

(b) (1) It is a public purpose in this State to preserve sites, structures, and districts of historical, archeological, or architectural significance and their appurtenances and environmental settings.

(2) Except for the Mayor and City Council of Baltimore, the local legislative body of every local jurisdiction may, by ordinance or resolution, regulate:

(i) The construction, alteration, reconstruction, moving, and demolition of sites or structures of historical, archeological, or architectural significance;

(ii) The construction, alteration, reconstruction, moving, and demolition of sites and structures within districts; and

(iii) The appurtenances and environmental settings of sites and structures within their limits.

(c) The purpose of an ordinance or resolution adopted under this subtitle is to:

(1) Safeguard the heritage of the local jurisdiction by preserving sites, structures, or districts which reflect elements of cultural, social, economic, political, archeological, or architectural history;

(2) Stabilize and improve the property values of those sites, structures, or districts;

(3) Foster civic beauty;

(4) Strengthen the local economy; and

(5) Promote the preservation and appreciation of those sites, structures, and districts for the education and welfare of the residents of each local jurisdiction.

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§8.02.

For the purposes of this subtitle, each local jurisdiction may designate boundaries for sites, structures, or districts which are deemed to be of historic, archeological, or architectural significance, by following the procedures of the local jurisdiction for establishing or changing areas and classifications of zoning.

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§8.03.

(a) (1) A local jurisdiction may create a “historic district commission” or “historic preservation commission”.

(2) (i) A historic district commission or historic preservation commission shall have at least five members.

(ii) Each member of a historic district commission or historic preservation commission shall possess a demonstrated special interest, specific knowledge, or professional or academic training in such fields as history, architecture, architectural history, planning, archeology, anthropology, curation, conservation, landscape architecture, historic preservation, urban design, or related disciplines.

(iii) A majority of the members of a historic district commission or historic preservation commission shall be residents of the local jurisdiction that created the commission.

(iv) Each local jurisdiction that creates a historic district commission or historic preservation commission under this subtitle shall establish and publicly adopt criteria for qualifying as a member of the commission.

(3) (i) Each member of a historic district commission or historic preservation commission shall be appointed for a 3-year term.

(ii) The terms of the members of the commission shall be staggered.

(iii) A member of a historic district commission or historic preservation commission is eligible for reappointment.

(iv) The appointing authority shall fill any vacancy on a commission for the unexpired term of the vacant position.

(4) Subject to any requirements of the local jurisdiction governing the acceptance and use of gifts by public officials, a historic district commission or historic preservation commission shall have the right to accept and use gifts as needed to perform its duties.

(b) (1) The Maryland Historical Trust may be designated by a historic district commission or historic preservation commission to analyze and make recommendations

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concerning the preservation of sites, structures, or districts of historic, archeological, architectural, or cultural significance within the area served by the commission.

(2) The recommendations of the Maryland Historical Trust may include:

- (i) Proposed boundaries for sites, structures, or districts; and
- (ii) The identification and designation of particular sites, structures, or districts to be preserved.

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§8.04.

(a) Subject to any requirements of a local jurisdiction governing the acquisition of easements, a historic district commission or historic preservation commission may acquire easements in connection with individual sites or structures, or with sites or structures located in or adjacent to a locally designated historic district.

(b) The easements acquired by a historic district commission or historic preservation commission may grant to the commission, the residents of the historic district, and the general public the right to ensure that any site, structure, or surrounding property on which the easement is applied is protected, in perpetuity, from changes that would affect the historic, archeological, or architectural significance of the site, structure, or surrounding property.

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§8.05.

(a) Before a person may construct, alter, reconstruct, move, or demolish a site or structure located within a designated district of a local jurisdiction, if any exterior changes are involved which would affect the historic, archeological, or architectural significance of the site or structure, any portion of which is visible or intended to be visible from a public way, the person shall file an application with the historic district commission or historic preservation commission.

(b) An application filed under subsection (a) of this section shall be considered by the historic district commission or historic preservation commission and approved or rejected by the commission.

(c) An applicant may not resubmit an application that is identical to a rejected application for 1 year after the rejection.

(d) The local jurisdiction may not grant a permit for a change to a site or structure or to a site or structure located in a district until the historic district commission or historic preservation commission has acted on the application as provided under § 8.06 of this subtitle.

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§8.06.

(a) (1) A local jurisdiction shall adopt guidelines for rehabilitation and new construction design for designated sites, structures, and districts that are consistent with those generally recognized by the Maryland Historical Trust.

(2) (i) The guidelines adopted under this section may include:

1. Design characteristics intended to meet the needs of particular types of sites, structures, and districts; and

2. Identification of categories of changes that are so minimal in nature that they do not affect historic, archeological, or architectural significance and require no review by a historic district commission or historic preservation commission.

(ii) A historic district commission or historic preservation commission shall use the guidelines in the commission's review of applications.

(b) In reviewing applications, a commission shall consider:

(1) The historic, archeological, or architectural significance of the site or structure and its relationship to the historic, archeological, or architectural significance of the surrounding area;

(2) The relationship of the exterior architectural features of the structure to the remainder of the structure and to the surrounding area;

(3) The general compatibility of exterior design, scale, proportion, arrangement, texture, and materials proposed to be used; and

(4) Any other factors, including aesthetics, which the historic district commission or historic preservation commission considers pertinent.

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§8.07.

(a) A historic district commission or historic preservation commission shall consider only the exterior features of a structure and may not consider any interior arrangements.

(b) A historic district commission or historic preservation commission may not disapprove an application except as based on the considerations listed in § 8.06 of this subtitle.

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§8.08.

(a) A historic district commission or historic preservation commission shall strictly judge plans for sites or structures determined by research to be of historic, archeological, or architectural significance.

(b) Unless the plans would seriously impair the historic, archeological, or architectural significance of the surrounding site or structure, a historic district commission or historic preservation commission may not strictly judge plans:

(1) For a site or structure of little historic, archeological, or architectural significance; or

(2) Involving new construction.

(c) A historic district commission or historic preservation commission is not required to limit construction, reconstruction, or alteration to the architectural style of any one period.

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§8.09.

(a) (1) If an application is submitted for construction, reconstruction, or alteration affecting a site or the exterior of a structure or for the moving or demolition of a structure, and a historic district commission or historic preservation commission considers preservation of the site or structure to be of unusual importance to the local jurisdiction, the State, or the nation, the commission shall attempt, with the owner of the structure, to formulate an economically feasible plan to preserve the site or structure.

(2) Unless the historic district commission or historic preservation commission is satisfied that the proposed construction, reconstruction, or alteration will not materially impair the historic, archeological, or architectural significance of the site or structure, the commission shall:

- (i) Reject the application; and
- (ii) File a copy of its rejection with the building inspector of the local jurisdiction.

(b) The historic district commission or historic preservation commission shall have 90 days from the date that it concludes that an economically feasible plan cannot be formulated under this section to negotiate with the owner and other parties to find a means of preserving the site or structure.

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§8.10.

If a site or structure is considered to be valuable for its historic, archeological, or architectural significance, a historic district commission or historic preservation commission may approve proposed construction, reconstruction, alteration, moving, or demolition, despite the fact that the changes come within the provisions of § 8.09 of this subtitle, if:

(1) The site or structure is a deterrent to a major improvement program which will be of substantial benefit to the local jurisdiction; or

(2) The retention of the site or structure would:

- (i) Cause undue financial hardship to the owner; or
- (ii) Not be in the best interests of a majority of persons in the community.

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§8.11.

(a) A historic district commission or historic preservation commission shall adopt those rules and regulations necessary for the proper transaction of the commission's business.

(b) Any interested person or representative of an interested person may appear and be heard at any public hearing conducted by a historic district commission or historic preservation commission.

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§8.12.

(a) A historic district commission or historic preservation commission shall:

(1) File with the building inspector of the local jurisdiction a certificate of the commission's approval, modification, or rejection of any application or plan submitted to the commission for review; or

(2) If there is no building inspector in the county or municipal corporation, issue to the owner, lessee, or tenant of the property and premises that is the subject of the application or plan a certificate of the commission's approval, modification, or rejection.

(b) An applicant may not begin work on any project submitted for review by a historic district commission or historic preservation commission, until the commission has filed the certificate of approval with the building inspector.

(c) The building inspector may not issue a building permit for a change or construction submitted for review by a historic district commission or historic preservation commission until the building inspector has received the certificate of approval.

(d) If there is no building inspector in the local jurisdiction, the owner, lessee, or tenant of the property and premises may not commence the proposed work or change until the historic district commission or historic preservation commission has issued to the owner, lessee, or tenant a certificate of approval.

(e) If a historic district commission or historic preservation commission fails to act on a completed application within 45 days after the date that the completed application was filed, the application shall be considered approved unless:

(1) The applicant and the commission agree to an extension of the 45-day period; or

(2) The application is withdrawn.

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§8.13.

This subtitle may not be interpreted to prevent routine maintenance, customary farming operations, or landscaping which does not have a material effect on the historic, archeological, or architectural significance of a designated site, structure, or district. Nothing in this subtitle affects the right to complete any work covered by a permit or authorization issued prior to October 1, 1995.

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§8.14.

A historic district commission or historic preservation commission may request that the enforcing authority institute any of the remedies and penalties provided by law for any violation of an ordinance or resolution adopted under this subtitle.

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§8.15.

Any person aggrieved by a decision of a historic district commission or historic preservation commission may appeal the decision in the manner provided for an appeal from the decision of the zoning board or commission of the local jurisdiction.

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§8.16.

(a) (1) Every local jurisdiction in which a district is designated may enact laws requiring that:

(i) Utility companies relocate underground existing overhead lines and facilities within the defined part of the district or the entire district; and

(ii) If necessary, private owners receiving service from the relocated lines and facilities place any connection underground.

(2) A law enacted under this section shall:

(i) Require that the estimated cost to property owners for work performed on private property be determined and made available to affected property owners;

(ii) Provide financing for these costs to private owners, including financing for any charges for the amortization of the bonds issued to initially cover private costs; and

(iii) Include any other provisions reasonably related to placing overhead lines and facilities underground and the administration of underground relocation projects.

(b) (1) Notwithstanding any other provision of this section, the Public Service Commission shall:

(i) Prescribe the amount of the monthly surcharge required to support the net capital costs of an underground relocation and determine which customers of the applicable utility are subject to the surcharge;

(ii) Include the related net capital costs in the rate base; or

(iii) Adopt any other method to appropriately apportion the costs.

(2) A utility may not be required to pay more than one-half of the net capital costs of underground relocation.

(3) A local jurisdiction may appropriate money for underground relocation projects from any appropriate federal, State, and local funds it receives for the purpose.

(c) (1) In implementing subsection (a)(2)(ii) of this section, the local jurisdiction may enter into an agreement with individual property owners under which the local jurisdiction agrees to advance funds to cover the property owner's costs for the relocation of the overhead lines and facilities.

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(2) (i) The local jurisdiction may appropriate funds, levy taxes, or borrow funds to pay and advance the costs of an underground relocation.

(ii) The local jurisdiction also may:

1. In order to recapture expended costs, impose a benefit assessment against property in the district on behalf of which the utility is relocated underground; and

2. Provide for the collection of the assessment.

(d) Section 1.02 of this article does not apply to this section.

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§8.17.

- (a) The provisions of this subtitle are severable.
- (b) If any provision of this subtitle is held unconstitutional by a court of competent jurisdiction, the decision of the court does not affect or impair any of the remaining provisions.

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§10.01.

(a) To encourage the preservation of natural resources or the provision of affordable housing and to facilitate orderly development and growth, a local jurisdiction that exercises authority granted by this article may enact, and is encouraged to enact, ordinances or laws providing for or requiring:

(1) The planning, staging, or provision of adequate public facilities and affordable housing;

(2) Off-site improvements or the dedication of land for public facilities essential for a development;

(3) Moderately priced dwelling unit programs;

(4) Mixed use developments;

(5) Cluster developments;

(6) Planned unit developments;

(7) Alternative subdivision requirements that:

(i) Meet minimum performance standards set by the local jurisdiction;

and

(ii) Reduce infrastructure costs;

(8) Floating zones;

(9) Incentive zoning; and

(10) Performance zoning.

(b) Notwithstanding any other provision of law, a local legislative body that exercises authority granted by this article may enact ordinances or laws providing for the transfer, with or without consideration, of real property belonging to the local jurisdiction to a public or private entity, to use in developing or preserving affordable housing.

(c) The authority provided under this section is not intended to limit a local jurisdiction's authority to:

(1) Exercise any planning and zoning powers not expressly authorized under this section; or

(2) Adopt other methods to:

(i) Facilitate orderly development and growth;

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(ii) Encourage the preservation of natural resources; or

(iii) Provide affordable housing.

(d) (1) (i) In this subsection the following words have the meanings indicated.

(ii) “Priority funding area” has the meaning stated in § 5–7B–02 of the State Finance and Procurement Article.

(iii) “Restriction” means a restriction, moratorium, or capacity limitation imposed on development as a result of an ordinance or law adopted under this section.

(2) (i) If an adequate public facility ordinance has resulted in a restriction within a priority funding area, a local jurisdiction shall report on the restriction on or before July 1 every 2 years to the Department of Planning.

(ii) The report required under subparagraph (i) of this paragraph shall include:

1. The location of the restriction;
2. The type of infrastructure affected by the restriction;
3. The proposed resolution of the restriction, if available;
4. The estimated date for the resolution of the restriction, if available;
5. If a restriction was lifted, the date the restriction was lifted;

and

6. The resolution that lifted the restriction.

(3) (i) The Department of Planning shall prepare and publish a report on the statewide impacts of adequate public facilities ordinances on or before January 1 every 2 years.

(ii) The report required under subparagraph (i) of this paragraph shall include the identification of:

1. Geographic areas and facilities within priority funding areas that fail to meet local adequate public facility standards; and
2. Improvements to facilities scheduled or proposed in the local jurisdiction’s capital improvement program.

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§11.01.

(a) A local legislative body that exercises authority granted by this article may establish a program for the transfer of development rights to:

- (1) Encourage the preservation of natural resources; and
- (2) Facilitate orderly growth and development in the State.

(b) (1) (i) In this subsection the following words have the meanings indicated.

(ii) “Priority funding area” has the meaning stated in § 5–7B–02 of the State Finance and Procurement Article.

(iii) “Public facility” includes:

1. Recreational facilities;
 2. Transportation facilities and transit oriented development;
- and
3. Schools and educational facilities.

(2) A local legislative body that exercises authority granted by this article may establish a program for the transfer of development rights within a priority funding area to assist a local jurisdiction in the purchase of land for the construction of a public facility within a priority funding area.

(3) (i) Except as provided in subparagraph (ii) of this paragraph, proceeds of the sale of development rights shall be used to assist in:

1. The purchase of the public site; or
2. The construction of the facility.

(ii) For schools and educational facilities, proceeds of the sale of development rights shall be used to assist in the purchase of the land on which the school or educational facility will be located.

(4) Any development rights sold under the authority of this subsection shall only be transferred within a priority funding area.

(5) Development rights associated with existing public land that is owned by a local jurisdiction on October 1, 2009, may not be sold or transferred under this subsection.

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§12.01.

(a) To promote the creation of housing that is affordable to persons and families who have low or moderate incomes, a local legislative body that exercises authority granted by this article may enact ordinances or laws that:

(1) Impose inclusionary zoning and award density bonuses to create affordable housing units; and

(2) Impose restrictions on the use, cost, and resale of housing that is created under this subtitle to ensure that the purposes of this subtitle are carried out.

(b) The authority granted under this subtitle is in addition to any other zoning and planning powers.

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§13.01.

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

(2) “Agreement” means a development rights and responsibilities agreement.

(3) “Governing body” means the local legislative body, the local executive, or other elected governmental body that has zoning powers under this article.

(4) “Public principal” means the governmental entity of a local jurisdiction that has been granted the authority to enter agreements under subsection (b)(1) of this section.

(b) (1) Subject to subsections (c) through (l) of this section, the governing body of a local jurisdiction may:

(i) By ordinance, establish procedures and requirements for the consideration and execution of agreements; and

(ii) Delegate all or part of the authority established under the ordinance to a public principal within the jurisdiction of the governing body.

(2) The public principal may:

(i) Execute agreements for real property located within jurisdiction of the governing body with a person having a legal or equitable interest in the real property; and

(ii) Include a federal, State, or local government or unit as an additional party to the agreement.

(c) Before entering an agreement, a person having a legal or equitable interest in real property or the person’s representative shall petition the public principal of the local jurisdiction in which the property is located.

(d) (1) After receiving a petition and before entering an agreement, the public principal shall conduct a public hearing.

(2) A public hearing that is required for approval of the development satisfies the public hearing requirements.

(e) The public principal of a local jurisdiction may not enter an agreement unless the planning commission of the local jurisdiction determines whether the proposed agreement is consistent with the plan of the local jurisdiction.

(f) (1) An agreement shall include:

(i) A legal description of the real property subject to the agreement;

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(ii) The names of the persons having a legal or equitable interest in the real property subject to the agreement;

(iii) The duration of the agreement;

(iv) The permissible uses of the real property;

(v) The density or intensity of use of the real property;

(vi) The maximum height and size of structures to be located on the real property;

(vii) A description of the permits required or already approved for the development of the real property;

(viii) A statement that the proposed development is consistent with the plan and development regulations of the local jurisdiction;

(ix) A description of the conditions, terms, restrictions, or other requirements determined by the governing body of the local jurisdiction to be necessary to ensure the public health, safety, or welfare; and

(x) To the extent applicable, provisions for the:

1. Dedication of a portion of the real property for public use;
2. Protection of sensitive areas;
3. Preservation and restoration of historic structures; and
4. Construction or financing of public facilities.

(2) An agreement may:

(i) Fix the time frame and terms for development and construction on the real property; and

(ii) Provide for other matters consistent with this article.

(g) An agreement shall be void 5 years after the day on which the parties execute the agreement unless:

(1) Otherwise established under subsection (f)(1)(iii) or (2)(i) of this section; or

(2) Extended by amendment under subsection (h) of this section.

(h) (1) Subject to paragraph (2) of this subsection and after a public hearing, the parties to an agreement may amend the agreement by mutual consent.

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(2) Unless the planning commission of the local jurisdiction determines that the proposed amendment is consistent with the plan of the local jurisdiction, the parties may not amend an agreement.

(i) (1) The parties to an agreement may terminate the agreement by mutual consent.

(2) If the public principal or the governing body determines that suspension or termination is essential to ensure the public health, safety, or welfare, the public principal or its governing body may suspend or terminate an agreement after a public hearing.

(j) (1) Except as provided in paragraph (2) of this subsection, the laws, rules, regulations, and policies governing the use, density, or intensity of the real property subject to the agreement shall be the laws, rules, regulations, and policies in force at the time the parties execute the agreement.

(2) If the local jurisdiction determines that compliance with laws, rules, regulations, and policies enacted or adopted after the effective date of the agreement is essential to ensure the health, safety, or welfare of residents of all or part of the jurisdiction, an agreement may not prevent a local government from requiring a person to comply with those laws, rules, regulations, and policies.

(k) (1) An agreement that is not recorded in the land records office of the local jurisdiction within 20 days after the day on which the parties execute the agreement is void.

(2) The parties to an agreement and their successors in interest are bound to the agreement after the agreement is recorded.

(l) Unless the agreement is terminated under subsection (i) of this section, the parties to an agreement or their successors in interest may enforce the agreement.

(m) This section does not require the adoption of an ordinance by a governing body or authorize a governing body to require a party to enter into an agreement.

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§14.01.

- (a) This section applies to Allegany County.
- (b) The planning commission may consist of nine members.
- (c) (1) The term of each member is 5 years.
 - (2) Each member shall serve until a successor is appointed and qualifies.
 - (3) The terms of two of the members of the planning commission shall be staggered.

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§14.02.

(a) This section applies to Baltimore County.

(b) In addition to the jurisdiction granted in § 7.02 of this article, the legislative body of Baltimore County may provide by ordinance for an administrative proceeding to enforce its zoning regulations.

(c) The ordinance may include the authority to impose civil fines and penalties for zoning violations.

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§14.03.

(a) This section applies to Carroll County.

(b) (1) The County Commissioners may appoint one of the members of the Board of County Commissioners to the planning and zoning commission.

(2) (i) The County Commissioners shall designate one alternate member of the planning commission who may sit on the planning and zoning commission in the absence of a member of the planning and zoning commission.

(ii) When the alternate is absent, the County Commissioners may designate a temporary alternate.

(c) If a plat is approved and recorded in accordance with this article before the transfer of the land, § 5.05 of this article does not apply to a contract for sale or negotiation for sale of property zoned industrial, commercial, or both industrial and commercial.

(d) (1) If the County Commissioners abate a violation of a zoning ordinance, the County Commissioners may assess against the property the reasonable costs of the abatement.

(2) (i) The assessment shall be:

1. Added to the annual tax bill of the property to be collected in the same manner as ordinary taxes are collected; and

2. Subject to the same interest and penalty for nonpayment, as provided by law for the nonpayment of county taxes.

(ii) The assessment shall constitute a lien against the property from the date of assessment until paid.

(3) (i) A property owner aggrieved by the assessment may petition the County Commissioners for relief.

(ii) Within 30 days after receipt of a petition, the County Commissioners shall conduct a hearing to determine the propriety and reasonableness of the assessment.

(iii) At the hearing, the petitioner shall have the burden to show good cause as to why the assessment should not be made.

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§14.04.

- (a) This section applies to Cecil County.
- (b) (1) The planning commission has six regular members and one alternate member.
 - (2) (i) Members of the planning commission serve for 3-year terms.
 - (ii) The terms of the members of the planning commission shall be staggered.
 - (3) At the end of a term, an appointed member continues to serve until a successor is appointed and qualifies.
 - (4) An ex officio member serves a term concurrent with the member's term of office.
 - (5) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.
- (c) (1) (i) The Board of County Commissioners shall appoint a director of planning and zoning for the county.
 - (ii) The director shall serve at the pleasure of the County Commissioners.
 - (2) The planning commission may not appoint a director of planning and zoning.
- (d) (1) Notwithstanding § 4.07(a) of this article, the board of appeals has five regular members and one alternate member.
 - (2) (i) Board members serve for 3-year terms.
 - (ii) The terms of the members of the board of appeals shall be staggered.
 - (3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.
 - (4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

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§14.05.

(a) This section applies to Charles County.

(b) (1) The planning commission is composed of seven members who shall represent as many different geographical areas of Charles County as is possible.

(2) A member of the planning commission may receive the compensation considered appropriate by the County Commissioners.

(3) (i) A member of the planning commission serves for a 4-year term or until a successor is appointed and qualifies.

(ii) The terms of the members shall be staggered.

(4) Each year, the County Commissioners shall appoint the chairperson of the planning commission.

(5) A member of the County Commissioners may not sit on the planning commission.

(c) (1) Notwithstanding § 4.07(a) of this article, a member of the board of appeals shall be appointed to a 4-year term.

(2) The terms of the members of the board of appeals shall be staggered.

(d) (1) This subsection applies only to an application for a special exception for surface mining, an asphalt plant, concrete plant, or sand and gravel washing, crushing, or screening.

(2) (i) Notwithstanding § 4.07 of this article, the County Commissioners may hear and decide a special exception under an appeal filed by a property owner who is aggrieved by a decision of the board of appeals on the special exception.

(ii) The County Commissioners shall hear and decide an appeal of a special exception in accordance with rules and procedures adopted by the County Commissioners.

(3) If the County Commissioners adopt rules and procedures for considering a special exception under this subsection, the decision of the County Commissioners to grant, deny, modify, or remand the application for the special exception is a final decision from which an appeal may be taken to the circuit court under § 4.08 of this article.

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(e) Section 5.05 of this article does not apply to the sale or negotiation for sale of industrial property.

(f) (1) (i) In this subsection the following words have the meanings indicated.

(ii) 1. “All county costs” means the total costs incurred to construct new capacity for public school facilities in the county, including costs for:

- A. Land acquisition;
- B. Architectural and engineering design;
- C. Infrastructure;
- D. New classrooms;
- E. Equipment;
- F. Interest on bond principal; and
- G. Bond issuance.

2. “All county costs” includes the total square footage of new public school facilities multiplied by the State square foot construction allowance, minus the State funding share.

(iii) “Dwelling type” means single family detached home, town house, or multifamily housing unit.

(iv) “New residential development” means the development of land that results in the issuance of a use and occupancy permit for a residential dwelling unit.

(v) “New school capacity construction bonds” means 10-year bonds issued by the County Commissioners under this subsection.

(vi) “Public school facilities” means elementary, middle, and high school facilities.

(vii) “Pupil generation rate” means the average number of students in the county by dwelling type attending elementary, middle, and high school.

(2) (i) The County Commissioners may issue 10-year new school capacity construction bonds at any time and from time to time on the full faith and credit of the county to fund all county costs in providing new school capacity.

(ii) The new school capacity construction bonds shall constitute securities:

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1. In which all public officers, public bodies of the State and its political subdivisions, all insurance companies, State banks and trust companies, national banking associations, savings banks, savings and loan associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds including capital in their control or belonging to them; and

2. Which may be properly and legally deposited with and received by any State or county officer, any State agency, or political subdivision of the State for any purpose for which the deposit of bonds or obligations of the State may be authorized by law.

(iii) The issuance and sale of new school capacity construction bonds under this subsection is exempt from the provisions of Article 31, §§ 9 through 11 of the Code.

(iv) The transfer of, interest on, and any income derived from new school capacity construction bonds shall be exempt from State and local taxation.

(3) (i) The County Commissioners, by ordinance, may fix and impose a fair share school construction excise tax levied against the owner of real property located in the county that is improved by new residential development.

(ii) 1. For fiscal year 2003, the fair share school construction excise tax may not exceed the following amounts:

- A. For a single-family detached home, \$9,700;
- B. For a town house, \$9,200; and
- C. For a multifamily housing unit, \$7,000.

2. For fiscal year 2004 and succeeding fiscal years, the limits set forth in subparagraph (i) of this paragraph shall be altered by the same percentage as the change in the producer price index for the materials and components for construction, as reported by the United States Department of Labor, for the fiscal year preceding the year for which the amount is being calculated.

(iii) Prior to the sale or transfer of real property in Charles County that is improved by new residential development, the seller or transferor shall provide notice to the buyer or transferee that includes:

1. A statement that the fair share school construction excise tax may be levied on the property; and

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2. The amount of the tax for the dwelling type on the property.

(iv) The fair share school construction excise tax shall be:

1. Collected and secured in the same manner as general ad valorem taxes unless otherwise provided by ordinance; and

2. Subject to the same penalties and the same procedure, sale, and lien priority in case of delinquency as provided in general ad valorem taxes.

(v) 1. The fair share school construction excise tax shall be collected annually over a period of 10 years at level amortized payments of principal and interest.

2. The rate of interest payable by a property owner shall be set at the rate of interest paid by the county on the new school capacity construction bonds issued in the first year the excise tax is levied on that property owner.

(vi) The fair share school construction excise tax shall constitute a lien on all taxable real or personal property of the taxpayer for a period of 10 years or until the lien is satisfied by repayment.

(vii) The revenues from the fair share school construction excise tax shall be used to pay the principal and interest as it becomes due on the new school capacity construction bonds issued under paragraph (2) of this subsection.

(viii) The County Commissioners shall conduct an annual study to determine the current amount of all county costs and the current pupil generation rate by dwelling type in the county before setting the rate of the fair share school construction excise tax.

(4) The County Commissioners shall hold a public hearing and provide reasonable notice of the hearing prior to:

(i) Issuing new school capacity construction bonds; and

(ii) Enacting an ordinance to provide the necessary and appropriate procedures and measures to implement the fair share school construction excise tax.

(5) The Charles County Commissioners shall report to the General Assembly on or before August 1 each year, subject to § 2-1246 of the State Government Article, on the following items, for the preceding fiscal year:

(i) The amount of the tax set by the Charles County Commissioners for each dwelling type;

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(ii) The amount of proceeds derived from the issuance and sale of the county's new school capacity construction bonds;

(iii) The number of parcels of real property improved by new residential development in Charles County; and

(iv) The number of square feet of new public school capacity approved for construction in Charles County by the Interagency Committee on School Construction.

§14.06.

(a) This section applies to Frederick County.

(b) Notwithstanding any other provision of this article, the Board of County Commissioners may overrule an action of the Frederick County planning commission under §§ 3.05, 3.06, 3.07, and 3.08 of this article by a majority vote of the membership of the Board of County Commissioners.

(c) (1) Notwithstanding § 4.07(a) of this article, the members of the board of appeals may be appointed to terms of 1 to 3 years.

(2) The terms of the board of appeals shall be staggered.

(d) If a plat is approved and recorded in accordance with this article before the transfer of land, § 5.05 of this article does not apply to the contract for sale or negotiation for sale of property zoned industrial, commercial, or both industrial and commercial.

§14.06.1.

(a) This section applies to Howard County.

(b) In addition to the jurisdiction granted in § 7.02 of this article, the Howard County Council may provide by ordinance for an administrative proceeding to enforce its zoning regulations.

(c) The ordinance authorized under subsection (b) of this section may include the authority to impose civil fines and penalties and to create liens and assess costs for zoning violations.

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§14.07.

(a) This section applies to St. Mary's County.

(b) (1) Land and buildings may not be used for chemical or catalytic manufacturing, chemical fabrication, gasoline processing, or refining of petroleum or petroleum products.

(2) This prohibition does not apply to land or buildings used:

(i) On or before July 23, 1974, for chemical or catalytic manufacturing, chemical fabrication, gasoline fabrication, gasoline processing, or refining of petroleum or petroleum products; or

(ii) On or after July 1, 1980, for manufacturing alcohol fuel.

(c) (1) Except as provided in paragraph (2) of this subsection, any land or building used for races or speed contests involving automobiles or other vehicles, as defined in § 11-176 of the Transportation Article, shall be restricted to hours of operation that cease:

(i) At 12:30 a.m.; or

(ii) If a race or speed contest is in progress at 12:30 a.m., within 30 minutes after the conclusion of that race or speed contest.

(2) The required closing time for land and buildings under paragraph (1) of this subsection does not apply to areas used for the operation of concessions or to a passage used as an entrance to or exit from the concession areas.

(d) (1) Notwithstanding § 4.07(a) of this article, the members of the board of appeals may be appointed to terms of 1 to 3 years.

(2) The terms of the members of the board of appeals shall be staggered.

(e) (1) Section 5.05 of this article does not apply to the sale or negotiation for sale of industrial property.

(2) Properties deeded before January 1, 1994, and improved with a residence before January 1, 2007, are exempt from the subdivision regulations adopted by the County under the Subdivision Control Subtitle of this article for purposes of constructing additions to the residence or accessory buildings.

(f) (1) Notwithstanding § 5.05(a) of this article, the County Commissioners may provide a civil penalty for a subdivision violation.

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(2) In a proceeding before the District Court, a subdivision violation shall be enforced in the same manner and to the same extent as a municipal infraction under Article 23A, § 3(b) of the Code.

(g) (1) Notwithstanding § 7.02 of this article, the County Commissioners may provide a civil penalty for a zoning violation.

(2) In a proceeding before the District Court, a zoning violation shall be enforced in the same manner and to the same extent as a municipal infraction under Article 23A, § 3(b) of the Code.

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§14.08.

(a) In this section, “public facilities” means schools, roads, water, wastewater, and stormwater management facilities, and other infrastructure supported by the federal, State, or local government for public purposes.

(b) Except for land within a municipal corporation in Washington County, this section applies to Washington County.

(c) In addition to the authority granted in § 10.01 of this article, the County Commissioners may provide, by ordinance, for the provision and financing of adequate public facilities concurrently with the need for those facilities.

(d) The ordinance may include the authority for the County Commissioners to:

- (1) Determine the functional or design capacity of public facilities;
- (2) Establish standards for determining the adequacy of public facilities;
- (3) Determine school capacity standards;
- (4) Determine the student yield factors for schools at various levels;
- (5) Establish categories of developments that will be exempt from the application of the ordinance;
- (6) Establish formulas for measuring available capacity of public facilities;
- (7) Determine the adequacy of public facilities in areas affected by new developments in the development plan review process;
- (8) Enter into agreements with developers providing for the payment of monetary compensation to address inadequacies in public facilities caused by proposed developments as a part of the development plan approval process;
- (9) Determine the value of in-kind contributions of equivalent value such as real estate;
- (10) Require forfeiture of contributions 3 years after final plat approval;
- (11) Establish an appeal process for decisions made under the ordinance;
- (12) Limit the number of building permits in any school district; and
- (13) Limit the number of residential building lots approved for development on an annual basis.

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(e) The ordinance under subsection (d) of this section may authorize the County Commissioners to impose civil fines and penalties for any violation of the ordinance.

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§14.09.

(a) This section applies to Worcester County.

(b) (1) Notwithstanding any other provision of law, on the zoning or rezoning of any land, the County Commissioners may impose restrictions, conditions, or limitations considered by the County Commissioners to be appropriate to preserve, improve, or protect the general character and design of:

- (i) The land and improvements being zoned or rezoned; or
- (ii) The surrounding or adjacent lands and improvements.

(2) On the zoning or rezoning of any land, the Commissioners may retain or reserve the power to approve or disapprove the design of buildings, construction, landscaping, or other improvements, alterations, and changes made on the land to assure conformity with the intent and purposes of this article and of the county zoning ordinance.

(3) The County Commissioners may exercise the powers granted under this subsection only if the County Commissioners adopt an ordinance that includes:

- (i) Enforcement procedures; and
- (ii) Requirements for adequate notice of public hearings and conditions sought to be imposed.

(c) Notwithstanding any other provisions of this article or of the local laws of Worcester County, an application for zoning classification or reclassification shall contain the following information:

- (1) If the applicant is a corporation, the names and residences of the officers, directors, and all stockholders owning more than 20% of the capital stock of the corporation;
- (2) If the applicant is a general or limited partnership, the names and residences of all partners who own more than 20% of the interest of the partnership;
- (3) If the applicant is an individual, the applicant's name and residence; or
- (4) If the applicant is a joint venture, unincorporated association, real estate investment trust, or other business trust, the names and residences of all persons holding an interest of more than 20% in the joint venture, unincorporated association, real estate investment trust, or other business trust, respectively.