

# SENATE BILL 236

M3

(2lr0119)

## ENROLLED BILL

— *Education, Health, and Environmental Affairs/Environmental Matters* —

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

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
President.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

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

3 FOR the purpose of ~~altering~~ authorizing a local jurisdiction to adopt and certify to the  
4 Department of Planning certain growth tier designations; requiring a local  
5 jurisdiction under certain circumstances to alter the contents of certain  
6 ~~elements that are required in~~ authorizing a local jurisdiction to  
7 submit proposed tier designations to the Department of Planning before  
8 ~~certification~~ adoption for certain purposes; establishing certain mandatory and  
9 certain discretionary provisions relating to the adoption of certain tiers by  
10 certain local jurisdictions; requiring a local jurisdiction to provide  
11 documentation to the Department of Planning if the jurisdiction does not adopt  
12 a certain tier; requiring growth tiers certified adopted by a local jurisdiction to  
13 meet certain criteria; prohibiting the approval of a residential major subdivision  
14 if a local jurisdiction has established certain tiers unless a planning board

#### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

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

*Italics indicate opposite chamber/conference committee amendments.*



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

1 of a shared facility or community sewerage system; ~~requiring the Department of~~  
 2 ~~the Environment to establish certain requirements for a shared facility and a~~  
 3 ~~community sewerage system; defining certain terms; requiring the Department~~  
 4 ~~of the Environment to adopt regulations to require certain residential~~  
 5 ~~subdivisions to receive a permit; establishing certain requirements for the~~  
 6 verification by the Department of Planning of a certain yield for zoning;  
 7 requiring a local jurisdiction to submit to the Department of Planning on or  
 8 before a certain date a certain definition or description; requiring the  
 9 Department of Planning to prepare a list of certain definitions and descriptions  
 10 for publication on certain Web sites on or after a certain date; providing that  
 11 this Act may not be construed to limit certain authority granted to the Critical  
 12 Area Commission; requiring the Department of the Environment to propose  
 13 certain regulations by a certain date; requiring the Department of the  
 14 Environment to consult with certain counties and stakeholders in drafting  
 15 certain proposed regulations; requiring the Department of the Environment to  
 16 brief certain committees of the General Assembly on certain proposed  
 17 regulations; requiring the Department of Planning, in consultation with the  
 18 Department of the Environment, to submit a certain report to the General  
 19 Assembly by a certain date; establishing the intent of the General Assembly;  
 20 providing for the application of certain provisions of this Act; providing for the  
 21 construction of this Act; providing for the effective date of certain provisions of  
 22 this Act; providing for the termination of certain provisions of this Act; and  
 23 generally relating to the subdivision of land and planning for growth.

24 BY repealing and reenacting, with amendments,  
 25 Article – Environment  
 26 Section 9–206  
 27 Annotated Code of Maryland  
 28 (2007 Replacement Volume and 2011 Supplement)

29 BY adding to  
 30 Article – Environment  
 31 Section 9–1110  
 32 Annotated Code of Maryland  
 33 (2007 Replacement Volume and 2011 Supplement)

34 BY repealing and reenacting, with amendments,  
 35 Article 66B – Land Use  
 36 Section 1.00~~7~~, and 1.03~~7~~, 1.04(b)(1)(iv), ~~and~~ 3.05(a)(4)(ii)  
 37 Annotated Code of Maryland  
 38 (2010 Replacement Volume and 2011 Supplement)

39 ~~BY repealing and reenacting, without amendments,~~  
 40 ~~Article 66B – Land Use~~  
 41 ~~Section 1.04(a) and 3.05(a)(4)(i)~~  
 42 ~~Annotated Code of Maryland~~  
 43 ~~(2010 Replacement Volume and 2011 Supplement)~~

1 BY adding to  
 2 Article 66B – Land Use  
 3 Section ~~1-04(b)(5)~~, 1.05, and ~~3-05(a)(9)~~ 1.06  
 4 Annotated Code of Maryland  
 5 (2010 Replacement Volume and 2011 Supplement)

6 BY repealing and reenacting, with amendments,  
 7 Article – Environment  
 8 ~~Section 9-206(a)(10), (b)(2)(iv), and (d)(1)~~  
 9 Section 9-206(a)(3), (d)(1), (g)(1)(iv) and (2), and (j)(1)  
 10 Annotated Code of Maryland  
 11 (2007 Replacement Volume and 2011 Supplement)  
 12 (As enacted by Section 1 of this Act)

13 BY repealing and reenacting, with amendments,  
 14 Article – Land Use  
 15 Section ~~1-401, 1-407, 3-103~~, and 5-104  
 16 Annotated Code of Maryland  
 17 (As enacted by Chapter \_\_\_\_ (H.B. \_\_\_\_ )(2r0396) of the Acts of the General  
 18 Assembly of 2012)

19 ~~BY repealing and reenacting, without amendments,~~  
 20 ~~Article – Land Use~~  
 21 ~~Section 1-405 and 3-101(a)~~  
 22 ~~Annotated Code of Maryland~~  
 23 ~~(As enacted by Chapter \_\_\_\_ (H.B. \_\_\_\_ )(2r0396) of the Acts of the General~~  
 24 ~~Assembly of 2012)~~

25 BY adding to  
 26 Article – Land Use  
 27 Section 1-501 through 1-507 1-509 to be under the new subtitle “Subtitle 5.  
 28 Growth Tiers”; and 5-104  
 29 Annotated Code of Maryland  
 30 (As enacted by Chapter \_\_\_\_ (H.B. \_\_\_\_ )(2r0396) of the Acts of the General  
 31 Assembly of 2012)

32 ~~BY repealing and reenacting, with amendments,~~  
 33 ~~Article – Land Use~~  
 34 ~~Section 5-104~~  
 35 ~~Annotated Code of Maryland~~  
 36 ~~(As enacted by Chapter \_\_\_\_ (H.B. \_\_\_\_ )(2r0396) of the Acts of the General~~  
 37 ~~Assembly of 2012)~~

38 Preamble

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

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

9 WHEREAS, The Task Force met several times from July 2011 until November  
10 2011 and created several workgroups to review, study, and make findings and  
11 recommendations to the entire Task Force; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 **Article – Environment**

31 9–206.

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

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

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

5           ~~(3)~~ (4) “LOT” INCLUDES A PART OF A SUBDIVISION THAT:

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

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

9           ~~(4)~~ (5) “MAJOR SUBDIVISION” MEANS ~~THE~~:

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

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

14                                   A. THAT IS IN EFFECT ON OR BEFORE JANUARY 1,  
15 2012; OR

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

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

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

31           ~~(5)~~ (6) “MINOR SUBDIVISION” MEANS ~~THE~~:

1                                   **(i) THE SUBDIVISION OF LAND: ~~INTO~~**

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

5                                   **A. THAT IS IN EFFECT ON OR BEFORE JANUARY 1,**  
6 **2012; OR**

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

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

19                                   **(ii) IF THE LOCAL ORDINANCE OR REGULATION HAS ~~TWO~~**  
20 **MULTIPLE DEFINITIONS OR DESCRIPTIONS OF A MINOR SUBDIVISION UNDER**  
21 **ITEM (i) OF THIS PARAGRAPH, THE DEFINITION OR DESCRIPTION OF A MINOR**  
22 **SUBDIVISION THAT IS DETERMINED BY THE LOCAL JURISDICTION TO APPLY FOR**  
23 **THE PURPOSES OF THIS SECTION.**

24                                   **~~(6)~~ (7) “ON-SITE SEWAGE DISPOSAL” MEANS THE DISPOSAL OF**  
25 **SEWAGE BENEATH THE SOIL SURFACE.**

26                                   **~~(7)~~ (8) (i) “ON-SITE SEWAGE DISPOSAL SYSTEM” MEANS A**  
27 **SEWAGE TREATMENT UNIT, COLLECTION SYSTEM, DISPOSAL AREA, AND**  
28 **RELATED APPURTENANCES.**

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

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

34                                   **~~(8)~~ (10) “SHARED FACILITY” MEANS A SEWERAGE SYSTEM THAT:**



1 (I) SERVES MORE THAN ONE:

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

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

5 3. USER AND IS LOCATED ON INDIVIDUAL LOTS  
6 OWNED BY THE USERS; OR

7 4. USER ON ONE LOT AND IS OWNED IN COMMON BY  
8 THE USERS; OR

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

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

13 (11) “STATE AGENCY” MEANS:

14 (I) THE MARYLAND AGRICULTURAL LAND PRESERVATION  
15 FOUNDATION;

16 (II) THE MARYLAND ENVIRONMENTAL TRUST;

17 (III) THE DEPARTMENT OF NATURAL RESOURCES; OR

18 (IV) THE MARYLAND-NATIONAL CAPITAL PARK AND  
19 PLANNING COMMISSION.

20 ~~(9)~~ (12) ~~(4)~~ “SUBDIVISION” MEANS A DIVISION OF A TRACT OR  
21 PARCEL OF LAND INTO AT LEAST TWO LOTS FOR THE IMMEDIATE OR FUTURE  
22 PURPOSE OF SALE OR BUILDING DEVELOPMENT.

23 ~~(H)~~ “SUBDIVISION” INCLUDES:

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

28 ~~2. RESUBDIVISION.~~

1 ~~(H) "SUBDIVISION" DOES NOT INCLUDE A CHANGE IN~~  
 2 ~~STREET LINES OR LOT LINES IF THE CHANGE IN THE STREET OR LOT LINES~~  
 3 ~~DOES NOT:~~

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

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

9 ~~(10) "TIER I", "TIER II", "TIER III", AND "TIER IV" MEAN THE~~  
 10 ~~RESPECTIVE AREAS FOR GROWTH SO DESIGNATED IN A LOCAL COMPREHENSIVE~~  
 11 ~~PLAN ESTABLISHED BY A LOCAL JURISDICTION IN ACCORDANCE WITH ARTICLE~~  
 12 ~~66B, § 1.04 OR § 3.05 OF THE CODE.~~

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

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

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

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

21 ~~(3) (2) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS~~  
 22 ~~SUBSECTION, SUBSECTIONS (F) THROUGH (K) DO NOT APPLY TO~~  
 23 ~~AN APPLICATION FOR APPROVAL OF A RESIDENTIAL SUBDIVISION UNDER §~~  
 24 ~~9-512(E) OF THIS TITLE IF:~~

25 ~~(I) 1. THE APPLICATION IS MADE ON OR BEFORE JULY~~  
 26 ~~1, 2012; AND~~

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

29 ~~(II) 1. THE APPLICATION IS MADE ON OR AFTER JULY 1,~~  
 30 ~~2012; AND~~

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

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

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

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

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

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

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

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

32 C. WITHIN 18 MONTHS AFTER APPROVAL OF THE  
33 SOIL PERCOLATION TESTS FOR THE LOTS THAT WILL BE INCLUDED IN THE  
34 SUBMISSION FOR PRELIMINARY APPROVAL, A SUBMISSION FOR PRELIMINARY  
35 APPROVAL IS MADE TO A LOCAL JURISDICTION THAT INCLUDES, AT A MINIMUM,

1 THE PRELIMINARY ENGINEERING, DENSITY, ROAD NETWORK, LOT LAYOUT, AND  
2 EXISTING FEATURES OF THE PROPOSED SITE DEVELOPMENT; AND

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

5 ~~(2) (4) THE DEPARTMENT MAY EXTEND THE DATE FOR~~  
6 ~~RECORDATION OF A SUBDIVISION PLAT UNDER PARAGRAPH (3) OF THIS~~  
7 ~~SUBSECTION BY ONE ADDITIONAL 6 MONTH PERIOD IF THE APPLICANT~~  
8 ~~DEMONSTRATES TO THE DEPARTMENT OR THE DEPARTMENT'S DESIGNEE THAT~~  
9 ~~THE APPLICANT IS UNABLE TO RECORD THE PLAT BECAUSE THE APPLICANT~~  
10 ~~CANNOT PERFORM THE REQUIRED TESTS FOR ADEQUACY OF AN ON SITE~~  
11 ~~SEWAGE DISPOSAL SYSTEM IN ACCORDANCE WITH THE REGULATIONS ADOPTED~~  
12 ~~BY THE DEPARTMENT.~~

13 (C) (1) SUBSECTIONS (F) THROUGH (K) AND SUBSECTION (N) OF THIS  
14 SECTION DO NOT APPLY TO COVENANTS, RESTRICTIONS, CONDITIONS, OR  
15 CONSERVATION EASEMENTS THAT WERE CREATED OR ENTERED INTO AT ANY  
16 TIME UNDER § 2-118 OF THE REAL PROPERTY ARTICLE FOR THE BENEFIT OF,  
17 OR HELD BY, A STATE AGENCY OR A LOCAL JURISDICTION FOR THE PURPOSE OF  
18 CONSERVING NATURAL RESOURCES OR AGRICULTURAL LAND.

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

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

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

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

33 (E) SUBSECTIONS (F) THROUGH ~~(K)~~ (I) AND SUBSECTION ~~(N)~~ (L) OF  
34 THIS SECTION MAY NOT BE CONSTRUED AS PROHIBITING A LOCAL  
35 JURISDICTION FROM ALTERING THE DEFINITION OR DESCRIPTION OF A MAJOR

1 OR MINOR SUBDIVISION IN A LOCAL ORDINANCE OR REGULATION FOR LOCAL  
 2 ZONING OR DEVELOPMENT PURPOSES.

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

5 (1) MAY NOT ~~APPROVE~~ AUTHORIZE A RESIDENTIAL MAJOR  
 6 ~~RESIDENTIAL~~ SUBDIVISION SERVED BY ON-SITE SEWAGE DISPOSAL SYSTEMS,  
 7 COMMUNITY SEWERAGE SYSTEMS, OR SHARED SYSTEMS UNTIL THE LOCAL  
 8 JURISDICTION ADOPTS THE GROWTH TIERS IN ACCORDANCE WITH ARTICLE  
 9 66B, § 1.05 OF THE CODE; OR

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

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

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

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

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

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

26 1. WILL BE SERVED BY PUBLIC SEWER; OR

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

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

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

4 ~~1. THE SUBDIVISION AND HAS BEEN RECOMMENDED~~  
 5 ~~BY THE LOCAL PLANNING BOARD IN ACCORDANCE WITH ARTICLE 66B, § 1.05~~  
 6 ~~1.06 OF THE CODE; AND~~

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

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

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

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

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

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

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

33 (1) (1) IF TWO OR MORE LOCAL JURISDICTIONS ADOPT CONFLICTING  
 34 GROWTH TIER DESIGNATIONS FOR THE SAME AREA, THE DEPARTMENT AND THE

1 DEPARTMENT OF PLANNING SHALL CONFER WITH THE LOCAL JURISDICTIONS  
 2 TO SEEK RESOLUTION OF THE CONFLICTING DESIGNATIONS.

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

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

12 (II) GROWTH PROJECTIONS AND DEVELOPMENT CAPACITY;  
 13 AND

14 (III) AVAILABILITY OF INFRASTRUCTURE.

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

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

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

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

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

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

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

7           ~~(H) A MAJOR OR MINOR SUBDIVISION SERVED BY PUBLIC~~  
 8 ~~SEWER.~~

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

12           ~~(2) AFTER THE AMENDMENT OF A TIER III OR TIER IV AREA, THE~~  
 13 ~~DEPARTMENT SHALL SEND THE FIRST SUBDIVISION PLAT FOR A MAJOR~~  
 14 ~~SUBDIVISION IN A TIER III AREA TO THE DEPARTMENT OF PLANNING FOR~~  
 15 ~~ADVICE UNDER SUBSECTION (D) OF THIS SECTION.~~

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

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

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

24           (1) A plat of the subdivision;

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11                   **(II) DESIGNATED FOR PUBLIC SEWERAGE SERVICE WITHIN**  
12 **10 YEARS IN THE APPROVED WATER AND SEWER PLAN.**

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

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

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

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

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

31                   **(III) A REMAINDER PARCEL OR TRACT OF LAND MAY BE**  
32 **SUBDIVIDED FOR NONRESIDENTIAL AGRICULTURAL PURPOSES, INCLUDING A**  
33 **FARM MARKET, AGRICULTURAL PROCESSING FACILITY, OR CREAMERY, AND**

1 THE OWNER MAY APPLY FOR APPROVAL OF AN ON-SITE SEWAGE DISPOSAL  
2 SYSTEM TO SERVE THE NONRESIDENTIAL AGRICULTURAL PURPOSES.

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

5 (I) PLOWING, TILLAGE, CROPPING, SEEDING,  
6 CULTIVATING, AND HARVESTING FOR THE PRODUCTION OF FOOD AND FIBER  
7 PRODUCTS; AND

8 (II) THE GRAZING OF LIVESTOCK.

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

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

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

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

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

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

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

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

29 ~~(P) (N)~~ (1) (2) A LOCAL JURISDICTION MAY ENACT A LOCAL LAW  
30 OR ORDINANCE FOR THE TRANSFER OF THE RIGHT TO SUBDIVIDE, UP TO 7  
31 LOTS, AS PROVIDED IN THIS SECTION, BY AN OWNER OF PROPERTY USED FOR

1 AGRICULTURAL ACTIVITIES TO THE OWNER OF ANOTHER PROPERTY USED FOR  
2 AGRICULTURAL ACTIVITIES IN ACCORDANCE WITH THIS SUBSECTION.

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

6 ~~(3)~~ (4) A PROPERTY USED FOR AGRICULTURAL ACTIVITIES THE  
7 OWNER OF WHICH RECEIVES RIGHTS TO SUBDIVIDE UNDER THIS SUBSECTION:

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

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

10 ~~(4)~~ (5) RIGHTS TO SUBDIVIDE MAY NOT BE TRANSFERRED  
11 FROM THE OWNER OF PROPERTY USED FOR AGRICULTURAL ACTIVITIES IN A  
12 TIER III AREA TO THE OWNER OF PROPERTY USED FOR AGRICULTURAL  
13 ACTIVITIES IN A TIER IV AREA.

14 9-1110.

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

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

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

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

26 (I) SERVES MORE THAN ONE:

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

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

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

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

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

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

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

11                   **(1) BE A CONTROLLING AUTHORITY; OR**

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

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

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

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

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

20                   **(2) DISCHARGES:**

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

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

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

1 ~~(c) THE DEPARTMENT SHALL ESTABLISH THE NUTRIENT OFFSET~~  
2 ~~REQUIREMENTS FOR SHARED FACILITIES AND COMMUNITY SEWERAGE~~  
3 ~~SYSTEMS.~~

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

6 **Article 66B – Land Use**

7 1.00.

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

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

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

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

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

21 (2) “Local executive” includes:

22 (i) A county executive;

23 (ii) A board of county commissioners;

24 (iii) An executive head; or

25 (iv) A mayor.

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

28 (2) “Local legislative body” includes:

29 (i) A board of county commissioners;

1 (ii) A county council; or

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

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

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

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

12 **(I) “PRIORITY FUNDING AREA” HAS THE MEANING STATED IN §**  
13 **~~5-7B-02~~ TITLE 5, SUBTITLE 2 OF THE STATE FINANCE AND PROCUREMENT**  
14 **ARTICLE.**

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

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

18 (1) Streams, wetlands, and their buffers;

19 (2) 100-year flood plains;

20 (3) Habitats of threatened and endangered species;

21 (4) Steep slopes;

22 (5) Agricultural and forest lands intended for resource protection or  
23 conservation; and

24 (6) Other areas in need of special protection, as determined in the  
25 plan.

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

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

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

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

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

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

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

14     1.03.

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

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

18                         (1)     **~~[\$ 1.00(j) (Definition of “sensitive areas”)] § 1.00(H), (I), AND (K),~~**  
19 **~~AND (M) (DEFINITIONS OF “PLAN”, “PRIORITY FUNDING AREA”, AND~~**  
20 **~~“SENSITIVE AREAS”<sup>‡</sup>); AND “SUBDIVISION”<sup>‡</sup>);~~**

21                         (2)     § 1.01 (Visions);

22                         (3)     § 1.02 (Consistency with comprehensive plans);

23                         (4)     § 1.04 (Charter county – Comprehensive plans);

24                         **(5) § 1.05 (ADOPTION OF GROWTH TIERS);**

25                         **(6) § 1.06 (MAJOR SUBDIVISION – REVIEW);**

26                         **~~[(5)] ~~(6)~~ (7)~~ § 3.02(h) (Planning Commission – Education);**

27                         **~~[(6)] ~~(7)~~ (8)~~ § 3.09 (Annual report – Preparation and filing);**

28                         **~~[(7)] ~~(8)~~ (9)~~ § 3.10 (Annual report – Smart Growth goals, measures, and**  
29 indicators);



- 1                    [(8)] ~~(9)~~ (10)       § 4.01(b)(2) (Regulation of bicycle parking);
- 2                    [(9)] ~~(10)~~ (11)       § 4.04(c) (Exceptions related to the Maryland
- 3 Accessibility Code);
- 4                    [(10)] ~~(11)~~ (12)       § 4.07(i) (Board of Appeals – Education);
- 5                    [(11)] ~~(12)~~ (13)       § 5.03(d) (Easements for burial sites);
- 6                    [(12)] ~~(13)~~ (14)       § 7.02 (Civil penalty for zoning violation);
- 7                    [(13)] ~~(14)~~ (15)       § 10.01 (Adequate Public Facilities Ordinances);
- 8                    [(14)] ~~(15)~~ (16)       § 11.01 (Transfer of Development Rights);
- 9                    [(15)] ~~(16)~~ (17)       § 12.01 (Inclusionary Zoning);
- 10                   [(16)] ~~(17)~~ (18)       Except in Montgomery County or Prince George’s
- 11 County, § 13.01 (Development rights and responsibilities agreements);
- 12                   [(17)] ~~(18)~~ (19)       For Baltimore County only, § 14.02; and
- 13                   [(18)] ~~(19)~~ (20)       For Howard County only, § 14.06.1.

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

15 Code.

16 ~~1.04.~~

17           ~~(a)     A charter county shall enact, adopt, amend, and execute a plan as~~

18 ~~provided in this section.~~

19           ~~(b)     (1)     When developing a comprehensive plan for a charter county, a~~

20 ~~planning commission shall include:~~

21                               ~~(iv)    An element which contains the planning commission’s~~

22 ~~recommendation for land development regulations to implement the comprehensive~~

23 ~~plan and which [encourages];~~

24   **~~1.     ENCOURAGES:~~**

25   **~~[1.] A.~~**       ~~Streamlined review of applications for~~

26 ~~development, including permit review and subdivision plat review within the areas~~

27 ~~designated for growth in the comprehensive plan;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 **1.05.**

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

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

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

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

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

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

20 (2) THE OPPORTUNITY FOR PUBLIC REVIEW.

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

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

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

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

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

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

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

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

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

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

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

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

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

31                   (I) BE CHANGED; OR

32                   (II) THAT THE ADOPTED TIERS REMAIN UNCHANGED.

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

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

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

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

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

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

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

15                               **2. MAPPED LOCALLY DESIGNATED GROWTH AREAS;**  
 16 **AND**

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

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

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

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

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

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

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

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

5                   ~~4. 3. MAPPED LOCALLY DESIGNATED GROWTH AREAS;~~  
 6 ~~OR~~

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

9                   ~~(III) ADJOINING AND CONTIGUOUS TO ONE OF THE~~  
 10 ~~FOLLOWING:~~

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

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

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

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

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

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

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

28                   ~~2. AREAS MAPPED FOR AGRICULTURAL~~  
 29 ~~PRESERVATION BY THE DEPARTMENT OF PLANNING AT THE TIME OF THE~~  
 30 ~~ADOPTION OF THE PLAN OR AMENDMENT SUBJECT TO COVENANTS,~~  
 31 ~~RESTRICTIONS, CONDITIONS, OR CONSERVATION EASEMENTS FOR THE BENEFIT~~  
 32 ~~OF, OR HELD BY A STATE AGENCY, AS DEFINED IN § 9-206 OF THE~~

1 ENVIRONMENT ARTICLE, OR A LOCAL JURISDICTION FOR THE PURPOSE OF  
 2 CONSERVING NATURAL RESOURCES OR AGRICULTURAL LAND.

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

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

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

11 (I) WHEN THE LOCAL JURISDICTION CONDUCTS THE  
 12 6-YEAR REVIEW OF THE PLAN UNDER §§ 1.04(D) AND 3.05(B) OF THIS ARTICLE;  
 13 AND

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

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

20 1.06.

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

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

25 (3) “MAJOR SUBDIVISION” ~~MEANS THE SUBDIVISION OF LAND~~  
 26 ~~INTO NEW LOTS, PLATS, BUILDING SITES, OR OTHER DIVISIONS OF LAND~~  
 27 ~~DEFINED IN LOCAL LAW AS A MAJOR SUBDIVISION IN EFFECT BEFORE JANUARY~~  
 28 ~~1, 2012~~ HAS THE MEANING STATED IN § 9-206 OF THE ENVIRONMENT ARTICLE.

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

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



1           ~~(6)~~ (5) (I) “PLANNING BOARD” MEANS A PLANNING BOARD  
2 ESTABLISHED UNDER THIS ARTICLE.

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

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

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

10                   (1) ON-SITE SEWAGE DISPOSAL SYSTEMS;

11                   (2) A SHARED FACILITY; OR

12                   (3) A COMMUNITY SEWERAGE SYSTEM.

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

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

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

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

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

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

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

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

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

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

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

13 ~~3.05.~~

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

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

18                   (ii) A land use plan element, which:

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

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

26                           3. MAY INCLUDE MAPPED AREAS DESIGNATED FOR  
 27 TIER I GROWTH IF THE TIER I AREAS ARE PRIORITY FUNDING AREAS THAT  
 28 HAVE RECEIVED NO COMMENTS FROM THE DEPARTMENT OF PLANNING AND  
 29 ARE:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### Article – Environment

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

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

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

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

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

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

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

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

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

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

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

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

## 9 Article – Land Use

10 1–401.

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

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

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

16 (2) § [1–101(o)] **1–101(L), (M), AND (O), ~~AND (R)~~** (Definitions –  
 17 **“PLAN”, “PRIORITY FUNDING AREA”, AND “Sensitive area”, ~~AND~~**  
 18 **“SUBDIVISION”**);

19 (3) § 1–201 (Visions);

20 (4) § 1–206 (Required education);

21 (5) § 1–207 (Annual report – In general);

22 (6) § 1–208 (Annual report – Measures and indicators);

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

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

25 ~~(8) (9)~~ § 4–104(b) (Limitations – Bicycle parking);

26 ~~(9) (10)~~ § 4–208 (Exceptions – Maryland Accessibility Code);

27 ~~(10) (11)~~ § 5–102(d) (Subdivision regulations – Burial sites);

28 ~~(11) (12)~~ § 5–104 (MAJOR SUBDIVISION – REVIEW);

- 1            [(11)] ~~(12)~~ (13)    Title 7, Subtitle 1 (Development Mechanisms);
- 2            [(12)] ~~(13)~~ (14)    Title 7, Subtitle 2 (Transfer of Development Rights);
- 3            [(13)] ~~(14)~~ (15)    Except in Montgomery County or Prince George's  
4 County, Title 7, Subtitle 3 (Development Rights and Responsibilities Agreements);
- 5            [(14)] ~~(15)~~ (16)    Title 7, Subtitle 4 (Inclusionary Zoning);
- 6            [(15)] ~~(16)~~ (17)    § 8–401 (Conversion of overhead facilities);
- 7            [(16)] ~~(17)~~ (18)    For Baltimore County only, Title 9, Subtitle 3  
8 (Single-County Provisions – Baltimore County);
- 9            [(17)] ~~(18)~~ (19)    For Howard County only, Title 9, Subtitle 13  
10 (Single-County Provisions – Howard County); and
- 11           [(18)] ~~(19)~~ (20)    Title 11, Subtitle 2 (Civil Penalty).

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

14 ~~1–405.~~

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

17 ~~1–407.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

5                                   ~~(ii) 1. AREAS PLANNED OR ZONED FOR LAND~~  
6 ~~PRESERVATION, AGRICULTURAL PRESERVATION, OR RESOURCE~~  
7 ~~CONSERVATION;~~

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

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

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

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

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

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

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

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

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

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

5 ~~§ 101.~~

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

8 ~~§ 103.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 SUBTITLE 5. GROWTH TIERS.

28 1-501.

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

31 (B) "PLANNING BOARD" MEANS A PLANNING BOARD ESTABLISHED  
 32 UNDER THIS ARTICLE.

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

3 1-502.

4 ON OR BEFORE DECEMBER 31, 2012, A LOCAL JURISDICTION MAY  
5 ~~CERTIFY TO THE DEPARTMENT OF PLANNING~~ ADOPT THE MAPPED GROWTH  
6 ~~TIERS DESIGNATED BY THE LOCAL JURISDICTION~~ IN ACCORDANCE WITH THIS  
7 SUBTITLE.

8 ~~1-502.~~ 1-503.

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

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

13 (2) THE OPPORTUNITY FOR PUBLIC REVIEW.

14 ~~1-503.~~ 1-504.

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

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

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

22 ~~1-504.~~ 1-505.

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

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

27 ~~(2) ANY COMMENTS BY THE DEPARTMENT OF PLANNING ON THE~~  
28 ~~CERTIFIED TIERS~~ MAY COMMENT ON THE GROWTH TIERS ADOPTED BY THE  
29 LOCAL JURISDICTIONS.

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

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

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

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

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

14 1-507.

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

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

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

28 (1) BE CHANGED; OR

29 (2) THAT THE ADOPTED TIERS REMAIN UNCHANGED.

30 (D) IF THE PLANNING BOARD RECOMMENDS THAT THE TIERS OR AN  
31 AREA WITHIN THE TIERS BE CHANGED UNDER SUBSECTION (C) OF THIS

1 SECTION, THE PLANNING BOARD SHALL PROVIDE THE RECOMMENDED MAPPED  
 2 GROWTH TIER CHANGES TO THE LOCAL JURISDICTION.

3 ~~1-506.~~ 1-508.

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

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

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

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

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

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

14 2. MAPPED LOCALLY DESIGNATED GROWTH AREAS;  
 15 AND

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

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

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

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

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

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

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

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

5                    ~~4. 3. MAPPED LOCALLY DESIGNATED GROWTH AREAS;~~  
 6 ~~OR~~

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

9                    ~~(III) ADJOINING AND CONTIGUOUS TO ONE OF THE~~  
 10 ~~FOLLOWING:~~

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

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

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

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

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

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

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



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

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

6 ~~**1-507, 1-509.**~~

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

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

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

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

19 **5-104.**

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

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

24               **(3) “MAJOR SUBDIVISION” ~~MEANS THE SUBDIVISION OF LAND~~**  
25 **~~INTO NEW LOTS, PLATS, BUILDING SITES, OR OTHER DIVISIONS OF LAND~~**  
26 **~~DEFINED IN LOCAL LAW AS A MAJOR SUBDIVISION IN EFFECT BEFORE JANUARY~~**  
27 **~~1, 2012 HAS THE MEANING STATED IN § 9-206 OF THE ENVIRONMENT ARTICLE.~~**

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

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

1           ~~(6)~~ (5)       (I)   “PLANNING BOARD” MEANS A PLANNING BOARD  
2 ESTABLISHED UNDER THIS ARTICLE.

3                       (II)   “PLANNING BOARD” INCLUDES A PLANNING  
4 COMMISSION OR BOARD ESTABLISHED UNDER DIVISION II OF THIS ARTICLE OR  
5 ARTICLE 25A OF THE CODE.

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

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

10                   (1)   ON-SITE SEWAGE DISPOSAL SYSTEMS;

11                   (2)   A SHARED FACILITY; OR

12                   (3)   A COMMUNITY SEWERAGE SYSTEM.

13           (C)   IF A LOCAL JURISDICTION ESTABLISHES ~~TIER~~ TIER ~~FOR THE GROWTH IN~~  
14 ~~THE DEVELOPMENT REGULATIONS ELEMENT OF THE PLAN~~ TIER ~~UNDER §~~  
15 ~~1-407 OR §~~ TITLE 1, SUBTITLE 5 3-103 OF THIS ARTICLE, A RESIDENTIAL  
16 MAJOR SUBDIVISION IN A TIER III AREA MAY NOT BE APPROVED UNLESS THE  
17 PLANNING BOARD HAS REVIEWED AND RECOMMENDED THE APPROVAL OF THE  
18 MAJOR SUBDIVISION IN A TIER III AREA ~~SERVED BY:~~

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

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

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

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

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

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

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

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

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

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

13 **[5-104.] 5-105.**

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

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

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

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

24           (a) (1) It is the intent of the General Assembly that local jurisdictions  
 25 should use their existing comprehensive plan and zoning ordinance, if desired, to  
 26 create the tiers as provided in Article 66B, ~~§§ 1.04 and 3.05~~ § 1.05 of the Code and ~~§§~~  
 27 ~~1-407 Title 1, Subtitle 5 and 3-103~~ of the Land Use Article, as enacted by this Act.

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

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

1        SECTION ~~6~~ 5. AND BE IT FURTHER ENACTED, That, if requested by a local  
2 jurisdiction to verify the actual overall yield for zoning in a Tier IV area under §  
3 9-206(h) of the Environment Article, the Department of Planning shall:

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

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

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

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

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

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

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

22       SECTION ~~8~~ 7. AND BE IT FURTHER ENACTED, That the provisions of this  
23 Act may not be construed to limit the authority granted to the Critical Area  
24 Commission under Chapter 119 of the Acts of 2008 to adopt regulations under §  
25 8-1806(b) of the Natural Resources Article.

26       SECTION 8. AND BE IT FURTHER ENACTED, That:

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

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

34       (c) the Department shall brief the House Environmental Matters Committee  
35 and the Senate Education, Health, and Environmental Affairs Committee before the

1 submission of the proposed regulations required under subsection (a) of this section to  
 2 the Joint Committee on Administrative, Executive, and Legislative Review; and

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

6 SECTION 9. AND BE IT FURTHER ENACTED, That, on or before February 1,  
 7 2013, the Department of Planning, in consultation with the Department of the  
 8 Environment, shall report to the General Assembly, in accordance with § 2-1246 of the  
 9 State Government Article, on:

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

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

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

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

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

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.