

# HOUSE BILL 1377

L6, R2

0lr1509

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By: **Delegate Lafferty**

Introduced and read first time: February 18, 2010

Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **Department of Transportation – Local Development Reviews – Comments**

3 FOR the purpose of requiring the Department of Transportation to act as a reviewing  
4 unit for certain land use and development review activities of certain local  
5 jurisdictions in a certain manner; requiring the Department to provide  
6 comments in a certain manner to certain local jurisdictions in the development  
7 of the transportation element of a certain comprehensive plan; requiring the  
8 Department to provide comments in a certain manner to certain local  
9 jurisdictions on certain applications for certain site plans and certain plans and  
10 plats; providing for the scope of actions subject to review under this Act;  
11 requiring the comments of the Department to address certain matters;  
12 authorizing the Department to enter into a memorandum of agreement with  
13 certain parties to facilitate certain notification and comments; stating the intent  
14 of a portion of this Act; requiring the Department to coordinate certain  
15 responses of its units for certain purposes; authorizing the Department to  
16 consult with the Department of Planning for certain purposes; providing that  
17 this Act applies to charter counties and to Baltimore City; defining a certain  
18 term; and generally relating to the Department of Transportation and review of  
19 local development actions.

20 BY repealing and reenacting, with amendments,  
21 Article 66B – Land Use  
22 Section 1.03, 2.13, and 6.01(b)  
23 Annotated Code of Maryland  
24 (2003 Replacement Volume and 2009 Supplement)

25 BY repealing and reenacting, without amendments,  
26 Article 66B – Land Use  
27 Section 1.04(b)(1)(i) and (2), 3.05(a)(5)(i), 5.02(a), and 6.01(a), (c), and (d)  
28 Annotated Code of Maryland  
29 (2003 Replacement Volume and 2009 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to  
2 Article 66B – Land Use  
3 Section 1.04(b)(5), 3.05(a)(9), 5.02(c), and 6.04  
4 Annotated Code of Maryland  
5 (2003 Replacement Volume and 2009 Supplement)

6 BY adding to  
7 Article – Transportation  
8 Section 2–112  
9 Annotated Code of Maryland  
10 (2008 Replacement Volume and 2009 Supplement)

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

13 **Article 66B – Land Use**

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”);

19 (2) § 1.01 (Visions);

20 (3) § 1.02 (Consistency with plans);

21 (4) § 1.03 (Charter county – Comprehensive plans);

22 (5) § 3.02(h) (Planning Commission – Education);

23 (6) § 3.09 (Annual report – Preparation and filing);

24 (7) § 3.10 (Annual report – Smart Growth goals, measures, and  
25 indicators);

26 (8) § 4.01(b)(2) (Regulation of bicycle parking);

27 (9) § 4.07(i) (Board of Appeals – Education);

28 (10) § 5.03(d) (Easements for burial sites);

29 (11) **§ 6.04 (TRANSPORTATION PLANNING REVIEW);**

- 1           **(12)** § 7.02 (Civil penalty for zoning violation);
- 2           ~~[(12)]~~ **(13)** § 10.01 (Adequate Public Facilities Ordinances);
- 3           ~~[(13)]~~ **(14)** § 11.01 (Transfer of Development Rights);
- 4           ~~[(14)]~~ **(15)** § 12.01 (Inclusionary Zoning);
- 5           ~~[(15)]~~ **(16)** Except in Montgomery County or Prince George's County, §
- 6 13.01 (Development rights and responsibilities agreements);
- 7           ~~[(16)]~~ **(17)** For Baltimore County only, § 14.02; and
- 8           ~~[(17)]~~ **(18)** For Howard County only, § 14.06.1.

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

10 Code.

11 1.04.

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

13 planning commission shall include:

14                           (i) A transportation plan element which shall:

15   1. Propose the most appropriate and desirable patterns

16 for the general location, character, and extent of the channels, routes, and terminals

17 for transportation facilities, and for the circulation of persons and goods on a schedule

18 that extends as far into the future as is reasonable;

19   2. Provide for bicycle and pedestrian access and

20 travelways; and

21   3. Include an estimate of the probable utilization of any

22 proposed improvement;

23                           (2) The channels, routes, travelways, and terminals required under

24 paragraph (1)(i) of this subsection may include all types of highways or streets, bicycle

25 ways, sidewalks, railways, waterways, airways, routings for mass transit, and

26 terminals for people, goods, and vehicles related to highways, airways, waterways, and

27 railways.

28                           **(5) IN ACCORDANCE WITH § 6.04 OF THIS ARTICLE, THE**

29 **DEPARTMENT OF TRANSPORTATION SHALL PROVIDE COMMENTS TO A LOCAL**

30 **GOVERNMENT ON THE DEVELOPMENT OF THE TRANSPORTATION ELEMENT OF**

31 **THE COMPREHENSIVE PLAN.**

1 2.13.

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

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

5 (1) § 1.00(j) (Definition of “sensitive areas”);

6 (2) § 1.01 (Visions);

7 (3) § 1.02 (Consistency with plans);

8 (4) § 1.03 (Charter county – Comprehensive plans);

9 (5) § 3.02(h) (Planning Commission – Education);

10 (6) § 3.09 (Annual report – Preparation and filing);

11 (7) § 3.10 (Annual report – Smart Growth goals, measures, and  
12 indicators);

13 (8) § 4.01(b)(2) (Regulation of bicycle parking);

14 (9) § 4.07(i) (Board of Appeals – Education);

15 (10) § 5.03(d) (Easements for burial sites);

16 (11) **§ 6.04 (TRANSPORTATION PLANNING REVIEW);**

17 **(12)** § 7.02 (Civil penalty for zoning violation);

18 **[(12)] (13)** § 10.01 (Adequate Public Facilities Ordinances);

19 **[(13)] (14)** § 11.01 (Transfer of Development Rights);

20 **[(14)] (15)** § 12.01 (Inclusionary Zoning); and

21 **[(15)] (16)** § 13.01 (Development Rights and Responsibilities  
22 Agreements).

23 3.05.

24 (a) (5) (i) The transportation element may include all types of  
25 highways and streets, bicycle ways, sidewalks, railways, waterways, airways, routings

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

3 **(9) IN ACCORDANCE WITH § 6.04 OF THIS ARTICLE, THE**  
4 **DEPARTMENT OF TRANSPORTATION SHALL PROVIDE COMMENTS TO A LOCAL**  
5 **GOVERNMENT ON THE DEVELOPMENT OF THE TRANSPORTATION ELEMENT OF**  
6 **THE COMPREHENSIVE PLAN.**

7 5.02.

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

13 (1) The planning commission approves the plat; and

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

16 **(C) IN ACCORDANCE WITH § 6.04 OF THIS ARTICLE, THE DEPARTMENT**  
17 **OF TRANSPORTATION SHALL PROVIDE COMMENTS TO THE LOCAL**  
18 **JURISDICTION ON APPLICATIONS FOR APPROVAL OF SITE PLANS AND**  
19 **PRELIMINARY AND FINAL SUBDIVISION PLATS.**

20 6.01.

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

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

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

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

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

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

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

7 (1) Approve and adopt the plat;

8 (2) Disapprove the plat;

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

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

#### 13 **6.04.**

14 (A) IN THIS SECTION, "ACTION" MEANS A PLANNING OR DEVELOPMENT  
15 ACTIVITY OF A UNIT OF A LOCAL JURISDICTION THAT MAY HAVE AN IMPACT ON  
16 REGIONAL TRANSPORTATION SYSTEMS, INCLUDING HIGHWAYS, ROADS,  
17 TRANSIT SYSTEMS, BICYCLING SYSTEMS, AND PEDESTRIAN SYSTEMS.

18 (B) (1) THIS SECTION APPLIES TO AN ACTION THAT INVOLVES THE  
19 APPLICATION FOR, REVIEW OF, OR APPROVAL OF:

20 (I) A PLANNED UNIT DEVELOPMENT;

21 (II) A TRANSIT-ORIENTED DEVELOPMENT;

22 (III) A MIXED-USE DEVELOPMENT;

23 (IV) A DEVELOPMENT OF AT LEAST 150,000 SQUARE FEET  
24 OF COMMERCIAL SPACE LOCATED WITHIN 1 MILE OF THE BOUNDARY OF THE  
25 LOCAL JURISDICTION;

26 (V) A DEVELOPMENT OF AT LEAST 150 RESIDENTIAL  
27 DWELLING UNITS LOCATED WITHIN 1 MILE OF THE BOUNDARY OF THE LOCAL  
28 JURISDICTION;

29 (VI) A STATE ROAD THAT WILL TRAVERSE LOCAL  
30 JURISDICTIONS AND SERVE OR SUPPORT COMMERCIAL OR RESIDENTIAL

1 DEVELOPMENTS WITHIN 1 MILE OF THE BOUNDARY OF THE LOCAL  
2 JURISDICTION; AND

3 (VII) A TRANSIT SYSTEM THAT WILL SERVE OR CONNECT  
4 MORE THAN ONE LOCAL JURISDICTION.

5 (2) AN ACTION SUBJECT TO THIS SECTION INCLUDES AN ACTION  
6 TAKEN UNDER A JOINT PLANNING AGREEMENT BETWEEN A COUNTY AND A  
7 MUNICIPAL CORPORATION OR BETWEEN COUNTIES.

8 (C) THE DEPARTMENT OF TRANSPORTATION SHALL BE CONSIDERED A  
9 REVIEWING UNIT IN ANY OF THE FOLLOWING MATTERS THAT ARE WITHIN THE  
10 SCOPE OF SUBSECTION (B) OF THIS SECTION:

11 (1) THE DEVELOPMENT OF THE COMPREHENSIVE PLAN, PLAN  
12 ELEMENTS, AND ANY SECTOR PLAN, AREA PLAN, OR COMMUNITY PLAN;

13 (2) SITE PLAN APPROVAL;

14 (3) SUBDIVISION APPROVAL; AND

15 (4) ANY OTHER ACTION THAT THE DEPARTMENT OF  
16 TRANSPORTATION AND THE LOCAL JURISDICTION MAY IDENTIFY AS  
17 APPROPRIATE TO REVIEW UNDER THIS SECTION.

18 (D) THE COMMENTS OF THE DEPARTMENT OF TRANSPORTATION  
19 UNDER THIS SECTION SHALL ADDRESS:

20 (1) THE IMPACT OF THE PROPOSED ACTION ON  
21 TRANSPORTATION SYSTEMS OPERATIONS;

22 (2) ANY ANTICIPATED EFFECTS OF THE PROPOSED ACTION ON  
23 FUNCTIONALITY OF TRANSPORTATION SYSTEMS;

24 (3) POTENTIAL ALTERNATIVES FOR TRANSPORTATION ISSUES  
25 PRESENTED BY THE PROPOSED ACTION; AND

26 (4) OPTIONS TO MITIGATE THE TRAFFIC AND TRANSIT IMPACTS  
27 OF THE PROPOSED ACTION.

28 (E) THE DEPARTMENT OF TRANSPORTATION MAY ENTER INTO A  
29 MEMORANDUM OF AGREEMENT WITH THE LOCAL LEGISLATIVE BODY, THE  
30 PLANNING COMMISSION, AND ANY OTHER APPROPRIATE UNIT OF A LOCAL  
31 JURISDICTION TO FACILITATE:

1           **(1) NOTIFICATION OF LOCAL ACTIONS FOR WHICH THE**  
2 **DEPARTMENT IS A REVIEWING UNIT; AND**

3           **(2) TIMELY SUBMISSION OF COMMENTS TO THE LOCAL**  
4 **JURISDICTION.**

5           **(F) NOTHING IN THIS SECTION IS INTENDED TO LIMIT OR OTHERWISE**  
6 **CONSTRAIN TECHNICAL SUPPORT AND OTHER ASSISTANCE THAT THE**  
7 **DEPARTMENT OF TRANSPORTATION PROVIDES TO LOCAL JURISDICTIONS**  
8 **UNDER OTHER LAWS.**

9   **Article – Transportation**

10 **2–112.**

11           **(A) THE DEPARTMENT SHALL ACT AS A REVIEWING UNIT FOR LAND USE**  
12 **PLANNING AND DEVELOPMENT REVIEW ACTIVITIES AND OTHER**  
13 **GROWTH–RELATED ACTIONS OF A LOCAL JURISDICTION UNDER ARTICLE 66B, §**  
14 **6.04 OF THE CODE.**

15           **(B) THE DEPARTMENT:**

16                       **(1) SHALL REQUEST THE APPROPRIATE UNITS IN THE**  
17 **DEPARTMENT TO REVIEW AND PREPARE COMMENTS ON THE PLANNING AND**  
18 **DEVELOPMENT REVIEW ACTIVITIES AND OTHER GROWTH–RELATED ACTIONS OF**  
19 **A LOCAL JURISDICTION; AND**

20                       **(2) SHALL COORDINATE THE RESPONSES OF ITS UNITS FOR**  
21 **SUBMISSION TO THE LOCAL JURISDICTION.**

22           **(C) THE DEPARTMENT SHALL CONSULT WITH THE DEPARTMENT OF**  
23 **PLANNING IN:**

24                       **(1) REVIEWING AND PREPARING THE COMMENTS; AND**

25                       **(2) ADDRESSING INTERJURISDICTIONAL ISSUES PRESENTED BY**  
26 **PROPOSED ACTIONS OF A LOCAL JURISDICTION.**

27           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
28 October 1, 2010.