



## Fact Sheet: Regulation of Land Use in the State

January 2025

### State Law Delegates Authority to Local Governments

The regulation of land use in the State, through planning and zoning, is implemented by local governments, subject to applicable State law. Planning and zoning authority is delegated by the State to local governments primarily under the Land Use Article of the Maryland Code and, for certain counties, the Express Powers Act (Title 10 of the Local Government Article).

Both the Land Use Article and Express Powers Act contain the State's policy statement that (1) the orderly development and use of land and structures requires comprehensive regulation through implementation of planning and zoning controls and (2) planning and zoning controls must be implemented by local government. Under State law provisions that govern the Maryland Department of Planning (Title 5 of the State Finance and Procurement Article), the department is required to cooperate with and assist local governments in the execution of their planning functions.

### “Planning” and “Zoning”

The Maryland Supreme Court distinguishes “planning” and “zoning” by describing planning as focused on the long-term development of a community with respect to land use, streets, parks, civic beauty, industrial and commercial undertakings, residential developments, and other matters, while zoning is focused on the territorial division of land within a jurisdiction and dedication of the divided areas to particular uses (e.g., residential, commercial, industrial). *See Cnty. Council of Prince George’s Cnty. V. Zimmer Dev. Co.*, 444 Md. 490, 505, 520 (2015). “Plans are developed to guide the implementation of land use controls and zoning in a rational way that is beneficial to the public.” *Id.* At 520. State law requires a jurisdiction to adopt, and periodically update, a comprehensive plan, and the jurisdiction’s zoning laws must be consistent with the plan. Jurisdictions can also develop more detailed plans for specific areas within the jurisdiction.

### Relevant Maryland Code Provisions

Local governments are governed by varying provisions of the Maryland Code relating to land use, as shown in **Exhibit 1**.

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## Exhibit 1

### Provisions of the Maryland Code Governing Local Planning/Zoning Authority

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<b>Charter counties other than Montgomery and Prince George's counties</b> (Anne Arundel, Baltimore, Cecil, Dorchester, Frederick, Harford, Howard, Talbot, and Wicomico counties)	<ul style="list-style-type: none"><li>• <b>§§ 10-324 and 10-305 of the Express Powers Act</b> (Title 10 of the Local Government Article)</li><li>• <b>certain provisions of Division I of the Land Use Article</b> (enumerated under § 1-401(b) of the Land Use Article)</li></ul>
<b>Code counties</b> (Allegany, Caroline, Charles, Kent, Queen Anne's, and Worcester counties) that choose to exercise the powers related to land use in the Express Powers Act	<ul style="list-style-type: none"><li>• <b>§§ 10-324 and 10-305 of the Express Powers Act</b> (Title 10 of the Local Government Article) (see also § 1-402(a) of the Land Use Article)</li><li>• <b>certain provisions of Division I of the Land Use Article</b> (enumerated under § 1-401(b); pursuant to § 1-402(b))</li></ul>
<b>Commission counties</b> (Calvert, Carroll, Garrett, St. Mary's, Somerset, and Washington counties) – and – <b>Municipalities</b> (except those in the Maryland-Washington Regional District)	<ul style="list-style-type: none"><li>• <b>Division I of the Land Use Article</b> (except for certain provisions, such as those under Title 10 which apply to Baltimore City)</li><li>• <b>§§ 5-212 and 5-213 of the Local Government Article</b> (municipalities)</li></ul>
<b>Baltimore City</b>	<ul style="list-style-type: none"><li>• <b>Title 10 under Division I of the Land Use Article</b></li><li>• <b>certain other provisions of Division I</b> (enumerated under § 10-103(b) of the Land Use Article)</li></ul>
<b>Montgomery and Prince George's counties</b> (area within the Maryland-Washington Regional District)	<ul style="list-style-type: none"><li>• <b>Division II of the Land Use Article</b></li><li>• <b>certain provisions of Division I</b> (enumerated under § 1-401(b))</li></ul>

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Source: Department of Legislative Services

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## **Express Powers Act**

Under the Express Powers Act, charter and code counties are given broad authority to “enact local laws relating to zoning and planning to protect and promote public safety, health, morals, and welfare” pursuant to § 10-324. In addition, § 10-305 authorizes charter and code counties to establish a county board of appeals to, among other things, decide certain zoning matters.

### **Division I of the Land Use Article**

Most of Division I of the Land Use Article applies only to commission counties and municipalities. Sections 1-401(a), 1-402(b), and 10-103(a) of the Land Use Article establish that only certain provisions of Division I – those listed in §§ 1-401(b) and 10-103(b) – apply to charter counties (including Montgomery and Prince George’s counties), code counties that choose to exercise the powers related to land use in the Express Powers Act, and Baltimore City. The provisions of Division I that apply to charter counties, code counties, and Baltimore City include (1) Title 1, Subtitle 4, Parts II and III, that govern those jurisdictions’ development and implementation of a comprehensive plan (but see Title 21, for Montgomery and Prince George’s counties) and (2) Title 10, which governs zoning in Baltimore City. Comprehensive plan requirements applicable to commission counties and municipalities are in Title 3 of Division I, and comprehensive plan requirements applicable to the Maryland-Washington Regional District (in Montgomery and Prince George’s counties, discussed below) are in Title 21 of Division II.

Generally, municipalities (other than those within the Maryland-Washington Regional District) exercise planning and zoning authority within their territory pursuant to Division I of the Land Use Article; however, a small number of municipalities do not exercise planning and zoning authority and are instead subject to county land use laws.

Sections 5-212 and 5-213 of the Local Government Article also apply to municipalities; however, (1) § 5-212 simply restates the State policy found elsewhere in the Maryland Code regarding orderly development and use of land and structures, and (2) while § 5-213 grants a municipality authority to adopt zoning regulations, the Attorney General has indicated, in at least one instance, that the general grant of authority in § 5-213 does not broaden the powers of municipalities beyond authority granted by Division I of the Land Use Article. *See* 75 Md. Op. Att’y Gen. 360 (1990).

### **Division II of the Land Use Article**

Division II of the Land Use Article establishes the Maryland-National Capital Park and Planning Commission (made up of the Montgomery and Prince George’s County planning boards) and governs planning and zoning within the Maryland-Washington Regional District (§ 20-101), which consists of (1) the entire area of Montgomery County, subject to certain limitations (relating to certain municipalities not subject to the planning and zoning authority of the county, unless by agreement, and other municipalities that have certain, limited planning and zoning authority) and

(2) the entire area of Prince George's County, except for the City of Laurel as it existed on July 1, 2013.

While Montgomery and Prince George's counties are charter counties, Division II applies to the regional district instead of the land use-related provisions of the Express Powers Act. See *Cnty. Council of Prince George's Cnty.*, 444 Md. at 523-525; *Chevy Chase View v. Rothman*, 323 Md. 674, 685 (1991).