

2009 Planning Legislation The Smart and Sustainable Growth Act of 2009

(SB 280/HB 297)

The Smart and Sustainable growth Act of 2009 clarifies the link between local comprehensive plans and local land use ordinances. The bill defines the current requirement of "consistency". Actions that are "consistent with" or have "consistency with" a comprehensive plan are actions that further, and are not contrary to, the following items in the plan:

- policies;
- timing of implementation of the plan;
- timing of development;
- timing of rezoning;
- development patterns;
- land uses; and
- densities or intensities.

This definition applies to special exceptions and the adoption of local ordinances and regulations. It also applies to other sections of state law when an action is required to be "consistent with" or have "consistency with" a local plan. These include municipal annexations, water and sewer amendments and Critical Area growth allocation.

In Priority Funding Areas (PFA), consistency, for the purpose of adoption of local ordinances and regulations, does not include land uses and densities or intensities. The General Assembly excluded those terms in PFAs to encourage, and not interfere with, ordinances and regulations that allow for mixed uses and bonus densities beyond those specified in the local comprehensive plan .

The bill requires members of planning commissions and boards of appeal to complete an education course before July 1, 2010. The Task Force on the Future for Growth and Development is required to develop recommendations on the educational course for local jurisdictions, and the Maryland Department of Planning (MDP) is required to develop an online planning education course for local jurisdictions and make it available by January 1, 2010. Local jurisdictions are authorized to develop their own educational course.

Finally, the bill expresses legislative intent to overturn the Court of Appeals ruling in *David Trail, et al. v. Terrapin Run, LLC et al.*, 403 Md. 523 (2008).

The bill takes effect **July 1, 2009**.

Martin O'Malley
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