

SB 236, Tier IV Exemption Overview

Background: Tier Criteria and Restrictions

<http://planning.maryland.gov/OurWork/2012Legislation.shtml>

Jurisdictions may adopt four Growth Tiers to establish what type of sewerage system may serve them & where major and minor residential subdivisions may occur.

If Growth Tiers are not adopted, no residential major subdivisions are allowed outside of existing sewered areas. The Commission has a specific statutory role relating to Tier IV.

- Tier I areas:
 - Municipalities or county designated growth areas currently served by sewerage systems;
 - Major & minor subdivisions will be served by public sewerage systems.
- Tier II areas
 - Municipal or county designated growth areas, planned for public sewer or needed to meet demand;
 - Major subdivisions will be served by public sewer. Minor subdivisions may be served by on-site sewage disposal as interim systems, until public sewer service is made available.
- Tier III areas
 - Are not planned for public sewer & are not dominated by agricultural and/or forest land use; and are planned for large lots, are part of a Rural Village or are part of a municipality.
 - Major & minor subdivisions may be served by on-site disposal systems, community systems or shared facilities.
- Tier IV areas
 - Not planned for public sewer and are one or more of the following five types of land: 1) Priority Preservation Areas; 2) Rural Legacy Areas; 3) land planned for preservation and/or conservation; 4) state & local protected land; 5) or areas dominated by agricultural and/or forest land use;
 - Major subdivisions are not allowed without a Tier IV exemption. Minor subdivisions may be served by on-site systems.

Local jurisdictions that adopt the Tiers may seek an exemption from the restriction on major subdivisions within Tier IV.

Criteria for Tier IV Exemption

The subdivision and zoning requirements in a jurisdiction's cumulative Tier IV area must result in an actual overall yield of not more than one dwelling unit per 20 acres, and this must be verified by MDP. The intent of the exemption is to relieve jurisdictions of Tier IV restrictions on major subdivisions where established zoning and subdivision rules already adequately limit subdivision potential in those areas.

MDP must verify the overall actual yield in writing after consultation with the Sustainable Growth Commission.

Process for Tier IV Exemption

1. Jurisdiction adopts Tiers & requests verification for Tier IV exemption
2. MDP determines that the Tier IV area was delineated in a manner consistent with the law
 - All 5 types of Tier IV lands (see p. 1) were identified and included consistent with law;
 - Defensible procedure for areas dominated by agricultural and/or forest land use.
3. Review zoning and subdivision rules to determine potential yields
4. Review empirical (actual) yields of recent subdivision and development activities for comparison
5. Review & inventory existing development within Tier IV
 - Historical inclusions in PPAs, RLAs
 - Development under current zoning rules
 - Development before current zoning rules
 - Land under different zoning rules in PPAs, RLAs (easement lots, PFAs, rural villages)
6. Estimate potential future development on remaining private unrestricted land
7. Assess the overall yield for the cumulative Tier IV area likely to result from local subdivision and zoning requirements
8. Consult with Sustainable Growth Commission
9. MDP communicates final determination to local jurisdiction within 90 days of receipt of the initial verification request

SB236 Implementation, Expectations of the Commission

- December 31, 2012 is the deadline for adopting Tiers. There is no deadline for Tier IV exemptions; they can be pursued at any time in the future.
- Tier IV requests will be a standing agenda item for Commission meetings through December 2012 & into 2013
- MDP will continue to keep the Commission informed regarding all other major aspects of implementation