

Key Planning Legislation from the 2006 Session

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The Maryland Department
of Planning
and
The Maryland Department
of the Environment



Planning and Zoning Changes Enacted in the 2006 Session of the Maryland General Assembly

Water resources, priority preservation areas, and municipal growth elements

This section provides a brief overview of new laws of note to planners passed during the 2006 session of the Maryland General Assembly. The Maryland Department of Planning (MDP) will provide other products and informational meetings in the future to elaborate on these issues and to receive input from various stakeholders.

The 2006 session of the Maryland General Assembly was the most active session relating to planning and zoning legislation in many years. Key successful legislation (House Bill 1141 and House Bill 2) will affect comprehensive plans, annexations and land preservation programs. The following document summarizes the changes made to basic planning and zoning requirements and associated changes made to annexation procedures, agricultural land preservation, and Maryland's Smart Growth programs.

The Five-Year Rule for Annexations

This rule is now zoning based. In the past, the five-year rule could be applied whenever a proposed new zoning classification was substantially different from the use envisioned "in the current and duly adopted master plan." The reference to the master plan is now gone and the issue becomes the degree of change from the current county zoning classification to the proposed municipal classification following the annexation. Now the standard is that municipalities shall not permit development of the annexed land for land uses substantially different, or at a substantially higher density (not to exceed 50% denser) than authorized by existing county zoning. As before, a municipality may obtain a waiver from the county to avoid the five-year wait until the new zoning classification applies. This change takes effect on October 1, 2006.

Annexation Plans Replace the Outline for Extension of Services

An annexation plan (which also must be adopted by the governing body in addition to the resolution to annex) now replaces the outline for the extension of services and public facilities prior to the public hearing for an annexation proposal. This section does not contain additional language for the content of the annexation plan, but does require it to be consistent with the municipal growth element for any annexations that begin after October 1, 2009 (unless extended for up to two six-month periods). During this interim period between October 2006 and October 2009 MDP will be looking for annexation plans that cover the same information that outlines for extension of public services and facilities addressed previously. However, MDP will also be looking for these plans to address the land use planning principles in the Municipal Growth Elements as much as possible.

The Plan must be provided to the county and MDP at least 30 days prior to the hearing. MDP is specifically mentioned here, increasing the agency's role in annexations. MDP is working to institute a more formal mechanism for tracking and reviewing the annexation plans. Therefore municipalities are encouraged to ensure that MDP gets at least 30 days to review their annexation plans before hearings to adopt these plans. Annexation plans should be mailed to Thomas Rimrodt, Assistant Secretary, Maryland Department of Planning, Room 1101, 301 W. Preston St., Baltimore, MD 21201.

The requirement that an annexation plan be provided to the Maryland Department of Planning takes effect on October 1, 2006. The requirement for consistency with the Municipal Growth Element of the comprehensive plan takes effect no later than October 1, 2009.

New Planning Elements

- The new legislation mentioned above requires four new elements (or chapters) of local comprehensive plans.
- The first element, *the Water Resources Plan Element*, is required of all local governments (county and municipal) that exercise planning and zoning authority.
- The second element, *the Municipal Growth Element*, is required in municipal comprehensive plans only.

- The third element, *the Priority Preservation Area Element*, enabled by the Agricultural Stewardship Act of 2006 (HB 2) will be required as of July 1, 2008 for county agricultural land preservation programs to remain certified under Maryland's Agricultural Certification Program. This element will be optional for counties without certified preservation programs.
- The fourth element, *Workforce Housing*, is required for certain grant program eligibility.

The Water Resources Plan Element

This new planning element addresses the relationship of planned growth to water resources for both waste disposal and safe drinking water. It will be required of all county and municipal governments in the State. The element must identify drinking water and other water resources adequate for the needs of existing and future development proposed in the land use element of the comprehensive plan. It must also identify suitable receiving waters for both wastewater and stormwater management to meet the needs of existing and projected development proposed in the land use element of the comprehensive plan. The Maryland Department of the Environment will provide available data to identify these resources. Resource issues expected to be addressed in these elements include water resource protection areas, groundwater resources, water quality standards and Total Maximum Daily Loads (TMDLs).



These elements must be included in the Comprehensive Plan no later than **October 1, 2009**. For more information, please contact MDE's Water Quality Infrastructure Program at 410 537-3574.

The Municipal Growth Element

This element requires a municipality to identify areas for future growth consistent with a long-range vision for its future. The growth element will be developed based on consideration of a comprehensive list of factors including population projections, an assessment of land capacity and needs and an assessment of infrastructure and sensitive areas. Completion of the element will guide future annexation proposals and plans after October 2009. Consultation with the county in which a municipality is located is required, and a joint planning agreement with the county is encouraged.

This element must be included in all municipal comprehensive plans no later than **October 1, 2009**.

The Priority Preservation Element

House Bill 2 (the Agricultural Stewardship Act of 2006) adds a Priority Preservation Element to the list of additional plan elements that a county may include in its comprehensive plan. However, for counties with certified agricultural land preservation programs, the element becomes mandatory as of July 1, 2008. Requirements for certified counties under this element are described in Section 2-518 of the Agricultural Article and §5-408 of the State Finance and Procurement Article. Examples of requirements: A Priority Preservation Area shall be capable of supporting profitable agricultural and forestry enterprises; be governed by local policies that stabilize the land base so that development does not convert or compromise agricultural or forest resources; and be large enough to support the kinds of agricultural operations that the county seeks to preserve. The element also must include an evaluation of a county's progress toward meeting the goals of the Maryland Agricultural Land Preservation Foundation before they are undermined by development, and identify actions to correct any deficiencies. Beginning in Fiscal Year 2009 a county must have a certified Priority Preservation Element for its agricultural land preservation program to be eligible for certification as an effective program by the Maryland Department of Planning and the Maryland Agricultural Land Preservation Foundation.

Counties must adopt this element by **July 1, 2008** so that they may continue to receive certification funds from the Maryland Agricultural Land Preservation Foundation. Certification funds include 42 percent of agricultural land transfer tax revenues in a county, and any State funding the Foundation receives over and above the agricultural land and real estate transfer tax revenue shares the Foundation currently receives.

Work Force Housing Element

House Bill 1160 established a Workforce Housing Grant Program. A local government (county or municipal) qualifies for participation in the program and its grant monies if it has a HUD approved 5 year consolidated plan or a comprehensive plan with a workforce housing element. The workforce housing element must assess workforce housing needs and must contain goals, objectives and policies that preserve or develop workforce housing. The workforce housing element of the comprehensive plan may include:

- Preservation or renovation of existing housing stock
- Redevelopment of existing residential areas
- Streamlined regulatory process
- Reduced regulatory fees for construction or renovation and leveraging of Federal financial assistance
- Financial incentives for construction and renovation
- Special zoning regulations including inclusionary zoning
- Efforts to preserve workforce housing stock for subsequent program participants
- Coordination with neighboring jurisdictions and private sector employers

Other Changes You Should Know About

Impacts on Local Authority to Re-Zone Land

All of the required elements of Article 66B, new and old, must be adopted and in place on or before October 1, 2009. A county or municipal corporation that is not in compliance "may not change the zoning classification of a property until that county or municipal corporation" has a plan in compliance with these requirements.

Extensions of Deadlines For Adopting New Elements of the Comprehensive Plan

A county or municipality may request an extension of the deadline for completing the new required elements from the Maryland Department of Planning. A deadline may be extended for "good cause" and may be granted for up to two six-month time periods.

Priority Funding Area Changes

The 1997 Priority Funding Area (PFA) law established standards for both municipalities and counties for creating their PFAs. In addition, some standards only applied to counties. Beginning on October 1, 2006 those additional standards will also apply to municipalities. Priority Funding Areas certified by a municipality now shall be based on an analysis of the capacity of land areas available for development, including in-fill and redevelopment and an analysis of the land area needed to satisfy demand for development at densities consistent with the master plan. New PFAs areas should also represent a long-term development policy for promoting an orderly expansion of growth and an efficient use of land and public services.

Municipalities should consult the following documents, available from MDP's website, for guidance on acceptable methods for doing these calculations.

- *Managing Maryland's Growth, Models and Guidelines, Smart Growth: Designating Priority Funding Areas.* (<http://www.mdp.state.md.us/smartgrowth/pdf/PFA.PDF>)
- *Estimating Residential Development Capacity Model and Guideline* document that outlines methods and best practices for conducting the analysis. (http://www.mdp.state.md.us/pdf/dev_cap/Final_Guidebook.pdf).

The Task Force on the Future for Growth and Development in Maryland

House Bill 1141 establishes a Task Force to study current trends and challenges as they relate to population and growth, to analyze the impact of current local policies on infrastructure and the environment, and to make recommendations to implement law or regulations that further best management practices as they relate to future growth and development in the State. A report to the Governor and the Maryland General Assembly is required on or before **December 1, 2007**.

As mentioned above, MDP will develop additional materials and conduct informational meetings to aid the implementation of these new laws. In the meantime, contact MDP for more information 410-767-4500.