



# SMART GREEN GROWING

*Planning Guide*

2013



Maryland has long been a national leader in progressive land use, from the creation of one of the first state planning commissions in 1933, the smart growth legislation of 1997, the creation of PlanMaryland, the State's first plan for development, preservation and sustainability to the Sustainable Growth and Agricultural Preservation Act of 2012. More than a decade after the advent of smart growth, however, we continue to face significant land use challenges.

## MESSAGE FROM GOVERNOR MARTIN O'MALLEY



Maryland is a wonderful place to live and is expected to experience rapid population growth in the coming years. This growth promises increased pressure on farmlands, forests and waterways, including our precious Chesapeake Bay. The window of opportunity to confront and solve these challenges is shrinking.

Smart, Green & Growing is our long-range, multi-agency initiative focused on protecting Maryland's precious water and land resources in every region of our state, so our families and children will be able to share these natural treasures with their own

kids in the same way that our parents and grandparents shared them with us. It's time to move from 20 years of treading water to 20 years of cleaner water, healthier communities and more sustainable growth.

Sound land-use planning, from state programs to local government and citizen action, is a critical piece in this Smart, Green and Growing strategy. By reducing sprawl development and concentrating new housing in existing communities, we will protect irreplaceable forests and farmland and continue to improve the health of Maryland's Chesapeake and Coastal Bays.

I invite you to read this Smart, Green and Growing Planning Guide. Secretary Hall and his department have put together a great resource that lays out the basics. I also encourage you to become involved in the process of creating One Maryland, Smart, Green and Growing. Maryland's planning history is one of its people working together, as good stewards, to leave a better state for its successors than the one they inherited.

# MESSAGE FROM SECRETARY RICHARD E. HALL, AICP



This publication is in response to the many requests from state and local government officials, smart growth advocates and interested citizens for me and my staff to produce a concise reference to planning and smart growth in Maryland. This Smart, Green and Growing Planning Guide provides a brief introduction to planning in Maryland, emphasizing key planning laws and tools that guide sustainable growth.

While not designed to be an exhaustive reference, this booklet presents an overview of land-use planning in Maryland, including background on the state's enabling legislation and significant laws

governing planning. This includes the 1992 Planning Act, the 1997 Priority Funding Areas Act and the 2006 laws that expanded the scope of local comprehensive plans. This is followed by summaries of Governor O'Malley's Smart, Green and Growing legislation of 2009, the Sustainable Communities Act of 2010, the Sustainable Growth and Agricultural Preservation Act of 2012 passed by the Maryland General Assembly and signed into law and PlanMaryland accepted by the governor in 2011.

I invite you to read the sections of this guide that describe these successes in more detail. As always, please contact the Maryland Department of Planning (MDP) or visit our website, Planning.Maryland.gov, for more information on these and other matters.

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**Maryland:**

***SMART,  
GREEN &  
GROWING***



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# INTRODUCTION

**As a service to the citizens of Maryland, MDP created the following overview of recent trends and key planning tools that help keep our state *Smart, Green & Growing*.**

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This booklet provides the context for land use planning in Maryland, explaining the legal authority enjoyed by local jurisdictions that fall under the Land Use Article (revised from Articles 28 and 66B in 2012 through the code revision process) or Article 25A of the Maryland Annotated Code. Background on important Maryland planning law is covered, including the 1992 Planning Act, the 1997 Priority Funding Areas Act and other key planning legislation and policies subsequently passed.

A section is devoted to planning legislation passed by the Maryland General Assembly and signed into law during Governor Martin O'Malley's administration – the most significant planning and smart growth enhancements since 1997. This booklet summarizes these key laws and clarifies their importance to Maryland's smart growth programs. These are important changes and this guidebook is designed to help local decision-makers and interested citizens better understand the new planning

requirements.

An overview of PlanMaryland, the state's first comprehensive plan for sustainable growth, is included which will provide quick reference to the purpose and goals of the plan. It is suggested that you visit **Plan.Maryland.gov** to read either the full plan or the executive summary.

The remainder of the booklet explains a few of the major land use planning tools employed throughout Maryland. They include: the comprehensive plan; the zoning ordinance; development capacity analysis; transfer of development rights (TDRs) and adequate public facility ordinances (APFOs).

Finally, this booklet contains a glossary of commonly used planning terms and a list of *Models & Guidelines* publications available from MDP.

Jurisdictions throughout Maryland face a range of important issues that are

# WHY PLAN?

intimately related to land use, including economic development, community revitalization, historic preservation, infrastructure, housing, transportation, environmental protection and land preservation. These jurisdictions (counties and municipalities) work with residents and other stakeholders through a collaborative process to articulate the way they want their community to look and function in the future. To help achieve this vision, counties and municipalities establish goals and priorities to guide development, revitalization and preservation and institute policies and regulations to govern decision-making.

The creation of a vision, goals and priorities can be complicated, but it makes planning for a community easier in the long run. In fact, the visioning process is one of the basic requirements of the 1992 Planning Act.

The planning process gives the jurisdiction the opportunity to show how a community proposes to achieve a variety of competing goals.

- This process gives the jurisdiction the opportunity to involve the public, to work through competing goals of different stakeholders and to achieve consensus before receiving specific development proposals.
- Though certain things are beyond the control of local government, such as the economy, state and federal laws and private landowner choices, local governments gain greater control over their own future if they articulate their goals and objectives and map their policies to guide decision-making.
- Further, local governments need to plan if they want to take advantage of certain state funds, programs and privileges bestowed on local government by the state.
- Through this process, local governments can communicate their interests and concerns with neighboring jurisdictions, potentially leading to more effective regional solutions for some of the issues they face.

# AUTHORITY FOR PLANNING

The State of Maryland entrusts local jurisdictions with land use planning authority. The Land Use Article<sup>1</sup> (LU Article) of the Maryland Annotated

Code generally delegates planning and land use authority to commissioner counties and municipalities. Article 25A delegates planning and land use authority to charter counties.

Division I of the LU Article applies to all non-charter counties and all incorporated municipalities outside of Montgomery and Prince George's counties, as well as specifically identified towns within these two jurisdictions (Barnesville, Brookeville, Gaithersburg, Laytonsville, Poolesville, Rockville, Washington Grove and Laurel). Many sections of the LU Article apply to all jurisdictions in the state, including charter counties, that exercise planning and zoning powers. Specific provisions of the LU Article apply to Baltimore City which is not treated as all other municipalities for planning and zoning purposes. Division II applies to Montgomery and Prince George's counties and to all incorporated towns within those two counties not covered by Division I.

Generally, the LU Article statute enables local government to guide growth and development; outlines the responsibilities, roles and functions of the planning commission and boards of appeal; and sets the "ground rules" for planning and zoning.

# KEY MARYLAND LAWS GOVERNING SMART GROWTH

In addition to becoming familiar with the Land Use Article, local government officials should be aware of three key Maryland statutes that govern land use planning.

## 1992 PLANNING ACT<sup>2</sup>

The 1992 Economic Growth, Resource Protection and Planning Act articulates the state's growth policy through seven visions (the General Assembly added an eighth vision in 2000 and updated the visions in 2009) centered on concentrating development in suitable areas, protecting sensitive areas and establishing funding mechanisms to achieve the visions. The Act also requires local jurisdictions to address these same visions in their comprehensive plans. All local jurisdictions, with few exceptions, incorporated these visions into their comprehensive plans on or before July 1, 1997. Under the Act, local governments are required to review, and if necessary, update their plans once every ten<sup>3</sup> years.

The original seven visions from the 1992 Planning Act evolved from the Chesapeake Bay program and focused on preservation of the bay.

The 1992 Planning Act also established the link between the comprehensive plan and planning and zoning ordinances and regulations.

Specifically, the Act requires all local jurisdictions to adopt ordinances and regulations that implement the planning visions and are consistent with the local comprehensive plan.

## 1997 PRIORITY FUNDING AREAS ACT<sup>4</sup>

The 1997 Priority Funding Areas Act directs state funding for growth-related infrastructure to Priority Funding Areas (PFAs), providing a geographic focus for state investment in growth. PFAs are existing communities and places where local governments want state funding for future growth. Growth-related projects include most state programs that encourage growth and development such as highways, sewer and water construction, economic development assistance and state leases or construction of new office facilities. The Act legislatively designated certain areas as PFAs - municipalities (as they existed on January 1, 1997), Baltimore City, areas inside the Baltimore and Washington Beltways, Department of Housing and Community Development Designated Neighborhoods (no longer exist) and

Department of Business and Economic Development Enterprise Zones - and established criteria for locally designated PFAs. The criteria include permitted density, water and sewer availability and designation as a growth area in the comprehensive plan.

## **HOUSE BILL 11415 AND HOUSE BILL 26 FROM THE 2006 MARYLAND GENERAL ASSEMBLY**

Two successful bills from the 2006 session of the Maryland Assembly, House Bill 1141 and House Bill 2, significantly affected comprehensive plans, annexations and land preservation programs. HB 1141 requires that two new elements (i.e., chapters) now be included in local comprehensive plans. HB 1141 requires that all county and municipal governments include a Water Resources Plan Element (WRE) and that all municipalities include a Municipal Growth Element (MGE). The WRE addresses the relationship of planned growth to water resources for both waste disposal and safe drinking water. The MGE requires a municipality to identify areas for future growth consistent with a long-range vision for its future. Both the Water Resources and Municipal Growth Elements must be included in all comprehensive plans no later than October 1, 2009.

The Agricultural Stewardship Act of 2006, HB 2, adds a Priority Preservation Element (PPE) 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 became 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.

House Bill 1160 in the 2006 session also established a Workforce Housing Element to be included in comprehensive plans that must assess workforce housing needs and contain goals, objectives and policies that preserve or develop workforce housing. This element is necessary for a local government to qualify for participation in a Workforce Housing Grant Program.

HB 1141 also established the Task Force on the Future for Growth and Development in Maryland 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. In 2007, Senate Bill 773 amended the Task Force provision in order to expand its membership and to extend its life through 2010. The report of the Task Force was presented to Governor O'Malley on January 12, 2009.

# SMART, GREEN & GROWING PLANNING LEGISLATION

Governor Martin O'Malley's Smart, Green and Growing legislation from the 2009 session of the General Assembly is designed to protect Maryland's environment and natural resources, to encourage development in existing communities and to promote sustainable growth in Maryland. Three important planning bills were passed in 2009 that brought tremendous improvements to Maryland's already strong smart growth foundation. MDP played the lead role in the passage of these new laws by working closely with our stakeholders – local governments, municipalities and the smart growth, public housing and environmental communities – to strengthen and reinvigorate the fundamental tools of smart growth.

## THE PLANNING VISIONS<sup>7</sup>

### Highlights

- Twelve new planning visions established for the State of Maryland.
- Local jurisdictions must submit a biannual Adequate Public Facilities Ordinance (APFO) report if an APFO results in a restriction in a PFA.
- MDP is required to submit a biannual report to the General Assembly on the statewide impacts of APFOs.
- Local jurisdictions are authorized to establish Transfer of Development Rights (TDR) programs within PFAs.

### Summary

The new Planning Visions law modernizes the state's eight existing planning visions with 12 new visions that reflect more accurately Maryland's ongoing aspiration to develop and implement sound growth and development policy. The visions address: quality of life and sustainability; public participation; growth areas; community design; infrastructure; transportation; housing; economic development; environmental protection; resource conservation; stewardship; and implementation approaches. Local jurisdictions are required to include the visions in the local comprehensive plan and implement them through zoning ordinances and regulations.

The bill also requires local jurisdictions to submit a report to the Maryland

Department of Planning (MDP) every two years if an Adequate Public Facility Ordinance (APFO) results in a restriction in a Priority Funding Area (PFA), i.e., development cannot proceed because there is not adequate infrastructure (schools, roads, water and sewer, etc.). The first such reports were submitted prior to July 1, 2010. MDP, subsequently, reports by January 1st every two years on the statewide impacts of APFOs (the first such report was included in MDP's 2011 Annual Report).

Local jurisdiction reports on PFAs and APFOs must include information about the nature of the restriction and if available, information about the proposed resolution of the restriction. The APFO report, if applicable, may be included as part of the local jurisdictions annual report.

MDP's report on the statewide impact of APFOs has to identify: (1) geographic areas and facilities within PFAs that do not meet local adequate public facility standards; and (2) scheduled or proposed improvements to facilities in local capital improvement programs.

The bill also authorizes local jurisdictions to establish Transfer of Development Rights (TDR) programs within PFAs and to assist a local jurisdiction in the purchase of land or the construction of public facilities in PFAs. Proceeds from the sale of these development rights must be used for land acquisition and public facility construction in the PFA. When developments rights are sold from land purchased for a school facility, the proceeds can only be used to off-set the cost of the land. Developments rights may only be sold on land purchased by a local government on or after October 1, 2009.

### *Why is the law important?*

The Planning Visions provide the foundation and framework for a community's comprehensive plan. They give direction to local subdivision and zoning ordinances, which directly impacts people's lives.

### *What does it mean for Maryland citizens?*

- Quality of life is enhanced through sustainable communities and healthy environments, which are created by managing growth and protecting the land, water and air.
- Citizens are empowered as active partners in the planning and visioning of their

community's goals.

- Transportation alternatives, employment and a variety of residential options become more available to citizens of all ages and incomes.

- Land and water, including the Chesapeake Bay, forests, agricultural land, open spaces and scenic areas are preserved and conserved for future generations.

## **SMART GROWTH GOALS, MEASURES AND INDICATORS AND IMPLEMENTATION OF PLANNING VISIONS<sup>8</sup>**

### Highlights

- Local planning commissions or boards are required to submit annual reports to local legislative bodies.

- The annual reports must state which ordinances or regulations were required to implement the state's Planning Visions.

- These reports must include information on growth and net density of growth both inside and outside priority funding areas, newly-created lots, residential and commercial building permits, development capacity analysis and the amount of preserved acreage using local agricultural preservation funding.

- The report must also include local goals to increase growth within the PFA and decrease growth outside the PFA, a timeframe for reaching that goal and any incremental progress towards the local goal.

### Key Dates

- July 1, 2009 – Beginning date on which planning boards in charter counties are required to submit annual reports to local legislative bodies (non-charter counties and municipalities are already required to submit annual reports).

- July 1, 2009 – Date by which the Task Force on the Future for Growth and Development was to make recommendations on additional measures and indicators to be collected (deadline subsequently extended for further study of indicators).

- July 1, 2011 – Beginning date on which local jurisdictions are required to include smart growth measures and indicators and the local growth goal in the annual report.

### Summary

In order to enhance Maryland's ability to conduct statewide analysis, the Smart Growth Goals, Measures and Indicators and Implementation of Planning Visions law requires local planning commissions or boards to submit annual reports on a uniform set of smart growth measures and indicators. The law also establishes for the first time a statewide land use goal with the specific intention of increasing the current percentage of growth within the PFA and decreasing the percentage of growth outside the PFA.

Because the 12 Planning Visions are not likely to be realized unless local jurisdictions set their own goals, the General Assembly required local jurisdictions to develop a percentage goal towards achieving the statewide goal. Charter counties are now also required to submit an annual report.

In addition to other planning and development information required under current law, the annual report must state which ordinances or regulations were adopted or changed to implement the state's planning visions. With the exception of jurisdictions that issue less than 50 building permits per year, the required measures and indicators are the following:

- amount and share of growth that is being located inside and outside the PFA; net density of growth that is being located inside and outside the PFA;
  - creation of new lots and the issuance of residential and commercial building permits inside and outside the PFA;
  - development capacity analysis, updated once every 3 years or when there is a significant zoning or land use change; and
  - Amount of acreage preserved using local agricultural land preservation funding.
- The annual report filed by local jurisdictions must also include a time frame for achieving the local goal, the resources necessary for infrastructure inside the PFA and land preservation outside the PFA; and any incremental progress made towards achieving the local goal.

MDP is required to develop and collect certain measures and indicators and determine which measures will be collected by the National Center for Smart

Growth Research and Education. MDP is also authorized to adopt regulations concerning the transmission and submission of the measures and indicators.

### Why is the law important?

Smart policy options are only possible with reliable information. The advancement of public policy objectives like Smart and Sustainable Growth will be aided greatly by the application and analysis of a uniform set of indicators that will provide accepted statewide information about goals, indicators, trends and forecasts.

### What does it mean for Maryland citizens?

- Smarter planning will reduce the capital expenditures for unnecessary or avoidable infrastructure, which will result in both tax savings and increased property values.
- Community groups can monitor the actual performance of the local comprehensive plan and hold government more accountable because of greater transparency.
- Through the regular review and reporting of benchmarks, local governments and the citizens of a community can participate in an ongoing and interactive process that creates a stronger sense of community involvement.

## **THE SMART AND SUSTAINABLE GROWTH ACT OF 2009**

### Highlights

- Clarifies “consistency” between a local comprehensive plan and local zoning ordinance as actions that further and are not contrary to various parts of plan.
- The definition of consistency applies to special exceptions, the adoption of zoning ordinances and regulations and other sections of state law, including municipal annexations, water and sewer amendments and Critical Area growth allocation;

- For the purposes of adopting local zoning ordinances in PFAs, the definition does not include land uses and densities or intensities so as not to interfere with ordinances and regulations that allow for mixed uses and bonus densities beyond those specified in the comprehensive plan;

- The law required all members of planning commissions and boards of appeals to complete an education course before July 1, 2010 and new members to complete a course within 6 months of appointment. A local jurisdiction may create its own education course. MDP was required to make an on-line course available by January 1, 2010 and did so.

### Key Dates

- July 1, 2009 – Effective date of the law.

- January 1, 2010 – MDP was required to develop an on-line course to be made available for local jurisdictions.

- July 1, 2010 – All planning board/commission members are required to take education course.

### Summary

The Smart and Sustainable Growth Act of 2009 legislation overturned the Maryland Court of Appeals ruling that substantially weakened the connection between local comprehensive plans and zoning in a case entitled *David Trail v. Terrapin Run, LLC* where the Court stated that local comprehensive plans were merely advisory. The law clarifies and reiterates that local jurisdictions must implement and follow the comprehensive plan each adopts by clarifying the link between local comprehensive plans and local land use ordinances.

It also further 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 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, which allow mixed uses and bonus densities beyond those specified in the local comprehensive plan.

Recognizing that citizens deserve well-informed representation on planning commissions and boards of appeal, the law required members to complete an education course before July 1, 2010. The Task Force on the Future for Growth and Development was required to develop recommendations on the educational course for local jurisdictions by July 1, 2009, and MDP was required to develop an online planning education course for local jurisdictions by January 1, 2010. Local jurisdictions are authorized to develop their own educational course.

### *Why is the law important?*

The advantages of basing zoning ordinances on comprehensive plans are the reason why the General Assembly in 1992 required zoning ordinances and regulations that implement the planning visions be consistent with the comprehensive plan. First, the comprehensive plan is prepared by professionals along with the planning commission or board, who are able to objectively analyze and evaluate population projections, economic factors, resource limitations and environmental protection. Second, the process involves numerous stakeholders and is open to the public. Third, although the plan can be revised more frequently, its ten-year lifetime virtually assures that it will survive through changes of administration and the membership of the local legislative body. In 2013, the general assembly passed legislation that amended the required plan review/revision to a ten-year cycle (see endnote<sup>3</sup>)

### *What does it mean for Maryland citizens?*

A well-thought out plan takes into account every aspect of a community – its people, neighborhoods, downtowns, parks, schools, farmland, fire stations, transportation and public services.

Comprehensive plans enhance the quality of life for families by providing the framework for the resolution of immediate concerns that affect people's lives on a daily basis – clean drinking water, traffic congestion, reduced commuting distances and less gas consumption – to name a few.

Public participation is at the heart of a comprehensive plan. Citizens often devote many hours to the development of the plan with the expectation that their work will not be ignored. The law protects the significant public investment in local comprehensive plans.

# THE SUSTAINABLE COMMUNITIES ACT OF 2010<sup>10</sup>

## Highlights

- Historic commercial and residential tax credits are extended at the current level of 20 percent of qualified expenditures. Historic commercial buildings that are also certified as LEED Gold receive an additional five percent for a 25 percent credit.
- A 10 percent credit is applicable to qualified expenses for certain non-historic projects in DHCD and Baltimore City Main Street communities all across the state, beginning in fiscal 2011 and newly designated Sustainable Communities beginning in Fiscal Year 2012.
- Ten percent of the total amount of the Tax Credit Program is available to certain non-historic structures.
- Two major complementary revitalization programs – Community Legacy (CL) and Designated Neighborhoods (DN) – are streamlined and integrated into a single Sustainable Communities designation to eliminate unnecessary duplications in the application and designation processes and to enhance the state’s ability to obtain federal financial assistance. The Smart Growth Subcabinet (SGSC) will approve the new “Sustainable Communities” after a recommendation from the Department of Housing and Community Development.
- The new law coordinates the review of the state’s revitalization programs through the Subcabinet and requires the Subcabinet to weigh in on Base Realignment and Closure (BRAC) and transit-oriented development zone designations.
- The law allows grants and loans for nonprofit organizations, local governments and small businesses to work together in one clear revitalization investment area.
- Current CL and DN areas automatically receive Sustainable Community designations for 2 to 3 years (depending on age of the CL Plan) beginning June 1, 2010. Prior to the expiration of the transition period, sponsors will need to submit an updated plan and application to be re-designated as a Sustainable Community;

## Key Dates

- Beginning June 1, 2010, current CL Areas and DNs automatically became Sustainable Communities for a transition period of between two to three years, after which a community was to submit an updated plan and application to be re-

designated as a Sustainable Community.

- Sustainable Community plans must be updated every five years and community applicants are encouraged to use existing CL plans as the basis for their Sustainable Community plans, which will need to be updated every 5 years.

### Summary

The Sustainable Communities Act of 2010 strengthens reinvestment and revitalization in Maryland's older communities by reinventing an existing rehabilitation tax credit and extending the life of the credit through 2014, simplifying the framework for designated target areas in the CL and DN programs by creating "Sustainable Communities," establishing a new transportation focus on older communities and enhancing the role of the SGSC in the revitalization of communities.

### Why is the law important?

The Sustainable Communities Act represents a renewed partnership of state and local leaders from the public and private sectors. The law continues the state's progress toward renewing and sustaining investment in local established communities. This legislation is an important step toward coordinating resources in ways that acknowledge the interdependence of economic, environmental and social investments for the following reasons:

- The law will create jobs. During its first year of implementation, the law was estimated to create 740 jobs in the construction industry. Private investment is attracted and sustained in the state's revitalization areas. Pooled funding resources such as grants and loans for nonprofit organizations, local governments and small businesses are able to combine and create synergy in one clear revitalization investment area.
- The legislation helps to preserve the authentic "sense of place" and historic character of Maryland communities.
- The green economy and sustainable development practices are advanced in tandem with revitalization investment.
- Maryland families are connected to economic opportunity in improving communities. Government programs and resources are streamlined and aligned to enhance effectiveness and create efficiencies in community revitalization.

- Local communities are provided an opportunity to re-envision their revitalization goals and plans to create greater economic opportunity and environmental protection.

*What does it mean for Maryland citizens?*

The law promotes the continued revitalization of older communities and to keep them strong and vibrant through the preservation of historic and non-historic properties and through the refocusing of the state's community programs. Older communities provide affordable housing for people of all ages, incomes, races and ethnicities to increase mobility and lower the combined cost of housing and transportation. By focusing on older communities, Maryland citizens are afforded more transportation choices, which will decrease household transportation costs, reduce our nation's dependence on foreign oil, improve air quality, reduce greenhouse gas emissions and promote public health.

# THE MARYLAND SUSTAINABLE GROWTH COMMISSION<sup>11</sup>

In response to a recommendation of the Task Force on the Future for Growth and Development in Maryland (established by Chapter 381 of 2006 and modified by Chapter 626 of 2007), the O'Malley-Brown Administration re-established the task force as the Maryland Sustainable Growth Commission during the 2010 General Assembly session.

## Highlights

The duties of the Growth Commission include:

- Assess and advise on the progress of state, regional and local planning toward achieving the goals of the state economic growth, resource protection and planning policy;
- Make recommendations on the adequacy, coordination and implementation of funding mechanisms and other state assistance for planning activities and infrastructure and land preservation needs;
- Promote planning coordination and inter-jurisdictional cooperation;
- Advise on the content, preparation and implementation of the state development, transportation and housing plans;
- Promote and make recommendations regarding efficient and predictable model state and local government regulations to achieve the goals of the state economic growth, resource protection and planning policy;
- Evaluate the continuing viability and effectiveness of state and local government smart growth indicators and recommend changes to those indicators;
- Review reports on adequate public facilities submitted by local governments;
- Develop and assist with smart growth educational and outreach programs;
- Periodically review educational requirements for members of planning boards and commissions and boards of appeals;
- Recommend changes in state law, regulations, policies and procedures necessary to achieve state planning goals; and
- Serve as an advisory board to the Smart Growth Subcabinet;

- Submit an annual report on its activities and recommendations to the Governor, Presiding Officers and specified committees of the General Assembly.

### Key Dates

- Members, excluding ex officio members or their designees, serve five-year terms.
- The legislation is effective July 1, 2010, and will terminate on December 31, 2020.

### Summary

The Commission provides the state with a broad representation of stakeholders who can continue to promote a smart and sustainable growth agenda and to build on the work of the task force. Commission members who represent a region of the state must have knowledge of smart growth and planning issues.

### Why is the law important?

The Commission is charged with assessing the progress of achieving the goals of the state's Twelve Planning visions and the 2009 Smart, Green and Growing legislation. Both the visions and the legislation reflect Maryland's ongoing aspiration to encourage sustainable development and protect the quality of life by developing land at a pace that is consistent with the projected growth in population and housing and by minimizing residential land consumption outside of existing communities.

### What does it mean for Maryland citizens?

- It provides an on-going forum for citizens to discuss growth issues that affect their communities and jurisdiction;
- Sustainable development that protects the quality of life;
- Strengthened existing cities and communities;
- Protected farmlands and natural resources like the Chesapeake Bay;
- Reduced automobile dependency and increased access to transit, walking and bicycling;
- Jobs that are near communities;
- Increased housing affordability and strengthened economic development in local communities.

# THE SUSTAINABLE GROWTH AND AGRICULTURAL PRESERVATION ACT OF 2012<sup>12</sup>

## Highlights

- Also known as the septic law.

- Four land use categories are created to identify where major and minor residential subdivisions may be located in a jurisdiction and what type of sewerage system will serve them. These four categories are mapped as growth tiers and are classified as follows:

- + Tier I is for areas currently served by public sewerage systems
- + Tier II is for areas planned to be served by public sewerage systems
- + Tier III is for areas not planned to be served by public sewerage systems. Growth on septic systems can occur in this tier.
- + Tier IV is for areas planned for preservation and conservation. Major residential subdivisions are prohibited in this tier.

- Counties and municipalities may voluntarily adopt growth tier maps; however, jurisdictions that do not map growth tiers will not be able to approve major subdivisions (as defined locally) outside of areas currently served by existing public sewerage systems.

- Major subdivisions on individual septic systems can only occur in Tier III areas. In Tier IV areas, only minor subdivisions are permitted unless a state exemption is received.

- Tier map adoption is a 2-step process. Tiers may be initially adopted administratively but must be incorporated into the local comprehensive plan during the next review.

- Major subdivisions in Tier III areas must be reviewed and recommended for approval by the local jurisdiction's planning board.

- A controlling authority is required for all new shared facilities and community sewerage systems.

## Key Dates

- July 1, 2012 – Effective date of the law. Controlling authority required for all new shared facilities and community sewerage systems.

- December 31, 2012 – If the tiers are not adopted, no residential major subdivisions are allowed outside of existing areas on public sewerage until tier maps are subsequently adopted.
- December 31, 2012 – Deadline for creating or revising the local definition of “major” and “minor” subdivision” applicable solely to Section 9-206 of the Environment Article
- December 31, 2012 – Restrictions go into effect for new residential minor subdivisions within Tier II and IV areas with regard to re-subdivision and further subdivision, as well as subdivision plat requirements related to this restriction

### Summary

The Sustainable Growth and Agricultural Preservation Act was introduced by Governor O'Malley and passed by the Maryland General Assembly in its 2012 Session. The law was the result of a two-year effort on the part of the O'Malley Administration, elected and appointed officials, homebuilders, environmentalists, farmers, planners and others. The goal of the law is to limit the impacts of large subdivisions on septic systems on our farm and forest land, streams, rivers and Chesapeake and Coastal Bays.

The law provides a moderate and reasonable approach for planned development using on-site sewage disposal systems. Mapping the growth tiers described above is intended to be a straight-forward exercise based on existing local plans and goals for growth and land preservation implemented by local government. Therefore most of the tier mapping will be a reflection of existing zoning, comprehensive plans and sewer service. In addition to considering adoption of a tier map, all local jurisdictions should decide how to adjust their development review process to implement the law, including the tracking of subdivisions.

### Why is the law important?

The septic law addresses the disproportionate land consumption and pollution impacts from development on septic systems. MDP forecasts that Maryland's population will grow by more than 1 million people (about 500,000 households) between now and 2040. The law minimizes the impacts from future development in Maryland by encouraging it within towns, municipalities and county growth areas. In addition, the law provides greater transparency by requiring local governments to more accurately assess, plan for and report publicly the costs associated with large-lot development on septic systems.

The law achieves these goals by providing an option for local governments to adopt a growth tier map to identify the following:

- Areas designated for development on public sewer (Tier I and Tier II);
- Areas for large-lot septic development, both major and minor subdivisions (Tier III); and
- Preservation and conservation areas (Tier IV), where only minor subdivisions can occur.

In addition to limiting residential major subdivisions on septic systems to Tier III, the law requires that when such subdivisions do occur, the local planning commission must hold a public hearing on the subdivision, conduct an environmental and cost-of-services review and make a recommendation of approval. This raises the importance of such developments given their significant disproportionate impact on our water bodies, agricultural heritage and forest land and on our ability to sustain our municipalities, including our rural towns.

The septic law also requires a controlling authority for new community sewerage and shared facilities. This helps ensure that small package plants are operated and maintained properly to avoid impacts to public health and our environment.

### *What does it mean for Maryland citizens?*

The Sustainable Growth and Agricultural Preservation Act of 2012 promotes greater accountability and predictability of development by establishing four tiers of growth – those areas which will be served by public sewer and those employing on-site waste disposal, or septic, systems. Local jurisdictions are encouraged to map those areas. Residents in a community will know where their county or municipality is planning for major and minor subdivisions on septic.

# **SUSTAINABLE COMMUNITIES TAX INCREMENT FINANCING (TIF) DESIGNATION AND FINANCING LAW <sup>13</sup>**

## *Highlights*

- Expands existing tax increment financing (TIF) authority to enable counties and municipalities to finance a broader range of the costs for infrastructure improvements located in or supporting a Sustainable Community (SC), including the cost for operation and maintenance of infrastructure improvements through bonds.
  
- Expands the uses for TIF supported bonds in a Sustainable Community including:
  - + Historic preservation and rehabilitation;
  - + Environmental remediation, demolition and site preparation;
  - + Parking lots, facilities and structures of any type for public or private use;
  - + Highways and transit services that support Sustainable Communities;
  - + Schools;
  - + Affordable or mixed income housing; and
  - + Stormwater management and storm drain facilities.
  
- Sustainable Communities would be treated similar to Maryland Department of Transportation (MDOT) designated Transit Oriented Developments (TOD) for the purposes of bonds, special taxing districts and tax increment financing and for utilizing the bonding authority of Maryland Economic Development Corporation (MEDCO).

## *Key Dates*

- October 1, 2013 – Effective date of the law.

## *Summary*

The 2013 TIF law, passed by the Maryland General Assembly as House Bill 613, “Sustainable Communities – Designation and Financing,” and signed into law by Governor O’Malley, authorizes municipalities and counties to finance the cost of infrastructure improvements in a Sustainable Community in the same manner as an MDOT designated TOD. This legislation was the result of recommendations of the Maryland Sustainable Growth Commission to enable local governments to

make important infrastructure and asset investments in their SC areas to spur smart growth, economic development and to ensure quality of life and livable communities.

The TIF law is “enabling” to local governments – they are not required to use it in their Sustainable Community areas. It provides for new uses for TIF funding that include historic preservation, environmental remediation, demolition, site preparation, parking lots, facilities, highways or transit that support SC areas, schools and affordable or mixed use housing. The law directs state funding to be prioritized in a specific SC when a jurisdiction has taken advantage of this expanded TIF funding or provided other infrastructure funding to support revitalization of that Sustainable Community.

Sustainable Community areas would be treated similar to MDOT designated TODs for the purposes of bonds, special taxing districts and tax increment financing. This allows Sustainable Communities the opportunity to utilize the bonding authority of the MEDCO. MEDCO has the ability to finance, acquire, develop, own and/or operate projects for economic development purposes. Local governments may be able to reduce or eliminate the impact on their debt capacity by financing projects through MEDCO. A jurisdiction should consult its financial advisor to understand the impact of MEDCO financing on its credit profile and debt capacity.

### *Why is the law important?*

By enabling local government to use an enhanced TIF they can fund much needed infrastructure and amenities in Sustainable Communities necessary for revitalization and economic prosperity.

Municipalities and counties with Sustainable Community areas are granted greater access to bonding alternatives through the MEDCO. MEDCO has the ability to structure transactions to contemplate life cycle capital cost and operating costs such that the expense is funded on a timely basis through the project.

### *What does it mean for Maryland citizens?*

Worthy plans for community revitalization can be implemented that create attractive and desirable places with improved quality of life and livability to its residents and businesses.

# PLANMARYLAND: THE STATE'S FIRST SUSTAINABLE GROWTH PLAN

Over the next 25 years, there will be nearly 1,000,000 more people, over 500,000 additional households and over 600,000 new jobs in Maryland.

On December 19, 2011, Governor O'Malley accepted PlanMaryland as the state's first comprehensive plan for sustainable growth and development. It is intended to address:

- Where all these people will live and work and how they'll get to their jobs.
- The benefits and impact this growth will have on our existing communities, our natural resources and our transportation systems.
- The role that state and local governments will have and how other entities will work together to plan for a sustainable future.

PlanMaryland is a plan to:

- Improve the way in which state agencies and local governments work together to accomplish common goals and objectives for growth, development and preservation.
- Stimulate economic development and revitalization in towns, cities and other existing communities that have facilities to support growth.
- Help accommodate the projected new residents, households and jobs and improve our existing communities without sacrificing Maryland's agricultural and natural resources.
- Save Maryland an estimated \$1.5 billion a year in infrastructure costs during the next 20 years through a smart-growth approach to land use.
- Save 300,000 acres of farmland.

PlanMaryland is not a substitute for local comprehensive plans nor will it take away local planning and zoning authority.

PlanMaryland is being implemented through a process that involves state agencies and local government. Each has responsibilities in this state-local process.

### Planning Areas

The Maryland Department of Planning released a set of PlanMaryland Planning Area Guidelines that describe the criteria for identifying planning areas. There are five Planning Areas -Place categories and five Preservation/Conservation Planning Area categories.

In 2012, MDP facilitated more than 40 meetings with more than 70 jurisdictions and 10 stakeholder organizations to discuss the guidelines and mapping of planning areas. Based on the comments received, the Smart Growth Subcabinet approved the PlanMaryland Planning Area Guidelines in April 2012, which have been distributed to all counties and municipalities. MDP is now working with local jurisdictions to develop their Planning Area maps. As part of the planning area identification process, local governments will be examining their own efforts to promote smart growth and sustainable development. Similarly, State agencies will be working with local governments through this mapping process to identify opportunities for greater collaboration toward addressing these shared objectives.

### Implementation Strategies

In accordance with the Governor's PlanMaryland Executive Order, each Smart Growth Subcabinet agency has reviewed its plans, programs and procedures to determine changes that could better achieve PlanMaryland goals and objectives. Subcabinet agencies participated in more than 50 work sessions to develop implementation strategies. In September 2012, the Subcabinet submitted a report to the Governor listing over 90 conceptual implementation strategies that the respective state agencies have identified and are pursuing to better align their efforts with PlanMaryland's goals and objectives.

# SELECTED PLANNING TOOLS USED IN MARYLAND

## THE COMPREHENSIVE PLAN AND ZONING ORDINANCE

Comprehensive plans, also known as master plans, capture how people want their communities to function and grow. In Maryland, counties and municipalities are required to review and, if necessary, update their comprehensive plans every six years. The Maryland Department of Planning offers technical assistance for these updates. There are different elements or subjects (for example, sensitive areas), that the comprehensive plan must address. Planning commissions have the authority to include certain elements in comprehensive plans, such as a housing element. Generally speaking, comprehensive plans should incorporate all of the elements that are necessary to provide a thorough assessment of issues and a well-planned course of action.

The Maryland Department of Planning has published two documents on comprehensive plans: *Preparing a Comprehensive Plan* (#13 in the Models & Guidelines Series) and *Revisiting the Comprehensive Plan: The Six Year Review* (#20 in the Models & Guidelines Series).

The most fundamental planning implementation tool is zoning. A zoning ordinance establishes regulations for the use of land and some standards for development within identified zoning districts. A corresponding zoning map identifies properties that fall within different zoning categories. Zoning regulations include performance standards that apply to each class or kind of development throughout each district, although regulations differ between districts.

## ADEQUATE PUBLIC FACILITIES ORDINANCE (APFO)

Adequate Public Facilities Ordinances (APFOs) are used to phase development consistent with the provision of public facilities. An APFO ties development approvals under zoning and subdivision ordinances to specifically defined public facility standards. They are designed to stage the pace of development or in extreme cases to delay development approvals in an area until adequate service levels are in place or reasonably assured.

In plain English, an APFO says that if the roads are too congested, if the school

classrooms are too crowded, if the water system cannot provide enough water, if the sewer pipes or treatment plant are full, or if there are not enough playing fields for recreational use, then development cannot be approved until the problem is corrected. At the same time, however, an APFO is not the appropriate tool to stop growth that is otherwise consistent with local zoning. The application of an APFO must be associated with a funding source to remedy whatever the constraint on growth approval might be.

Without such a funding source, an APFO can simply serve as an impediment to planned development that may serve to divert growth to areas where it is not desirable.

Adequate Public Facility Ordinances can be important growth management tools for rapidly growing counties and municipalities. APFOs also have been an important and valuable tool for implementing the Visions that are included in every local comprehensive plan and are established in state law as Maryland's development policy prior to the passage of the new Planning Visions law. The premise of an APFO is that growth should be directed to suitable areas where facilities are adequate. There is a particularly strong state interest in this issue, because considerable amounts of state funds are directed to constructing schools, sewer and water facilities, roads and parks. Since the passage of the smart growth initiatives in 1997 funding for growth related projects is prohibited outside of areas identified by local governments as their highest priority areas (Priority Funding Areas) for new growth.

## **DEVELOPMENT CAPACITY ANALYSIS**

A development capacity analysis, sometimes also referred to as "build-out analysis" or "buildable lot inventory," is an estimate of the total amount of development that may be built in an area under a certain set of assumptions, including applicable land-use laws, policies (e.g., zoning) and environmental constraints. While this analysis is mostly focused on estimating capacity for new residential development, there is also value in estimating a jurisdiction's capacity to meet commercial and industrial needs, recreational needs or other land use goals.

It is important to have an estimate of the development supply (location, size, density, etc.) in a jurisdiction in order to assure it is adequately planning for future growth. These estimates can be used to evaluate policy considerations and help in making important planning decisions such as infrastructure planning, facilities planning and assessments of whether or not a jurisdiction

has an adequate supply of land for future residential growth. At a minimum, comprehensive plans should include the following development capacity related information:

- An estimate of development capacity,
- A clear methodology,
- A list and explanation of data sources used in the analysis, including information about “zoning yield,” and
- A list of assumptions and caveats related to the capacity analysis.

(For more information, refer to “Estimating Residential Development Capacity, A Guidebook for Analysis and Implementation in Maryland” published by the Maryland Department of Planning)

## **TRANSFERABLE DEVELOPMENT RIGHTS (TDR)**

Ownership of a parcel of land confers upon its owner a number of allowances: to use the property for one or more purposes, to cover a certain percentage of the site with buildings, to develop a certain number of dwelling units, as well as mineral, water and air rights. Under certain circumstances it is possible to transfer land development potential to another property. When this occurs it is referred to as a transfer development rights, or TDRs.

Owners of property are generally not able to transfer development rights among themselves at will. Normally, the transfer of development rights takes place within the context of a TDR program or system set up by local government. Eleven local governments in Maryland have established TDR programs and a number of programs exist in other states. TDR programs have also been established for bi-state and sub-state regions. Some TDR programs are voluntary and others mandatory.

In a sense, all TDR programs are voluntary because property owners are not legally compelled to transfer the rights. Under so called mandatory programs, however, the development rights available for use on the property may be very few, compared with the number of rights available for transfer. A distinction should be made between TDR programs and “clustering.” In a cluster subdivision the development rights pertaining to the parent parcel (the original tract being subdivided) are gathered and used in one particular area but never leave the confines of the parent parcel. With TDRs the development rights are completely severed from the parent parcel and moved to a different parcel. TDRs always cross property lines, whereas “cluster” development rights never leave the site of the parent parcel.

The details of the operation of TDR programs vary from one jurisdiction to the next, but the basic principle is the same. When rights are transferred from a parcel (called the sending parcel) an easement or other notation is recorded in the land records to indicate that the development rights cannot be exercised any longer on that parcel. The parcel to which the development rights are transferred (called the receiving parcel) is now eligible to exercise additional development rights. Proof of eligibility may take the form of a certificate issued to the purchaser of the development rights, a notation on a subdivision plat, a zoning certificate or some other instrument.

TDR programs are mostly used to help preserve agricultural land but are also used to protect historic properties, to achieve efficient, concentrated growth patterns, to protect sensitive natural environments or to protect water quality. When TDRs are used to protect a resource, the resource area is described (by maps or words) as a “sending area” where development rights may be transferred to another property in a designated “receiving area.” The easements recorded in the sending area when rights are transferred serve to permanently protect the resource from development.

(For a more extensive overview of TDRs, please see the Maryland Department of Planning’s Models and Guidelines publication, *“Transferable Development Rights.”*)

# COMMONLY USED PLANNING TERMS

## **Adequate Public Facilities Ordinance (APFO):**

Adequate Public Facilities Ordinances (APFOs) are an effort to phase the provision of public facilities consistent with a locally adopted comprehensive plan. An APFO ties development approvals under zoning and subdivision ordinances to specifically defined public facility standards. They are designed to stage the pace of development or in extreme cases to slow or delay development approvals in an area until adequate service levels are in place or reasonably assured.

**Build-Out:** A theoretical measure of “full development” taking into account all land that is zoned and capable of being developed with or without public facilities.

## **Capital Improvement Program (CIP):**

A six-year comprehensive statement of the objectives of capital programs with cost estimates and proposed construction schedules for specific projects. The CIP is submitted annually to the local executive and governing body.

**Charrette:** A design workshop aimed to gather input from stakeholders, which results in clear guidance about the future development of a particular project or place.

## **Chesapeake Bay Critical Area:**

All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on the state wetlands maps and all land and water areas within 1,000 feet beyond the landward boundaries of and heads of tides as indicated on approved Chesapeake Bay Critical Area Overlay Zoning Map Amendments.

**Cluster Development:** An alternative development technique under zoning and subdivision regulations. A cluster subdivision is basically one in which a number of residential lots are grouped or clustered, leaving some land undivided for common use. Generally the same number of lots or dwelling units permitted under conventional subdivision procedures is clustered on smaller-than-usual lots. The land remaining from lot reduction is left undivided and is available as common area or open space.

**Comprehensive Plan:** Also called a general plan or master plan, this is a plan for development, preservation and provision of community facilities that recognizes the physical, economic, social, political, aesthetic and related factors of the community.

**Comprehensive Water and Sewerage Plan:** A plan required by the state and updated every three years (more often with amendments) that describes policy related to water and sewerage planning and delineates geographic areas to be serviced within the next ten years and those areas that are not planned for service.

**Conservation Agreement:** A formal agreement that commits a grading or building permit applicant to the execution of various approved elements of a Conservation Plan, such as a stormwater management concept plan, an erosion and sedimentation concept plan and a vegetation management plan.

**Conservation Easement:** A nonpossessory interest in land that restricts the manner in which the land may be used or developed in an effort to preserve natural resources for future use.

**Development Regulations:** Regulations that limit the size, bulk, or siting conditions of particular types of buildings or uses located within any designated district.

**Density:** The number of dwelling units or persons per acre of land usually expressed in units per gross acre.

**Downzoning:** A term for an action that changes a property to a lower density, in effect, limiting development to a less-intense use than permitted under the prior zoning of a property.

**Environmental Impact Statement (EIS):** A document that assesses the environmental impact of actions, such as development or infrastructure projects, that significantly affect the quality of the man-made or natural environment. Environmental Impact Statements are used as tools for decision-making and are required by the National Environmental Policy Act.

Similar environmental analyses are undertaken by state and local agencies.

**Euclidean Zones:** Zoning districts that specify particular uses that normally range from less intense to more intense uses as the zoning districts become more permissive. Euclidean zones are usually characterized by regulations that encourage separation of uses and more restrictive requirements for more intense uses in less intense zones.

**Floating Zone:** A zone that is described in a zoning ordinance with specific requirements for uses but not mapped until applied for by a property owner or placed on a map through a comprehensive zoning process; floating zones provide a more flexible approach in terms of permissible densities, intensities and land uses and overall development design opportunities.

**Floodplain:** a relatively flat or lowland area adjoining a river, stream, or watercourse, which is subject to periodic, partial or complete inundation.

**Geographic Information System (GIS):** An organized collection of computer hardware, software and geographic data designed to efficiently capture, store, update, manipulate, analyze and display all forms of geographically referenced information, such as land uses, roads, public facilities, natural features and topography.

**Green Area:** An undeveloped area of land usually associated with, and located on the same parcel of land as, a

building for which it serves to provide light and air, or scenic, open space, recreational, or similar purposes.

**Green Building:** Practices that consider the impacts of buildings on the local, regional and global environment, which strive to conserve energy and water use, reduce operation and maintenance costs, minimize construction waste and reduce/eliminate the use of non-sustainable building materials.

**Green Infrastructure:** A network of large undisturbed land areas (hubs) connected by designated pathways for the movement of wildlife and humans (green corridors).

**Greenways:** Areas of protected open space that follow natural and manmade linear features for recreation, transportation and conservation purposes and link ecological, cultural and recreational amenities.

**Historic District:** A group of historic resources comprised of two or more properties that are significant as a cohesive unit and contribute to the historical, architectural, archeological, or cultural values within an area.

**Historic Resource:** An area of land, building, structure or object that may be significant in American history, architecture, archaeology, or culture. Historic resources are designated as such in the local plan.

**Historic Site:** An individual historic resource that is significant in American

history, architecture, archaeology, or culture and is so designated in the local Historic Sites Plan.

**Infill Development:** Development that takes place on vacant or underutilized parcels within an area that is already characterized by urban development and has access to urban services.

**Infrastructure:** The built facilities, generally publicly funded, that are required in order to serve a community's developmental and operational needs. The infrastructure includes such things as roads and water and sewer systems.

**Intensity:** A term referring to the gross (total) floor area and/or the degree to which commercial and industrial land uses generate traffic, noise, air pollution and other potential impacts, for commercial and industrial uses.

**Land Use:** The types of buildings and activities existing in an area or on a specific site. Land use is to be distinguished from zoning, the latter being the regulation of existing and future land uses.

**Master Plan:** A document that guides the way an area should be developed. It includes a compilation of policy statements, goals, standards, maps and pertinent data relative to the past, present and future trends of a particular area including, but not limited to, its population, housing, economics, social patterns, land use, water resources and their use, transportation facilities and public

facilities.

**Mixed-Use Zoning:** Zoning that permits a combination of uses within a single development. Many zoning districts specify permitted combinations of residential and office/commercial uses. The term has also been applied to major developments, often with several high-rise buildings, that may contain offices, shops, hotels, apartments and related uses.

**Open Space:** Areas of land not covered by structures, driveways, or parking lots. Open space may include homeowners' association common areas, parks, lakes, streams and ponds, etc.

**Pedestrian-Oriented Design:** Land use activities that are designed and arranged in a way that emphasizes travel on foot rather than by car. Elements include compact, mixed-use development patterns with facilities and design that enhance the environment for pedestrians in terms of safety, walking distances, comfort and the visual appeal of the surroundings. Pedestrian-friendly environments can be created by locating buildings close to the sidewalk, by lining the street with trees and by buffering the sidewalk with planting strips or parked cars, small shops, street-level lighting and signs and public art or displays.

**Plot Plan:** A plat of a lot, drawn to scale, showing the actual measurements, the size and location of any existing structures or structures to be erected, the location of the lot in

relation to abutting streets and other such information.

**Record Plat:** An official plat of subdivision usually approved and signed by a local government planning official and health officer and/or public works official and recorded in the land records of the local governing body.

**Sensitive Environmental Features:** These features include streams, stream valleys and their associated features; the habitats of state-listed species that are rare, threatened and endangered; 100-year floodplains; and certain high-priority forests.

**Setback:** The distance between a building or structure (not including ground-level parking lots or other paved surfaces) and property lines or from other buildings.

**Site Plan:** A plan, to scale, showing uses and structures proposed for a parcel of land, usually required by local development regulations. A site plan includes lot lines, streets, building sites, reserved open space, buildings, major landscape features both natural and manmade-and, depending on requirements, the locations of proposed utility lines. Note: Site plans are also often required to show wells, septic fields and easements.

**Special Exception:** A land use that would not be appropriate generally or without restrictions within a particular zoning district but which, if controlled as to intensity, area, location, or relation to the neighborhood, would

be compatible with the public health, safety and welfare. Such uses may be permitted with specific conditions and through a special approval process.

**Subdivision:** The division by plat or deed of a piece of property into two or more lots, plots, sites, tracts, parcels, or other land divisions in accordance with applicable local codes and ordinances.

**Subdivision Regulations:** The control of the division of a tract of land into individual lots by requiring development according to specific design standards and procedures adopted by local ordinance.

**Transfer of Development Rights (TDR):** A land use/growth management tool normally used to protect designated rural and environmentally sensitive areas by allowing development rights to be transferred from areas to be protected or preserved to properties in areas where development is encouraged.

**Transit-oriented Development (TOD):** Land uses that are sited, designed and combined adjacent to or in close proximity to transit stations to maximize use of transit, particularly rail, ridership.

**Transportation Improvement Program (TIP):** A six-year regional schedule for the study, acquisition, upgrading, or development of major highway, transit, bike and pedestrian facilities and services.

**Urban Design:** The process of giving form, shape and character to the arrangement of buildings, to whole neighborhoods, or the city with an emphasis on compact,, mixed use development with good pedestrian and public transportation access. Urban design blends architecture, landscaping and city planning concepts together to make an urban area accessible, attractive and functional.

**Variance:** A departure from any provision of the zoning requirements for a specific parcel, except use, without changing the zoning ordinance or the underlying zoning of the parcel. A variance is usually granted only upon demonstration of hardship based on the peculiarity of the property in relation to other properties in the same zoning district.

**Visioning:** A method for defining, sharing and communicating a community's future through intensive public participation.

**Zoning:** Land development regulations of a city or county where areas, or zones, are created, which specify allowable uses for real property and size restrictions for buildings within these zoning districts.. Zoning is a key implementation tool of a Comprehensive Plan.

**Zoning Text Amendment:** A change in the wording, context, or substance of a zoning ordinance.

**Zoning Map:** A map that graphically shows all zoning district boundaries

and classifications within a local jurisdiction and which is revised and adopted on a regular basis by the local governing body.

**Zoning Map Amendment:** A change in the zoning or district boundaries of the official zoning map.

# MARYLAND DEPARTMENT OF PLANNING PUBLICATIONS FOR FURTHER READING

MDP publishes materials that provide planning information and general guidance to local jurisdictions. The titles listed below may be of interest to readers of this planning guide to gain further knowledge of these subjects. All publications are available digitally at [Planning.Maryland.gov](http://Planning.Maryland.gov) or [Plan.Maryland.gov](http://Plan.Maryland.gov).

## **Where Do We Grow From Here? A Report of the Task Force on the Future for Growth and Development in Maryland**

*December 1, 2008*

The 21-member Task Force on the Future for Growth and Development began meeting in January 2008 with 13 specific charges to fulfill. This 89-page report, entitled “Where Do We Grow from Here?” presents an assessment of the growth and development conditions and issues in Maryland. It makes 52 specific recommendations for furthering smart and sustainable growth in the state. The Task Force continues an aggressive work plan in its duty as an advisory board to the Governor’s Smart Growth Subcabinet through December 31, 2010.

## **M&G #5 Achieving Consistency Under the Planning Act**

*April 1994*

This booklet describes the consistency requirements of the 1992 Planning Act and recommends immediate and longer-term actions that will help achieve consistency of land use decisions with the Comprehensive Plan and the Planning Act.

## **M&G #17 Smart Growth: Designating Priority Funding Areas**

*November 1997*

This publication features strategies and methodologies to determine the boundaries of Priority Funding Areas in response to the “Smart Growth” Areas Act of 1997. It includes models for calculating residential density, land capacity and future land needs, guidelines for designating rural villages and a format and procedure for submitting PFAs to the Maryland Department of Planning.

## **Priority Funding Areas: How to Revise and Update**

*August 2009*

## **Priority Funding Area Exceptions and Extraordinary Circumstances Process**

*July 2010*

## **M&G #24 Adequate Public Facilities Ordinances (APFOs)**

*June 2006*

This Models & Guidelines publication offers guidance and direction to local jurisdictions that are considering the adoption or refinement of an Adequate Public Facilities Ordinance (APFO), including how to determine whether an APFO program is appropriate, how to design a program, legal issues and municipal applications.

## **M&G #25 Writing the Municipal Growth Element to the Comprehensive Plan**

*May 2007*

Managing Maryland's Growth: Writing the Municipal Growth Element provides technical guidance to those local governments that are preparing the municipal growth element that House Bill (HB 1141) requires in all municipal comprehensive plans.

## **M&G #26 The Water Resources Element: Planning for Water Supply and Wastewater and Stormwater Management**

*June 2007*

This Models & Guidelines document provides counties and municipalities guidance in writing their water resources element to comprehensive plans.

## **M&G #27 Smart Growth, Community Planning and Public School Construction**

*July 2008*

This publication examines smart growth, energy efficiency and community centered public schools in Maryland. It provides a model process for use in site selection to ensure quality smart growth for schools and communities across the state. It is ideal for everyone involved in planning public school facilities as well as

the general public.

## **PlanMaryland, A Sustainable Growth Plan for the 21st Century**

*December 2011*

The full plan delivered to Governor O'Malley on December 19, 2011.

## **PlanMaryland, Executive Summary**

*December 2011*

This is a 12-page summary of the full plan, providing a description of the plan goals and an overview of the objectives in the plan.

## **PlanMaryland Progress Report**

*September 2012*

This report focuses on identifying Planning Areas and establishing Implementation Strategies. It includes an "Action Program" developed by the Smart Growth Subcabinet agencies which state agencies, directed by Executive Order 01.01.2011.22, to better achieve the objectives of the plan.

## **Implementation Guidance for the Sustainable Growth and Agricultural Preservation Act of 2012** **August 2012**

This is the technical guidance document to provide assistance to local government for implementing the Sustainable Growth and Agricultural Preservation Act of 2012.

## **Report to the General Assembly on Implementation of Senate Bill 236, the Sustainable Growth and Agricultural Preservation Act of 2012**

*February 2013*

This is the report to the Maryland General Assembly of local government progress in implementing the septic law following December 31, 2012, the date after which restrictions for major residential subdivisions in certain areas are imposed.

# NOTES

<sup>1</sup> The Land Use Article was passed by the Maryland General Assembly during its 2012 legislative session. The revised Land Use Article is a product of the continuing revision of the Annotated Code of Maryland, begun in 1973, by the legal staff of the Office of Policy Analysis of the Department of Legislative Services. The primary purpose of code revision is modernization and clarification. For more on the background of this code revision, see the “Summary Report on Chapter 426 of the Acts of 2012,” Library and Information Services, Office of Policy Analysis, Department of Legislative Services.

<sup>2</sup> Md. Code Ann., State Fin. & Proc. (SFP) §§5-7A-01 and 5-7A-02 ; , Md. Code Ann., LU Title 1, Subtitle 4 and Title 3, Subtitles 1 and 3.

<sup>3</sup> Comprehensive plan review was a six year cycle under the Land Use article; Ten-year cycle: Md. Code Ann., LU Title 1, Subtitles 2, 4, and 5 and Title 3, Subtitle 3, Effective October 1, 2013

<sup>4</sup> Md. Code Ann., SFP Title 5, Subtitle 7B.

<sup>5</sup> Md. Code Ann., State Pers. & Pens. § 5-7B-02, -03; Md. Ann. Code art. 23A, §§ 9, 19; Md. Code Ann., LU Title 1, Subtitles 1 and 4 and Title 3, Subtitle 1-3 and Title 4, Subtitle 2 and Title 7, Subtitle 3

<sup>6</sup> Md. Code Ann., Agric. §§ 2-505, 2-518, and 8-405; Md. Code Ann., Educ. § 12-115; Md. Code Ann., SFP § 5-408; **Md. Code Ann., Econ. Dev. Title 10, Subtitle 5**; Md. Code Ann., LU Title 1, Subtitles 1 and 4 and Title 3, Subtitle 1-3

<sup>7</sup> Md. Code Ann., SFP § 5-7A-01; Md. Code Ann., LU Title 1, Subtitles 2 and 4 and Title 3, Subtitle 2 and Title 7, Subtitles 1 and 2

<sup>8</sup> Md. Code Ann., LU §§1-207, 1-208, 1-301 to 1-304, and 10-103.

<sup>9</sup> Md. Code Ann., LU Title 1, Subtitles 1-4 and Title 2, Subtitle 1 and Title 3, Subtitles 1-3 and Title 4, Subtitles 2 and 3 and Title 10, Subtitles 1 and 2; Md. Code Ann., Nat. Res. § 8-1808.1

<sup>10</sup> Md. Code Ann., Econ. Dev. § 5-1304; Md. Code Ann., Hous. & Cmty. Dev. § 6-104, -201 to -213, -301 to -306; Md. Code Ann., SFP § 5A-303; Md. Code Ann., State Gov’t § 9-1406; Md. Code Ann., Transp. §§ 2-701 to -703, 7-101.

<sup>11</sup> Md. Code Ann., SFP § 5-701 to -707

<sup>12</sup> Md. Code Ann., Envir. § 9-206, 9-1110 ; Md. Code Ann., LU Title 1, Subtitles 5 and §5-104

<sup>13</sup> Economic Development Article §12-201, §12-203 and §12-207 through §12-211; Housing and Community Development Article §6-201, §6-205 and §6-214; Local Government Article §21-409, §21-410, §21-503 and §21-504 of the Annotated Code of Maryland; and The Charter of Baltimore City, Article II







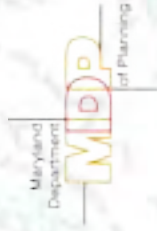




*Smart, Green & Growing*

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Amanda Stakem Conn, Esq, Deputy Secretary



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