

BY: Delegate McIntosh

SUBSTITUTE AMENDMENTS TO HOUSE BILL NO. 1141
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Glassman” and substitute “Glassman, Holmes, Lawton, Montgomery, Pugh, Stern, and Sossi;”; in line 2, strike “Comprehensive Plans - Plan Elements” and substitute “Local Government Planning”; in line 4, strike “a certain plan element” and substitute “certain plan elements”; in line 5, after “plan;” insert “providing for a certain process when developing a certain plan element;”; in the same line, strike “and approved”; in line 7, after “areas;” insert “altering certain development requirements for annexed land; requiring a certain annexation plan; requiring certain plan elements to be included in certain comprehensive plans; providing for the process for including certain plan elements in certain comprehensive plans; altering the circumstances under which certain areas shall be considered priority funding areas; providing for the designation of priority funding areas by certain local governments; requiring that certain plan elements be updated on or before a certain date; encouraging coordination on certain local planning issues; establishing a Task Force on the Future for Growth and Development in Maryland; providing for the membership and staffing of the Task Force; requiring the Task Force to study certain growth-related issues; requiring the Task Force to submit a certain report on or before a certain date;”; in line 8, strike “comprehensive plans and plan elements” and substitute “local government planning”; after line 8, insert:

“BY repealing and reenacting, with amendments,
Article 23A - Corporations - Municipal
Section 9(c) and 19(o)
Annotated Code of Maryland
(2005 Replacement Volume)”;

and after line 18, insert:

“BY repealing and reenacting, with amendments,

(Over)

Article - State Finance and Procurement
Section 5-7B-02 and 5-7B-03
Annotated Code of Maryland
(2006 Replacement Volume)".

AMENDMENT NO. 2

On page 1, after line 20, insert:

"Article 23A - Corporations - Municipal

9.

(c) (1) A municipal corporation which is subject to the provisions of Article XI-E of the Maryland Constitution may not amend its charter or exercise its powers of annexation, incorporation or repeal of charter as to affect or impair in any respect the powers relating to sanitation, including sewer, water and similar facilities, and zoning, of the Washington Suburban Sanitary Commission or of the Maryland-National Capital Park and Planning Commission. Except that where any area is annexed to a municipality authorized to have and having then a planning and zoning authority, the municipality shall have exclusive jurisdiction over planning and zoning and subdivision control within the area annexed; provided nothing in this exception shall be construed or interpreted to grant planning and zoning authority or subdivision control to a municipality not authorized to exercise that authority at the time of such annexation; and further provided, that no municipality annexing land may for a period of five years following AN annexation, [place that land in a zoning classification which permits a land use substantially different from the use for the land specified in the current and duly adopted master plan or plans or if there is no adopted or approved master plan, the adopted or approved general plan or plans of the county or agency having planning and zoning jurisdiction over the land prior to its annexation] PERMIT DEVELOPMENT OF THE ANNEXED LAND FOR LAND USES DIFFERENT THAN THE USE AUTHORIZED, OR AT A SUBSTANTIALLY HIGHER, NOT TO EXCEED 50%, DENSITY THAN COULD BE GRANTED FOR THE PROPOSED DEVELOPMENT, IN ACCORDANCE WITH THE ZONING CLASSIFICATION OF THE COUNTY APPLICABLE AT THE TIME OF THE ANNEXATION without the express approval of the board of county commissioners or county council of the county in which the municipality is located.

(2) If the county expressly approves, the municipality, without regard to the provisions of Article 66B, § 4.05(a) of the Code, may place the annexed land in a zoning classification that permits a land use [substantially] OR DENSITY different from the LAND use[for the land] OR DENSITY specified in the [current and duly adopted master plan or general plan]

ZONING CLASSIFICATION of the county or agency having planning and zoning jurisdiction over the land prior to its annexation APPLICABLE AT THE TIME OF THE ANNEXATION.

19.

(o) (1) In addition to, but not as a part of the resolution, the legislative body of the municipal corporation shall [provide also a proposed outline for the extension of services and public facilities into] ADOPT AN ANNEXATION PLAN FOR the area proposed to be annexed.

(2) The [outline] ANNEXATION PLAN shall be open to public review and discussion at the public hearing, but amendments to the [outline] ANNEXATION PLAN may not be construed in any way as an amendment to the resolution, nor may they serve in any manner to cause a reinitiation of the annexation procedure then in process.

(3) A copy of the [outline] ANNEXATION PLAN shall be provided to the governing body of the county or counties in which the municipal corporation is located, THE DEPARTMENT OF PLANNING, and any regional and State planning agencies having jurisdictions within the county at least 30 days prior to the holding of the public hearing required by this section. The [outline] ANNEXATION PLAN shall contain a description of the land use pattern proposed for the area to be annexed, which may include any county master plan already in effect for the area. It shall be presented so as to demonstrate the available land for public facilities which may be considered reasonably to be necessitated by the proposed use, such as school sites, water or sewerage treatment facilities, libraries, recreation, fire or police. It shall contain also a statement describing the schedule for extending to the area to be annexed each municipal service performed within the municipality at the time of annexation and a statement as to the general methods by which the municipality anticipates to finance the extension of municipal services into the area to be annexed.

(4) THE ANNEXATION PLAN SHALL BE CONSISTENT WITH THE MUNICIPAL GROWTH ELEMENT OF THE COMPREHENSIVE PLAN OF THE MUNICIPAL CORPORATION.”.

AMENDMENT NO. 3

On page 2, in line 3, strike “and”; in line 4, after “(5)” insert “AGRICULTURAL AND

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FOREST LANDS INTENDED FOR RESOURCE PROTECTION OR CONSERVATION; AND

(6)”;

in line 29, in each instance, strike the bracket; in line 32, strike “AND”; and strike in their entirety lines 33 and 34.

On page 3, in line 21, strike the second “AND”; and strike in their entirety lines 22 and 23.

On page 4, in line 3, after “development;” insert “AND”; and strike beginning with “; AND” in line 7 down through “RESOURCES” in line 9.

On page 6, in line 33, in each instance, strike the bracket; and in line 36, strike “AND”.

On page 7, strike in their entirety lines 1 and 2; in line 20, after “REQUIREMENTS;” insert “AND”; in line 23, strike the second “AND”; and strike in their entirety lines 24 and 25.

AMENDMENT NO. 4

On page 8, in line 7, after “development;” insert “AND”; and strike in their entirety lines 12 and 13 and substitute:

“(X) A MUNICIPAL GROWTH ELEMENT, DEVELOPED IN ACCORDANCE WITH SUBSECTION (E) OF THIS SECTION, WHICH SHALL INCLUDE CONSIDERATION OF:

1. ANTICIPATED FUTURE MUNICIPAL GROWTH AREAS OUTSIDE THE EXISTING CORPORATE LIMITS OF THE MUNICIPAL CORPORATION;

2. PAST GROWTH PATTERNS OF THE MUNICIPAL CORPORATION;

3. THE CAPACITY OF LAND AREAS AVAILABLE FOR DEVELOPMENT WITHIN THE MUNICIPAL CORPORATION, INCLUDING IN-FILL AND REDEVELOPMENT;

4. THE LAND AREA NEEDED TO SATISFY DEMAND FOR DEVELOPMENT AT DENSITIES CONSISTENT WITH THE LONG-TERM DEVELOPMENT POLICY;

5. PUBLIC SERVICES AND INFRASTRUCTURE NEEDED WITHIN THE PROPOSED MUNICIPAL GROWTH AREAS, INCLUDING THOSE NECESSARY FOR:

A. PUBLIC SCHOOLS, SUFFICIENT TO ACCOMMODATE STUDENT POPULATION CONSISTENT WITH STATE RATED CAPACITY STANDARDS ESTABLISHED BY THE INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION;

B. LIBRARIES;

C. PUBLIC SAFETY, INCLUDING EMERGENCY MEDICAL RESPONSE;

D. WATER AND SEWERAGE FACILITIES;

E. STORMWATER MANAGEMENT SYSTEMS, SUFFICIENT TO ASSURE WATER QUALITY BOTH INSIDE AND OUTSIDE THE PROPOSED MUNICIPAL GROWTH AREA; AND

F. RECREATION;

6. ANTICIPATED FINANCING MECHANISMS TO SUPPORT NECESSARY PUBLIC SERVICES AND INFRASTRUCTURE;

7. RURAL BUFFERS AND TRANSITION AREAS;

8. ANY BURDEN ON SERVICES AND INFRASTRUCTURE FOR WHICH THE MUNICIPAL CORPORATION WOULD BE RESPONSIBLE FOR DEVELOPMENT IN AREAS PROXIMATE TO AND OUTSIDE THE PROPOSED MUNICIPAL

GROWTH AREA:

9. PROTECTION OF SENSITIVE AREAS, AS DEFINED IN ARTICLE 66B, § 1(J) OF THE CODE, THAT COULD BE IMPACTED BY DEVELOPMENT PLANNED WITHIN THE PROPOSED MUNICIPAL GROWTH AREA;

10. POPULATION GROWTH PROJECTIONS; AND

11. THE RELATIONSHIP OF THE LONG-TERM DEVELOPMENT POLICY TO A VISION OF THE MUNICIPAL CORPORATION'S FUTURE CHARACTER."

AMENDMENT NO. 5

On page 10, after line 20, insert:

"(E) (1) A MUNICIPAL CORPORATION THAT EXERCISES ZONING AUTHORITY SHALL INCLUDE A MUNICIPAL GROWTH ELEMENT IN A COMPREHENSIVE PLAN.

(2) THE DEPARTMENT OF PLANNING SHALL PROVIDE, ON REQUEST, TECHNICAL ASSISTANCE TO A MUNICIPAL CORPORATION FOR THE PURPOSES OF DEVELOPING THE MUNICIPAL GROWTH ELEMENT OF THE COMPREHENSIVE PLAN.

(3) WHEN DEVELOPING THE MUNICIPAL GROWTH ELEMENT OF THE COMPREHENSIVE PLAN A MUNICIPAL CORPORATION SHALL CONSULT WITH THE COUNTY, OR COUNTIES, IN WHICH THE MUNICIPAL CORPORATION IS LOCATED.

(4) A MUNICIPAL CORPORATION AND A COUNTY OR COUNTIES IN WHICH THE MUNICIPAL CORPORATION IS LOCATED MAY ENTER INTO A JOINT PLANNING AGREEMENT IN ORDER TO COORDINATE IMPLEMENTATION OF A MUNICIPAL GROWTH ELEMENT.

(5) A JOINT PLANNING AGREEMENT SHALL CONSIDER THE MUNICIPAL GROWTH ELEMENT REQUIRED UNDER SUBSECTION (A)(4)(X) OF THIS SECTION.

(6) PRIOR TO APPROVAL OF A MUNICIPAL GROWTH ELEMENT, A MUNICIPAL CORPORATION SHALL:

(I) PROVIDE A COPY OF THE MUNICIPAL GROWTH ELEMENT TO THE COUNTY, OR COUNTIES, IN WHICH THE MUNICIPAL CORPORATION IS LOCATED; AND

(II) FOR 30 DAYS AFTER PROVIDING A COPY OF THE MUNICIPAL GROWTH ELEMENT TO THE COUNTY OR COUNTIES, IN WHICH THE MUNICIPAL CORPORATION IS LOCATED, THE MUNICIPAL CORPORATION SHALL ACCEPT COMMENTS FROM THE COUNTY OR COUNTIES.

(7) (I) WITHIN 30 DAYS FOLLOWING THE CLOSE OF THE COMMENT PERIOD FOR THE COUNTY OR COUNTIES UNDER PARAGRAPH (6) OF THIS SUBSECTION, A COUNTY AND A MUNICIPAL CORPORATION SHALL MEET AND CONFER REGARDING THE MUNICIPAL GROWTH ELEMENT.

(II) ON REQUEST OF EITHER PARTY, THE COUNTY AND MUNICIPAL CORPORATION SHALL EMPLOY THE MEDIATION AND CONFLICT RESOLUTION OFFICE TO FACILITATE THE REQUIREMENTS UNDER THIS PARAGRAPH.

Article - State Finance and Procurement

5-7B-02.

The following areas shall be considered priority funding areas under this subtitle:

(1) a municipal corporation, including Baltimore City, except THAT:

(I) those areas annexed by a municipal corporation after January 1, 1997 BUT BEFORE OCTOBER 1, 2006 shall satisfy requirements relating to density and service by water and sewer set forth in § 5-7B-03 of this subtitle; AND

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(II) THOSE AREAS ANNEXED BY A MUNICIPAL CORPORATION AFTER SEPTEMBER 30, 2006, SHALL SATISFY ALL OF THE REQUIREMENTS SET FORTH IN § 5-7B-03 OF THIS SUBTITLE;

(2) a designated neighborhood, as defined in § 6-301 of the Housing and Community Development Article;

(3) an enterprise zone as designated under Article 83A, § 5-402 of the Code, or by the United States government;

(4) a certified heritage area as defined in §§ 13-1101 and 13-1111 of the Financial Institutions Article that is located within a locally designated growth area;

(5) those areas of the State located between Interstate Highway 495 and the District of Columbia;

(6) those areas of the State located between Interstate Highway 695 and Baltimore City; and

(7) an area designated by the governing body of a county OR MUNICIPAL CORPORATION under § 5-7B-03 of this subtitle.

5-7B-03.

(a) (1) The governing body of a county OR OF A MUNICIPAL CORPORATION may designate priority funding areas as provided in this section.

(2) The governing bodies of two or more ADJOINING counties, TWO OR MORE MUNICIPAL CORPORATIONS, OR ANY COMBINATION OF ADJOINING COUNTIES AND MUNICIPAL CORPORATIONS may designate, as provided in this section and in accordance with the regulations adopted by the Department of Planning, a priority funding area that combines two or more contiguous areas located in each of the [counties] LOCAL GOVERNMENTS.

(b) (1) An area zoned or, if applicable, classified by January 1, 1997 principally for industrial use may be designated as a priority funding area.

(2) An area zoned or, if applicable, classified after January 1, 1997, as industrial may be designated as a priority funding area if the area is served by a public or community sewer system.

(c) (1) An area where the principal uses of the area are for employment may be designated as a priority funding area if:

(i) the area is served by public or community sewer systems; or

(ii) public or community sewer systems are planned in the approved 10-year water and sewer plan.

(2) An area zoned or, if applicable, classified after January 1, 1997 as industrial, or where the principal uses are for employment, in addition to meeting the criteria set forth in paragraph (1) of this subsection, shall be located within a locally designated growth area.

(d) (1) A community in existence prior to January 1, 1997 that is within a locally designated growth area may be designated as a priority funding area if the community:

(i) is served by a public or community sewer system and in that part of the community designated by the local government for residential use or development:

1. there is an average density of at least 2.0 units per acre; or

2. if a portion of the community is undeveloped, the permitted average density is not less than 2.0 units per acre; or

(ii) except as provided in paragraph (2) of this subsection, is served by a public or community water system and in that part of the community designated by the local government for residential use or development there is an average density of at least 2.0 units per acre.

(2) (i) The provisions of paragraph (1)(ii) of this subsection do not apply to mobile home parks or communities with less than 10 units.

(ii) Funding for a growth-related project under paragraph (1)(ii) of this subsection is to be provided only if the project serves to maintain the character of the community and does not serve to increase the growth capacity of the community except for limited peripheral or in-fill development.

(3) (i) If an existing community receives a public or community sewer system, an area beyond the periphery of the developed portion of the existing community may be designated as a priority funding area if the development of the area beyond the periphery:

1. has a permitted average density of at least 3.5 units per acre;
and

2. the area is served by a public or community sewer system.

(ii) The Department of the Environment may provide funding for a sewer system in an existing community beyond the periphery of the developed portion of the community if the expansion has a permitted average density of at least 3.5 units per acre.

(e) An area, other than an existing community under subsection (d) of this section, may be designated as a priority funding area if:

(1) the area:

(i) is within a locally designated growth area of the [county] LOCAL GOVERNMENT; and

(ii) is planned to be served under the approved 10-year water and sewer plan;

(2) the designation represents a long-term development policy for promoting an orderly expansion of growth and an efficient use of land and public services; and

(3) in that part of the area designated by the local government for residential use or development, there is permitted an average density of not less than 3.5 units per acre.

(f) (1) A rural village may be designated as a priority funding area under this section if:

(i) the village is designated in the county comprehensive plan as of July 1, 1998; and

(ii) the boundary of the priority funding area is the periphery of the developed portion of the village as of July 1, 1998.

(2) Funding for a growth-related project under this subtitle is to be provided only if the project serves to maintain the character of the community and does not serve to increase the growth capacity of the village except for limited peripheral or in-fill development.

(g) The designation by a county, MUNICIPAL CORPORATION, or [counties] MULTIPLE LOCAL GOVERNMENTS AS PROVIDED IN SUBSECTION (A)(2) OF THIS SECTION, of a priority funding area under this section shall be based on:

(1) an analysis of the capacity of land areas available for development, including in-fill and redevelopment; and

(2) an analysis of the land area needed to satisfy demand for development at densities consistent with the master plan.

(h) For the purposes of this section, average density shall be calculated based on the total acreage of all parcels in the area for which the principal permitted use is residential, excluding land:

(1) (i) dedicated for public use by easement in perpetuity or fee acquisition;
or
(ii) dedicated recreational use;

- (2) subject to an agricultural easement under § 2-508 of the Agriculture Article;
- (3) subject to an agricultural easement under a county agricultural land preservation program certified under § 5-408 of this title;
- (4) used for cemetery purposes;
- (5) identified by a local government as:
 - (i) 1. streams and their buffers;
 - 2. 100-year flood plains;
 - 3. habitats of threatened and endangered species; and
 - 4. steep slopes; and
 - (ii) on which development is prohibited by local law or ordinance; or
- (6) identified by a local government as delineated nontidal wetlands on which development is prohibited by State or local law or ordinance.”;

and in line 21, after “That” insert “:

(a) Subject to subsection (b) of this section, a county or municipal corporation must include any plan elements required under Article 66B, § 1.03 or § 3.05 of the Code, in its comprehensive plan on or before October 1, 2009.

(b) On a request by a county or municipal corporation that shows good cause for extending the time limit to comply with subsection (a) of this section, the Department of Planning may grant up to two 6-month extensions to that county or municipal corporation.

(c) A county or municipal corporation that is not in compliance with subsection (a) of this section after October 1, 2009, or after the expiration of any extensions granted under subsection (b) of this section, may not change the zoning classification of a property until that county or

municipal corporation complies with the requirements of this section.

SECTION 3. AND BE IT FURTHER ENACTED, That the General Assembly encourages a municipal corporation and the county, or counties, in which the municipal corporation is located to enter into a joint planning process to coordinate the development of the municipal growth elements of the comprehensive plans that are required under Article 66B, § 3.05 of the Code, as enacted by Section 1 of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That the General Assembly encourages regional coordination among the local governments of two or more adjoining counties, two or more municipal corporations, or any combination of adjoining counties and municipal corporations to develop a regional long-term growth policy.

SECTION 5. AND BE IT FURTHER ENACTED, That:

- (a) There is a Task Force on the Future for Growth and Development in Maryland.
- (b) The Task Force consists of the following members:
 - (1) two members of the House Environmental Matters Committee, appointed by the Speaker of the House;
 - (2) two members of the Senate Education, Health, and Environmental Affairs Committee, appointed by the President of the Senate;
 - (3) the Secretary of Planning, or the Secretary's designee;
 - (4) the Director the University of Maryland's National Center for Smart Growth, or the Director's designee;
 - (5) four representatives of local government:
 - (i) two designated by the Maryland Municipal League; and

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(6) identify regional growth and development issues;

(7) study mechanisms to facilitate joint planning to coordinate growth and development between municipal corporations and counties; and

(8) make recommendations to implement law or regulations that further best management practices as they relate to future growth and development in the State.

(g) On or before December 1, 2007, the Task Force shall report its findings and recommendations to the Speaker of the House, the President of the Senate, the House Environmental Matters Committee, the Senate Education, Health, and Environmental Affairs Committee, and the Governor, in accordance with § 2-1246 of the State Government Article.

SECTION 6. AND BE IT FURTHER ENACTED, That''.