

## **Application of the Septic Bill and Growth Tiers for Frederick County**

### **Septic Bill Highlights**

The Maryland General Assembly passed Senate Bill 236, the Sustainable Growth and Agricultural Preservation Act of 2012 (i.e. the Septic Bill) during the 2012 legislative session. The goal of the legislation is as follows:

*"To limit the disproportionate impacts of large subdivisions on septic systems on our farm and forest land, streams, rivers and Chesapeake and Coastal Bays."*

- Applies only to residential subdivisions NOT commercial, industrial or other non-residential subdivisions.
- Initial adoption can be done administratively, but must be part of the comprehensive plan during the subsequent update, which for Frederick County would be 2016-2018.
- Allows for a grandfathering provision for major subdivisions submitted by October 1, 2012.
- Reference to minor and major subdivisions is as defined by the local jurisdiction. Frederick County defines a minor subdivision as five (5) or fewer lots and a major subdivision as greater than five (5) lots.
- Allows local jurisdictions to request an exemption from the state, that if granted would allow for major subdivisions in the Tier IV areas.

### **Growth Tier Mapping**

The primary component of SB 236 is the growth tier mapping, which applies to both counties and municipalities. Below is a description of the Tiers as they have been applied to Frederick County. The MDP has prepared an implementation guidance document for local jurisdictions to use in preparing the Tier mapping.

The Frederick County Growth Tier map was adopted by the Board of County Commissioners on February 26, 2013. The mapping mostly follows the Maryland Department of Planning's (MDP) implementation guidance document and staff has applied the growth tier criteria using the terminology of the County's Comprehensive Plan. The county has also established definitions for the references to "served" by public sewerage and "planned" to be served by public sewer based on the County's Water and Sewerage Plan classifications. Served by public sewerage system will be defined as classifications S-1 or S-3. Planned to be served by public sewerage system will be defined as classifications S-4, S-5, or PS. For areas that do not fit the criteria described below the state allows for the identification of sub-categories such as Tier I A, Tier II A etc. The county has several areas that are designated in such sub-categories and are noted below.

### **Tier I Criteria**

Tier I – areas currently served by public sewerage systems

#### **Municipal Growth Areas**

1. Within current municipal boundary, AND
2. Designated Priority Funding Area (PFA), AND
3. Sewer Classification of S-1 or S-3

#### **Unincorporated Growth Areas**

1. Within a community growth area boundary, AND
2. Sewer classification of S-1 or S-3

#### **Tier I A**

1. Areas with existing public sewer service NOT in a growth area
  - Pleasant Branch WWTP – Knolls of Windsor development and other uses in the service area
  - Samhill WWTP – Samhill Estates and Harvest Ridge developments

- White Rock and Crestview subdivisions
- Knoxville Rural Community
- Blue Ridge Summit Rural Community (served through Washington County)
- Mill Bottom Rd. area just west of Mt. Airy that has been identified as a potential sewerage problem area due to failing septic systems

## **Tier II Criteria**

Tier II – areas planned to be served by public sewerage systems

### **Municipal Growth Areas**

1. Within current municipal boundary, AND
2. Designated Priority Funding Area (PFA), AND
3. Sewer Classification of S-4, S-5, or PS  
OR
4. Outside current municipal boundary AND within municipal growth area/Municipal Growth Element boundary

### **Unincorporated Growth Areas**

1. Within a community growth area boundary, AND
2. Sewer classification of S-4, S-5, or PS

## **Tier II A**

1. Areas planned for public sewer NOT in a growth area
  - Village of Rosemont
2. Areas within a Municipal Growth Element (MGE) NOT planned for sewer service
  - Includes properties around Mt. Airy, Middletown, Walkersville, Woodsboro, and Thurmont
  - Is applied to properties within the Walkersville municipal boundary, but are designated and zoned for Agricultural AND not planned for sewer service
3. Areas within an Unincorporated Growth Area NOT planned for sewer service
  - Applied to Future Growth Areas as described in the County Comprehensive Plan (as amended September 2012) and include areas within the Ballenger Creek, Urbana, Jefferson, and Eastalco unincorporated growth areas.

## **Tier III Criteria**

Areas not planned to be served by public sewerage systems and would allow for major subdivisions on individual septic systems.

### **Areas outside of Community Growth Areas**

1. Designated Rural Communities, OR
2. Areas designated Rural Residential that are outside of a PPA, OR
3. Areas designated Limited Industrial, General Industrial, or Mineral Mining
4. The Town of Burkittsville

## **Tier IV Criteria**

Areas planned for agricultural (including Priority Preservation Areas), resource protection, preservation, or conservation

### **Areas outside of Community Growth Areas**

1. Areas designated Agricultural/Rural, Natural Resource, or Public Parkland/Open Space
2. Areas within a Priority Preservation Area (PPA)

## **Implications of the Growth Tier Mapping**

To reiterate from the Septic Bill Highlights any limitation on major subdivisions ONLY applies to residential developments. Major subdivisions on septic for commercial, industrial and other non-residential developments will continue to be allowed in any property in a Tier III or IV area.

### **Tiers I and II**

Properties within Tiers I and II will not experience any impediments to develop or have additional steps in the development review process. Municipalities will be able to consider annexation petitions regardless of which Tier the subject property is designated. Since the County's Water and Sewer Plan already prohibits properties from using individual septic systems if they have a sewer classification of S-1 to S-4, being in a Tier I or II would not have any additional implications.

### **Tier III**

Properties within the Tier III will still be permitted to have major subdivisions (greater than five (5) lots) on individual septic systems. Since the County Planning Commission has always reviewed and approved major subdivisions the requirement under the Septic Bill for the planning board/commission to hold a "public hearing" will not add any steps to the review process that we are not already doing. The one additional requirement will involve the submission of documentation for new major subdivisions within Tier III to the Maryland Department of the Environment (MDE). However, MDE will not have any review or approval authority over a subdivision application other than what is already required for the local health department septic approval.

### **Tier IV**

Without a Tier IV exemption, major subdivisions on septic would not be permitted in Tier IV areas. This would affect properties zoned Agricultural (A) that are large enough (minimum of 75 acres) to have agricultural cluster rights that could allow for residential subdivisions greater than five (5) lots. The Tier IV area also includes properties zoned Resource Conservation, which with a minimum lot size of 10 acres, rarely are able to create major subdivisions.

The MDP granted a Tier IV exemption in May 2013, which will allow the county to continue to approve major subdivisions on septic in the Tier IV area. The primary standard for consideration of an exemption is whether the zoning applicable to the Tier IV area allows for a density of one (1) dwelling or fewer per 20 acres. If a local jurisdiction's zoning meets this standard then the state would conduct additional analysis on subdivision history, development regulations, and an assessment of the total build out potential of the Tier IV area before a decision is rendered on the exemption request. This analysis was conducted by the MDP and presented to the Maryland Sustainable Growth Commission on May 13, 2013. The analysis showed that the county's estimated overall density at build out, including properties zoned Agricultural and Resource Conservation, is one (1) dwelling per 20.3 acres.