

# **Designing a SMART GROWTH Strategy**

*for*

**The State of Virginia**

*A Comparative Assessment of Growth Management Practices*



**10 October 2003**

## INTRODUCTION

The Virginia Department of Planning Assistance (DPA) has been charged with aiding the governor and the legislature in forming a state-level growth management approach. As such, this document has been drafted to educate and inform state officials on a few of the various growth management approaches currently used in the United States and to outline the DPA's vision for a state-directed approach to managing growth at the local level here in Virginia.

The DPA chose four states to research and gather information about in terms of their growth management policies. The four states that were chosen for analysis are Maryland, Florida, Tennessee, and Oregon. This analysis will include a comparative assessment of the growth management approaches used by each of these states\* and will specifically address the following issues:

- What role the state government plays in each state's growth management system
- What initiatives/sanctions the state government uses to promote planning and "smart growth" in local governments
- Whether the state requires comprehensive planning and/or capital improvement programs (CIP's) to be prepared at the local level
- What role infrastructure plays in each state's approach and what infrastructure elements are specifically targeted by each system

Following the comparative assessment the DPA will make its recommendation as to a suitable approach for managing growth in the state of Virginia.

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\* The information contained in the state summaries was taken from the following documents: (1) *Growth Management Programs: A Comparison of Selected States*. Department of Community Affairs, 2000. (2) *State Growth Management Summaries*. <http://www.vapreservation.org/growth/state.htm>. Downloaded 10/2003. (3) *Planning Communities for the 21<sup>st</sup> Century*. APA Growing Smart<sup>SM</sup> Project, 2001.

## **MARYLAND**

The 1992 Economic Growth, Resource Protection, and Planning act required that each local government in Maryland adopt a comprehensive plan and assess the plan every six years. These local plans are submitted to the state for comment and review only. Communities must meet two consistency requirements: both local regulations and projects receiving state or federal funds must be consistent with the local comprehensive plan. Consistency is also encouraged by requiring zoning ordinances and subdivision regulations be updated after any amendment to local plans.

Since enacting its “Smart Growth” program in 1997, Maryland’s growth management system has received national attention. In formulating its growth management strategy, Maryland’s state government identified several goals:

- To save the most valuable remaining natural resources
- To support existing communities and development in areas where infrastructure is already in place
- To save taxpayer dollars on the unnecessary cost of putting in new infrastructure to support sprawl.

In attempting to realize these goals, Maryland’s growth management system is made up of a collection of financial incentives and state spending policies on infrastructure. The Smart Growth Areas Act (1997) was aimed at directing new development to Priority Funding Areas (PFA’s). PFA’s are those areas that the state and local governments have decided are most appropriate for future economic development and growth, while minimizing sprawl. To qualify as a PFA, locales have to meet several guidelines including:

- Having adequate sewer and water systems
- Meeting permitted residential density

- Conforming with intended use according to local or state comprehensive plans

In accordance with “smart growth” policies, the state is prohibited from funding “growth-related” projects outside of PFA’s. Although local governments and private interests may spend their own funds for development outside of PFA’s they are not eligible for state funding for state roads, schools, or various other types of infrastructure. Additionally in those communities without adequate sewer systems and in rural villages, development is restricted to projects that both maintain the character of the community and avoid increasing the area’s growth capacity. In this way the state policy actively discourages conversion of rural lands to urban uses.

## **OREGON**

Enacted in 1973, Oregon’s growth management system is administered by the state Department of Land Conservation and Development and an appointed board – the Land Conservation and Development Commission (LCDC). Since its creation, the commission has adopted 19 statewide planning goals and various regulations that guide how statutes are administered.

Under Oregon’s Land Use act, all cities and counties in the state must have an adopted comprehensive plan that meets mandatory state standards and goals. Before local governments can adopt new comprehensive plans or modify existing plans the LCDC must review the plan to determine whether it properly implements the state planning goals. If the local plan satisfies the state requirements, the LCDC “acknowledges” or certifies the plan. If it does not, the plan must be revised and resubmitted.

Under the legislation, the LCDC has the power to force local governments to fulfill their responsibility to maintain an adopted comprehensive plan by suspending

local authority to issue building permits or approve land subdivisions. The LCDC can also block distribution of certain state tax revenues up to the amount the government had previously received under planning grants. These sanctions are used as a way to compel local governments to make their contribution to growth management throughout the state.

Oregon's statewide goals are achieved through local comprehensive planning. State law requires each local government to have a comprehensive plan as well as the zoning and ordinances necessary to implement the plan. Local plans must be consistent with statewide planning goals; to this end the LCDC reviews each plan for consistency.

Oregon's main policy for controlling growth (and avoiding sprawl) involves the use of urban growth boundaries (UGB's) – these boundaries identify and separate urbanized land from rural land. Each city in the state must establish a growth boundary to help control urban development. These boundaries include already-developed land as well as enough undeveloped land to accommodate expected growth for a 20-year period. Thus far UGB's have helped to control the costs of public services and facilities by avoiding the expense of having to extend significant infrastructure into rural areas.

## **TENNESSEE**

Tennessee's growth management approach incorporates strategies from several other states. Much like Oregon, Tennessee use UGB's to ensure compact development and economical development by steering growth to areas with existing infrastructure. The state relies on growth management goals as opposed to a statewide comprehensive plan to address growth issues.

Tennessee's growth management system is composed of two directives that are working simultaneously. The first, Title 13, provides enabling legislation for all planning

activities; that is, it authorizes local governments to perform comprehensive planning but does not *require* them to do so. The second, Public Chapter 1101 of the Tennessee Statutes, specifically mandates a comprehensive growth policy plan for each county as well as urban growth areas. Chapter 1101 was originally intended to work in conjunction with the comprehensive plans adopted under Title 13; however, the requirements of 1101 are mandatory even for those local governments that have not adopted a plan – those governments that do not comply incur penalties.

Tennessee does not use a state plan and does not require strict consistency between regional and local plans. A cross-acceptance model is used throughout the state so that planning needs are addressed through consensus building between neighboring jurisdictions. Countywide joint planning between counties and cities is promoted by requiring approval of a single “growth plan” for each county. This common plan aids in addressing countywide problems such as public facility siting issues or extra-jurisdictional impacts.

The “growth plans” must identify UGB’s for cities, planned growth areas (PGA’s) for unincorporated areas, and rural areas where agriculture is to occur. UGB’s must include already developed land, undeveloped land sufficient for 20 years of predicted growth, and any territory for which a particular municipality can provide better services than other municipalities. To curb sprawl, annexation by a municipality is only allowed within the UGB. PGA’s perform a similar function to UGB’s on the county level; however PGA’s must be outside any municipality and its respective UGB. Any leftover territory in the state is designated a rural area for twenty years – to be used for agriculture, forestry, wildlife, etc. Once a growth plan is ratified, all land-use decisions must be consistent with the plan.

## **FLORIDA**

The State of Florida began to develop its growth management system in the early 1970's. These early laws established programs to protect critical environmental areas, control large developments and require local comprehensive plans. Today Florida is known for its integrated framework for planning at the state, regional, and local level. The Florida State Comprehensive Plan, adopted in 1985, required the Office of the Governor to prepare a statewide comprehensive plan and required regional planning councils (RPC's) to adopt comprehensive plans that were consistent with the state plan. The 1985 Growth Management Act further integrated the planning process by requiring all local governments to adopt comprehensive plans that were consistent with the state and regional plans. The Act also required local development regulations and development orders be consistent with the local comprehensive plans.

In addition to adopting comprehensive plans that are consistent with the state plan, local governments must define facility service areas to indicate the areas intended for urban facilities and services. Since local governments must provide infrastructure expansions concurrent with the impacts of new development, they may not issue building permits unless they can demonstrate that any necessary infrastructure improvements can be funded *and* constructed in time for new development. In this way the Florida system attempts to link its capital improvement programming process with the comprehensive planning process.

While Florida law does not specifically delineate urban growth areas, the growth management system adopted in 1985 contains a policy directive on compact urban development. The three components contained in this policy are: discouraging sprawl, improving existing infrastructure to support infill, and discouraging urbanization of

rural lands. In many communities, this has been accomplished by designating an urban services area\*, an urban growth boundary or by introducing urban growth phasing to local plans.

## **RECOMMENDATIONS**

Each of the strategies discussed in the preceding summaries has its strengths and weaknesses with respect to the community for which it is being used. The purpose of this report is to identify which strategies might be put to good use here in Virginia. The state of Virginia has several fast-growing areas including the Washington D.C. suburban areas and the Virginia Beach area along the Chesapeake Bay. However, other areas in the state are not growing at such a rapid pace. In light of these differing needs throughout Virginia, the DPA firmly believes that the state will be best-served by implementing a state-led approach to smart growth. By having the state coordinate planning throughout the state, Virginia can manage its growth in a cohesive manner that will benefit the state as a whole rather than just a few municipalities.

To this end, the DPA recommends that the state of Virginia adopt a statewide comprehensive plan, and that each local government in the state be required to complete its own plans that are consistent with the state plan. Those localities that fail to prepare and adopt a comprehensive plan should be barred from receiving state fund until an acceptable plan has been approved. The state plan should mainly be a policy document used to help guide local plans. Local plans, on the other hand, will need to be guiding documents for growth in their respective communities and as such should be closely tied to local ordinances and regulations.

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\* The municipality guarantees infrastructure and services only within the urban services area.

Each of the growth management approaches discussed above somehow ties its strategy to infrastructure provisions and/or capacity. It is undeniable that infrastructure provision influences where growth happens. As such the DPA feels it is imperative that Virginia emulate these other states. As suggested by Kelly in his 1993 PAS report\*\*, it is recommended that each local government be required to create strong linkages between its capital improvement program and its comprehensive plan. Specifically, each government should lay out the CIP process in its comprehensive; hopefully, this will help to institutionalize the relationship between the two. By linking these documents so strongly the long term goals laid out in the comprehensive plan can continually inform the decisions about where infrastructure will be provided; and the plans will have greater influence on the patterns of growth in the state.

In terms of growth management, the DPA suggests a two-part strategy for the state. (1) The entire state should adopt a concurrency requirement system resembling that of Florida. No new development should occur without adequate public facilities. (2) For those areas that are considered to be “high-growth” (20% or more increase in population over the past 10 years) two-tiered priority funding areas should be defined. The top tier PFA’s can include brown- and grayfields and any other areas appropriate for infill development. Development in these PFA’s will be eligible for normal state funding as well as density bonuses. The second tier of PFA’s can include those undeveloped areas that are a part of the 20-year expected growth areas. Development in these PFA’s will be eligible for the normal state funding. Development outside of the PFA’s (but still within the “high-growth” area) will not be eligible for state funding.

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\*\* Kelly, E.D. *Planning, Growth, and Public Facilities*. Planning Advisory Service Report #447, 1993.