

# **New Restrictions on Developments Using Septic**

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On May 2, 2012, Maryland Governor O'Malley signed into law Senate Bill 236, "The Sustainable Growth and Agricultural Preservation Act of 2012", a controversial piece of legislation that may significantly impact a property owner's ability to develop its property using on-site sewage disposal systems (septic systems). The law becomes effective on July 1, 2012. The purpose of this legislation is two-fold. First, it seeks to reduce the nitrogen load and other pollutants from on-site sewage systems that ultimately flow into the Chesapeake Bay. Second, it also seeks to limit developmental sprawl that fragments State-wide agricultural and forested lands.

## **What Does This Mean to Montgomery County Property Owners?**

If you own land in Montgomery County that you intend to develop on septic, the rules are about to change. Unless a preliminary plan application is **submitted by October 1, 2012** and **approved by October 1, 2016**, the development potential of your property may be limited to 4 lots, regardless of acreage or underlying zoning, unless the County takes affirmative steps that would allow it to approve more lots.

Under The Sustainable Growth and Agricultural Preservation Act of 2012, local jurisdictions may soon have limited discretion when it comes to approving subdivisions of more than 4 lots on septic. Counties have until December 31, 2012 to decide whether to adopt a Growth Tier system modeled by the legislation that designates areas where land may or may not

be developed on septic and whether these areas are restricted only to minor subdivisions. If the County fails to adopt Growth Tiers, it will no longer be authorized to approve anything more than a “minor” subdivision on septic.

Counties also have until December 31, 2012 to decide whether to accept the State’s definition of a “minor” subdivision as limited to 4 lots or to adopt a different definition (in no case more than 7 lots). If the County takes no affirmative action to enact its own definition of a “minor” subdivision for purposes of this legislation, a “minor” subdivision will be limited to 4 lots.

Representatives of the County and the Maryland-National Capital Park and Planning Commission are in discussion about the impact of this new law on Montgomery County property owners and what course of action the County should take. Property owners affected by this new legislation will want to closely monitor the County’s response over the next few months.