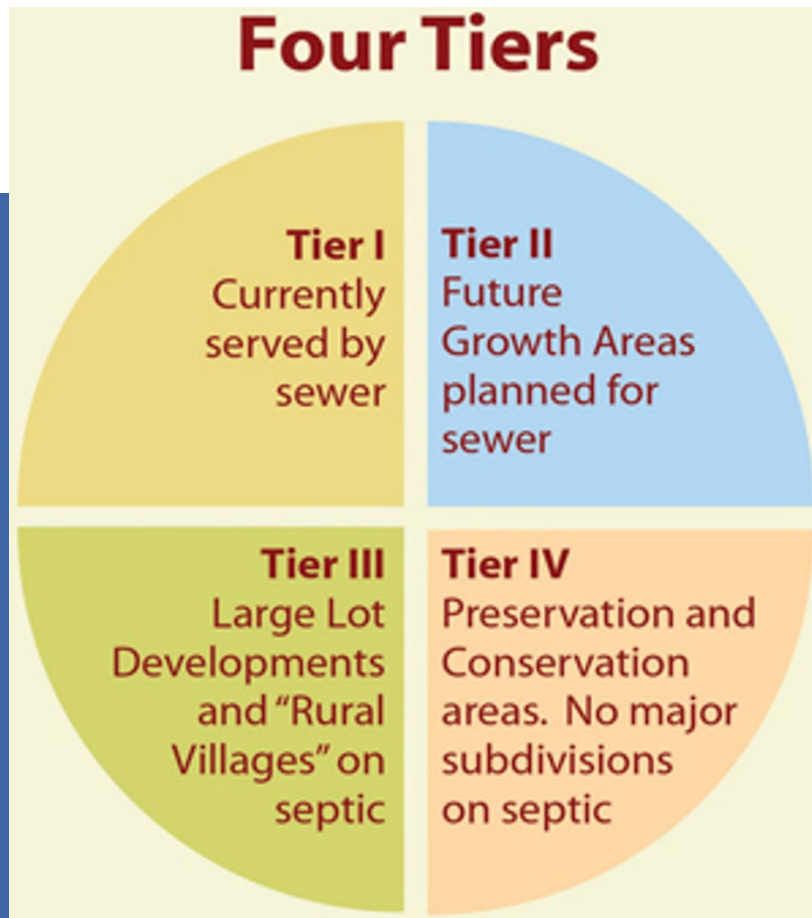
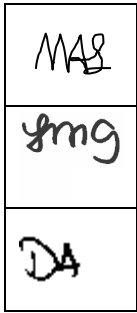


PROPOSED UPDATED GROWTH TIERS MAP



Description

Planning Department staff will brief the Planning Board on the proposed updated Growth Tiers Map to amend the Growth Tiers Map that was adopted by the county in 2012, as required by the Sustainable Growth & Agricultural Preservation Act of 2012 (Senate Bill 236). Planning staff recommend the transmittal of the proposed updated Growth Tiers Map to the County Council with a recommendation to amend the current map.



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SUMMARY

- To comply with SB236, in 2012, Planning Staff prepared a Growth Tiers Map in accordance with State Growth Tiers Guidelines for local jurisdictions, which was subsequently adopted by the county through a Subdivision Regulation Amendment (SRA).
- Sufficient changes in sewer category changes have accumulated since the original map was adopted in 2012 to justify an update to the Growth Tiers Map. In 2023 and early 2024, Planning Staff worked closely with Department of Environmental Protection (DEP) and the Maryland Department of Planning (MDP) staff to update the Growth Tiers Map to reflect sewer category changes since the original (current) map was adopted and to correct some inaccuracies in the original map.
- Planning Staff recommend that the Planning Board transmit the proposed updated Growth Tiers Map to the County Council with a recommendation to amend the current Growth Tiers Map as provided for under [Section 50.10.7](#).

INFORMATION

Review Basis

Section 50.4.3.F.3

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Planning Board Information

MCPB

Item No. 5

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SECTION 1 – PROJECT BACKGROUND

During the 2012 General Assembly session, the Maryland General Assembly approved the Sustainable Growth & Agricultural Preservation Act of 2012 (Senate Bill 236), also known as the septic bill. SB 236 required local jurisdictions to establish and adopt growth tiers to control the number of new subdivisions on septic fields. The purpose of the bill is to protect agriculture, control growth in rural areas, promote growth in areas that have infrastructure in place for it, and reduce nitrogen from septic systems, a primary pollutant of the Chesapeake Bay.

To comply with the new law, in 2012 Planning Staff prepared a Growth Tiers Map in accordance with State Growth Tiers Guidelines for local jurisdictions, and the Planning Board transmitted the map and a Subdivision Regulation Amendment (SRA) request to the County Council to incorporate the map into the regulations. Later that year, the Montgomery County Council amended the county's subdivision regulations to adopt the Growth Tiers Map.

The Growth Tiers Map is not a sewer accessibility indicator, nor does it influence or control the process of sewer service planning and the designation of service area categories. Rather, the map is determined by the sewer categories at the time of map preparation as they relate to the growth tiers mapping criteria established by the State. **The main purpose of the growth tiers is to limit the proliferation of new developments on septic systems by not allowing major subdivisions on septic systems in Tier IV areas unless a jurisdiction qualifies for a Tier IV exemption.** It also prohibits the approval of any subdivision that would be served by one or more septic systems on land located in the Tier I area, and any major subdivision that would be served by one or more septic systems on land located in the Tier II area.

Under the law, jurisdictions can be granted an exemption to the Tier IV septic system restriction by demonstrating a Tier IV buildout density of an average of no more than 1 residential unit per 20 acres at buildout under current zoning. While developing the current Growth Tiers Map, the County demonstrated to the State that it satisfied the Tier IV septic system exemption criterion (at 1 dwelling unit per 22.4 acres). Montgomery County was granted this exemption in 2012.

Growth Tiers Map

The Growth Tiers Map in Figure 1 shows the location of the four current Growth Tiers in the county.

- **Tier I:** Areas currently served by sewer
- **Tier II:** Future Growth Areas planned for sewer
- **Tier III:** Large Lot Development and “Rural Villages” on septic systems
- **Tier IV:** Preservation and Conservation Areas.
 - Residential minor subdivisions (7 or fewer residential units) can be served by on-site sewage disposal systems. No major subdivisions (8 or more residential units) on septic systems are permitted unless a jurisdiction qualifies for a Tier IV exemption by meeting a Tier IV buildout density criterion of an average of no more than 1 residential

unit per 20 acres. In 2012, Montgomery County applied for and was granted a Tier IV exemption by the Maryland Department of Planning that allows the county to continue to approve major subdivisions on septic systems.

The text of the Subdivision Regulations that pertains to the Growth Tiers Map can be found in [Section 50.4.5.F.3](#) and follows below. It specifies the requirements that the Planning Board must adhere to with respect to the Growth Tiers, and that the official County Growth Tiers Map is the map found on the Planning Department's [webpage](#). It also specifies two ways the County Council can amend the official Growth Tiers map. One method is by adopting the Growth Tiers through an amendment to the county's General Plan, or alternatively, through an amendment under [Section 50.10.7](#). Below is the language from the County Code regarding the Growth Tiers Map.

F. Water supply and sewage disposal facilities.

3. Growth tiers.

a. The Board must review any plan that includes residential lots under the Growth Tier rules as follows:

i. in this Subsection:

(a) a major subdivision is a division of land that would create 8 or more residential building lots; and

(b) a minor subdivision is a division of land that would create 7 or fewer residential building lots.

b. The Board must not approve any subdivision that would be served by one or more septic systems on land located in the Tier I area.

c. The Board must not approve any major subdivision that would be served by one or more septic systems on land located in the Tier II area.

d. The Board may approve a subdivision for any number of residential lots that would be served by one or more septic systems on land located in the Tier III or Tier IV area.

e. The official map displaying the Growth Tier areas as allowed under the Maryland Sustainable Growth and Agricultural Preservation Act of 2012 is located on the Planning Department website. The Council may amend the official map either by:

i. adopting Tiers in a General Plan amendment; or

ii. an amendment under [Section 10.7](#).

The current version of the map as seen in Figure 1 below may be accessed from the Planning Department's [Growth Tiers website](#).

Current Montgomery County Growth Tiers Map

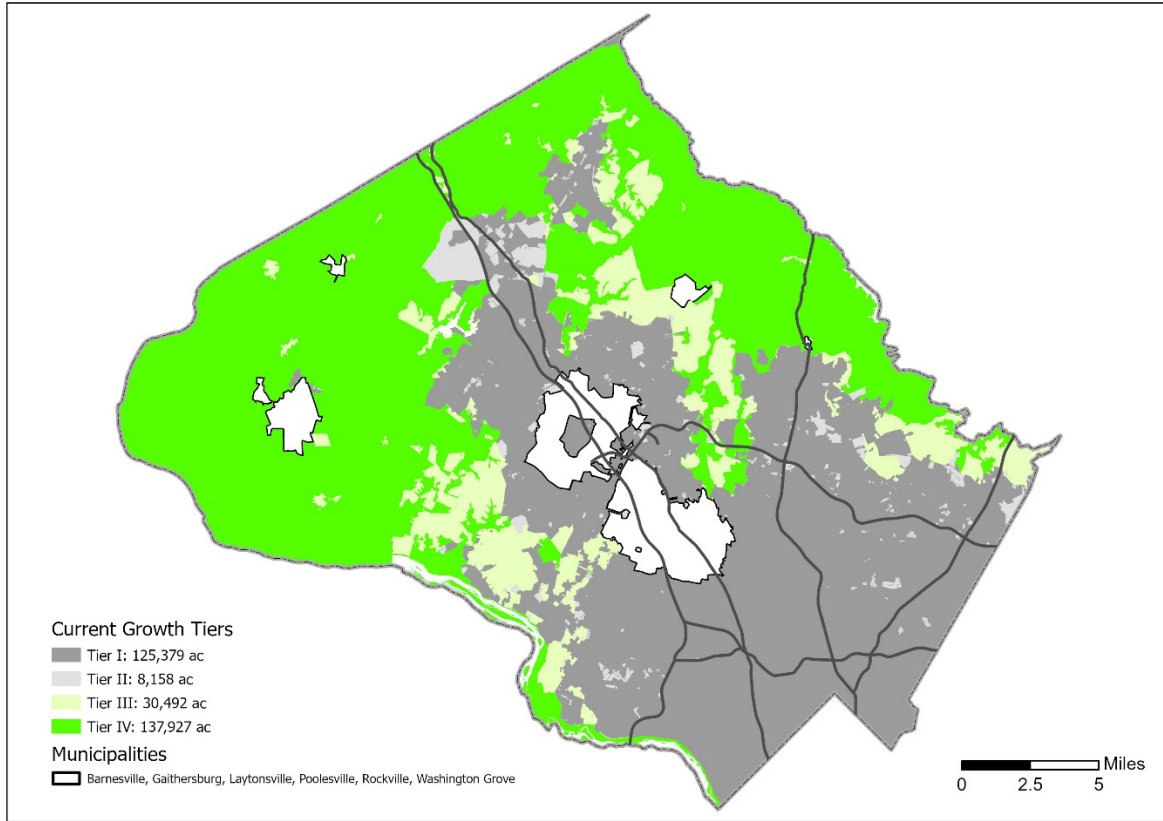


Figure 1 Current Growth Tiers Map

SECTION 2 – THE PROPOSED UPDATED GROWTH TIERS MAP

Over time, sewer category changes occur such as changes from category 3 (Areas where improvements to or construction of new sewer systems will be given immediate priority) to category 1 (Areas served by sewer systems which are either existing or under construction). Because sewer categories are the principal determinant of growth tiers, local growth tiers maps need to be updated from time to time. The State leaves it to local jurisdictions to determine when to update their growth tiers maps, but State law requires Maryland Department of Planning (MDP) review of all proposed updated growth tiers maps. In 2023 and early 2024, the Planning Department worked closely with DEP staff to update the Growth Tiers Map to reflect sewer category changes since the original (current) map was adopted, and to correct some inaccuracies in the original map. During that time, Planning Staff also worked closely with MDP staff to assist in their review of the updated map.

MDP has informed Planning Staff that after their review they concur with the proposed updated map. In addition, after conducting a review and density analysis of the proposed updated Tier IV, MDP has confirmed that the county continues to meet the SB 236 standard that allows for a Tier IV Exemption (at an average buildout density of 1 dwelling unit per 22.7 acres), and that the county's current Tier IV exemption will continue after adoption of the updated Growth Tiers Map. This will allow the county to continue to approve subdivisions for any number of residential lots that would be served by one or more septic systems on land located in the Tier III or Tier IV area.

As with the original Growth Tiers Map, State law requires a final MDP review of the updated map after it is adopted by the county but requiring additional changes at that point is unlikely. Figure 1 above shows the current Growth Tiers Map, Figure 2 below shows the proposed Updated Growth Tiers Map, and Table 1 shows the acreages within each tier for both maps and the change in the tier acreages under the proposed updated map.

Proposed Updated Montgomery County Growth Tiers Map

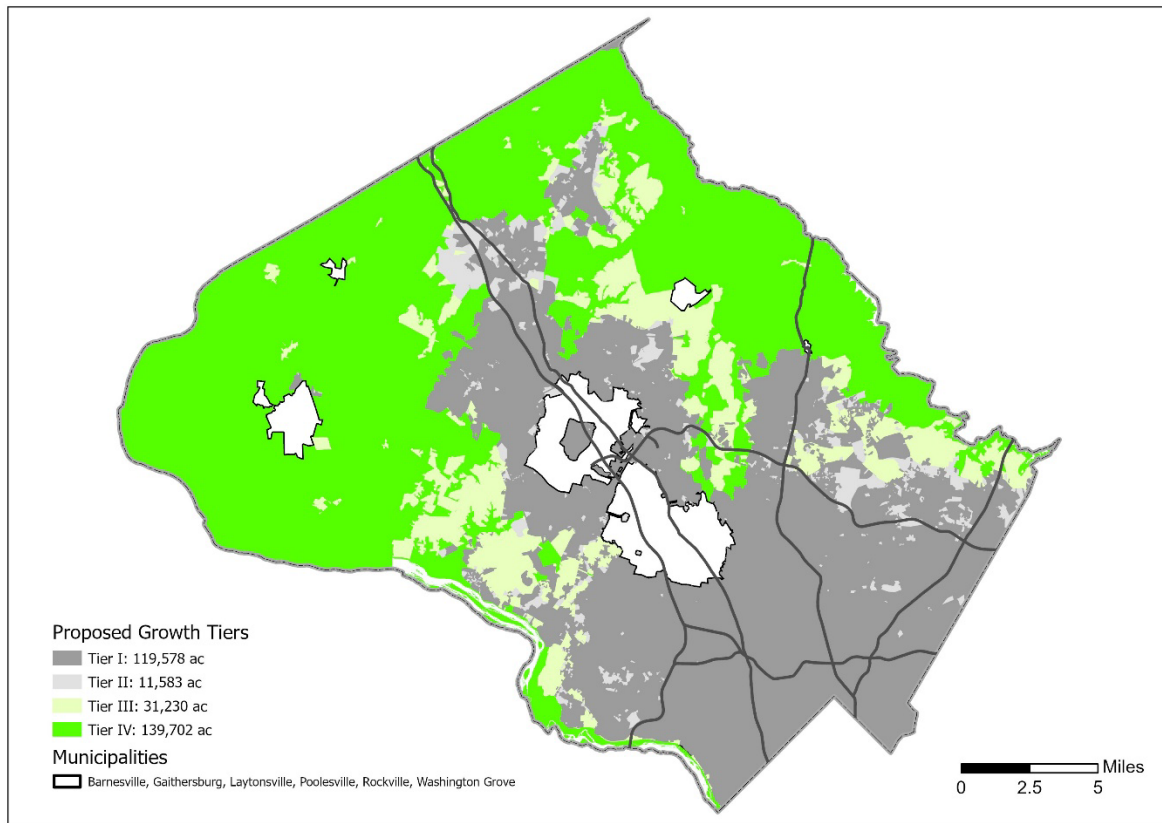


Figure 2 Proposed Updated Growth Tiers Map

Table 1 Tier Acreage Comparison of Current and Proposed Updated Growth Tiers Maps

Tier	Current Acres	Proposed Acres	Change in Acres
I	125,379	119,578	-5,801
II	8,158	11,583	3,425
III	30,492	31,230	738
IV	137,927	139,702	1,775
Totals	301,956	302,093	137

Since 2012, the county’s sewer category map was corrected to ensure category mapping that conforms with the parcel file. As a result, the updated map reflects the mapping work done since the earlier category map. The new category map provided better information on which to base decisions as to which parcels should be in which tier. For example, there were areas in the previous sewer category map that were in category 1 but have no sewer yet, which were taken out of Tier I. There were also many unclassified slivers and gaps in the old category map that have since been corrected,

as well as rights-of-way that have also been reclassified into the correct tier. The changes in Table 1 reflect the improved sewer category map as well as sewer category changes that have occurred since 2012.

Amending the Growth Tiers Map as allowed under Section 50.10.7 will require the County Council to introduce the proposed updated Growth Tiers Map, schedule a public hearing and work session, and approve the updated map. Upon County Council approval of the updated Growth Tiers Map, Planning Staff will replace the current online Growth Tiers Map with the new approved version. As the Subdivision Regulations designate the Planning Department's online map as the official version of the Growth Tiers Map, replacing the current map with the updated version will complete the update process without the need for a new amendment to the Subdivision Regulations.

SECTION 3 – PLANNING STAFF RECOMMENDATION

Planning Staff recommend that the Planning Board transmit the proposed updated Growth Tiers Map to the County Council with a recommendation to amend the current Growth Tiers Map under [Section 50.10.7](#), as provided for by the Subdivision Regulations that pertain to the Growth Tiers Map ([Section 50.4.5.F.3](#)).

SECTION 4 – NEXT STEPS

After the Planning Board sends its recommendation to the County Council, Council staff will then take the updated Growth Tiers map through the required process needed to amend the current map. County Council staff has proposed the following **tentative** schedule after receiving the Planning Board's recommendation.

- **May 9th Planning Board hearing**
- **By May 17th Planning Board Recommendation to the County Council**
- **May 23rd introduction & public hearing announcement**
- **July 9th public hearing** (because of Memorial Day and Council being later in the week, the newspaper ad won't post until May 28th, and Council staff are aiming for 30 days in the newspaper; hence the July date)
- **July 22nd PHP Committee**
- **July 30th Council action** (Council staff usually request 2 weeks between Committee and action so they can get the packet out. If for some reason major changes are needed, then the Council action will need to be pushed to the first date in September).