

2018 WATER AND SEWER PLAN

6.2 AMENDMENT PROCESSES

The adopted Water and Sewer Plan assigns a category to every piece of property in the County. These categories determine whether land can be developed using public, or community, water and sewer or individual well and septic systems. A category change is usually required for a development proposal that needs a subdivision, or that disturbs more than 5,000 square feet of land. The categories are discussed in Section 2.1.2. "Water and Sewer Categories."

Requests for changes to these categories, also known as the Water and Sewer Plan Amendments, can be achieved through two processes: The Legislative Amendment process and the Administrative Amendment process. The Legislative Amendment process is used when changes are proposed from Category 6 or 5 to Category 4 and for variations to policies, procedures, and practices established by the adopted Water and Sewer Plan. The Administrative Amendment process is used when changes are proposed from Category 4 to Category 3 and for public projects that are to be allocated for "public convenience and necessity" use. Both processes require the filing of an application for water and sewer plan amendment. Applications are discussed further in Sections 6.3.3 and 6.4.2, and as **Appendix 6-1**.

6.3 LEGISLATIVE AMENDMENT PROCESS

Landowners, County agencies, the Maryland-National Capital Park and Planning Commission (M-NCPPC), and the Maryland Department of the Environment (MDE) can initiate applications for the Legislative Amendment process. Plan amendments can be requested for water and sewer category changes, and for water withdrawal points and points of discharge, in excess of 5,000 gallons per day as an annual daily average. Additionally, a contract purchaser, with the owner's written consent, may initiate the application.

The County Executive has delegated the management of the Water and Sewer Plan, including the preparation of Legislative Amendments, to the Department of Permitting, Inspections and Enforcement (DPIE). DPIE leads in implementing the County's goals, objectives and legal requirements for providing water and sewer service in Prince George's County, in concert with land use and sustainable growth policies established by the adopted General Plan, and through the Department's protection of the County's natural and manmade resources. In its management of the Water and Sewer Plan and amendments, DPIE coordinates with County and Bi-County agencies and evaluates, prepares and submits proposed Legislative Amendments for the County Executive's review and recommendation. These recommendations are then sent with an accompanying proposed Council Resolution for consideration by the County Council.

The County Council provides a notice of the pending amendments to the public, County, and State agencies prior to a public hearing. Anyone interested in an amendment or an application in the proposed Water and Sewer Plan Amendment package may testify at the public hearing. After the public hearing, a work session of the appropriate County Council Committee is held. After considering matters raised at the public hearing and work session, the County Council acts

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on the proposed Legislative Amendments. The County Executive has 10 days following adoption of the resolution to comment on the County Council's action before the resolution is effective.

Prince George's County will schedule four Water and Sewer Plan Legislative Amendment cycles each year. This is one more cycle than previous adopted plans have allowed. Applications to amend the Plan must be submitted to DPIE by the respective closing dates: January 1, April 1, July 1, and October 1. DPIE provides application forms (see **Appendix 6-1** of this chapter). The applications, with all required attachments, must be completed before the closing date to be accepted for review (see Section 6.3.3). DPIE, the County Executive and the County Council reserve the right to request any additional information deemed appropriate. An application may be rejected from the process if requested information is not received within a designated time frame. Additionally, an application may be rejected if the policies and criteria listed in Section 2.1.4 are not met for the development review processes or for the development proposed. Incomplete applications received, via courier, mail or electronic transfer, will be returned to the applicant or the correspondent of record. Applications found to be incomplete after the closing date will be required to re-file, and may be subject to an additional filing or late fee.

6.3.1 Referral and Review Process

Applications are reviewed by the Washington Suburban Sanitary Commission (WSSC), the Maryland-National Capital Park and Planning Commission (M-NCPPC), the County Health Department (PGCHD), and the Department of Permitting, Inspections and Enforcement (DPIE). DPIE may also request reviews or comments from other appropriate agencies and municipalities. One copy of each application is sent to the County Council. Reviewing agencies are given 15 days from the date of referral to submit comments to DPIE on applications received.

DPIE, as the agency integrally involved in permitting services for the County and the administrator of this process, evaluates each application proposal based on criteria listed in Section 2.1.4, and consistency to other Federal, State, Regional, County, and Municipal land use plans and planning policies outlined or implied in the Water and Sewer Plan. DPIE comments on the existence of and requirements for permits prior to, during, and after the disturbance of land, and the proposed development's need for road improvements and other transportation facilities.

State and County agencies involved in the review process provide information and assistance pertinent to water and sewer planning and development specific to its area of proficiency. These comments are considered in recommendations presented to the County Executive and County Council. In addition to DPIE, the plan administrative agency, the following agencies provide written comments on all amendment applications: WSSC calculates an estimated sewage flow for each project and describes whether the project can be served by existing water and sewer lines, or estimates what size and type of improvements would be necessary to provide service; M-NCPPC compiles information on general plan policies, master plan recommendations, zoning, subdivision status, and adequacy of public facilities, residential capacities, community needs, infrastructure, and services; and PGCHD provides information about existing wells, septic systems and percolation tests conducted on the subject property, as well as soils and other environmental health and sanitation issues.

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Based on the information provided in the application and the comments received from reviewing agencies, DPIE prepares a report evaluating the merits of the request and its proposal. The County Executive then determines a recommendation for each request and transmits the proposed amendment resolution to the County Council. DPIE notifies each applicant of the County Executive's recommendation once the resolution has been introduced as pending legislation. The County Council holds a public hearing and a work session prior to adoption of the resolution. At the close of each public hearing, the Chair of the County Council shall specify that no additional evidence will be accepted by the Clerk of the Council for inclusion into the record. If any evidence is presented subsequent to the public hearing, it shall not be considered as a part of the record and shall not be used as a basis for denying or granting a category change request. The adopted Council Resolution serves as legal documentation of the approved amendments to the Water and Sewer Plan and Maps. A copy of the adopted County Council Resolution is available at the Office of the Clerk of the Council.

The Legislative Amendment process has been modified to accommodate four cycles, approximating 13 weeks per cycle. The exact duration and action dates are dependent on weekdays, holidays and other workload within County agencies, and may also be impacted by County elections. The introduction of a resolution for an Amendment, the public hearing and the County Council's final adoption must each occur at a full legislative session of the County Council. These are usually held on Tuesdays.

Table 6-1. Approximate Schedule for Legislative Amendments

Week 1	Initial review by DPIE and referral to agencies
Weeks 2-5	Agency commenting period
Weeks 6-7	DPIE prepares staff report, drafts resolution for transmittal of the County Executive's recommendations and Office of Law review to the County Council
Week 8	County Council introduces Resolution
Weeks 9-12	Public hearing notice, public hearing and work session
Week 13	Final adoption by the County Council

6.3.2 Redesignation Criteria for Legislative Amendments

Legislative Amendments to the Plan include category changes. In order for the County to approve a particular category change, the project must meet the policies and criteria listed in Section 2.1.4 of this plan. Category specific criteria also include the following:

- Category 4 - The project complies with applicable zoning requirements.
- Water and sewer service is found to be adequate and available through a WSSC-issued Letter of Findings.
- Additional residential capacity is needed (residential development)
- The development proposal includes an adequate description.
- Property is located inside the Sewer Envelope
- Category 5 - The proposed development complies with applicable zoning.

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- Water and sewer service is ultimately planned for the area.
- Additional residential capacity is not needed (residential development)
- Property is located inside the Sewer Envelope

- Category 6
- The project complies with applicable zoning requirements.
 - Community service is not planned for the area.
 - Rural sanitation and rural water supply can support the development.
 - Property is located outside the Sewer Envelope.

Any project that has an active rezoning application may not be processed for water and sewer category amendments.

6.3.3 Application Requirements

The application form must be completed according to its accompanying instructions and is subject to a review process. An application must be made using forms provided by DPIE or by downloading the application from the DPIE website (see **Appendix 6-1** of this chapter). A completed application consists of the original application form (notarized as appropriate), required supporting materials and documents on 8 ½ x 11 papers, and the required nonrefundable filing fee. Documents must be legible and scanner-ready for acceptance into the designated cycle for processing. The deadline for accepting applications is the close of business on the 1st of January, April, July and October. If the deadline date is on a weekend or a holiday, the following business day will be considered the deadline date.

6.3.4 Refiling of Denied Applications

Denied applications may be refiled in consecutive cycles. The County reserves the right, however, to determine whether circumstances or policies related to the original denial have changed significantly to justify reconsideration in the next consecutive cycle. The refiled application is subject to the applicable non-refundable filing fee.

6.3.5 Fee Schedule

A fee schedule for Legislative Amendments is found in **Appendix 6-2** of this chapter.

6.4 ADMINISTRATIVE AMENDMENT PROCESS

Once a property has been changed to Category 4 and meets certain criteria, a Plan Amendment application to move to Category 3 may be submitted. Category 3 status allows the owner of the property to obtain appropriate water and sewer extension authorization, record the final plat and subsequently receive building permits. Plan amendments for changes from Category 4 to Category 3, and for public use allocations are generally approved administratively. Public use allocations are required for any development proposed by a public entity (Federal, State, County, Municipal, and Regional) and those deemed public by the Maryland Public Service Commission, possessing a Certificate of Public Convenience and Necessity (CPCN).

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1. All property outside the Sewer Envelope boundary is designated in Category 6 (dark green hue on the category maps) except certain parcels approved for and connected to public water or sewer service prior to the adoption of this Plan. These properties are listed in **Appendix 2-1** of this Chapter. Properties approved for shared community systems, outside the Sewer Envelope, are shown outlined on the water and sewer maps (Category 6P).
2. All property located inside the Sewer Envelope is designated in Category 5, 4 or 3 with the exception of certain larger tracts of open space, generally parks and cemeteries.
3. Administrative and technical mapping changes and corrections of drafting errors, including changes to incorporate the adoption of Subregion plans that may not have been affected by the prior versions of the Prince George's County Water and Sewer Category Maps.

Properties referenced above are listed in Appendices 2-1, and 2-2 of this chapter. Small-scale water and sewer category maps are included as appendices to this Plan. Special printouts and larger-scale maps may be obtained from DPIE, and follow the applicable fee structure adopted for the Water and Sewer Plan. See Appendix 6-2 for related fee structure.

2.1.4 Category Change Policies and Criteria

Based upon its legal authority, Prince George's County has developed special policies to govern water and sewer planning in a manner consistent with the County's goals for development review. The County Executive and the County Council review these policies, which must be in concert with the County's goals and objectives and, through a legislative process, amend categories within the adopted Water and Sewer Plan. This is known as the "Category Change" procedure. Executive authority delegates the processing of category amendments to DPIE, which acts as the County's steward on development and permitting matters and, as the administrator to the Water and Sewer Plan. The policies governing changes to a designated category must take into account environmental factors, economic concerns, planning requirements, regulatory policies, engineering constraints, and public health concerns. An application may be rejected if these policies and criteria are not met unless a hardship in meeting the policies and criteria is demonstrated by the applicant and concurred by the elected body. Specifically, these include:

A. Environmental factors

Under this criterion, the proposal must:

- Protect the integrity of the water supply and the receiving waters;
- Protect natural resources; and
- Preserve, protect, and enhance environmental quality.

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B. Environmental factors

Under this criterion, the proposal must:

- Protect the integrity of the water supply and the receiving waters;
- Protect natural resources; and
- Preserve, protect, and enhance environmental quality.

C. Economics and general fiscal concerns

Under this criterion, the proposal must:

- Be analyzed for its fiscal impact related to location, community needs, public facilities, services and infrastructure.
- Correlate with County strategies and not unduly burden the existing taxpayers or the WSSC ratepayers.
- Enhance business, housing, retail development and employment opportunities throughout the County.

D. Planning, zoning, and subdivision requirements

- No Water or Sewer Category Change Request shall be processed or approved for land for which a change in zoning is proposed in:
 1. A Sectional Map Amendment transmitted by the Planning Board to the District Council; or
 2. A Zoning or Special Exception application pending before the Hearing Examiner or Prince George's County District Council.

Once the District Council has adopted a zoning change, the processing of a water and sewer category change can proceed.

- No Water or Sewer Category Change request shall be processed or approved for properties designated Category 6 where the following conditions exist:
 1. Properties in Water and/or Sewer Category 6 within the defined planning or study area for which a master, or sector plan, or sectional map amendment, has been initiated by the District Council but not yet adopted/disapproved by the Planning Board and/or District Council.
 2. Properties in Water and/or Sewer Category 6 within the defined planning or study area for which a master, or sector plan, or sectional map amendment, has been initiated by the District Council and adopted by the Planning Board, but remanded by the District Council for further Planning Board review.

Applicants may submit Water and/or Sewer Category Change Requests for these properties upon a Planning Board disapproval or District Council approval of a master plan, sector plan, sectional map amendment, or zoning application, if necessary.

- A hydraulic planning analysis (HPA) should be submitted to WSSC prior to submittal of the preliminary plan of subdivision to M-NCPPC.
- All preliminary plans of subdivision must show a conceptual alignment of all proposed onsite and offsite water and sewer facilities before DPIE may deem the public water and sewer facilities adequate and allocated for the proposed development.
- All final plats of subdivision must be approved by DPIE for public water and sewer service, or by the County Health Department for individual well and septic systems.

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E. Federal, State, Regional, County and Municipal land use plans and planning policies

Under this criterion, the proposal must conform to governed mandates, policies and ordinances:

- Water and sewer service shall be provided in concert with the availability of other public facilities, and in accordance with the General Plan and applicable Area and Functional Master Plans.
- Water and sewer lines traversing the Rural and Agricultural areas are designated as controlled access facilities and are not available for connection or extension. Controlled access facility lines serve the purpose of transmission to a public entity (*Federal, State, Regional, County, and Municipal*) or a project that has been granted a Certificate of Public Convenience and Necessity by the Maryland Public Service Commission. Water and sewer lines for extension of service into the rural and agricultural areas of the County may be approved if the following applies:
 - An approved Area Master Plan or Sector Plan designates the area for public water and sewer service consistent with the policies in the General Plan or the proposed development has been determined to be compatible with other County growth policies relating to location, community needs, residential capacity, public facilities and other appropriate policies.
- Proposed development in the Growth Policy Areas shall meet existing contiguity policies, and demonstrate:
 - Contiguity to existing built developments;
 - Location within 1,500 feet of existing public water and sewer systems;
 - Roadways are capable of supporting demands from the proposed development; and,
 - Require developer(s) to bear the full responsibility of the costs of on- and off-site public facilities.
- Proposed development may not hinder the County's ability to provide adequate public services to the County and its residents. Adequacy of public facilities shall be measured in accordance with subdivision and zoning ordinances.
- Proposed development shall be analyzed for consistency with the General Plan, master/sector plans, and functional master plans as defined by the land use article of the Maryland Annotated Code. This analysis shall include, but not be limited to, the impact of proposed developments and water and sewer extensions on land use, development patterns, historic sites and districts, public facilities, green infrastructure, and transportation system, including, but not limited to, traffic impacts, road construction needs, sidewalks, pedestrian trails and road connectivity in the surrounding neighborhoods.

F. Water and sewer facility plans, engineering constraints, and the availability of transmission and treatment capacity

- Public water and sewer service extensions shall not be allowed in the area outside the limit of planned sewer services – also called the Sewer Envelope – unless the project is deemed to be compatible with other County growth policies after an analysis of the impact of the project related to its location, community needs, residential capacity, services, infrastructure, public facilities and other appropriate policies have been evaluated.
- Any proposed use of grinder pumps shall be in accordance with WSSC policy and standards.

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- A development proposal must meet any conditions of an allocation policy set for the specific basin or water pressure zone.
- Water and sewer systems must have adequate transmission and treatment capacities to serve the proposed development.

G. The need to alleviate and abate public health problems

- The County's primary responsibility is to protect public health and safety.
- Water and sewer service is restricted by any moratorium orders issued by MDE, WSSC, or the Federal Government.
- No new developments will be approved that may impose a water and sewer moratorium on the County.
- The County Health Department may request a category change for a community based on findings of a sanitary survey.

The County, by its adopted Water and Sewer Plan, has a reasonable expectation that service will be available in accordance with the specific category designation. The designation, however, does not constitute a guarantee, a binding promise, a firm offer or a representation that water or sewer service will actually be provided. It is important to emphasize that the Water and Sewer Plan, as interpreted by the Maryland courts and by its nature as a planning tool, provides considerable flexibility in its implementation to accommodate growth within the County. Furthermore, the ability of the County to provide service must be secondary to the responsibility of the County to protect public health and safety, including the prevention of wastewater overflows and the pollution of the County's waters.

The developer must also be aware that actual water and sewer service is further dependent on one or more of the following:

- The transmission and treatment capacities of the water and sewer systems;
- Moratorium orders issued by MDE, WSSC, and Federal and State Planning processes;
- An extension approval for the project from the WSSC before construction can begin;
- The acquisition of any necessary rights-of-way and the completion of engineering feasibility studies;
- The financial ability of the developer or the utility to fund construction of water and sewer lines;
- Land use plans and zoning constraints;
- Any defaults by parties contracting with WSSC to construct water and sewer facilities; and,
- The County's allocation policies, which are discussed below.

2.1.5 Allocations of Capacity

~~In the process of evaluating category change requests, development proposals are reviewed for adequacy of available capacity in the water pressure zone and the sewer basin where the project~~