

LAWS OF DELAWARE  
VOLUME 84  
CHAPTER 397  
152nd GENERAL ASSEMBLY  
FORMERLY  
SENATE BILL NO. 237

AN ACT TO AMEND TITLES 9 AND 22 OF THE DELAWARE CODE RELATING TO COMPREHENSIVE PLANNING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 2656(g), Chapter 26, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 2656. Required and optional elements of comprehensive plan; studies and surveys.

(g) The comprehensive plan shall include:

(1) A future land use plan element designating proposed future general distribution, location and extent of the uses of land for such activities as residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public buildings and grounds, other public facilities and other categories of the public and private uses of land. The plan shall include standards to be followed in the control and distribution of population densities and building and structure intensities. The proposed distribution, location and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by goals, policies and measurable objectives. Each land use category shall be defined in terms of the types of uses included and standards for the density or intensity of use. The future land use plan shall be based upon surveys, studies and data regarding the area, including the amount of land required to accommodate anticipated growth, the projected population of the area, the character of undeveloped land and the availability of public services. The future land use plan may designate areas for future planned development use involving combinations of types of uses for which special regulations may be necessary to ensure development in accord with the principles and standards of the comprehensive plan and this subchapter. The land use maps or map series shall generally identify and depict historic district boundaries and shall designate historically significant properties meriting protection. Population, demographic, environmental and economic data and projections used to determine present conditions, future land use and public facility requirements shall be developed in conjunction with the State and municipalities, and shall, as a minimum, consistent with projections officially adopted by the Delaware Population Consortium. The sources and assumptions used to develop such projections shall be clearly identified.

a. The future land use plan must reflect strategies which consider community resiliency and reduce the vulnerability of property, agriculture, infrastructure, and cultural and natural resources to the impacts of climate change, including sea level rise, changes in rainfall patterns, and extreme weather events. The strategies must be informed by the Delaware Climate Action Plan and Implementation Reports as amended and in consultation with the Office of State Planning and Coordination.

(2) A mobility element which is consistent with the approved Area-wide Transportation Plan and has been developed in conjunction with the Department of Transportation. The mobility element shall provide a balanced transportation system addressing the movement of people and goods while showing existing and proposed rights-of-way, sidewalks, bikeways, walking trails, rail facilities, terminals and related facilities. The mobility element shall include recommendations for land use regulations that promote a range of sustainable transportation choices and consider alternatives to auto-centric development patterns, including transit services, where applicable for future transportation needs. The mobility element shall be consistent with the State Implementation Plan (SIP) for air quality attainment and consider the designated evacuation routes as set forth by the appropriate state agencies.

(3) A water and sewer element correlated to principles and guidelines for future land use, indicating ways to provide for future potable water, and wastewater disposal for the area. County Council, in conjunction with the State, shall assess their current, as well as projected, water needs and sources. The element shall describe the problems and needs and the general facilities that will be required for solution of the problems and needs. The water and sewer element shall be developed in consultation with and reviewed by the Department of Natural Resources and Environmental Control. The water and sewer element shall include an assessment of fiscal considerations and shall be consistent with approved area-wide wastewater treatment Plans.

(4) A conservation element for the conservation, restoration where appropriate, use and protection of natural resources in the area and which results in the identification of these resources. At a minimum, the element shall consist of such natural area classifications as wetlands, ~~wood-lands~~ forests, uplands, habitat areas, and wildlife corridors, geological areas, hydrological areas, floodplains, aquifer recharge areas, ocean beaches, soils and slopes. The land use map or map series contained in the future land use element shall generally identify and depict natural areas classifications, such as those enumerated in this section. The land uses identified on said maps shall be consistent with applicable state laws and regulations. Identification and depiction of the above shall be based on the best topographic maps and other information available from state and federal agencies or other sources that the County deems appropriate. The conservation element shall also consider areas most suited for agricultural uses, ~~silva-cultural~~ silvicultural uses and watershed protection. The conservation element shall be developed in consultation with and reviewed by the Department of Agriculture and the Department of Natural Resources and Environmental Control.

(5) A recreation and open space element indicating a comprehensive system of public and private sites for recreation including, but not limited to, nature preserves, parks and playgrounds, parkways, water bodies including beaches and public access to beaches, open spaces and other recreational facilities. A county recreation and open space plan is acceptable in lieu of a recreation and open space element. The recreation and open space element shall be consistent with the comprehensive land use plan. The element shall be developed in consultation with and reviewed by the Department of Natural Resources and Environmental Control and shall reflect the State's open space preservation and outdoor recreation planning activities.

(6) A housing element that is consistent with county housing plans, standards and principles. Such housing plans shall be in accordance with state and federal rules and regulations and the housing plan or housing element of the comprehensive plan shall include the following:

- a. The provision of housing for existing residents and the anticipated growth of the area. Anticipated growth scenarios must be in conformance with the strategies reflected in the future land use plan and encourage development of new housing growth away from areas vulnerable to inland and coastal flooding.
- b. The elimination of substandard dwelling conditions.
- c. The structural and aesthetic improvement of existing housing.
- d. The provision of adequate sites for future housing, including housing for low-income and moderate-income families, group home facilities and foster care facilities, with supporting infrastructure and public facilities.
- e. Provision for relocation housing and identification of historically significant and other housing for purposes of conservation, rehabilitation or replacement.
- f. The formulation of housing implementation programs.
- g. Demonstrated coordination with the State Housing Authority including, but not limited to, guidelines to insure that sites for publicly assisted housing are located where adequate transportation opportunities, health and social services and other community services are available.

Section 2. Amend § 4956(g), Chapter 49, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 4956. Required and optional elements of comprehensive plan; studies and surveys.

(g) The comprehensive plan shall include:

(1) A future land use plan element designating proposed future general distribution, location and extent of the uses of land for such activities as residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public buildings and grounds, other public facilities and other categories of the public and private uses of land. The plan shall include standards to be followed in the control and distribution of population densities and building and structure intensities. The proposed distribution, location and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by goals, policies and measurable objectives. Each land use category shall be defined in terms of the types of uses included and standards for the density or intensity of use. The future land use plan shall be based upon surveys, studies and data regarding the area, including the amount of land required to accommodate anticipated growth, the projected population of the area, the character of undeveloped land and the availability of public services. The future land use plan may designate areas for future planned development use

involving combinations of types of uses for which special regulations may be necessary to ensure development in accord with the principles and standards of the comprehensive plan and this subchapter. The land use maps or map series shall generally identify and depict historic district boundaries and shall designate historically significant properties meriting protection. Population, demographic, environmental, ~~oil~~ and economic data and projections used to determine present conditions, future land use and public facility requirements shall be developed in conjunction with the State and municipalities, and shall, as a minimum, be consistent with projections officially adopted by the Delaware Population Consortium. The sources and assumptions used to develop such projections shall be clearly identified.

a. The future land use plan must reflect strategies which consider community resiliency and reduce the vulnerability of property, agriculture, infrastructure, and cultural and natural resources to the impacts of climate change, including sea level rise, changes in rainfall patterns, and extreme weather events. The strategies must be informed by the Delaware Climate Action Plan and Implementation Reports as amended and in consultation with the Office of State Planning and Coordination.

(2) A mobility element which is consistent with the approved Area-wide Transportation Plan and has been developed in conjunction with the Department of Transportation. The mobility element shall provide a balanced transportation system addressing the movement of people and goods while showing existing and proposed rights-of-way, sidewalks, bikeways, walking trails, rail facilities, terminals and related facilities. The mobility element shall include recommendations for land use regulations that promote a range of sustainable transportation choices and consider alternatives to auto-centric development patterns, including transit services, where applicable for future transportation needs. The mobility element shall be consistent with the State Implementation Plan (SIP) for air quality attainment and consider the designated evacuation routes as set forth by the appropriate state agencies.

(3) A water and sewer element correlated to principles and guidelines for future land use, indicating ways to provide for future potable water, and wastewater disposal for the area. County government, in conjunction with the State, shall assess their current, as well as projected, water needs and sources. The element shall describe the problems and needs and the general facilities that will be required for solution of the problems and needs. The water and sewer element shall be developed in consultation with and reviewed by the Department of Natural Resources and Environmental Control. The water and sewer element shall include an assessment of fiscal considerations and shall be consistent with approved area-wide wastewater treatment Plans.

(4) A conservation element for the conservation, restoration where appropriate, use and protection of natural resources in the area and which results in the identification of these resources. At a minimum, the element shall consist of such natural area classifications as wetlands, ~~wood-lands~~ forests, uplands, habitat areas, and wildlife corridors, geological areas, hydrological areas, floodplains, aquifer recharge areas, ocean beaches, soils and slopes. The land use map or map series contained in the future land use element shall generally identify and depict natural areas classifications, such as those enumerated in this section. The land uses identified on said maps shall be consistent with applicable state laws and regulations. Identification and depiction of the above shall be based on the best topographic maps and other information available from state and federal agencies or other sources that the County deems appropriate. The conservation element shall also consider areas most suited for agricultural uses, ~~silva-cultural~~ silvicultural uses and watershed protection. The conservation element shall be developed in consultation with and reviewed by the Department of Agriculture and the Department of Natural Resources and Environmental Control.

(5) A recreation and open space element indicating a comprehensive system of public and private sites for recreation including, but not limited to, nature preserves, parks and playgrounds, parkways, water bodies including beaches and public access to beaches, open spaces and other recreational facilities. A county recreation and open space plan is acceptable in lieu of a recreation and open space element. The recreation and open space element shall be consistent with the Comprehensive Land Use Plan. The element shall be developed in consultation with and reviewed by the Department of Natural Resources and Environmental Control and shall reflect the State's open space preservation and outdoor recreation planning activities.

(6) A housing element that is consistent with county housing plans, standards and principles. Such housing plans shall be in accordance with state and federal rules and regulations and the housing plan or housing element of the comprehensive plan shall include the following:

a. The provision of housing for existing residents and the anticipated growth of the area. Anticipated growth scenarios must be in conformance with the strategies reflected in the future land use plan and encourage development of new housing growth away from areas vulnerable to inland and coastal flooding.

b. The elimination of substandard dwelling conditions.

c. The structural and aesthetic improvement of existing housing.

d. The provision of adequate sites for future housing, including housing for low-income and moderate-income families, group home facilities and foster care facilities, with supporting infrastructure and public facilities.

e. Provision for relocation housing and identification of historically significant and other housing for purposes of conservation, rehabilitation or replacement.

f. The formulation of housing implementation programs.

g. Demonstrated coordination with the State Housing Authority including, but not limited to, guidelines to insure that sites for publicly assisted housing are located where adequate transportation opportunities, health and social services and other community services are available.

Section 3. Amend § 6956(g), Chapter 69, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 6956. Required and optional elements of comprehensive plan; studies and surveys.

(g) The comprehensive plan shall include:

(1) A future land use plan element designating proposed future general distribution, location and extent of the uses of land for such activities as residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public buildings and grounds, other public facilities and other categories of the public and private uses of land. The plan shall include standards to be followed in the control and distribution of population densities and building and structure intensities. The proposed distribution, location and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by goals, policies and measurable objectives. Each land use category shall be defined in terms of the types of uses included and standards for the density or intensity of use. The future land use plan shall be based upon surveys, studies and data regarding the area, including the amount of land required to accommodate anticipated growth, the projected population of the area, the character of undeveloped land and the availability of public services. The future land use plan may designate areas for future planned development use involving combinations of types of uses for which special regulations may be necessary to ensure development in accord with the principles and standards of the comprehensive plan and this subchapter. The land use maps or map series shall generally identify and depict historic district boundaries and shall designate historically significant properties meriting protection. Population, demographic, environmental and economic data and projections used to determine present conditions, future land use and public facility requirements shall be developed in conjunction with the State and municipalities, and shall, as a minimum, be based on [consistent with] projections officially adopted by the Delaware Population Consortium. The sources and assumptions used to develop such projections shall be clearly identified.

a. The future land use plan must reflect strategies which consider community resiliency and reduce the vulnerability of property, agriculture, infrastructure, and cultural and natural resources to the impacts of climate change, including sea level rise, changes in rainfall patterns, and extreme weather events. The strategies must be informed by the Delaware Climate Action Plan and Implementation Reports as amended and in consultation with the Office of State Planning and Coordination.

(2) A mobility element which is consistent with the approved Area-wide Transportation Plan and has been developed in conjunction with the Department of Transportation. The mobility element shall provide a balanced transportation system addressing the movement of people and goods while showing existing and proposed rights-of-way, sidewalks, bikeways, walking trails, rail facilities, terminals and related facilities. The mobility element shall include recommendations for land use regulations that promote a range of sustainable transportation choices and consider alternatives to auto-centric development patterns, including transit services, where applicable for future transportation needs. The mobility element shall be consistent with the State Implementation Plan (SIP) for air quality attainment and consider the designated evacuation routes as set forth by the appropriate state agencies.

(3) A water and sewer element correlated to principles and guidelines for future land use, indicating ways to provide for future potable water, and wastewater disposal for the area. County government, in conjunction with the State, shall assess their current, as well as projected, water needs and sources. The element shall describe the problems and needs and the general facilities that will be required for solution of the problems and needs. The water and sewer element shall be developed in consultation with and reviewed by the Department of Natural Resources and Environmental Control. The water and sewer element shall include an assessment of fiscal considerations and shall be consistent with approved Area-wide Wastewater Treatment Plans.

(4) A conservation element for the conservation, restoration where appropriate, use and protection of natural resources in the area and which results in the identification of these resources. At a minimum, the element shall consist of such natural area classifications as wetlands, ~~wood-lands~~ forests, uplands, habitat areas, and wildlife corridors, geological areas, hydrological areas, floodplains, aquifer recharge areas, ocean beaches, soils and slopes. The land use map or map series contained in the future land use element shall generally identify and depict natural areas classifications, such as those enumerated in this section. The land uses identified on said maps shall be consistent with applicable state laws and regulations. Identification and depiction of the above shall be based on the best topographic maps and other information available from state and federal agencies or other sources that the County deems appropriate. The conservation element shall also consider areas most suited for agricultural uses, ~~silva-cultural~~ silvicultural uses and watershed protection. The conservation element shall be developed in consultation with and reviewed by the Department of Agriculture and the Department of Natural Resources and Environmental Control.

(5) A recreation and open space element indicating a comprehensive system of public and private sites for recreation including, but not limited to, nature preserves, parks and playgrounds, parkways, water bodies including beaches and public access to beaches, open spaces and other recreational facilities. A county recreation and open space plan is acceptable in lieu of a recreation and open space element. The recreation and open space element shall be consistent with the Comprehensive Land Use Plan. The element shall be developed in consultation with and reviewed by the Department of Natural Resources and Environmental Control and shall reflect the State's open space preservation and outdoor recreation planning activities.

(6) A housing element that is consistent with county housing plans, standards and principles. Such housing plans shall be in accordance with state and federal rules and regulations and the housing plan or housing element of the comprehensive plan shall include the following:

- a. The provision of housing for existing residents and the anticipated growth of the area. Anticipated growth scenarios must be in conformance with the strategies reflected in the future land use plan and encourage development of new housing growth away from areas vulnerable to inland and coastal flooding.
- b. The elimination of substandard dwelling conditions.
- c. The structural and aesthetic improvement of existing housing.
- d. The provision of adequate sites for future housing, including housing for low-income and moderate-income families, group home facilities and foster care facilities, with supporting infrastructure and public facilities.
- e. Provision for relocation housing and identification of historically significant and other housing for purposes of conservation, rehabilitation or replacement.
- f. The formulation of housing implementation programs.
- g. Demonstrated coordination with the State Housing Authority including, but not limited to, guidelines to insure that sites for publicly assisted housing are located where adequate transportation opportunities, health and social services and other community services are available.

Section 4. Amend § 702, Chapter 7, Title 22 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 702 Comprehensive development plan.

(b) Comprehensive plan means a document in text and maps, containing at a minimum, a municipal development strategy setting forth the jurisdiction's position on population and housing growth within the jurisdiction, expansion of its boundaries, development of adjacent areas, redevelopment potential, community character, and the general uses of land within the community, and critical community development and infrastructure issues. The comprehensive planning process shall

demonstrate coordination with other municipalities, the county and the State during plan preparation. The comprehensive plan for municipalities of greater than 2,000 population shall also contain, as appropriate to the size and character of the jurisdiction, a description of the physical, demographic and economic conditions of the jurisdiction; as well as policies, statements, goals and planning components for public and private uses of land, transportation, economic development, affordable housing, community facilities, open spaces and recreation, protection of sensitive areas, climate change and resiliency, community design, adequate water and wastewater systems, protection of historic and cultural resources, annexation and such other elements which in accordance with present and future needs, in the judgment of the municipality, best promotes the health, safety, prosperity and general public welfare of the jurisdiction's residents.

Section 5. This Act takes effect on November 15, 2026.

Approved September 5, 2024