

Delaware Strategies for State Policies and Spending

5 Year Update
July, 2004



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Executive Summary

The purpose of this document, as with the original *Strategies for State Policies and Spending* document, is to coordinate land use decision-making with the provision of infrastructure and services in a manner that make best use of our natural and fiscal resources. The importance of such coordination lies in the fact that land use decisions are made at the local level while the bulk of infrastructure (e.g., roads and schools) and services (e.g., emergency services and social services) that support land use decisions are funded by the State.

Thus, the development of this document with local governments and citizens helps to create a unified view toward growth and preservation priorities that all governments can use to allocate resources. To demonstrate the State's commitment to principles of this document, State agencies are directed to fund only those projects that are in compliance with these strategies.

In essence, there are two fundamental policies that guide the State Strategies:

1. State spending should promote quality, efficiency, and compact growth; and,
2. State Policies should foster order and resource protection, not degradation.

It is important to note that none of the maps contained within this document are "parcel-based," so it is still necessary to thoroughly investigate the constraints of a particular land parcel with the local jurisdiction that controls the land use decision. Thus, any land development activity must meet all of the relevant local codes and ordinances.

This document is intended for a diverse audience including state agencies, local governments, developers, and citizens. The various chapters are organized around topic areas, and tabbed for ease of use.

Following is a brief discussion of the contents of each section of this document.

Introduction

In 1999, the Cabinet Committee on State Planning Issues approved the first State Strategies. The first document was developed to guide state investment decisions to promote efficient development patterns, protect agriculture and open space, discourage sprawl, and communicate with local governments on land use matters. This document is a scheduled five-year update to the original document.

During the update process the Office of State Planning Coordination consulted state agencies, county governments, metropolitan planning organizations, and local governments for comments. State certified municipal and county comprehensive plans were also referred to during the data gathering process.

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In addition, the State Planning Office held a total of 7 public meetings – two in each of Delaware’s three counties, and one in the city of Wilmington to accept the public’s comments on the State Strategies text and maps. Comments were also accepted in writing, through e-mail and also via a specially created online form.

Coordinating Government

Governor Minner developed her Livable Delaware agenda to enhance efforts to implement the State Strategies. To do this she focused her administration’s efforts on administrative and legislative initiatives to strengthen land use planning efforts at the State and local levels. Key initiatives included:

- The issuance of Executive Order 14 – directing State agencies to develop Livable Delaware plans;
- House Bill 255 – a far reaching piece of legislation that created a plan certification process and reformed the annexation process, among other things; and,
- Senate Bill 65 – Preliminary Land Use Services (PLUS) for the review of development projects early in the development process.

Directing Growth

In this update, the map designations have been changed from names, such as “**Community**”, “**Developing**” and “**Rural**” to **Levels 1 – 4** and “**Out-of-Play**” to avoid confusion caused by misinterpreting names. Levels 1 through 3 identify which areas of the state are most prepared for growth and where the state can make the most cost-effective infrastructure investments, for the likes of schools, roads and public safety. In the Level 4 areas where development is not currently preferred, the state will make investments that will help preserve a rural character such as, investments to promote open space and agriculture. Out-of-Play lands are those that generally cannot be developed for reasons including, they are Federal- or State-owned protected lands, parkland, the development rights have been purchased, or State or local regulations prohibit development on them.

Investing Effectively

The State makes significant investments influenced by where and how growth occurs. For instance, 201 schools receive nearly two-thirds of their funding from the State; DelDOT is responsible for maintaining nearly 90% of the over 12,000 lane miles in Delaware (the nationwide average for states is approximately 20%); and the State also funds 14 State Service Centers that deliver more than 160 programs and services to accommodate approximately

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600,000 visits annually. Thus, the need to coordinate with those making land use decisions cannot be stressed enough.

In part, the State Strategies are meant to act as a guide for adequate infrastructure provision throughout Delaware while minimizing the burden on the State's taxpayers. Thus, the three general strategies are:

1. Towns, counties and the state are collectively involved in the infrastructure planning process;
2. Existing infrastructure should be utilized before new infrastructure is constructed; and,
3. When it is necessary to expand new infrastructure, it should be expanded in a logical manner that aims to serve first those areas closest to existing services.

Improving Housing Choice

Various house siting techniques can provide a great deal of cost savings which ultimately can open up housing choices for many more people. In particular use of properly designed compact development can significantly reduce housing costs. Besides the decrease in infrastructure costs (on average, about 32 %) compact development produces a more diverse range of transportation options, a more economical extension of services and utilities, and the location near existing developed areas and higher densities enable natural qualities and agriculture areas to be preserved and protected.

Preserving Delaware

Just as "built" infrastructure such as roads, water, sewer and electric are always carefully planned; so should "green infrastructure" be planned, designed, and invested in. The State has allocated and continues to allocate significant resources for land preservation. Since 1990, the State's Open Space program has invested more than \$209 million to preserve more than 43,000 acres of land. In addition, more than 76,000 acres of agriculture land have been permanently protected with more than \$90 million spent for the purchase of preservation easements. Planning is essential because much of this activity requires contiguous parcels to be effective. The Livable Delaware Advisory Council's Green Infrastructure Subcommittee was charged with recommending strategies for conservation and management of natural resources, recreational lands and working lands. They were also asked to work towards creating an interconnected network of green spaces which this chapter reviews.

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Involving Citizens

The best opportunity for citizens to get involved with land use decision making process is to attend local government public hearings and workshops for local planning commissions and boards of adjustments. The development of a Comprehensive Plan is perhaps the most important step for the town or county. This document sets the overall pattern of land use. Additionally, all land use regulations are based on this document. Many jurisdictions conduct extensive public participation efforts to gauge citizen input on these documents.

Promoting Sustainable Jobs

Quality jobs located in areas that can support them and that enhance Delaware's quality of life is the focus of Delaware's economic development programs. Some of the key issues in promoting sustainable jobs include promoting infill and redevelopment especially of brownfield sites. Making the redevelopment of brownfields easier and more financially attractive has been a key goal of Livable Delaware. Other considerations are promoting cleaner, high-paying jobs of the future to replace jobs in the manufacturing sector and helping Delaware's cities and towns attract entrepreneurs who fuel the New Economy.

Preserving Delaware

Green Infrastructure

The term “Green Infrastructure” refers to an interconnected system of undeveloped lands that incorporates natural resource areas, recreational lands, and working lands. Large blocks of forests, rivers and streams, and farms are all examples of Green Infrastructure. Delaware’s Green Infrastructure serves as habitat for rare and endangered species, provides the basis for Delaware’s thriving agricultural industry, protects the quality of our air and water, provides places for Delawareans to enjoy the outdoors, and adds to the scenic quality of Delaware.

Multipurpose green space networks provide a framework for smart conservation and smart growth. Just as “built” infrastructure such as roads, water and electric are always carefully planned; so should “green infrastructure” be planned, designed, and invested in.

Through its Green Infrastructure subcommittee, the Livable Delaware Advisory Council has developed and approved preservation strategy for farmland and open space in Delaware.

The recommended goals for Green Infrastructure in Delaware:

- Preserve half of Delaware’s remaining, unreserved commercially viable forest land by 2024.
- Preserve half of Delaware’s remaining, unreserved cropland by 2024.
- Preserve 100% of the remaining natural resource and recreation priorities by 2024.

A healthy Green Infrastructure provides:

- Clean air and water
- Flood and erosion control
- Habitat
- Food and Fiber
- Scenic Vistas
- Invasive Species Management
- Quality of Life

The economics of Green Infrastructure encompass:

- **Agriculture & Forestry** – Healthy soils, pollinators and stable environmental conditions are essential for Delaware farmers

Preserving Delaware

Green Infrastructure

to put food on the table. Production of Agricultural and Forestry products contributed \$800 million to Delaware's economy in 2002.

- **Physical fitness** — healthy people save public health dollars
- **Recreation** — Fishing, hunting, and wildlife watching activities brought in \$127 million into Delaware's economy in 2001.
- **Tourism** — In 2002, almost 5.9 million people visited Delaware State Parks. Healthy beaches, state parks, and wildlife areas means more visitors to Delaware.
- **Increased property values** — A network of green space used as a common area enhances a community.

The **Livable Delaware Advisory Council's Green Infrastructure Subcommittee** was charged with recommending strategies for conservation and management of natural resources, recreational lands, and working lands. They were also asked to work towards creating an interconnected network of green spaces. The final recommendations of the subcommittee, endorsed by the Livable Delaware Advisory Council are:

1. **Incorporate Green Infrastructure maps into the 2004 update of the Strategies for State Policies and Spending maps.** Use these maps to direct future state program investments and to guide local land use planning.
2. **Develop innovative landowner incentives to protect green infrastructure within growth areas.** Density Bonuses to encourage compact development, Transfer of Development Rights programs and Conservation Design Practices are examples of incentives that can be used.
3. **Enhance and expand existing state programs to protect forests and forested wetlands throughout Delaware.** Support the development of the forestland conservation program in the Dept. of Agriculture and request the Open Space Council to develop forest preservation corridors with the Forest Stewardship Committee.
4. **Support the Delmarva Conservation Corridor initiative. Secure increased matching funds, support**

Preserving Delaware

Green Infrastructure

education on the ecological value that natural resources provide, and support Delmarva Conservation Corridor plan.

- 5. Adopt a 5-year goal to permanently protect 258,000 acres of natural resource and recreational lands and working lands.** Secure \$554 million, establish a stewardship fund, and create matching grants program for nonprofits.

Governor Minner proposed \$22 million in green infrastructure investments for Fiscal Year 2005 to begin implementing the Livable Delaware Advisory Council's recommendations.

Green Infrastructure serves as the umbrella under which many other State, local and private efforts for preserving Delaware's open space and farmlands fall.



Preserving Delaware

Strategies for Preserving Open Space and Farmland

Farmland preservation efforts focus on preserving a critical mass of agricultural land to ensure the health of the agriculture industry. They will also be used to develop permanent green edges around development areas by targeting farmlands at risk of development, promoting agribusiness activities, and preserving historic farmsteads and archeological sites.

Open-space investments should emphasize the protection of critical natural habitat and wildlife, aquifer recharge, sustainable agriculture and forestry activities, and increased acquisition of state forest lands. Open space investments will also provide for recreational activities, while helping to define growth areas.

Open Space Program

The Open Space Program was established by Title 7, Delaware Code, Chapter 75, the Delaware Land Protection Act. Delaware's Open Space Program was created on July 13, 1990 by the signing into law of the Land Protection Act and Subchapter II of the Realty Transfer Tax Act. The Division of Parks and Recreation in DNREC administers

the program. The Act established a 9-member Open Space Council that recommends specific land acquisition projects to the DNREC Secretary, based upon advice of an interagency working group. Funding sources for the acquisitions have included conservation revenue bonds, the 21st Century Fund, legislative appropriations, and the realty transfer tax.

Fortunately, a long term dedicated funding source for open space acquisition was acquired via passage of HB 192, Livable Delaware legislation passed during the first session of the 141st General Assembly. Under that legislation, the Open Space program is to be provided with \$9 Million annually for the next 17 years for open space purposes, a significant increase over the previous \$3 Million dollar funding level.

The Land Protection Act formalized a process for acquiring state conservation lands. According to the law, state agencies may acquire any interest in real property for the following purposes:

Preserving Delaware

The Open Space Program

- To protect and conserve all forms of natural and cultural resources.
- To protect and conserve biological diversity.
- To protect existing or planned parks, forests, wildlife areas, nature preserves or other recreation, conservation and cultural sites by controlling the use of contiguous or nearby lands.
- To preserve sites of special natural, cultural or geological interest.
- To connect existing open spaces into a cohesive system of greenways and resource areas.
- To provide for public outdoor recreation.
- To allow for water resource conservation.

According to the law, "It is the public policy of the state and its political subdivisions that the preservation of open spaces shall be accomplished through the acquisition of interests or rights in real property, or donation of said lands, and that said acquisition constitutes a public purpose for which public funds have been expended or advanced and should be continued."

The Open Space Program is well coordinated on the state level. The 4 entities eligible for funding through the program are the Division of Parks and Recreation, the Division of Fish and Wildlife, the Division of Resource Management (Forestry), and the Division of Historical and Cultural Affairs. These agencies' proposed projects are reviewed and discussed by an interagency working group consisting of staff from DNREC, Department of Agriculture, Department of State, Delaware Economic Development Office, Department of Transportation, Department of Administrative Services, and representatives from each county land use and parks departments. The Open Space Program is involved with many private and federal conservation partners also and these activities are coordinated on an ad hoc quarterly basis.

The Land Protection Act calls on the county governments to adopt and incorporate overlay zoning ordinances and environmental performance standards for lands included within designated state resource areas. The standards shall include, but not be limited to: (1)

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The Open Space Program

establishment of site design requirements that minimize the loss of open space and associated values of state resource area lands and (2) establishment of technically based specific environmental performance standards and design criteria.

DNREC's Strategic Plan sets a goal for the Open Space Program to protect of 2,000 acres annually. This progress is tracked at the quarterly Open Space Council meetings and reported annually. Additionally, under the Land Protection Act, the program is required to prepare a 5-year report on the status and accomplishments of the program.

Since the passage of the Land Protection Act in 1990, the Open Space Program has protected 43,286 acres of land at a total cost of \$209,552,908.



Preserving Delaware

Growth and Land Management

DNREC either owns, maintains leases, or in some manner preserves a great deal of land, either by purchasing it or through conservation or other easements. In most cases, DNREC's land holdings amount to permanent preservation and removal of those lands from the pressures of development. This is a straightforward technique to directing growth, however, it is not the only means, and it is costly. Private land owners, conservation-oriented organizations and other units of government have done much to remove land from the development picture. More land will inevitably be purchased or protected by these means, and additional resources will be required. Other avenues for redirecting growth and preserving natural areas and allowing for more informed decisions may be enhanced through the following means:

- **Brownfield/Voluntary Cleanup Program (VCP)** – The redevelopment of contaminated commercial and industrial sites is a tool that can be used to promote growth management and sustainable development principles. By redeveloping brownfields, we relieve some of the pressure to develop greenfields.
- **Conservation and Preservation Easement Program** – Government bodies, charitable corporations, or trusts may acquire property to retain its natural, scenic, or open space values. The program focuses on consolidation of open spaces into larger, contiguous units within new, adjoining developments.
- **Open Space Program** – As stated previously, the Open Space Program provides a mechanism for the State to acquire land for recreation and conservation purposes.
- **Delaware Land and Water Conservation Trust Fund Grants for Park Acquisition and Development and Greenways and Trails** – This provides an annual source of funding to counties and municipalities for acquisition and development of parks and greenway corridors.
- **Freshwater Wetlands** – Wetlands are one of the most productive environments and provide a host of benefits, including filtering pollutants from

Preserving Delaware

Growth and Land Management

the water, providing protection from flooding, and supplying wildlife habitat. In particular, certain isolated freshwater wetlands in Delaware, such as Delmarva Bays, white cedar swamps and dune swale wetlands are especially vulnerable to the impacts of growth and sprawl. The State is looking for ways to protect and manage the highest valued freshwater wetlands.

A complete description of these programs can be found in DNREC's Livable Delaware Implementation Plan at <http://www.state.de.us/planning/livedel/details.htm>.

