

Commonwealth Gets Smart About Growth

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Both the legislative and executive branches of Massachusetts state government have recently adopted measures to encourage Smart Growth development, which focuses on creating mixed use, higher density developments concentrated around transit centers in order to maximize efficiency of land use, preserve open space and provide wider transportation choices.

Sustainable Development Principles

The Commonwealth's Department of Housing and Community Development (DHCD), working with the Office of Commonwealth Development, has recently issued Ten Sustainable Development Principles which will be used to evaluate applications for funding from public sources like MassHousing, Massachusetts Housing Partnership, and MassDevelopment. Compliance must be shown in order to receive funding through such programs as the Affordable Housing Trust Fund, HOME, Low Income Housing Tax Credits, and Community Development Action and Block Grants. Further, proponents of Chapter 40B applications must comply with the principles to receive a determination of project eligibility. The ten principles are:

- 1) Redevelop First,
- 2) Concentrate Development,
- 3) Restore and Enhance the Environment,
- 4) Be Fair,
- 5) Conserve Resources,
- 6) Expand Housing Opportunities,
- 7) Provide Transportation Choice,
- 8) Increase Job Opportunities,
- 9) Foster Sustainable Businesses, and
- 10) Plan Regionally.

There are special rules of application regarding these principles for purposes of Chapter 40B eligibility and CDAG funding. Examples of ways to comply with the principles are included in accompanying guidelines.

Chapter 40R

Under Chapter 40R, enacted in 2004, a municipality which adopts a state -approved smart growth zoning district is eligible for a zoning incentive payment depending on the total number of new units projected in the new district. To be approved, a district must:

- be in an eligible location near a transit station or an area of concentrated development, and
- provide for as-of-right housing density of at least 20 units per acre for multifamily housing, 8 units per acre for single family homes and 12 units per acre for 2 and 3 family buildings.
- Additionally, not less than 20% of the residential units constructed in developments of 13 units or more must be affordable, and the zoning must attempt to assure that 20% of the overall housing stock in the zoning district will be affordable.

Once building permits have been issued for new units in the 40R district, a municipality receives an additional one-time density bonus of \$3,000 per unit for each unit in excess of what could have been built as-of-right through the underlying zoning. The program is funded through the sale of surplus state land, supported by appropriations from the general fund.

Chapter 40S

To reduce the burden on school costs of cities and towns wishing to take advantage of 40R, the legislature recently enacted Chapter 40S, which provides for state reimbursement of some of the increased education costs due to development in smart growth districts. Subject to appropriation, these funds are supposed to be available to municipalities beginning in fiscal year 2008.

Each of the authors is a member of the Real Estate Group. If they can assist you in exploring the applicability of these programs to a particular project, please contact them at.

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