

FACT SHEET

Chapter 40R: Smart Growth Zoning Overlay Districts

What is a Smart Growth Zoning Overlay District?

Chapter 40R of the Massachusetts General Laws established the Smart Growth Zoning Overlay District Act. This is a zoning enabling act as well as a state program that encourages municipalities to create dense residential or mixed-use smart growth zoning districts in areas of concentrated development such as existing village and town centers and in other highly suitable locations such as existing highway commercial corridors. The goal is to have an optional zoning mechanism in place that promotes the production of a range of housing options in a sustainable, smart growth fashion for when the housing market picks up again.

Potential Locations for Smart Growth Zoning Districts

- (1) "Areas of Concentrated Development" a village center, town center, or city center, or an existing commercial district (with sewer)
- (2) "Unsewered Existing Rural Village Districts" within 0.5 miles of town center.
- (3) "Qualified Adjacent Areas" contiguous to eligible areas, served by or planned to be served by sewer, within 0.25 miles of civic buildings, commercial areas, or a bus stop.
- (4) "Other Highly Suitable Locations" identified in local comprehensive, community development, area specific, and regional policy plans and be consistent with smart growth goals.

Smart Growth Zoning Overlay District Development Requirements

1. Construction of new residential units must conform to minimum densities set by the Department of Housing and Community Development (shown at right). Municipalities with less than 10,000 residents are eligible for a density reduction if the municipality can demonstrate that compliance with the above minimum allowable density would not be feasible due to requirements set by state and federal environmental regulations.
2. At least 20% of the housing units created in this district need to be sold or rented to families who make approximately \$50,000 per household annually.
3. Projects must be allowed by-right or by a limited site review process consistent with community approved design standards.

Required Minimum Densities

<u>Units/acre</u>	<u>Property Type</u>
8	Single family and townhomes
12	Two and three family
20	Multi family

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What Are the Financial Benefits for the Municipality?

By designating and adopting Smart Growth Zoning Districts, municipalities are eligible to receive special state funds. There is an initial incentive payment that ranges between \$10,000 and \$600,000, which is based on the number of projected housing units that will be constructed within the new Smart Growth Zoning District. These funds are unrestricted. Municipalities will also receive a bonus payment of \$3,000 for each new housing unit permitted and built within the new overlay district.

Projected Housing Units	
up to 20	\$10,000
21 to 100	\$75,000
101 to 200	\$200,000
201 to 500	\$350,000
501 or more	\$600,000

What About the Financial Impact of New School Age Children?

The state passed a companion statute to Chapter 40R called Chapter 40S in response to the common concern that new housing was costly in terms of municipal finances, given the imbalance of tax revenues and service costs. Qualifying communities will be reimbursed for the net cost of educating students living in new housing in smart growth districts.

The reimbursement equals the cost of educating students living in new housing in smart growth districts less an amount equal to the sum of: (a) new property and excise taxes in the smart growth district multiplied by the average percent of total local spending on education across the commonwealth (about 52%), and (b) any increases in other state education funding that is directly a result of these new students.

Chapter 40S - School Cost Reimbursement
Start with total education costs

- Subtract the sum of local revenues derived from the Smart Growth Zoning District
- Subtract Chapter 70 aid

= school cost reimbursement

How Does the Smart Growth Zoning Overlay District Encourage Development?

A Smart Growth Zoning District (SGZD) encourages development because it allows projects to be permitted by-right or by a limited site review process (conditioned upon consistency with community-approved design standards) instead of by special-permit. This provision reduces the amount of time it takes to move a project from conception to completion. A SGZD also establishes minimum densities that are higher than what is currently allowed by-right under the existing zoning district, which enables developers to construct more units.

What Restrictions Does a Smart Growth Zoning Overlay District Place on the Property Owner?

None. The adoption of a Smart Growth Zoning District actually expands a property owner's development options. The property owner can chose to develop his or her property under the existing requirements of the base zoning district or the SGZD requirements.

Existing Smart Growth Zoning Overlay Districts

There are a total of 26 Massachusetts municipalities that have SGZD's, which includes Northampton, Holyoke, and Westfield. They are located in city and town centers, neighborhood business districts, along existing highway commercial corridors, and in areas formerly containing undeveloped or underutilized land that was suited for smart growth development. They range in size from 0.78 acres to 169 acres. In addition, Easthampton and Chicopee both have proposed districts under state review.