



LOCAL IMPLEMENTATION  Implemented on Cape Cod

## OVERVIEW

Under the Smart Growth Zoning Overlay District Act, codified as M.G.L. Chapter 40R, Massachusetts communities can designate zoning districts to allow for “as-of-right” higher density construction, with at least 20% of housing units being Affordable, in return for financial compensation from the state. These incentives are priced depending on the capacity of the district for increased housing, as well as how many units are built. These districts typically must be either near transit, an area of concentrated development, or an area suitable for mixed-use development. Design standards may also be utilized in the district to foster neighborhoods that complement the built fabric of an area and are aligned with Smart Growth goals.

### CHALLENGES ADDRESSED

- Not Allowed to Build Multi-family Housing
- Too Expensive to Build New Housing
- Too Expensive to Secure or Maintain Housing
- Hard to Find Year-round Housing

## POTENTIAL BENEFITS & CONSIDERATIONS

- Municipalities with qualifying districts receive a one-time zoning incentive payment, a per unit payment when building permits are issued, and “school impact” reimbursement under a companion law (Chapter 40S)
- Towns with 40R districts may receive more favorable consideration when applying for discretionary grants from certain state agencies
- If a community opposes a potential Chapter 40B project, a community’s 40R zoning will be taken into consideration by state authorities in determining whether or not a town must accept a 40B proposal
- Allowing denser housing by-right may result in more naturally affordable and varied housing options and can provide a more streamlined permitting process
- There may be community hesitation to zone for denser housing
- New infrastructure may be needed to support the increased housing potential
- Establishing a 40R district may be time and resource intensive

## RESOURCES

**State of Massachusetts 40R** - This webpage gives an extensive overview of 40R and provides access to necessary documents and the status of 40R applications and projects across the state.

**The Use of Chapter 40R in Massachusetts** - This document provides background information on 40R, how it interacts with Chapter 40B, how 40R districts are created, funding and payment methods, and smart growth characteristics and goals. This document also extensively examines the successes and difficulties that municipalities have experienced across the State when trying to establish 40R zoning districts.

**Guidebook: Creating Design Standards for 40R Districts** - This document provides guidance for developing design standards for 40R districts.

### CASE STUDY: NORTHAMPTON

Northampton rezoned a 16 acre site previously used as a state hospital, just outside of its downtown, as a mixed-use, smart growth district under Chapter 40R in 2007. It allows for over 150 housing units not previously allowable in the area. Development has occurred in the area, beginning very soon after the district’s adoption, and a relatively high proportion of housing units that have been constructed are deed-restricted affordable units.

More information is available [here](#).

Image: <https://www.mass.gov/files/documents/2016/07/vv/profile-northampton.pdf>

