

**New England State Level Planning Programs
In Correspondence with HB 1579, Chapter 294:3, III, Laws of 2008**

The opportunities for integration of land use controls, open space protection techniques, and environmental and public health protection laws to promote land development patterns that maintain ecosystem health and integrity while providing desirable communities in which to live and work. This shall include study of any programs of this kind underway in other states or nations.

Prepared by the Office of Energy and Planning

The following summarizes many of the efforts underway in New Hampshire and surrounding New England States that promote, either through regulation or incentive programs, the balanced need for growth and environmental protection through an integrated planning approach. Programs are presented in no particular or prioritized order. Hyperlinks have been provided, where possible, for ease of gaining greater insight into programs of interest.

Connecticut

[Housing for Economic Growth](#)

This state program was developed and lobbied for by [HomeConnecticut](#) and is a similar program to 40R in Massachusetts. Operated by the Office of Policy and Management, Housing for Economic Growth, provides planning money for designation of denser districts. EPA HQ will be assisting to develop design guidelines for these districts in the coming year.

This act provides incentives to municipalities for creating Incentive Housing Zones (IHZ) in eligible locations, such as, near transit facilities, an area of concentrated development or an area that because of existing, planned or proposed infrastructure is suitable for development as an IHZ. Developable land excludes public and privately owned property slated for public uses, parks, recreation areas, dedicated open space land, other land where restrictions prohibit development, wetlands or watercourses and areas exceeding one-half or more acres of contiguous land where steep slopes or other topographic features make it unsuitable for development.

Incentive Housing Development (IHD) means a residential or mixed-use development that meets the following criteria – is located within an approved IHZ, is eligible for financial incentive payments, and sets aside lower cost units for a minimum of 20% of the households earning 80% or less of area median income (AMI) for 30 years. A unit is affordable if it costs no more than 30% of a person's annual income to live there.

The town's zoning commission must establish the IHZ as an overlay zone. The town receives the incentives only for IHDs that are developed in a state-approved IHZ.

Smart Growth

Connecticut's smart growth efforts are relatively new. The Governor established an [Office of Responsible Growth](#) in the [Office of Policy and Management](#) through [Executive Order 15, issued October 6, 2006](#). The order also called for the creation of an Interagency Steering Council consisting of the heads of several state agencies. The Office of Responsible Growth is holding

regional roundtables to get input on what the state should be doing. Legislation was passed in 2007 that builds on this effort and created the [Responsible Growth Task Force](#) that issued a [Report to the Governor](#) (February 2008) delineating responsible growth criteria to guide state investment decisions and Study land use laws, policies and programs, including laws, policies and programs concerning the transfer of development rights.

Additionally, any state investments of \$200,000 or greater have to be consistent with the state's [Conservation and Development Policies Plan](#), which is based on smart growth principles. Starting July 1, 2010, town plans of conservation and development have to be current in order for a town to be eligible to receive state discretionary funds.

Maine

[Chapter 776 of the 2nd session of the 119th Legislative Session](#)

Chapter 776 implemented the recommendations of the [Task Force](#) on State Office Building Location, Other State Growth-related Capital Investments and Patterns of Development that relate to land use policy. The combined work of the Chapter 776 and the Task Force's recommendations have been [summarized](#) by the State Planning Office, they in general include:

- Established the [Maine Downtown Center](#);
- Directed the Department of Economic and Community Development (DECD) to develop an investment policy to assist municipalities and private property owners in the redevelopment of downtowns;
- Recommended that the state Fire Marshal convene a stakeholders' group to review state codes and federal regulations that restrict the reuse of existing structures;
- Directed state growth-related capital investments to locally designated growth areas as identified in local comprehensive plans, or if there is no comprehensive plan, to areas with public sewers;
- Required the [Land & Water Resources' Council to evaluate and report](#) on incentives to maintain productive farming, fishing and forestry;
- Directed the State Planning Office (SPO) and Department of Environmental Protection to promote the [State's Brownfields](#) loan program;
- Established the Task Force to [Study Growth Management](#) and directed it to review the Planning and Land Use Regulation Act with the goal of making it more responsive to sprawl;
- Directed the [Maine State Housing Authority](#) to report on efforts to design and implement a home ownership program for existing service centers;
- Required the State Board of Education to adopt rules requiring the siting of new state-funded schools to include consideration of priority locations;
- Directed the [SPO and Department of Education to submit a report](#) of land use and zoning ordinances recommendations for near newly constructed schools;
- Directed the Bureau of General Services to develop site selection criteria for state office buildings and community facilities that give preference to priority locations in service centers, downtowns, and locally designated growth areas;
- Capitalize the Municipal Investment Trust Fund to provide public service infrastructure grants and loans that grant priority to applicants that are a municipal service center and/or are consistent with a local growth management plan; and

- Establish the Service Center Relief Fund to assist [service center communities](#), which provide regional services which are generally not financially supported by area communities and many state funding formulas.

[Regional Landscape Conservation in Maine: Best Practices for Enhancing Quality of Place](#)

The Governor's Council on Maine's Quality of Place identified Maine's natural landscapes and traditional downtowns as unique assets that will attract tourists and skilled professionals to bolster the state's economy. Land conservation has been recognized as an integral component of smart growth approaches and complementary to municipal land regulation as a tool for controlling sprawling growth patterns. While not a replacement for strong state and town incentives and regulations, landscape conservation can thus be considered an important tool for preserving both Maine's rural landscape and its unique downtowns. The best practices offered in this report highlight lessons learned over the last two decades for effective collaboration to preserve and enhance Maine's quality of place.

[Great American Neighborhoods Sewer Extension Loan Program](#)

The State of Maine is offering a pilot program to assist Maine cities and towns that wish to encourage neighborhood development in residential growth areas. The Program, part of our "Hometown Maine" initiative, is a cooperative effort of the Maine Municipal Bond Bank, the Maine Departments of Environmental Protection and Economic and Community Development, the State Planning Office, and the U.S. Environmental Protection Agency. \$3 million is available through this pilot program. The purpose of this program is to provide low-interest rate loans covering the cost of sewer or sewer extensions to eligible areas with a graduated or "patient" payback provision that keeps payments low at the start of the project. Interest rates and loan terms are intended to be attractive enough that the program represents a significant incentive for communities and developers to create new or add to existing "[Great American Neighborhoods](#)".

[Gateway 1 and the Sensible Transportation Policy Act](#)

Gateway 1 is a planning effort in the Route 1 corridor in which the Maine Department of Transportation, State Planning Office and other agencies are partnering with 21 corridor towns to better integrate transportation and land use regionally, and to engage land use decision-makers in planning for the future. Among the issues being discussed with the towns is the importance of locating growth in areas that can best be served by transportation improvements. One of the goals of the Sensible Transportation Policy Act is to ensure that demand management and alternative transportation modes are considered before a decision is made to construct a new road. It's also intended to provide incentives for towns to do better planning in terms of coordinating land use and transportation. Maine DOT is in the process of contracting with the University of Vermont to undertake a study of the potential for changes in VMT (vehicle miles traveled) from different growth scenarios in a rural setting, since much of the literature on this subject is from more urbanized areas.

[Grow Smart Maine](#) provided comments and recommendations to ME DOT during rulemaking for the Sensible Transportation Policy Act. Among other recommendations, they suggested that the state target investments to densely settled areas, and adopt accessibility, mobility, 'complete streets' and traffic calming principles instead of 'capacity' and 'level of service' as criteria when making funding decisions. Grow Smart Maine had developed a draft Executive Order for

consideration by the Governor that would require state agencies to examine their policies and programs to identify those that are providing incentives that increase auto dependence, haphazard and sprawling development patterns, and increased greenhouse gas emissions. The agencies would then propose changes to any such policies and programs that would provide incentives that bring those policies and programs into line with the state's goals to reduce greenhouse gas emissions.

Massachusetts

Commonwealth Capital Program

The Commonwealth Capital Policy coordinates state capital spending programs in order to invest in projects that are consistent with the Commonwealth's Sustainable Development Principles and to partner with municipalities seeking to advance our shared conservation and development interests. Commonwealth Capital explicitly endorses zoning, planning, housing, environmental, energy, transportation, and other measures that support sustainable development that are consistent with Administration policy and encourage local implementation by linking state spending programs to municipal land use practices. Municipal smart growth / smart energy consistency is assessed through a Commonwealth Capital application that examines municipal implementation of 32 land use planning and regulatory practices. Resulting scores are part of the proposal evaluation process for each grant or loan program. One of the biggest sources of funding that is affected by this scorecard is the State Revolving Fund for wastewater treatment.

40R

The Smart Growth Zoning Overlay District Act, Chapter 149 of the Acts of 2004, codified as M.G.L. chapter 40R (the Act), encourages communities to create dense residential or mixed-use smart growth zoning districts, including a high percentage of affordable housing units, to be located near transit stations, in areas of concentrated development such as existing city and town centers, and in other highly suitable locations.

Projects must be developable under the community's smart growth zoning adopted under Chapter 40R, either as-of-right or through a limited plan review process akin to site plan review. Upon state review and approval of a local overlay district, communities become eligible for payments from a Smart Growth Housing Trust Fund, as well as other financial incentives. In return for adopting the zoning and streamlining the development process for 40R districts, cities and towns can get between \$10,000 and \$600,000 in state funding, plus an additional \$3,000 for every new home created.

40S

Additional state funding will also be directed to cities and towns that establish a 40R district, to cover the costs of educating any school-age children who move into such districts. This legislation was 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.

[Growth Districts Initiative](#)

Under its “Growth Districts Initiative”, EOHED will partner with municipalities that have identified one or more areas within their communities as being appropriate locations for significant new growth, whether commercial, residential or mixed-use. Within those identified “growth districts”, EOHED will work with the community and property owners to make the district truly “development ready” with respect to local permitting, state permitting, site preparation (including brownfields remediation), infrastructure improvements, and marketing. The objective will be to create a level of “development readiness” within each of these growth districts comparable to that now available at Devens, a location proven to be highly attractive to new development and to be truly competitive at a national and international level.

[Massachusetts Environmental Policy](#)

The Massachusetts Environmental Policy Act - MEPA - requires that state agencies study the environmental consequences of their actions, including permitting and financial assistance. It also requires them to take all feasible measures to avoid, minimize, and mitigate [damage to the environment](#). MEPA further requires that state agencies "use all practicable means and measures to minimize damage to the environment," by studying alternatives to the proposed project, and developing enforceable mitigation commitments, which will become permit conditions for the project if and when it is permitted.

MEPA applies to projects above a certain size that involve some state agency action. That is, they are either proposed by a state agency or are proposed by municipal, nonprofit or private parties and require a [permit](#), [financial assistance](#), or [land transfer](#) from state agencies. MEPA review is not a permitting process. MEPA requires public study, disclosure, and development of feasible mitigation for a proposed [project](#). It does not pass judgment on whether a project is environmentally beneficial, or whether a project can or should receive a particular permit. Those decisions are left to the permitting agencies. MEPA review occurs before permitting agencies act, to ensure that they know the environmental consequences of their actions.

[Smart Growth/Smart Energy Tool Kit](#)

The Executive Office of Energy and Environmental Affairs (EEA) is pleased to provide this Smart Growth/Smart Energy Toolkit on behalf of the Commonwealth of Massachusetts. This Toolkit provides easy access to information on planning, zoning, subdivision, site design, and building construction techniques that can make smart growth and smart energy a reality in your community. The materials are designed to increase understanding of smart growth/smart energy tools and policies, as well as how to customize and apply the techniques to suit local circumstances. The Commonwealth encourages communities to adopt and implement these smart growth/smart energy measures in order to realize the many environmental, fiscal, and social benefits of smarter energy and smarter land use.

New Hampshire

Housing and Conservation Planning Program

HCPP is a new and voluntary grant program established through [Senate Bill 217](#) in 2007 and offered to municipalities through the Office of Energy and Planning. Grant funds will enable municipalities to purchase technical assistance related to planning for future housing growth needs, including the need for affordable and workforce housing, while preserving quality of life, using land efficiently, and identifying key natural and historic areas to conserve.

The Program will award technical assistance grants to interested communities within four planning stages, each stage leading up to the implementation of a unified planning strategy that addresses housing and conservation together in an interrelated manner. These include:

1. Study housing, natural, and historic resource values, locations, and economic impacts;
2. Develop and adopt a town-wide Growth and Development Strategy;
3. Amend the master plan to be consistent with that Strategy; and
4. Implement the strategy through audits of and revisions to zoning, subdivision and site plan regulations.

Smart Growth Principles – RSA 9-B

In 2000 the State Legislature established the smart growth principles. The principles recognize that the State's many natural resources are essential to the State's economic prosperity and some of its most vital assets. Economic development, the often viewed opposite to natural resource protection, is also called out as essential to citizen's wellbeing. Sprawling development is viewed as the antithesis of both economic growth and natural resource protection. Smart growth, as defined in RSA 9-B, is controlled growth and development that mitigates or avoids natural resource impacts, allows for economic development, and is consistent with the historic character of New Hampshire's communities.

Several efforts in New Hampshire to document, promote or plan for smart growth include:

- [Achieving Smart Growth in New Hampshire](#) - This project documents how New Hampshire is changing and highlights some positive examples of development and conservation throughout the state.
- [State Development Plan](#) - Include policies related to the orderly physical, social, and economic growth and development of the state, all of which should reflect the principles of smart growth.
- [2006 Report to the Governor on Growth Management](#) - COD is responsible for encouraging smart growth consistency in the distribution of state agency funds to local and regional entities, the capital budget requests of state agencies, state agency facility location planning, and building operation and maintenance plans. Every four years, COD is required to report to the Legislature on its findings on the consistency of state agency actions with the smart growth principles.

Innovative Land Use Planning Techniques Handbook

To address the need for guidance and technical assistance on Innovative Land Use Controls authorized by [RSA 674:21](#), DES and its partners, the NH Association of Regional Planning Commissions, the NH Office of Energy and Planning, and the NH Local Government Center,

produced the Innovative Land Use Planning Techniques: A Handbook for Sustainable Development.

This Innovative Land Use handbook includes sections dealing with development density, environmental characteristics, and site level design. Each of the 23 chapters includes model ordinances and regulations for use by municipalities interested in implementing the innovative land use techniques.

[HB 648 Flood Commission](#)

New Hampshire House Bill 648, Chapter 179.1, Laws of 2007, established this commission to develop a comprehensive flood management plan for the state of New Hampshire that considers possible measure for minimizing flood impacts on communities and individual properties and to consider issues associated with flood abatement. This report looks at New Hampshire's historical and predicted floods, current and expected dam inventory, the trends and regulation of development, as well as the current state and needs for both short- and long-term weather forecasts. It presents current thinking on actual and future risks to guide the wise investment of taxpayer funds to efficiently reach a more reasonable level of protection.

[Community Development Block Grants \(CDBG\)](#)

Title 1 of the Housing and Community Development Act of 1974 authorized the Community Development Block Grant (CDBG) program. The primary purpose of the CDBG program is the development of viable communities by providing decent housing, suitable living environments, and expanding economic opportunities, principally for low and moderate income people. The program is sponsored by the [US Department of Housing and Urban Development \(HUD\)](#) and the New Hampshire program is administered through the Community Development Finance Authority (CDFA).

Typically, each year the New Hampshire CDBG program receives approximately \$10 million from HUD to use towards the CDBG Programs: [Housing](#), [Public Facilities](#), [Economic Development](#), [Feasibility Studies](#), and [Emergencies and Unanticipated Events](#). Since 1983, over 773 grants and over \$188 million have been funded throughout New Hampshire.

The CDBG rules have been under revision to amend to provision sot to award points to projects that preserve town centers and neighborhoods.

[Community Technical Assistance Program](#)

To assist communities in the I-93 region plan for growth, the New Hampshire Department of Transportation is committed to a comprehensive five-year \$3.5M program that will provide technical assistance to the 26 towns and cities influenced by the I-93 improvements project. The Community Technical Assistance Program (CTAP) will help communities meet the wide range of challenges faced in the region by providing technical assistance and access to tools for innovative land-use planning. CTAP is a major initiative involving the 26 communities in the corridor, state and federal agencies, regional planning commissions and several non-governmental organizations (NGOs).

[Community Revitalization Tax Relief Incentive](#)

RSA 79E is a relatively new statute that authorizes local municipalities to provide tax assessment abatements for significant rehabilitation projects within municipally designated areas. The program is implemented through administrative rules developed by the Department of Revenue Administration and allows structures to continue to be assessed at the original value for a given period of time dependent on the characteristics of the project. For example, a project can be assessed at its original value for an extended period of time beyond the base period if it includes affordable housing.

Rhode Island

[Historic Preservation Tax Credits](#)

RI had one of the largest historic preservation tax credit programs that in turn lead to greater redevelopment rates than other states. The Rhode Island Historical Preservation & Heritage Commission administers programs to help owners meet the costs of maintaining their historic properties. Among the mechanisms that the Commission uses are tax incentives, preservation easements, and low-interest loans. In addition to these financial incentives, restoration architects on the Commission staff help owners to plan their projects and make sure that the work meets preservation standards. The most widely-used programs administered by the Commission are the [Homeowner Tax Credit](#) and [Commercial Tax Credits](#). Property owners can earn significant income tax credits, 30 percent on qualified expenditures, when they rehabilitate their properties according to preservation guidelines.

This program may be placed on hold see [Grow Smart Rhode Island](#) for an update.

[Land Use 2025](#)

Land Use 2025, the state land use plan, serves as a roadmap for how Rhode Island can grow and develop. This plan introduces the concept of urban service boundaries, and why it is desirable for towns to direct growth to areas within these boundaries. The boundaries largely are based on service areas for sewer and water. Although there are no penalties or incentives for towns to direct growth to these areas, much of the growth in the state is taking place within these areas because of the availability of sewer and water.

Vermont

[Municipal Pollution Control Priority System](#)

Vermont's Municipal Pollution Control Priority system is an incentive based program established in [Chapter 2 of the State Environmental Protection Rules](#) and is designed to target infrastructure improvements to identified growth centers.

The program's stated purpose in rules is to obtain and maintain state water quality standards; to make efficient use of scarce public funds by providing financial assistance, with limited exceptions, only to Publicly Owned Treatment Works (POTW) and Municipally Sponsored Privately-Owned Wastewater System (MSPOWS) projects that: abate existing public health and/or environmental problems, and serve locally designated growth centers, unless there are health and/or environmental problems outside of growth centers and; to assure there are appropriate controls on the use of the Agency of Natural Resources (ANR) funded treatment facilities in order to: minimize polluted runoff from unplanned land development, the state's

fastest growing source of water contaminants; and to prevent scattered development and its negative impacts on surface and ground waters, wetlands, air quality, wildlife habitats, natural areas, threatened and endangered species, and land use patterns within the host and adjacent communities.

The program establishes a priority system to be used by the ANR Department of Environmental Conservation for awarding grants and loans from federal and state funds for POTW and MSPOWS projects. The program's rules set forth a two-tier system for determining a project's eligibility for receipt of a grant or loan from the Department.

To be eligible for a POTW or a MSPOWS project grant or loan from the Agency for the final design or construction of a new wastewater treatment facility, an increase in the treatment capacity of an existing wastewater treatment facility, and/or a sewer line extension the applicant must demonstrate that the project is designed to serve only a locally designated growth center, unless there are significant health and environmental problems located outside of a growth center. If a sewer line serving a growth center must be located partially outside of a designated growth center in order to abate an existing pollution problem or to connect a treatment plant with a growth center or to connect one or more growth centers, the municipality must demonstrate that the impacts of growth resulting from the infrastructure can be adequately managed, and will not contribute to scattered development. After an applicant has met this initial test, the rules set out a pollution-based priority system to determine the order in which POTW or MSPOWS projects will be awarded grant or loan funds.

[Wastewater Solutions for Vermont Communities](#)

Vermont's Department of Housing and Community Affairs developed this handbook to assist municipalities with their goals of encouraging compact development in and around existing settlements and planned growth centers when challenged by a lack of wastewater treatment solutions. Failed septic systems are suspected to be common and efforts to create new housing and businesses are often stymied by the lack of sewage treatment facilities. Federal grants that were once readily available for constructing large, centralized public wastewater treatment facilities have been consistently cut. Along with an introduction to the new technological and funding options for wastewater solutions, this publication helps community leaders learn about the critical need to engage the public in the wastewater planning process.

[Vermont Neighborhoods](#)

Act 176, recently signed into law by Governor Douglas, is designed to stimulate housing growth in targeted areas in and around designated downtowns, village centers, new town centers, and growth centers. The program is administered by the Department of Community Affairs in coordination with the Natural Resources Board. The benefits of designation include relaxation of Act 250 jurisdictional thresholds for housing, exemption from the land gains tax, and reduced permit fees. Municipalities may apply for one or more Vermont Neighborhood designations and will receive priority for municipal planning grants to assist in meeting the statutory requirements of the program.

[Growth Centers Program](#)

[Act 183](#), “An Act Related to the Creation of Designated Growth Centers and Downtown Tax Credit Program” effective July 1, 2006, requires the Department of Housing and Community Affairs and the Natural Resources Board to work together to create a growth centers program, as directed by the Downtown Development Board. This is the latest large step in a 20 year chain of legislation, study committees and policy aimed at implementing the first state planning goal in Title 24VSA117 section 4302 – “to plan development to maintain the historic settlement pattern of compact village and urban development surrounded by rural countryside.”

[Vermont Housing and Conservation Board](#)

The Vermont Housing and Conservation Board is a national model for bringing together two groups that historically don’t work together – housing interests and conservationists. The Board is an independent, state-supported funding agency that provides grants, loans and technical assistance to nonprofit organizations, municipalities and state agencies for the development of perpetually affordable housing and for the conservation of important agricultural land, recreational land, natural areas and historic properties in Vermont. Its history of success recently won it a national smart growth achievement award from EPA.

[Community Planning Toolbox](#)

[Smart Growth Vermont](#) recently launched their new Online Community Planning Toolbox. Combined with training sessions and direct community work, this new resource is intended to help Vermont communities provide housing in their downtowns and maintain land for agriculture, forestry, and recreation. The toolbox features land use tools and resources that have been implemented in Vermont, and includes case studies.

[Act 250](#)

The Act 250 program provides a public, quasi-judicial process for reviewing and managing the environmental, social and fiscal consequences of major subdivisions and developments in Vermont. The program is implemented through the 9 District Environmental Commissions. Specific program objectives of Act 250 include:

1. thorough review of each Act 250 permit application under the requirements of the [statutory criteria](#);
2. performing [jurisdictional determinations](#) and permit reviews as expeditiously as possible;
3. providing assistance to applicants and other parties in preparation for their participation in [Act 250 proceedings](#);
4. assisting permittees in maintaining compliance with permit terms and conditions; and
5. enforcing the requirements of Act 250 permits and the statute.

All District Environmental Commission decisions on applications for land use permits must be based upon the following 10 criteria (generalized here):

1. Water and air pollution
2. Water supply
3. Impact on existing water supplies
4. Soil erosion
5. Traffic
6. Educational services

7. Municipal or government services
8. Scenic and natural beauty, aesthetics, natural areas, historic sites
9. Conformance with compatibility and development plan
10. Local and regional plans

The online Act 250 guidebook provides a greater synopsis of this regulatory program.