

The Use of Chapter 40R in Massachusetts

2018 UPDATE



PREPARED BY

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Executive Summary

Since 2004, when the state law Chapter 40R was passed authorizing incentives to encourage municipalities to zone for dense developments in smart growth locations, over 15,000 units have been zoned and 3,500 homes have been built in 40R districts.

Chapter 40R is unlike any other state housing program. Communities are directly paid for zoning for and permitting smart growth development. Municipalities receive a zoning incentive payment of \$10,000-\$600,000 when they create a 40R overlay followed by a bonus unit payment of \$3,000 per unit when developments receive building permits. To date, zoning incentive and bonus unit payments have totaled \$20.2 million. A companion law, Chapter 40S, provides state reimbursement for school costs not covered by taxes generated by 40R projects; reimbursements to date have totaled \$2 million.

Chapter 40R provides strong incentives to address local resistance to compact development and affordable housing. While there is much to celebrate, the law is not fully achieving its potential. Chapter 40R has proven to be a helpful tool to communities that complements other housing production tools, such as the state's affordable housing law, Chapter 40B. This report demonstrates that incentives alone will not produce the number of homes necessary to meet demand and grow the Massachusetts economy. Together, with requirements such as Chapter 40B, the Commonwealth will get closer to achieving the state's housing needs. More tools, such as additional requirements for multifamily zoning in communities and other incentives such as the new Housing Choice Initiative launched by Governor Charlie Baker in 2017, will be needed to provide the support for communities to plan for the number of homes needed to meet the needs of residents and grow the Massachusetts economy.

Key Findings

- 37 of the state's 351 municipalities have created 42 districts, authorizing over 15,000 "future zoned units."
- Of the 38 districts created by 2015, nine are fully built out, sixteen have had some construction, four have approved projects and nine have had no construction.
- A total of 3,500 homes have been built or are under construction. During the same period (2007-2017), over 20,000 homes were produced in over 100 municipalities using Chapter 40B permitting, including 4,400 units in municipalities with 40R districts.
- Many of the largest 40R sites are in older cities and other locations that need remediation funds, housing subsidies, and historic tax credits, all of which lengthen the time required to get to production.
- While almost one-half of the units produced to date have been affordable, the range of opportunities created has been uneven. Most units have been for small households with only 4% having three or more bedrooms.
- Many of the early 40R districts were areas where development plans were already in place, under discussion, or even approved. In fact, approximately one-half of these units would likely have been built without Chapter 40R.
- While 40R has accomplished denser development, many projects do not appear to provide a variety of transportation choices, with 50% of units



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to date in car-dependent locations, in part due to the early definition of “otherwise highly suitable location.”

- At least 40 additional municipalities considered creating or adding districts, but did not due to a variety of reasons ranging from locations not being eligible, votes falling short of the two-thirds majority required, fear of losing local control, or inadequate infrastructure.
- The biggest challenge to adopting a 40R district appears to be getting public support for 40R zoning. Officials and/or residents state opposition to creating 40R districts for a variety of reasons, including resistance to development generally, fear of school costs, resistance to compact development or to affordable housing or a desire to use a lower affordability requirement.
- While the predictable decision-making process goal generally appears to have been met, especially when developers were involved in crafting the zoning text, a few developers have experienced a protracted approval process as they needed to request waivers to address parking requirements or density caps or to satisfy neighborhood design change requests not covered by the approved design standards.
- In some cases where waivers were needed by developers, parking requirements appeared excessive in light of likely car ownership. In others, meeting the requirement required structured parking and thus greater project density than permitted by as-of-right development.

A 2006 review of affordable smart growth developments in Massachusetts concluded the three elements typically required for such development to occur: (1) someone must have an idea about wanting such development in a specific place and how it might be done; (2) there must be a way to make the numbers work financially; and (3) there must be significant community support (often a long-term task requiring significant outreach), perhaps making affordable smart growth “the new mainstream.”¹

This review of Chapter 40R appears to confirm this formulation. Production cannot occur without committed owners, housing demand, access to subsidies in weaker markets, and community support. Outreach and education are often required to succeed with rezoning, and rezoning is often more easily achieved when there is a specific development proposal on the table. Leadership and support by local elected officials is critical to moving district creation forward. Incentives must be adequately funded if they are to be persuasive.

CHALLENGES TO PRODUCING HOMES THROUGH 40R:

- Unpredictable state funding for incentives and underfunding of 40S reimbursements;
- Municipal reluctance to zone proactively for affordable housing, especially multifamily and family housing. Only 5% of 40R future zoned units are within the Greater Boston benchmark region expected to house over one-half of state population growth between 2010 and 2035;
- Unpredictable funding for planning and outreach to change norms about appropriate development for communities and build support;
- Obtaining two-thirds approval of the local legislative body;
- Municipal fear of the as-of-right project approval requirement;
- Parking requirements and other challenges that reduce the as-of-right powers;
- Financing for affordability.

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Introduction

In June 2004, Massachusetts enacted the Smart Growth Zoning and Housing Production Act (“Chapter 40R”)², authorizing financial and other incentives for municipalities that create zoning overlay districts that encourage housing production with certain “smart growth characteristics,” including as-of-right densities of at least 8-20 units per acre, certain locational characteristics, and an affordable component that could provide an alternative to the state’s primary law for permitting affordable housing, Chapter 40B.

The incentives are intended to address the reluctance of many municipalities to zone for compact development, multifamily and affordable housing. To qualify, municipalities must create “as-of-right” overlay zoning that meets minimum density and affordability standards for land in “eligible locations,”³ and can include detailed design standards.

Municipalities with qualifying districts receive a:

- One-time Zoning Incentive Payment (ZIP) of \$10,000-\$600,000 for adopting the overlay, depending on the net increase in as-of-right units allowed (the State may request repayment if construction does not start within 3 years of drawdown, but so far has not);
- A \$3,000 per unit payment when building permits are issued;
- “School impact” reimbursement under a companion law (Chapter 40S);
- Higher state match for new school buildings;⁴
- More favorable consideration when applying for discretionary grants from certain State agencies, including Environmental Affairs, Transportation, Housing agencies and Administration and Finance;⁵
- Consideration of their 40R zoning if they oppose a project application under Chapter 40B.

To create a district, municipalities must submit a preliminary application with proposed zoning text and district boundaries to the State.

To address potential neighborhood concerns, municipalities must hold a public hearing before submitting the preliminary application and can include design standards.

After preliminary State approval, at least two-thirds of the city council or town meeting must vote to approve the zoning. It must then receive final approval by the State.

Legislative History

The Smart Growth Zoning and Housing Production Act⁶ (“Chapter 40R”) was enacted in June 2004 through the efforts of the Commonwealth Housing Task Force (CHTF), a group of foundations, members of the business community, academics, non-profit and for-profit developers and others.⁷ A 2003 CHTF policy paper reviewed numerous studies and found growth in minimum lot sizes and the elimination of as-of-right multifamily zoning encouraged sprawl by pushing development to locations far from employment centers.⁸

The paper concluded that “addressing the lack of housing production requires

DISTRICT REQUIREMENTS:

- **ELIGIBLE LOCATION:** Must be within ½ mile of a transit station, near commercial centers, in areas with existing infrastructure, or otherwise deemed highly suitable;
- **ADEQUATE INFRASTRUCTURE:** Local officials must certify that infrastructure (e.g., water, sewer, transportation) is adequate to serve the projected growth or will be within five years;
- **MINIMUM DENSITY:** The overlay must allow housing to be built as-of-right at densities of at least 8 to 20 units per acre depending on the type of housing (small towns can request a waiver). Allowed uses, design, and density can vary within the district by creating sub-districts;
- **MINIMUM AFFORDABILITY:** The text must require that at least 20% of the units developed district-wide and per project using the overlay must be affordable at 80% of AMI or less for at least 30 years;
- **DISTRICT SIZE:** Municipalities can create more than one district, as long as none exceed 15% of their land area and the total doesn’t exceed 25%;
- **AS-OF-RIGHT APPROVAL:** The local plan approval authority has a maximum of 120 days to review an application and can only deny it if the proposal does not comply with the bylaw and design standards or has serious adverse impacts that cannot be mitigated. Parties appealing an approval must post a bond to cover the potential costs of delay to the developer.

producing an adequate supply of land zoned for housing” and that this required “changing the underlying fiscal constraints facing local communities.”⁹ The authors recommended the State reward localities that zone for development in locations that encourage transit use and discourage “greenfield” development (development of land not previously used for residential, industrial or commercial purposes). The authors estimated such a program would create districts allowing 50,000 new units, with 33,000 units likely to be constructed over 10 years; 19,000 that would not otherwise be built; and 14,000 that would have been built in other locations.¹⁰

Most of the CHTF proposal was enacted as Chapter 40R in 2004. Four pieces were not:

- A simple majority approval of 40R districts by local government, instead of the 2/3 currently required in statute;
- Funds for infrastructure improvements, including parking structures and parks, needed to make the district developable. The statute instead gives localities with 40R districts or inclusionary or other zoning that promotes affordable housing a preference for discretionary State grants;¹¹
- \$1 million in funding for outreach to municipalities and \$4 million in matching grants for planning costs. Instead, the state’s housing finance agency provided a one-time \$1 million allocation for this purpose and the state has continued to offer planning grants through other programs;
- Funding for 100% of K-12 education costs.¹² The Legislature ordered a study on this recommendation due to concerns about the potential costs.¹³

Chapter 40S

After the passage of Chapter 40R, CHTF commissioned a study to estimate the potential cost to the state of reimbursing districts.¹⁴ The study recommended pared down school cost incentives and led to the enactment of Chapter 40S¹⁵ in November 2005.

Chapter 40S provides “school impact insurance,” subject to appropriation. It requires the state to reimburse localities for school costs related to children who live in new developments in the 40R districts and attend the public schools to the extent that those costs:

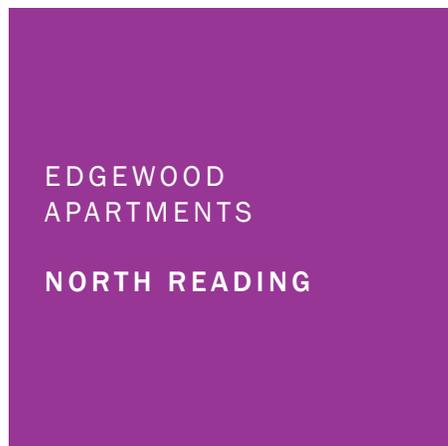
1. Exceed the share of property tax revenues and excise taxes received from new growth properties in the 40R district that goes to school costs;
2. Are not covered by state funding.

The share of new taxes that go to school costs is based on the statewide average (approximately 56%).¹⁶ The 40S formula is generous in basing payments on district average per student costs rather than the marginal cost of adding students. CHTF estimated that in most communities, 40S payments were unlikely to be triggered except for single family homes.¹⁷ 40S went into effect in FY2008 and the first year that any districts qualified to receive payments was in FY2010.

Starter Home Zoning Districts

In 2016, the Legislature amended Chapter 40R to add “starter home zoning districts.” These districts are subject to most of the same requirements as smart growth zoning districts, but have a minimum size of three acres, a lower minimum density requirement of four units/acre, and use a higher income limit of 100% AMI for the required 20% of affordable units. Regulations were finalized on December 29, 2017. This report does not discuss Starter Home districts.

INCENTIVE UNITS	ZONING INCENTIVE PAYMENT
Up to 20	\$10,000
21-100	\$75,000
101-200	\$200,000
201-500	\$350,000
501+	\$600,000



40R Regulations

The first program regulations and guidance were issued in March 2005. The regulations were revised in 2013 to tighten the definition of a “highly suitable location” and clarify infrastructure requirements. Regulations were revised again at the end of 2017 for the starter home districts authorized by 2016 legislation and to define allowed capital expenditures, reflecting the change in funding source for incentive payments to state capital budget funds. Changes are discussed in more detail in the balance of the report.

Interaction with Chapter 40B

Understanding the use of Chapter 40R requires understanding a pre-existing state law familiarly referred to as “Chapter 40B.” Chapter 40B was enacted in 1969 to address the difficulty developers of subsidized housing faced when trying to build multi-family housing in many municipalities, especially outside cities, due to zoning restrictions and multi-board approval processes. It operates by allowing the local zoning board of appeals (ZBA) to authorize waivers to existing land use regulations, rather than affirmative adoption of zoning, if less than 10% of the municipality’s housing stock is affordable.

While initially enacted to enable the development of housing financed with conventional federal or state subsidies, Chapter 40B today is often used to develop multifamily and small lot single-family housing more generally. Few municipalities have undeveloped land zoned for multifamily housing development as-of-right. In 2004, 127 of the 186 municipalities in eastern Massachusetts had no land zoned for multifamily as-of-right, though some had lots zoned multifamily by special permit;¹⁸ 10 did not permit any multifamily development and nine more limited it to age-restricted housing.¹⁹ Even when allowed, it was often impossible due to minimum lot area or other requirements.²⁰ This is particularly true outside larger cities.

The existence of Chapter 40B helped create support for enacting Chapter 40R as applications for development under 40B are sometimes contentious. It has also shaped local 40R zoning language.

Chapter 40B motivates municipalities to proactively find ways to produce affordable units to become appeal-proof²¹ and to continue to add units to maintain that status and avoid a decline in their percentage when the count of year-round units is updated after each decennial census or when currently subsidized units are lost as use restrictions expire.

Having a 40R district may protect a municipality from an unwanted Chapter 40B application. Developers wishing to use 40B must first obtain a project eligibility letter (PEL) from a subsidizing agency. In the eligibility review, the subsidizing agency must solicit comments from the municipality. If the municipality objects to the site, the subsidizing agency will consider “municipal actions previously taken” to meet affordable housing needs, such as inclusionary zoning and 40R overlay districts.²² To date, PELs have been denied in at least two towns (Easton and Reading), based in part on this provision.

However, Chapter 40B is not the only reason municipalities have adopted 40R



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districts. Boston and Gateway Cities interested in revitalizing neighborhoods and downtowns, expanding their housing supply, or finding new uses for vacant properties account for 42% of future zoned units under Chapter 40R. While municipalities with at least 10% of their housing stock considered affordable are exempt from Chapter 40B, many of the municipalities that enacted 40R districts were at or near the 10% threshold. Of the 37 municipalities with 40R districts, nine were at or above 10% before creating districts, one was at 9.96%, and five more reached 10% by September 2017.²³ One more reached 10%, but then fell back after its year-round housing unit count was updated based on the 2010 census (see Table 3).

40R Advantages Relative to 40B

Chapter 40R can be an attractive alternative to 40B for municipalities because it allows them to select locations, set density limits and design guidelines and receive state incentive payments and other benefits. This has led some municipalities to ask developers with 40B proposals to consider using 40R instead, and some developers offer to help create 40R districts.

Chapter 40R has five features that can make it more attractive to developers:

- **No profit limitation:** Developers using 40B are subject to profit limits and a cost certification process at completion; Chapter 40R requires neither (although 40R developers using conventional subsidy programs are still subject to the requirements of those programs);
- **Lower affordability requirement:** The 40R affordability requirement of 20% is lower than the 25% affordability requirement of Chapter 40B. However, 22 of the 42 districts require at least 25% affordability for 40R rental developments to maximize the count on the Subsidized Housing Inventory. Using 25% also helps ensure that districts will meet the statutory district-wide affordability requirement of 20% if they choose to exempt small projects less than 13 units from affordability requirements;²⁴
- **“As-of-right” approval process:** Applications for project approval must be approved within 120 days unless both parties agree to an extension and the grounds for denial are limited. Some developers have also reported needing longer 40R approval processes to negotiate waivers. (By contrast, the approval timeline under 40B was open-ended until regulations in 2008 limited it to 250 days from filing to decision);
- **Can be used in municipalities that are appeal-proof under Chapter 40B:** Municipalities may be more willing to consider 40R zoning because of their greater control over project location and, because 40R mandates as-of-right project approval, sites remain developable even if a municipality below 10% at district creation later goes over 10%;
- **Bond requirement for abutter appeals:** 40R potentially makes it more costly for abutters to legally challenge 40R decisions than other local zoning decisions.²⁵ It requires plaintiffs to post a bond in an amount equal to twice the sum of the owner’s projected carrying costs and legal fees for the period the appeal is expected to delay the start of construction. No such requirement applies to other zoning appeals. If the plaintiff does not prevail in the appeal, the bond must be forfeited in an amount sufficient to cover the actual carrying and legal costs. *This provision has not yet been tested.* A 2009 appeal of a 40R project approval filed in Land Court included a challenge to the constitutionality of that provision but the Court concluded the appeal could not be said to be delaying construction because the project



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at that point still lacked a necessary approval from the Massachusetts Department of Environmental Protection.²⁶

District Creation

This section of the report provides more detail about the use of Chapter 40R to date, including district approval/disapprovals, how districts have been initiated, municipalities' reasons for deciding whether or not to use 40R and regional distribution of districts. It also describes the number of housing units produced and their financial and other characteristics, and incentive expenditures to date.

Chapter 40R program regulations went into effect in late March 2005, just before the housing market collapse began in Massachusetts.²⁷ In the 12 years since, 37 municipalities have received final DHCD approval for 42 districts ranging from 0.33 acres to over 1,000 acres, collectively allowing the production of almost 15,400 "future zoned units" if fully developed using 40R (Tables 1 and 2).

Most of the 42 districts were created by 2010:

- Thirty-three districts with over 13,000 future zoned units were created in 2006-2010, including at least 16 where project planning was underway before a 40R district was considered (Table 6); eleven were in Boston and Gateway Cities;
- No new districts were approved in 2011-2013; one city expanded its district;
- Nine new districts were approved in 2014-2017, along with three district expansions;
- Five new districts and one expansion were awaiting local approval or final DHCD approval as of December 31, 2017, with over 3,600 future zoned units, including almost 2,900 in Brockton (Table 3).

Observers attribute recent increase in district creation to several factors, including:

- Municipal experience: three of the 37 municipalities with districts created second districts, four expanded districts and four more are exploring new districts or expansions;
- An improved housing market in some locations and rising numbers of 40B applications;
- New MBTA transit-oriented development opportunities;
- New interest in using 40R for downtown revitalization;
- New development opportunities related to underutilized retail areas.

FUTURE ZONED UNITS (FZUS):

The maximum number of units that could be developed as-of-right using the 40R zoning on developable and underutilized land through new development, substantial rehabilitation (or adaptive reuse), including the number developable under the as-of-right underlying zoning.

NOTE: This report uses DHCD's "FZU/Incentive Unit" counts when referring to FZU. DHCD notes its counts are sometimes inexact, as early DHCD data did not consistently capture the number of possible units associated with "Substantially Developed Land" as they are not counted when calculating the Zoning Incentive Payment.

TABLE 1: NUMBER OF DISTRICTS APPROVED BY YEAR

Chapter 40R districts must be in an “eligible location,” meaning they include either an “area of concentrated development (ACD),” an area within a half mile of a public transit terminal (Transit), or an “otherwise highly suitable location (HSL).”

FINAL APPROVAL YEAR	NUMBER OF DISTRICTS	IN GATEWAY CITY	DISTRICT ACRES	FUTURE ZONED UNITS	TRANSIT	ACD	HSL
2006	6	1	110.22	1304	2	1	3
2007	8	2	598.79	4401	4	1	3
2008	12	5	499.25	4356	2	2	8
2009	1	-	11.55	167	-	-	1
2010	6	2	251.17	2773	1	4	1
SUBTOTAL	33	10	1,471	13,001	9	8	16
2011	-	-	-	-	-	-	-
2012	-	-	-	-	-	-	-
2013	-	-	-	-	-	-	-
2014	2	-	187.37	394	1	1	-
2015	3	-	99.94	991	1	2	-
2016	-	-	-	-	-	-	-
2017	4	-	109.71	1005	1	2	1
SUBTOTAL	9	-	397	2,390	3	5	1
TOTAL	42	10	1,868	15,391	12	13	17

TABLE 2: FULLY APPROVED DISTRICTS AS OF DECEMBER 31, 2017 (42)

YEAR DISTRICT FINAL APPROVAL	YEAR DISTRICT AMENDED	MUNICIPALITY	DISTRICT	DISTRICT TYPE	DISTRICT SIZE (ACRES)	INCENTIVE/FUTURE ZONED UNITS (FZU)	UNITS BUILT/BLDG. PERMITS ISSUED USING 40R	ZIP PAID
GATEWAY CITIES/BOSTON DISTRICTS (11)								
2006		Chelsea	Gerrish Ave	Transit	2.82	125	120	75,000
2007		Brockton	Downtown	Transit	60.00	1,096	140	600,000
2007	2016	Haverhill	Downtown	Transit	58.00	701	362	600,000
2008		Boston	Olmsted Green	HSL	42.00	578	200	350,000
2008		Holyoke	SGOD	ACD	152.00	296	59	350,000
2008		Lawrence	Arlington Mills	HSL	34.10	1,031	137	600,000
2008	2012	Lowell	SGOD	Transit	2.50	250	122	350,000
2008		Pittsfield	SGOD	ACD	10.72	296	112	350,000
2008		Westfield	Southwick Road	HSL	22.20	244	-	200,000
2010		Chicopee	Chicopee Center SGOD	ACD	25.62	1,092	41	600,000
2010		Fitchburg	SGOD	HSL	33.20	676	186	600,000
TOTAL BOSTON/GATEWAY CITIES					443	6,385	1,479	4,675,000
TOWNS AND SMALLER CITY DISTRICTS (31)								
2006		Dartmouth	Lincoln Park	HSL	40.65	319	84	350,000
2006		Lakeville	Kensington Court	Transit	11.00	207	204	350,000
2006		Lunenburg	Tri-Town	HSL	8.97	204	131	350,000
2006		N. Reading	Berry Center Residential	HSL	46.00	434	406	350,000
2006		Norwood	St. George Ave	ACD	0.78	15	15	10,000
2007		Amesbury	Gateway Village	HSL	52.00	249	240	350,000
2007		Grafton	Fisherville Mill	HSL	13.74	240	-	350,000
2007		Kingston	1021 Kingston's Place	Transit	109.00	730	-	600,000
2007		Lynnfield	Meadow Walk	HSL	80.25	180	180	200,000
2007		N. Andover	Osgood	ACD	169.00	530	-	600,000
2007		Plymouth	Cordage Park	Transit	56.80	675	-	600,000
2008		Belmont	Oakley Neighborhood	HSL	1.51	18	17	10,000
2008		Bridgewater	Waterford Village	HSL	128.00	594	-	600,000
2008		Easton	Queset Commons	HSL	60.66	280	110	350,000
2008		Natick	SGOD	Transit	5.00	138	138	200,000
2008	2017	Northampton	Hospital Hill	HSL	30.56	429	123	200,000
2008		Reading	Gateway	HSL	10.00	202	200	350,000
2009		Sharon	Sharon Commons	HSL	11.55	167	-	-
2010		Easthampton	SGOD	ACD	149.00	482	50	350,000
2010		Marblehead	Pleasant Street	ACD	0.33	17	-	-
2010		Marblehead	Vinnin Square	ACD	1.56	47	-	-
2010	2017	Reading	Downtown	Transit	41.46	459	53	350,000
2014		Ludlow	SGOD	ACD	186.80	350	75	350,000
2014		Norwood	Guild St / Regal Press	Transit	0.57	44	-	75,000
SUBTOTAL TOWNS/SMALLER CITIES (PRE-2015)					1,215	7,010	2,026	6,945,000
2015		Newburyport	SGOD	Transit	49.40	540	-	-
2015		South Hadley	S. Hadley Falls SGD	ACD	48.27	383	-	350,000
2015		Swampscott	Vinnin Square	ACD	2.27	68	-	75,000
2017		Gr. Barrington	North SGOD	ACD	36.74	304	-	-
2017		Gr. Barrington	South SGOD	HSL	39.17	190	-	-
2017		Rockland	Downtown Rockland	ACD	33.80	480	-	-
2017		Northampton	Urban Residential SGOD	Transit	0.50	31	-	-
TOTAL TOWNS/SMALLER CITIES					1,425	9,006	2,026	7,370,000
GRAND TOTAL					1,869	15,391	3,505	12,045,000

Table Notes:

- District size (source: DHCD): includes total district land area, not just developable land.
- Incentive/FZU count (source: DHCD): may include newly zoned units on “Substantially Developed” land.
- Units built/building permits issued using 40R (source: DHCD): may include a limited number of units for which permitting pursuant to 40R has yet to be verified or for which density bonus payments have not or might not be made for technical reasons though they are included in the production count.
- Estimated Available FZU: CHAPA estimate, calculated as the difference between FZU and units known to be built, in construction or approved. Set at zero for parcels fully built out at less than FZU. Kingston estimate has NOT been adjusted to reflect reduction in FZU due to wind farm.

TABLE 3: DISTRICTS WITH PRELIMINARY APPROVAL - DECEMBER 31, 2017

GATEWAY CITY?	MUNICIPALITY	DISTRICT NAME	TRANSIT	ACD	HSL	DISTRICT SIZE (ACRES)	FUTURE ZONED UNITS (FZU)
NEW DISTRICTS							
-	Beverly	SGOD Sohier Road		1		5.1	101
1	Brockton	Thatcher St. HOD			1	15.7	175
-	Danvers	MSTND-SGOD		1		16.8	211
-	Lee	SGOD (Eagle Mill)		1		9.9	119
1	Methuen	Methuen Center SGOD		1		54.4	350
SUBTOTAL			-	4	1	101.9	956
DISTRICT AMENDMENT							
1	Brockton	Downtown (amendment)	1			67.0	2,716
TOTAL			1	4	1	168.9	3,672

TABLE 4: WHO INITIATED DISTRICTS

DHCD FINAL APPROVAL YEAR	NUMBER OF DISTRICTS	DEVELOPER INITIATED OR TOWN REQUEST	PRE-EXISTING PLAN/LAND DISPOSITION AGREEMENT	MUNICIPALITY
2006	6	5	-	1
2007	8	5	1	2
2008	12	7	1	4
2009	1	1	-	-
2010	6	2	-	5
SUBTOTAL	33	20	2	12
2014	2	1	-	1
2015	3	1	-	2
2017	4	1	-	3
SUBTOTAL	9	3	-	6
TOTAL	42	23	2	18

How Districts are Initiated

Proposals to create a 40R district have varied in origin. Some have been initiated by developers, while others have been initiated by a municipal planner or regional planning agency or as an outgrowth of another planning process, such as a housing production plan, downtown revitalization, or economic development.

Some municipalities created districts in the hope of attracting development to languishing areas or on sites where 40R density and affordability requirements align with local goals. Others created districts for a specific affordable housing proposal, even if it could have been permitted using other processes. In some cases, the developer and municipality compared proceeding under Chapter 40R vs. 40B to determine the best strategy given municipal efforts to reach 10% under Chapter 40B.

Based on case studies and other documents, it appears just over one-half of 40R districts have been initiated by developers on their own or at the request of a municipality when discussing a proposal (Table 4). Many of the early districts were project-driven, and involved projects already approved or under discussion. A review of case studies and other materials suggests that at least 16 of the 33 early districts had active development proposals (with or seeking approvals under 40B, special permits, or land disposition agreements) prior to initiating the 40R district. Those projects represent over one-half of the units built/in construction to date (see Appendix 3).

More recent districts appear more likely to be municipally-initiated, sometimes to encourage smart growth development on an opportunity site. Some planners feel that it is easier to create a district when there is a clear development concept and have deliberately started small, believing that expansion in the future would be easier once residents saw a finished product.

The five municipalities with districts in the pipeline (preliminary approval received in 2017) reflect the mix of initiation types:

- Beverly (108 Sohier Road) – awaiting final DHCD approval – nonprofit developer (Harborlight) plans 75-unit affordable family rental project;
- Brockton (Thatcher St) – local approval 12/31/2017 – nonprofit developer (POUA) plans 175-unit development;
- Danvers (Maple Street Traditional Neighborhood Development) – awaiting final DHCD approval in November 2017; Town Meeting voted to approve 12/4/2017;
- Methuen – received DHCD preliminary approval for Methuen Center district 10/17/2017; City Council approved 11/20/2017;
- Lee – received DHCD preliminary approval 12/6/2017 for Eagle Mill site; active development team in place.

Woburn is also exploring a proposal to create a 40R district in the Woburn Mall area, which is about one mile from the Anderson Regional Transportation Center.

Planning Process and the Role of Planning Grants

Role of planning funds: The planning tasks required to create a 40R vary tremendously, depending on developer involvement, the extent to which 40R aligns with current municipal plans and goals, municipal capacity to draft text and maps, and the extent to which public outreach is needed to build support for the concept of 40R. In 2017, a planner from a regional planning agency that provides technical assistance to municipalities estimated the cost to create a district, from origination to final approval, at \$25,000 - \$40,000 for midsize districts. A 2007 study found costs ranged up to \$125,000 (including legal fees) for large districts.²⁸

Planning grants and technical assistance can facilitate the creation of 40R districts and at least 23 of the first 42 districts were created with grant funds. Most of the remaining districts were developer-driven or in cities with fulltime planning staff. However, such assistance does not guarantee a district will be created. At least 14 municipalities that received planning grants (some 40R specific, some to promote smart growth generally) did not adopt 40R districts. Reasons varied for failing to adopt 40R districts: two were ineligible locations; in one case, the local vote fell short; and in another, the town adopted alternative zoning with 15% affordability.

Regional planners report that building support through public outreach is key to successful adoption of 40R zoning. Some municipalities report it can take up to two years to create a district, starting with building support for the concept of a 40R district, then working out the zoning text and district boundaries, and finally gaining local approval.

While it takes time and money to create a 40R district, at least one planner stated once a district is established, it is fairly simple to expand it or add districts if there is local support. Northampton, for example, expanded one 40R district and added a second district without needing to use outside consultants. Others believe the cost of planning a district is lower today than in the early years as the program has become more well-established. It can be difficult for smaller communities to fund district creation without state grants or developer funding, but the process has been made easier with DHCD's



CHRISTOPHER HEIGHTS
NORTHAMPTON

published guidance, first issued in 2007, on creating a bylaw (including a sample bylaw) and a guidebook on creating design standards.²⁹

Reasons for using 40R varied:

- Many indicated the potential of projects to help them reach 10% or interim certification under a 40B Housing Production Plan and “protect against future 40Bs.” This consideration was usually prominent in materials provided to town meeting members before the 40R vote, along with the risk, in some cases, that a proposed site could become a 40B development if a 40R district was not approved;
- Several indicated the 40R location and density standards fit with their city’s long-term goals for redevelopment of their downtown or specific neighborhoods;
- At least one municipality created a district to improve their access to funding for infrastructure improvements needed to help a mill redeveloper move forward;
- Among planners from municipalities that were early creators of 40R districts, several indicated the creation was strongly driven strictly by the financial incentives, while others said concern that funding for the zoning incentive payments would not be available reduced the role of the incentives in the decision-making process;
- The financial incentives also played a role in creating districts for projects that planners expected would be built anyway because they would put the community over the 10% threshold, had previously been approved using other zoning, or were affordable projects that had municipal support;
- One community reported they used 40R because of the provisions regarding abutter appeals, as the developer was very concerned about that risk.

Program Feedback from Municipalities with Adopted Districts

Interviews with planners in municipalities that have a 40R district indicate high levels of satisfaction with the program, with many citing the concept of “local control;” 11 of the 37 municipalities have expanded or are exploring expanding their districts. At the same time, 40R remains just one approach they use to encourage development:

- One city planner felt designating an area as a 40R district signals that the city would welcome development, even if development has been limited to date;
- Several observed a developer’s interest and ability to complete projects is critical to district activity, especially in districts dominated by a single owner;
- A planner in a suburb with very little public sewer noted that the 40R infrastructure requirements are helping them to build municipal wastewater capacity by asking 40R and 40B developers to overbuild treatment capacity so that others can tie in eventually;
- A planner in one city attributed the lack of construction in their district to a post-crash weak housing market with limited demand for new housing, including conventional subdivisions.

As the program has evolved, the advantages to using 40R most often cited by planners has changed. In 2009, planners in cities were more likely to cite



CHESTNUT PARK
APARTMENTS
HOLYOKE

the ability of 40R to simplify the approval process as districts tended to be in locations they had already identified as desirable for development. In 2009, planners in suburbs were more likely to cite its advantages as an alternative to 40B with some also citing smart growth goals. All felt incentive payments were helpful. In 2017, several planners noted they use 40R zoning selectively, applying it to receive incentive payments when they know a project will include affordable units and using other approaches to encourage market rate projects, such as a different overlay or the Housing Development Incentive Program (HDIP). Several cited its ability to signal receptiveness to development. One felt creating a district would help them access state infrastructure funds so that they can advance a long-desired mill redevelopment. A few expressed a desire for more flexibility around minor program items (e.g. live/work space).

Why Some Municipalities Decided Not to Create 40R Districts

Despite positive feedback from municipalities with 40R districts, at least 40 municipalities over the years have given various levels of consideration to creating districts, but have chosen not to proceed, including 10 (Andover, Newbury, Randolph, Gardner, Weymouth, South Weymouth Naval Air Station/Tri-Town Corporation³⁰, Georgetown, Scituate, Hingham and Foxborough) that filed applications for preliminary eligibility determinations from DHCD or engaged in extensive discussions or planning.

Interviews with DHCD staff, municipal and regional planners and for- and non-profit developers, reveal quite varied reasons for districts failing to move forward:

- **Antipathy to development:** Many explorations failed at the public hearing stage due to strong resident opposition to development generally based on density, traffic, affordable housing, school enrollment impacts, building heights, or impact on neighborhood character. In Norwood, when organized opposition to a second district resulted in an approval vote below two-thirds, the developer eventually obtained approval under Chapter 40B;
- **Antipathy to affordable housing** or a desire for a lower affordability requirement or a preference for all market-rate housing;
- **Fear of the as-of-right project approval process resulting in loss of control:** In some cases, municipalities decided to use Chapter 40B or other mechanisms instead that they felt would give them flexibility to negotiate project elements, including mitigation measures;
- **Approval votes that fell short of the two-thirds needed:** At least five municipalities fell short of two-thirds approval, with four communities receiving a majority vote;³¹
- **Concern about the “clawback” provision** (see page 24);
- **Desire to limit households with children/school costs:** Early in the program, two municipalities decided not to create districts because of a requirement that 40R developments include three-bedroom units. Though that requirement was dropped and Chapter 40S was created to reimburse communities for additional school costs related to 40R developments, concern about school costs continue;³²
- **Lack of municipal support for developer-proposed districts:** In some cases, developers initiated 40R proposals and local officials concluded the proposal did not align with local plans;



COTTAGE SQUARE
APARTMENTS
EASTHAMPTON

- **Infrastructure:** A few of the proposed districts did not meet the district infrastructure requirements, lacking necessary water, sewer, or pedestrian infrastructure. When DHCD offered conditional approval of a district, postponing zoning incentive payments until infrastructure commitments could be made, some municipalities lost interest or decided to undertake further planning before proceeding;
- **Town reached 10% during the 40R planning process.**

It is unclear whether any one incentive program can satisfy resistance to density and affordable housing. The state tried to address municipal concerns about 40R density and affordability requirements by creating the Compact Neighborhoods program (“40R Lite”) in late 2012, which did not offer financial payments, but did offer a preference for certain state grants. It had lower minimum density requirements of four units/acre for single family homes and eight units/acre for buildings with two or more units, and required 10% affordability. To date, not a single municipality has created such a district.

Where Districts Have Been Created

As the map on the following page shows, 40R districts are not evenly distributed across the state. While 40R districts are present in seven of the eight regions into which the state is divided for economic development planning (MassBenchmark regions³³), their distribution does not align with projected rates of population growth (Table 5) and are notably absent from the Greater Boston benchmark region. Only 5% of the 15,391 future zoned units (FZUs) are in the 36 municipalities defined by MassBenchmark as comprising Greater Boston, where 58% of the state’s population growth is expected to occur between 2010 and 2035. However, two-thirds (9,855 or 65%) of the FZUs are in 164 municipalities that make up the Metropolitan Area Planning Council growth projection area.

Urban and suburban districts: Chapter 40R has been used more than Chapter 40B to provide zoning approval for affordable housing in larger, older cities, in part because these cities tend to be appeal-proof and 40B is not applicable to Boston. 40B is more frequently used in suburban or rural locations.

- Eleven of the 42 districts and 43% of the housing built or in construction are in Boston, Brockton, Chelsea, Chicopee, Fitchburg, Haverhill, Holyoke, Lawrence, Lowell, Pittsfield, and Westfield (although, Westfield has had no 40R development to date). These 11 districts allow twice as much residential development on average as the districts in towns and smaller cities (580 FZUs per district vs. 291). They authorize 41% (6,385 units) of the 15,391 FZUs and contain 42% of affordable units built to date.
- The other 31 districts are in 26 municipalities. They collectively allow 9,006 FZUs (291 per district and 346 per municipality on average). Sixteen of the 31 districts have not yet had construction, including four just approved in 2017 and one with a project delayed by litigation.

District Scale and Development Concepts

The 42 approved districts vary considerably in scale and development concept, and in some cases, the development concepts have changed since adoption. For some municipalities, especially larger cities, the 40R district is just one component in a larger redevelopment planning effort that covers more land and includes creating urban renewal districts and multi-year infrastructure and transportation planning.



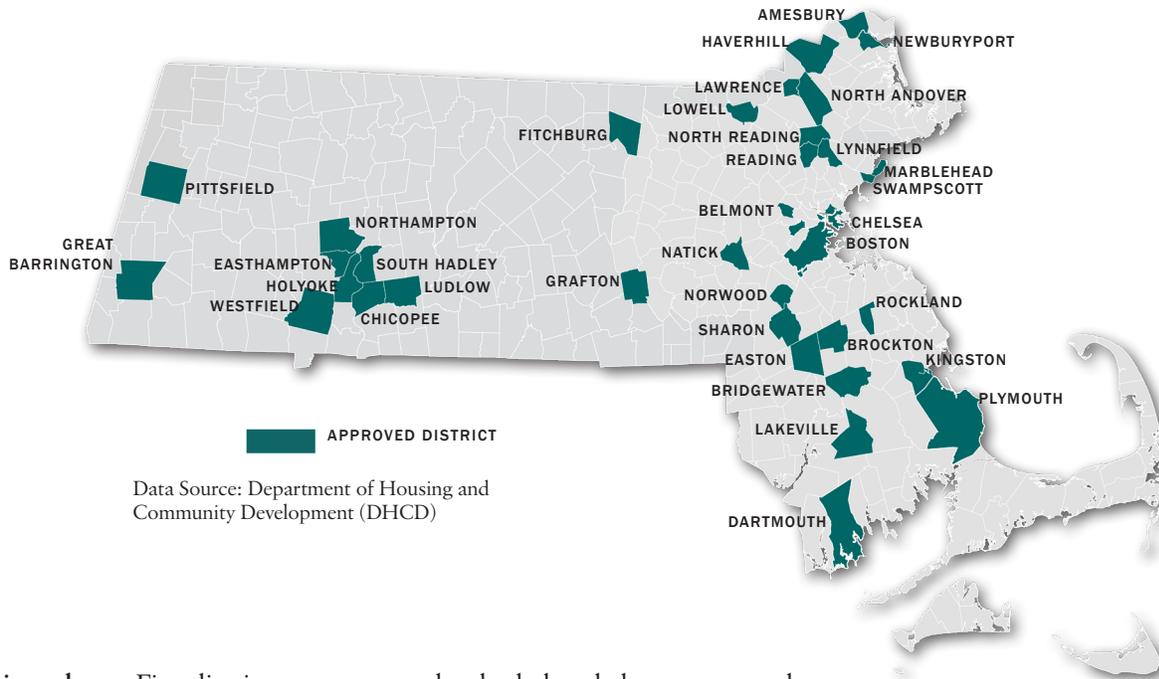
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PHASE III

BOSTON

TABLE 5: DISTRIBUTION OF 40R FUTURE ZONED UNITS (FZU) BY MASS BENCHMARK REGION

REGION	CITIES & TOWNS	CENSUS 2010 POPULATION	2010 TO 2020 CHANGE	2010 TO 2035 CHANGE	REGIONAL GROWTH RATE 2010 TO 2035	REGIONAL GROWTH SHARE 2010 TO 2035	SHARE OF FZU	FZU
Greater Boston	36	1,975,155	213,744	443,595	22%	57.5%	4.7%	721
Northeast	46	1,031,733	62,447	86,534	8%	11.2%	30.6%	4,708
MetroWest	45	655,126	44,403	79,761	12%	10.3%	2.4%	364
Southeast	50	1,108,845	41,488	76,505	7%	9.9%	28.5%	4,381
Central	46	693,813	33,031	66,695	10%	8.6%	7.3%	1,120
Lower Pioneer Valley	29	604,304	17,660	40,676	7%	5.3%	21.5%	3,307
Berkshire and Franklin	76	236,058	(533)	2,538	1%	0.3%	5.1%	790
Cape and Islands	23	242,595	(9,201)	(24,464)	-10%	-3.2%	0.0%	-
TOTAL	351	6,547,629	403,039	771,840	12%	100.0%	100.0%	15,391

APPROVED SMART GROWTH DISTRICTS (AS OF DECEMBER 31, 2017)



Data Source: Department of Housing and Community Development (DHCD)

Pre-existing plans: Five districts cover areas that had already been approved for development. Of these, three districts in Boston, Northampton, and North Reading were state hospital/state school sites where redevelopment under land disposition agreements had been approved as early as 2002, including two where overlay zoning had already been approved. One district in Chelsea covered projects already approved by special permit and one district in Haverhill covered a downtown area already rezoned for residential redevelopment.³⁴

Approved 40B projects or friendly 40B applications: Five districts in North Reading, Amesbury, Lakeville, Sharon, and Dartmouth were created in collaboration with developers who had filed comprehensive permit applications. A sixth municipality, at the request of abutters, created a 40R district after a local nonprofit proposed redevelopment of a church site using 40B or 40R. The 40R districts largely follow the concept originally proposed under 40B and in one case, the district was expanded to cover another potentially developable site.

Developer-initiated: Fifteen districts were created in response to specific development proposals.

Municipally-initiated: Seventeen districts were initiated by municipalities responding to development opportunities and/or with specific development goals, such as downtown revitalization and redevelopment of vacant sites either with or without a developer for just part of the district.

Most districts allow both residential and non-residential uses (although all construction to date has been entirely residential): Of the 42 districts, 10 allow residential development only, including Great Barrington, which allows for live/work and home occupations. Thirty-one also permit mixed-use commercial or other non-residential uses, such as community facilities and galleries in the case of Boston. Restrictions on mixed-use projects vary considerably among the districts. In some, commercial uses cannot be in the same building as residential while in others, they must be part of a residential project. Some districts limit commercial uses to the first floor and/or limit the percentage of the project that can be non-residential. One district limits commercial uses to neighborhood businesses and only by special permit.

District Size and Buildout Activity

Chapter 40R was intended to attract development to districts by creating pre-approved sites. Studies indicate that 40R can also make it easier for some projects or municipal plans to move forward by providing incentives for the municipality, developer, and neighbors.³⁵ However, the lack of development in some districts approved in 2014 or earlier shows the limits of rezoning to attract development. Of the 38 districts approved in 2016 or earlier (Table 6):

- Nine are largely built out;
- Sixteen have had some construction;
- Four more have approved projects;
- Nine have had no development yet.

In some districts, developers withdrew after the housing crash and have not returned. In others, owners of key parcels appear to have no urgency to develop, or believe the market will not support the cost of new construction yet, or chose to develop sites for non-residential purposes. Others were delayed by the need for public infrastructure improvements.

Several factors appear to influence whether district development occurs and how much (Table 7), including:

- Size of both acreage and future zoned units;
- Number of property owners and their level of interest;
- Developer size, interest and market conditions. In some cases, developers have chosen to develop in phases, preferring to complete one phase before taking on debt for the next;
- Start and completion of infrastructure improvements or site remediation, which can take years to fund and complete, even with the preference for state infrastructure grants such as MassWorks. This is particularly true of mill sites in weaker housing markets.³⁶

The nine districts that have largely been built out were generally smaller, allowing 174 future zoned units on average compared to a program wide average of 366. These districts were created for a single-project or single set of projects with a developer lined up, largely in suburbs in the eastern part of the state.

The 16 districts with some construction activity include nine in older larger cities and two that have recently expanded in size. The urban districts tend to be larger, involve multiple sites and multiple owners and rely on subsidy.



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LAWRENCE

TABLE 6: BUILT OUT STATUS - FULLY APPROVED DISTRICTS AS OF DECEMBER 31, 2017 (42)

YR DISTRICT FINAL APPROVAL/ YR AMEND	# DISTRICTS	MUNICIPALITY	DISTRICT	DISTRICT SIZE (ACRES)	INCENTIVE/ FUTURE ZONED UNITS (FZU)	UNITS BUILT/ BLDG. PERMITS ISSUED USING 40R	PERCENT OF FZU BUILT (OR UC) TO DATE USING 40R	TOTAL 40R+NON-40R UNITS PRODUCED (OR APPROVED) % OF FZU	ESTIMATED AVAIL FZU
LARGELY BUILT OUT									
2006	1	Norwood	St. George Ave	0.78	15	15	100.0%	100.0%	-
2008	1	Belmont	Oakley Neighborhood	1.51	18	17	94.4%	94.4%	-
2006	1	Chelsea	Gerrish Ave	2.82	125	120	96.0%	96.0%	-
2008	1	Natick	SGOD	5.00	138	138	100.0%	100.0%	-
2007	1	Lynnfield	Meadow Walk	80.25	180	180	100.0%	100.0%	-
2008	1	Reading	Gateway (Addison Wesley)	10.00	202	200	99.0%	99.0%	-
2006	1	Lakeville	Kensington Court	11.00	207	204	98.6%	98.6%	-
2007	1	Amesbury	Gateway Village	52.00	249	240	96.4%	96.4%	9
2006	1	N. Reading	Berry Center / Edgewood Apts.	46.00	434	406	93.5%	93.5%	-
SUBTOTAL	9			209	1,568	1,520	96.9%	96.9%	9
DISTRICTS WITH SOME DEVELOPMENT									
2008	1	Boston	Olmsted Green	42.00	578	200	34.6%	34.6%	378
2007	1	Brockton	Downtown	60.00	1,096	140	12.8%	34.1%	722
2010	1	Chicopee	Chicopee Center SGOD	25.62	1,092	41	3.8%	3.8%	1,051
2006	1	Dartmouth	Lincoln Park	40.65	319	84	26.3%	41.4%	130
2010	1	Easthampton	Smart Growth Overlay District	149.00	482	50	10.4%	14.1%	414
2008	1	Easton	Qeset Commons	60.66	280	110	39.3%	39.3%	170
2010	1	Fitchburg	Smart Growth Overlay District	33.20	676	186	27.5%	27.5%	394
2007/2016	1	Haverhill	Downtown	58.00	701	362	51.6%	73.9%	85
2008	1	Holyoke	Smart Growth Overlay District	152.00	296	59	19.9%	19.9%	237
2008	1	Lawrence	Arlington Mills	34.10	1,031	137	13.3%	13.3%	894
2008/2012	1	Lowell	Smart Growth Overlay District	2.50	250	122	48.8%	76.8%	(17)
2014	1	Ludlow	Smart Growth Overlay District	186.80	350	75	21.4%	21.4%	275
2006	1	Lunenburg	Tri-Town	8.97	204	131	64.2%	64.2%	73
2008/2017	1	Northampton	Sustainable Growth / Hospital Hill	30.56	429	123	28.7%	49.2%	218
2008	1	Pittsfield	Smart Growth Overlay District	10.72	296	112	37.8%	37.8%	155
2010/2017	1	Reading	Downtown	41.46	459	53	11.5%	22.4%	356
SUBTOTAL	16			936	8,539	1,985	23.2%	30.8%	5,191
NO CONSTRUCTION YET BUT ACTIVE APPROVED PROJECTS									
2014	1	Norwood	Guild Street / Regal Press	0.57	44	-	-	90.9%	4
2009	1	Sharon	Sharon Commons	11.55	167	-	-	115.0%	(25)
2015	1	Newburyport	SGOD	49.40	540	-	-	14.8%	460
2007	1	Plymouth	Cordage Park	56.80	675	-	-	30.2%	471
SUBTOTAL	4			118	1,426	-	0.0%	36.2%	935
NO PROJECTS CURRENTLY APPROVED									
2007	1	Grafton	Fisherville Mill	13.74	240	-	-	0.0%	240
2007	1	Kingston	1021 Kingston's Place	109.00	730	-	-	0.0%	730
2007	1	N. Andover	Osgood	169.00	530	-	-	0.0%	530
2008	1	Bridgewater	Waterford Village	128.00	594	-	-	0.0%	594
2008	1	Westfield	Southwick Road	22.20	244	-	-	0.0%	244
2010	1	Marblehead	Pleasant Street	0.33	17	-	-	0.0%	-
2010	1	Marblehead	Vinnin Square	1.56	47	-	-	0.0%	47
2015	1	South Hadley	S. Hadley Falls SGD	48.27	383	-	-	0.0%	383
2015	1	Swampscott	Vinnin Square	2.27	68	-	-	0.0%	68
SUBTOTAL	9			494	2,853	-	0.0%	0.0%	2,836
RECENTLY APPROVED DISTRICTS									
2017	1	Gr. Barrington	North SGOD	36.74	304	-	-	0.0%	304
2017	1	Gr. Barrington	South SGOD	39.17	190	-	-	0.0%	190
2017	1	Rockland	Downtown Rockland Revitalization Overlay	33.80	480	-	-	0.0%	480
2017	1	Northampton2	Urban Residential SGOD	0.50	31	-	-	100.0%	31
SUBTOTAL	4			110	1,005	-	0.0%	3.1%	974
TOTAL	42			1,869	15,391	3,505	22.8%	30.5%	9,945

UC = Under Construction

Note: For definitions, see Table 2 notes (page 11). The estimated available future zoned units number is sometimes negative because DHCD's data summaries sometime list the "incentive unit" figure.

TABLE 7: CHARACTERISTICS OF BUILT-OUT, PARTIALLY-DEVELOPED AND UNDEVELOPED DISTRICTS

YR DISTRICT FINAL APPROVAL/YR AMEND	# OF DISTRICTS	MUNICIPALITY	DISTRICT	DISTRICT SIZE (ACRES)	INCENTIVE/FUTURE ZONED UNITS (FZU)	TOTAL 40R+NON-40R UNITS PRODUCED (OR APPROVED) % OF FZU	ESTIMATED AVAIL FZU	MAINLY ONE PROJECT	MAINLY ONE OWNER
LARGELY BUILT OUT									
2006	1	Norwood	St. George Ave	0.78	15	100.0%	-	1	1
2008	1	Belmont	Oakley Neighborhood	1.51	18	94.4%	-	1	1
2006	1	Chelsea	Gerrish Ave	2.82	125	96.0%	-	1	1
2008	1	Natick	SGOD	5	138	100.0%	-	1	1
2007	1	Lynnfield	Meadow Walk	80.25	180	100.0%	-	1	1
2008	1	Reading	Gateway	10	202	99.0%	-	1	1
2006	1	Lakeville	Kensington Court	11	207	98.6%	-	1	1
2007	1	Amesbury	Gateway Village	52	249	96.4%	9	1	1
2006	1	N. Reading	Berry Center	46	434	93.5%	-	1	1
SUBTOTAL	9			209	1,568	96.9%	9	9	9
DISTRICTS WITH SOME DEVELOPMENT									
2008	1	Boston	Olmsted Green	42	578	34.6%	378		1
2007	1	Brockton	Downtown	60	1,096	34.1%	722		
2010	1	Chicopee	Chicopee Center SGOD	25.62	1,092	3.8%	1,051		
2006	1	Dartmouth	Lincoln Park	40.65	319	41.4%	130		1
2010	1	Easthampton	SGOD	149	482	14.1%	414		
2008	1	Easton	Queset Commons	60.66	280	39.3%	170		1
2010	1	Fitchburg	SGOD	33.2	676	27.5%	394		
2007/2016	1	Haverhill	Downtown	58	701	73.9%	85		
2008	1	Holyoke	SGOD	152	296	19.9%	237		
2008	1	Lawrence	Arlington Mills	34.1	1,031	13.3%	894		
2008/2012	1	Lowell	SGOD	2.5	250	76.8%	(17)		
2014	1	Ludlow	SGOD	186.8	350	21.4%	275		
2006	1	Lunenburg	Tri-Town	8.97	204	64.2%	73	1	1
2008/2017	1	Northampton	Sustainable Growth/ Hospital Hill	30.56	429	49.2%	218	1	1
2008	1	Pittsfield	SGOD	10.72	296	37.8%	155		
2010/2017	1	Reading	Downtown	41.46	459	22.4%	356		
SUBTOTAL	16			936	8,539	30.8%	5,191	2	5
NO CONSTRUCTION YET BUT ACTIVE APPROVED PROJECTS									
2014	1	Norwood	Guild Street / Regal Press	0.57	44	90.9%	4	1	
2009	1	Sharon	Sharon Commons	11.55	167	115.0%	(25)	1	
2015	1	Newburyport	SGOD	49.4	540	14.8%	460		
2007	1	Plymouth	Cordage Park	56.8	675	30.2%	471		
SUBTOTAL	4			118	1,426	36.2%	935	2	-
NO PROJECTS CURRENTLY APPROVED									
2007	1	Grafton	Fisherville Mill	13.74	240	0.0%	240	1	1
2007	1	Kingston	1021 Kingston's Place	109	730	0.0%	730	-	1
2007	1	N. Andover	Osgood	169	530	0.0%	530	-	1
2008	1	Bridgewater	Waterford Village	128	594	0.0%	594	-	1
2008	1	Westfield	Southwick Road	22.2	244	0.0%	244	-	-
2010	1	Marblehead	Pleasant Street	0.33	17	0.0%	-	-	1
2010	1	Marblehead	Vinnin Square	1.56	47	0.0%	47	-	1
2015	1	South Hadley	S. Hadley Falls SGD	48.27	383	0.0%	383	-	-
2015	1	Swampscott	Vinnin Square	2.27	68	0.0%	68	1	1
SUBTOTAL	9			494	2,853	0.0%	2,836	2	7
RECENTLY APPROVED DISTRICTS									
2017	1	Gr. Barrington	North SGOD	36.74	304	0.0%	304		1
2017	1	Gr. Barrington	South SGOD	39.17	190	0.0%	190		
2017	1	Rockland	Downtown Rockland Revitalization Overlay	33.8	480	0.0%	480		
2017	1	Northampton2	Urban Residential SGOD	0.5	31	100.0%	31	1	1
SUBTOTAL	4			110	1,005	3.1%	974	-	1
TOTAL	42			1,869	15,391	30.5%	9,945	15	22

Housing Production

To date, the 42 approved districts would allow development of 15,391 housing units if all developable parcels were fully developed using 40R. A few sites have been developed for non-housing uses, such as a parking lot, wind farm or as less dense housing using other zoning tools.³⁷

Some 3,505 units have been built or are in construction, with almost one-half (49% or 1,704) affordable and almost one-half (48% or 1,676) in projects that had already received or applied for special permits or comprehensive permits or in districts that had approved re-use plans. This is far less than the 20,000+ units completed in over 120 municipalities statewide using Chapter 40B between late 2007 (two years after 40R regulations were issued) and late 2017, including 4,401 in the 36 municipalities with 40R districts excluding Boston (see Appendix 2).

Some of the difference between 40R and 40B production levels is due to limits on where 40R districts can potentially be established and the further need for a municipality to proactively rezone for affordable housing. Some argue that 40R represents an effort to change development norms and its effectiveness should be measured over a longer period.

The slow recovery of demand in many parts of the state after the 2005 housing crash also played a role, as some developers chose not to proceed with 40R plans or to delay them. In addition, some of the 40B units that came online from 2007 forward had received approval years earlier. Another difference is that a higher share of 40R projects are in locations where subsidy is needed, and the wait for funding can slow development.

Affordable Production and Term

Statutory minimum affordability requirement: The statute requires at least 20% of units produced district wide and by project be affordable at or below 80% of area median income (AMI), with 25% for age-restricted or elderly projects. It allows municipalities to require a higher affordability percentage districtwide with DHCD approval, although none have. Municipalities can exempt projects with 12 or fewer units from the affordability requirement. To date, only four have provided this exemption.

To date, 1,704 out of 3,505 (49%) of units completed or in construction are affordable, primarily due to the number of projects developed with state and federal subsidies. While nearly one-half of the homes produced are affordable, it should be noted that 55% of affordable homes built under Chapter 40R are in census tracts with 2010 poverty rates above 20%, while 27% of affordable homes built under 40R are in census tracts with poverty rates below 10%.

Length of affordability restriction: Chapter 40R zoning must require affordability for “at least 30 years”³⁸ but can impose a longer minimum term. Chapter 40B, by contrast, creates an affordability restriction in perpetuity unless the locality opts out.³⁹ Of the 42 approved districts:

- Sixteen simply require a minimum of 30 years, including 6 of the 10 Gateway City districts;
- Five set a minimum of 30 years but allow the plan approval agency to require longer terms;
- One requires 50 years;

PROJECT COUNTS FOR THIS REPORT:

Some of the housing built using 40R did not require plan approval because they were small projects and some are also exempt from affordability restrictions.

In some early districts, projects built in phases were treated as a single project even if the affordability and occupancy restrictions varied by phase. The addition of the requirement to evenly disperse affordability in 2013 addressed this.

For simplicity, we are treating phased projects as single projects if the tenure and populations served do not differ by phase (Lakeville, Lawrence, Lunenburg and Pittsfield). In districts where there are such differences (Boston, Chelsea, Dartmouth and Northampton), we treat each phase as a project.

See Table 8 for a complete list of projects. This report generally uses DHCD counts of units built in a district that count toward compliance with the zoning incentive, which may include projects not approved under 40R but that comply with 40R density, affordability, and other requirements. Exceptions are noted where applicable.

- Twenty require a term of “99 years minimum” or in perpetuity or “the longest period allowed by law.”

Project funding: Twenty-seven of the forty projects⁴⁰ built or in construction have been developed with state and federal subsidy funds or tax credits. Nineteen of the twenty-two projects in older, larger cities required deep subsidy, as did eight of the eighteen projects in other locations (Table 8). As one developer noted, zoning alone does not create affordability in most locations and subsidy is often required to offset remediation or historic preservation costs as well.

Unit sizes (bedrooms): About 46% of the units developed are zero- or one-bedroom units, about 50% are two-bedroom units and just over 4% have been three-bedroom units (see Appendix 4). Unlike Chapter 40B developments, Chapter 40R developments are not subject to the state’s “three-bedroom policy” adopted in 2014.⁴¹

Population served: 93% of units built to date are for general occupancy. A few provide supportive housing, with some set-aside units for persons with disabilities or at risk of homelessness, as a condition of subsidy financing. Five of the 40 developments have occupancy restrictions: one is artist live/work and four are age-restricted (two 55+, two elderly). All five were subsidized. They make up a higher share of the subsidized 40R developments in suburbs/small cities (three of eight) than in Boston and the Gateway Cities (two of eighteen).

Family housing: To date, eight of the forty projects representing 12% of total 40R units meet or come close to meeting DHCD’s definition of family housing in its Qualified Allocation Plan: that is, that a least 10% of the units have three or more bedrooms, and at least 65% overall have two or more bedrooms. They include a five-unit unsubsidized infill development in Holyoke, two ownership developments (one subsidized), and five subsidized rental developments (see Appendix 4).

Housing Development in 40R Districts Using Other Zoning

Because 40R zoning is an overlay, developers have a choice as to whether to use it and municipalities can choose whether to encourage its use. Some cities encourage 40R use when they know a development will be affordable while encouraging market rate development through other zoning if feasible.

At least six new residential developments (326 units total, 41 affordable) have been approved in four districts (Dartmouth, Fitchburg, Haverhill and Lowell) using zoning other than 40R, including other special overlays such as mill conversion or downtown redevelopment. One municipality (Dartmouth) changed the underlying zoning in part of the district to allow the alternative development.

- One is a subsidized development that meets all 40R requirements (Fitchburg Yarn).
- The other five are 97-100% market rate, including at least three approved for a state tax credit and local tax abatement under the state Housing Development Incentive Program (HDIP).⁴²

Additional non-40R development is also anticipated in several other districts. Pittsfield is in the process of approving an all-market rate HDIP project in its district (29 units) and at least two more municipalities (Chicopee, South Hadley) anticipate receiving non-40R applications for projects in their districts, all 100% market rate. In the case of South Hadley, the developer chose to proceed at a density below the 40R minimums.



COUNTING HOUSE
LOFTS

LOWELL

TABLE 8: SUBSIDY USE IN 40R PROJECTS BY LOCATION TYPE

#P	MUNI	PROJECT NAME	TENURE	62+ OR 55+ ONLY?	TOTAL UNITS	AFFORDABLE UNITS (< 80% AMI)	% AFF	DEEP SUBSIDY?	% EXTREMELY LOW INCOME UNITS (<30% AMI)	TAX CREDIT UNITS
PROJECTS IN BOSTON/GATEWAY CITIES										
1	Boston	Olmsted Green -Rental Phase II	Rental	-	50	50	100%	1	22%	50
1	Boston	Olmsted Green -Rental Phase III	Rental	-	50	50	100%	1	36%	50
1	Boston	Hearth at Olmsted Green	Rental	1	59	59	100%	1	100%	59
1	Boston	Olmsted Green Condos II	Ownership	-	41	11	27%	1	0%	-
1	Brockton	Station Loft Apts	Rental	-	25	14	56%	1	12%	14
1	Brockton	Centre 50 (Centre & Main IA)	Rental	-	71	29	41%	1	11%	29
1	Brockton	Enso Flats (Centre & Main IB)	Rental	-	42	42	100%	1	12%	42
1	Chelsea	Janus Highland Apartments	Rental	-	41	41	100%	1	10%	41
1	Chelsea	Box Works Homes	Ownership	-	26	14	54%	1	0%	-
1	Chicopee	Kendall apartments	Rental	-	41	41	100%	1	20%	41
1	Haverhill	Hamel Mill Lofts	Rental	-	305	63	21%	1	10%	63
1	Haverhill	Hayes Building Phase I+II	Rental	-	57	52	91%	1	7%	33
1	Holyoke	Chestnut Park Apts	Rental	-	54	54	100%	1	15%	54
1	Lawrence	Loft 550 I+II	Rental	-	137	134	98%	1	11%	135
1	Lowell	Counting House Lofts I	Rental	-	52	26	50%	1	12%	26
1	Lowell	Mass Mills III - Picker Building	Rental	-	70	57	81%	1	10%	57
1	Pittsfield	New Amsterdam	Rental	-	67	67	100%	1	10%	67
1	Pittsfield	Silk Mill Apartments	Rental	-	45	43	96%	1	11%	43
1	Brockton	Green Street 102	Rental	-	2	2	100%	1	0%	-
19	SUBTOTAL-DEEP SUBSIDY		RENTAL	1	1,235	849	69%	19	16%	804
1	Fitchburg	Riverside Commons Phase I, II	Rental	-	186	38	20%	0	0%	-
1	Holyoke	Infill (one single family, two two-unit)	Mix	-	5	-	0%	0	0%	-
1	Chelsea	Atlas Lofts	Rental	-	53	6	11%	0	0%	-
22	TOTAL URBAN			1	1,479	893	60%	19	13%	804
PROJECTS IN SUBURBAN TOWNS/SMALL CITIES										
1	Dartmouth	Residences (Village) at Lincoln Park-Phase I	Rental	-	36	36	100%	1	11%	36
1	Dartmouth	Village at Lincoln Park II - Senior (Bldg G)	Rental	1	48	48	100%	1	21%	48
1	Easthampton	Cottage Square (aka Dye Works)	Rental	-	50	50	100%	1	24%	50
1	Lakeville	Kensington Ct Phase I+II	Rental	-	204	100	49%	1	5%	100
1	Ludlow	Ludlow Mill (Residences at Mill 10) (55+)	Rental	1	75	66	88%	1	20%	66
1	Lunenburg	Tri-Town Landing Phase I,II,III	Rental	-	131	125	95%	1	18%	125
1	Northampton	Christopher Heights	Rental	1	83	43	52%	1	20%	43
1	Northampton	Hillside Apts (Village Hill II)	Rental	-	40	32	80%	1	10%	32
8	SUBTOTAL-DEEP SUBSIDY		RENTAL	3	667	500	75%	8	14%	500
1	Amesbury	The Heights at Amesbury	Rental	-	240	60	25%	0	0%	-
1	Belmont	Oakley Village	Ownership	-	17	3	18%	0	0%	-
1	Easton	Queset Commons-Apartments Phase IA	Rental	-	50	13	26%	0	0%	-
1	Easton	Queset Commons-MF Condominium	Ownership	-	60	3	5%	0	0%	-
1	Lynnfield	Market Street Apts	Rental	-	180	45	25%	0	0%	-
1	Natick	Modera Natick Center	Rental	-	138	28	20%	0	0%	-
1	North Reading	Edgewood Apts	Rental	-	406	102	25%	0	0%	-
1	Norwood	Courtyard at St. George	Ownership	-	15	3	20%	0	0%	-
1	Reading	Haven 30	Rental	-	53	11	21%	0	0%	-
1	Reading	Reading Woods	Ownership	-	200	43	22%	0	0%	-
	SUBTOTAL - NO/MINIMAL SUBSIDY			-	1,359	311	23%	-	-	-
18	TOTAL SUBURBAN/SMALL CITY			3	2,026	811	40%	8	5%	500
40	GRAND TOTAL			4	3,505	1,704	49%	27	8%	1,304

40R and 40S Funding and Payments

The State has paid \$20.352 million in 40R zoning incentive and density bonus payments (see Appendix 5). It has also paid \$2.2 million in Chapter 40S school cost reimbursements.

Both funding for the 40R payments and the 40S appropriation have run short at times⁴³ and indeed, the FY2018 40R capital allocation of \$1.5 million is expected to run short before June 30, 2018, with only \$11,000 remaining as of December 31, 2017. This has created skepticism among some localities considering district creation about the reliability of payment. Legislators continue to explore more predictable funding mechanisms.⁴⁴

Until FY2018, the zoning incentive and density bonus payments were generally paid out of the Smart Growth Housing Trust Fund.⁴⁵ In FY2018, the funding source was changed to the state capital budget,⁴⁶ necessarily imposing restrictions on how the funds can be used (prior sources allowed unrestricted uses). Incentive payments made with capital budget funds can only be used for capital eligible purposes as detailed in the December 2017 revised regulation.⁴⁷

The future demand for 40R incentive payments is hard to predict, as it depends on the extent to which the current 40R districts are developed using 40R and new district creation. If all 15,391 future zoned units in the 42 approved districts were developed using 40R, the state would be required to make an additional \$37.9 million in density bonus payments alone.

Clawback

Under the statute,⁴⁸ DHCD may require repayment of the zoning incentive payment (ZIP) if no construction has started in a district within three years of the payment. Start of construction is defined in the statute to include site remediation and planned infrastructure upgrades.

Five current districts (Kingston, North Andover, Grafton, Bridgewater and Westfield) might be considered at risk because they received a total of \$2.35 million in ZIP payments three or more years ago and have no active 40R approved project (in Kingston, the developer withdrew during the housing crash). The inaction is attributed primarily to current owner assessments of market demand. These five municipalities added about 1,100 housing units using Chapter 40B from 2007-2017 (see Appendix 2).

While some see the clawback risk as possibly chilling municipal interest in pursuing 40R district creation, DHCD's policy has been not to request a return of funds in the absence of bad faith and no municipalities have been required to return funds yet.

To reduce municipal risk, DHCD has been using conditional, rather than final, approval letters for more recent districts if infrastructure work is still needed to meet the statutory standard. ZIP payments cannot be drawn down until the conditions in the letter are met. Some municipalities have also deferred requesting or spending the ZIP until they have a project close to construction.



TRITOWN LANDING

LUNENBURG

Chapter 40S Payments

Chapter 40S allows municipalities to seek reimbursement of the cost of schooling children in 40R developments to the extent that a share of the additional property and excise taxes generated by the development and state funding (Chapter 70) do not cover those costs (see page 7). It is up to municipalities to apply for reimbursement. The reimbursements are subject to annual appropriation and have been underfunded the past three years (budget line 1233-2401). To date, \$2.2 million has been paid.

The payment is based on the number of enrolled public school students who live in developments built using 40R as of the start of the school year (October 1st) and made the following fiscal year (e.g. payments based on the October 2017 student count are made in November 2018).

To date, only five municipalities have ever applied, and only three have ever qualified, for reimbursements (Chelsea, Lakeville and Lunenburg). Only two (Lakeville and Lunenburg) have applied in the last three years. Even so, appropriations have been less than needed to fully reimburse eligible districts since FY2016, averaging 53% in the past three years.

The relatively low spending reflects project and site characteristics. Many sites were under-utilized prior to development and some were tax-exempt (e.g. former state properties, churches, vacant mills). Some also include commercial uses which generated new taxes. Most are multifamily developments and very few include three-bedroom units.

Some also think it is possible that some municipalities that might qualify have not applied. Others not receiving 40S reimbursements due to changes in their Chapter 70 funding or the profile of current projects might become eligible if they develop new 40R projects or their Chapter 70 funding changes.

Some believe the lack of reliable funding for 40S payments may contribute to the unwillingness of municipalities to pursue 40R districts or allow housing types or projects with larger bedroom sizes.

The 40S amounts due per-student have varied considerably from year to year, depending on changes in Chapter 70 funding, ranging from under \$1,000 to over \$9,000.

Lakeville and Lunenburg have 335 apartments (204 and 131 respectively) in their 40R districts and reported 91 students in their 40R districts (45 and 46 respectively) in FY2016, or approximately 0.27 students per unit (0.35 per unit if one assumes that the one-bedroom units had no students).



KENSINGTON COURT
LAKEVILLE

TABLE 9: 40R INCENTIVE PAYMENTS AS OF SEPTEMBER 30, 2017

FY PAID	TOTAL PAYMENTS	ZONING INCENTIVE PAYMENT	BONUS UNIT PAYMENTS	BONUS UNITS
2007	2,010,000	2,010,000	-	-
2008	5,376,000	4,125,000	1,251,000	417
2009	3,225,000	2,310,000	915,000	305
2010	2,299,000	1,300,000	999,000	333
2011	950,000	950,000	-	-
2012	465,000	-	465,000	155
2013	525,000	150,000	375,000	125
2014	1,203,000	-	1,203,000	401
2015	1,364,000	425,000	939,000	313
2016	859,000	350,000	509,000	170
2017	2,076,000	425,000	1,651,000	550
TOTAL	20,352,000	12,045,000	8,307,000	2,769

TABLE 10: 40S INCENTIVE PAYMENTS AS OF SEPTEMBER 30, 2017

SCHOOL YEAR	MUNICIPALITIES ELIGIBLE FOR 40S \$	ELIGIBLE AMOUNTS	AMOUNT PAID	% PAID	FY PAID/ DUE
FY2010	2	363,699	363,699	100.0%	FY2012
FY2011	2	242,941	242,941	100.0%	FY2013
FY2012	2	182,309	182,309	100.0%	FY2013
FY2013	1	131,271	131,271	100.0%	FY2014
FY2014	2	436,743	436,743	100.0%	FY2015
FY2015	2	614,686	350,000	56.9%	FY2016
FY2016	2	614,686	250,000	40.7%	FY2017
FY2017	2	412,694	250,000	60.6%	FY2018
TOTAL		2,999,029	2,206,963		

TABLE 11: STUDENTS IN 40S PROJECTS IN MUNICIPALITIES APPLYING FOR 40S PAYMENTS

SCHOOL YEAR	STUDENTS ELIGIBLE FOR 40S REIMBURSEMENT	40S STUDENTS			40S REIMBURSEMENT DUE/STUDENT/YEAR		
		CHELSEA	LAKEVILLE	LUNENBURG	CHELSEA	LAKEVILLE	LUNENBURG
FY2010	44	30	14	-	9,210	6,242	-
FY2011	62	40	22	-	1,911	7,568	-
FY2012	68	44	24	-	-	7,596	-
FY2013	19	-	19	-	-	6,909	-
FY2014	63	-	36	27	-	7,031	6,801
FY2015	67	-	35	32	-	9,185	9,163
FY2016	67	-	35	32	-	9,185	9,163
FY2017	91	-	45	46	-	8,522	635
TOTAL	481						

Smart Growth Characteristics and Goals

As many have noted, smart growth is a land development concept, not characterized by detailed definitions. This study has not tried to assess the extent to which 40R developments to date possess all nine smart growth characteristics listed in Chapter 40R. It does attempt to assess some of the more easily measured elements, such as affordability, walkability, and access to transit.

The review is based primarily on the characteristics of the projects built to date rather than district characteristics. It does not examine the potential smart growth characteristics of undeveloped sites within districts, given the many unknowns.

Provide a Variety of Transportation Choices

Among the three types of eligible locations (see page 11), many early districts qualified as “otherwise highly suitable” locations (HSL). To date, of the 42 approved districts:

- Seventeen are in HSL locations, including 38% of future zoned units;
- Thirteen are in areas of concentrated development (ACD), including 33% of future zoned units;
- Twelve are in transit districts, including 29% of the future zoned units.⁴⁹

District type alone may not indicate how much transit access and walkability 40R districts offer. A comparison of Walk Score™ scores of the housing developed to date using 40R⁵⁰ indicates that the district categorizations generally aligned with the Walk Score™ scores (Table 12).

The Walk Score™ profile of 3,505 units produced to date (see Appendix 8) indicate that:

- 41% of units are in “car-dependent” or “largely car-dependent” locations with low walkability and not near transit as defined by 40R, though some

SMART GROWTH IS A PRINCIPLE OF LAND DEVELOPMENT THAT:

- Emphasizes mixing land uses;
- Increases the availability of affordable housing by creating a range of housing opportunities in neighborhoods;
- Takes advantage of compact design;
- Fosters distinctive and attractive communities;
- Preserves open space, farmland, natural beauty and critical environmental areas;
- Strengthens existing communities;
- Provides a variety of transportation choices;
- Makes development decisions predictable, fair and cost effective;
- Encourages community and stakeholder collaboration in development decisions.

M.G.L. c.40R

are close to bus lines;

- 10% have access to the commuter rail, but have generally low walkability and are car-dependent or largely car-dependent;
- 17% are in somewhat walkable locations but are not near transit as defined by 40R;
- 23% are in areas that are both near transit and are very or highly walkable;
- 9% are in areas not meeting the transit threshold but are very or highly walkable.

This mix may change in the future, given revisions to standards for infrastructure and eligible locations in 2013 and again for “highly suitable locations” in late 2017, as well as external events, such as an MBTA decision to close a commuter rail stop. However, the high share of units in car-dependent locations raises the question of how effectively 40R has promoted smart growth goals. A local planning website listing 28 examples of smart growth development includes only two developed using 40R.⁵¹

A 2014 study of 40R⁵² suggested that one way to make it a more effective smart growth tool would be to revise the incentive payment structure, tying it to the extent to which projects fulfill specified priority 40R standards, such as transit access, walkability and site remediation. It also recommended encouraging smart growth parking practices. Others believe such changes would be administratively complex and discourage municipal participation.

The 2014 40R study, along with two more, also noted that smart growth, as currently defined, does not directly address climate change goals, including reductions in greenhouse gas emissions in part by reducing vehicle miles traveled (VMT), although it encourages development practices that correlate with environmental goals (concentrated developed, walkability, transit access, open space preservation).

A 2009 study also suggested offering calibrated state incentives to reward municipalities for zoning actions (using 40R or other laws) that address specific housing, transit, brownfield remediation and open space preservation or greenhouse gas emission reduction goals and green building practices.⁵³ This would require location criteria that ensure the additional density also reduces VMT based on distance to transit and transit frequency and destinations served, diversity of nearby land uses and access to jobs, in comparison to VMT for development more generally. Again, some have noted that these more complex standards are likely to be hard to administer and police in practice.

A third study in 2017⁵⁴ of compact development policies (though not 40R specifically), found compact development offers limited potential on its own to affect or reduce CO2 emissions in older slow-growing metropolitan areas absent specific locational strategies. The authors modeled the potential impact of compact growth policies and policies to promote residential energy conservation, based on metropolitan area housing, commuting and other characteristics. They found a 25% reduction in the construction of single-family detached homes, compared to 2010, and a corresponding increase in single-family attached and multifamily units would have no impact on relatively slow-growing metro areas such as Boston, while requiring new and existing homes to meet energy conservation standards could significantly reduce CO2 emissions.

To increase the impact of compact growth policies, the study recommends



30 HAVEN STREET
READING

pairing them simultaneously with modal diversion programs that encourage residents to drive less and walk, bike and use public transportation. Two ways to achieve this pairing are to focus compact growth policies and incentives along transportation corridors and in the metropolitan area core, defined as census tracts that are less than one-half the average distance of all tracts from the metropolitan central business district.

Predictable Development Decisions

Chapter 40R emphasizes this goal through its required as-of-right project approval process and limited grounds for denial. However, the goal has not always been achieved, in part because the statute leaves both maximum density and parking requirements to municipalities. Some municipalities have set the maximum multifamily density at the statutory minimum (20 units/acre), knowing developers will need to request a waiver for feasibility, undermining the as-of-right nature of the process and adding time and uncertainty to the approval process. Parking requirements also have varied considerably, sometimes exceeding likely car ownership rates, raising project costs and creating spaces that go unused and generating waiver requests.⁵⁵ In at least one district, the parking requirement realistically can only be met through structured parking, forcing developers to seek a density waiver to cover the cost.⁵⁶ One developer had to change the placement of garages to satisfy abutters, even though the project complied with the district design standards.⁵⁷

TABLE 12: WALK- AND TRANSIT-SCORES OF 40R DEVELOPMENTS⁵⁹

MUNICIPALITY	PROJECT NAME(S)	DISTRICT TYPE	WALK SCORE	TRANSIT SCORE	TRANSIT ACCESS	TOTAL U	AFF U
Amesbury	Amesbury Hts 40B	HSL	19	18	nearest bus 0.7 mi	240	60
Boston	Olmsted Green Rental - Phase II	HSL	31-35	65-67	7 bus lines 0-.4 mi; 5 rail and T stops 0.8-1.4 mi	50	50
Boston	Olmsted Green Rental - Phase III	HSL	24-47	60-65	7 bus lines 0-.2 mi; 2 T and commuter rail stops 0.8-1.2 mi	50	50
Boston	Hearth at Olmsted	HSL	47	65-67	7 bus lines 0-.4 mi; 5 rail and T stops 0.8-1.4 mi	59	59
Boston	Olmsted Green Condos II	HSL	64	58	5 buslines 0.2-0.5 mi; 2 commuter rail lines .7 mi, 2 1.3 mi	41	11
Dartmouth	Village at Lincoln Park	HSL	19		no info	36	36
Easton	Queset Commons - Phase IA-Bldg A	HSL	6		no info	50	13
Easton	Queset Commons - Phase I-Bldg D/E	HSL	4		no info	60	3
Fitchburg	Riverside Commons Phase I+II	HSL	44	20	1.3 mi fr commuter rail	186	38
Lunenburg	Tri-Town Landing Phases I,II,III	HSL	29-40		1.4 mi fr commuter rail	131	125
Lynnfield	Market St Apts (fka Arborpoint)	HSL	52		no score	180	45
North Reading	Edgewood Apts	HSL	16		2.5 mi fr commuter rail	406	102
Northampton	Christopher Heights; Hillside Place	HSL	16		closest bus 0.7 mi	83	43
Reading	Reading Woods	HSL	varies		0.7 to 1.2 mi from commuter rail	200	43
SUBTOTAL LARGELY CAR DEPENDENT (16)						1,860	758
Belmont	Oakley Neighborhood	HSL	71-75	45	1 bus line 0.0 mi away, commuter rail stops 1.3 mi away	17	3
Lawrence	Loft 550 - Phases I, II	HSL	81 or 78	33	2 bus lines 0.2, 0.3 mi	137	134
Chicopee	Kendall Apts (rehab)	ACD	69		2 bus stop 0.1 mi	41	41
Easthampton	Cottage Square (aka Dye Works)	ACD	74		0.1m fr bus	50	50
Holyoke	Infill units	ACD	82-87		no score but 4-7 bus lines within 0.2 mi	5	0
Holyoke	Chestnut Park Apts	ACD	87		no score but 7 bus lines within 0.2 mi	54	54
Ludlow	Ludlow Mills Phase I	ACD	65		no score - 0.1 and 0.5 mi to bus	75	66
Norwood	Courtyard at St. George	ACD	72		0.8 mi fr commuter rail	15	3
Pittsfield	Silk Mill Apts	ACD	58	31	4 bus stops all .4 mi away	45	43
Pittsfield	New Amsterdam Apts Phases I,II	ACD	84-86	37	10 bus stops all 0.2 mi away	67	67
SUBTOTAL WALKABLE (10)						506	461
Brockton	Station Loft. Enso Flats, Centre 50	Transit	87	49	0.2 mi fr commuter rail	25	14
Brockton	Green Street 102	Transit	87	48	0.3 mi fr commuter rail	2	2
Chelsea	Atlas Lofts,Box District, Janus-Highland	Transit	83-87	54	0.4 mi fr commuter rail	53	6
Haverhill	Hamel Mills	Transit	86	40	0.3 mi fr commuter rail	305	63
Haverhill	Hayes Village	Transit	86	40	0.1 mi fr commuter rail, 9 bus lines within 0.1 mi	57	52
Lakeville	Sterling Place/Kensington Court	Transit	24	53	0.3 mi fr commuter rail	104	0
Lowell	Counting House Lofts	Transit	95	53	0.5 mi fr commuter rail	52	26
Lowell	Mass Mills III - Picker Building	Transit	94	48	0.9 mi to commuter rail, 10 bus lines within 0.2 mi	70	57
Natick	Modera Natick Center	Transit	44		0.4 mi fr commuter rail, 2 buses 0.2 mi, 1 0.4 mi	138	28
Reading2	30 Haven	Transit	83		0.1 mi from commuter rail	53	11
SUBTOTAL NEAR TRANSIT (14)						1,139	485
TOTAL						3,505	1,704

Note: The Walk Score varied for some lower-scale projects with units at varying distances from various destinations.

CHAPA Recommendations

Improvements should be made to 40R to help more communities increase smart growth housing production.⁵⁸ Although 40R housing production has lagged, 40R provides a model for what is considered smart growth in Massachusetts and a tool that helps the Commonwealth to meet its production and affordability needs. Improving 40R will require the Commonwealth to decide how important locational, affordability and fair housing goals are in its efforts to add 135,000 housing units by 2025, such as deciding if municipalities should receive extra encouragement to develop housing that meets 40R standards.

1. **Lower the margin for approval of 40R districts by local government to a simple majority**, from the 2/3 currently required in statute, as recommended in Governor Baker’s Housing Choice legislation (H.4075), CHAPA’s Housing Production bill (H.3845), and the Massachusetts Smart Growth Alliance Great Neighborhoods Bill (H.2420).
2. **Adequately fund 40R incentive payments and 40S payments** and create a reliable funding mechanism through the capital and operating budgets to instill confidence in the program for municipalities.
3. **Review school cost reimbursement amounts and process**, including the 40S funding formula, application process, and timing, which are set by statute, to see if changes would better address school cost impacts on municipal budgets. Start by surveying 40R municipalities to understand their use or non-use of 40S. Explore with school officials whether there is a simpler way to address school impacts and reward municipalities for creating family units.
4. **Promote fair housing** by extending the State Interagency Agreement Regarding Housing Opportunities for Families (the “three-bedroom” policy) to 40R projects, and consider other options to encourage use of 40R in low-poverty municipalities, perhaps targeting them for technical assistance under the Housing Choice Initiative.
5. **Reward outcomes:**
 - a. Consider either amending the statute, which sets the incentive payments, or adopting a policy that allows DHCD to use greater discretion in calculating the zoning incentive payment, placing more emphasis, for example, on likely market demand and on other local conditions, such as parking requirements, in calculating the likely future zoned units and thus the payment.



CENTRE 50 & ENSO
FLATS

BROCKTON

- b. Once 40R and 40S are adequately funded, consider rewarding communities for achieving 40R density and affordability outcomes in locations that qualify as areas of substantial transit access or concentrated development under 40R, even if they have not gone through the 40R process. Units in 40R districts developed using 40B already qualify for the \$3,000 per unit bonus payment if the project received a project eligibility letter after district creation started. An initial step would be to study the potential cost of expanding 40S reimbursements to multifamily developments in smart growth locations where communities have allowed multifamily zoning by right.
6. **Consider targeting** Housing Choice planning and technical assistance to encourage development that meets 40R goals regionally to align with state growth projections, transit corridors and core metros, and to support MBTA development opportunities.
7. **Increase planning funds and tools, education and outreach** by increasing funding for the District Local Technical Assistance Program (DLTA) and widely promoting its use, planning grants from the Executive Office of Energy and Environmental Affairs, and other related state-funded planning grants. Promote 40R adoption through these grants when appropriate, as well as community compacts and all planning and development training and technical assistance the Commonwealth and quasi-governmental agencies provide to communities.
8. **Encourage adoption of parking requirements consistent with smart growth principles**, particularly maximum parking ratios, in 40R districts by issuing guidance for communities.
9. **Consider amending the “clawback” provision** in the Chapter 40R statute to either repeal it or create a “good faith effort” safe harbor, to address concerns of municipalities considering district creation while ensuring good faith efforts on behalf of communities to encourage housing production in 40R smart growth districts.
10. **Amend the statute or issue guidance setting minimum standards for walkability** and public transportation access in the definition of “otherwise highly suitable” locations.



THE VILLAGES AT
HOSPITAL HILL
NORTHAMPTON

Conclusion

The Commonwealth needs several tools to meet the housing needs of residents and to grow the Massachusetts economy. Chapter 40R is one of the tools communities can use as part of a housing toolbox. Chapter 40R has provided a starting framework for housing production in smart growth locations with compact development and an affordable component. However, it has produced far less housing than Chapter 40B over the past 10 years. This demonstrates that a mix of requirements and incentives are needed to help communities increase overall housing production and affordable housing production as well as to increase housing in smart growth locations and preserve open space. Communities will need to zone for development in locations that will meet the state's housing needs across income levels, grow the state's economy, and contribute to the state's climate change goals.

Chapter 40R has spurred development in some suburban communities, often substituting for 40B, and has proven to be a useful tool for Gateway Cities. Chapter 40R has not yet been utilized much in Greater Boston, where 58% of state population growth is expected to occur between 2010 and 2035. Only 5% of 40R future zoned units are in the 36 "Greater Boston" municipalities. Chapter 40R is a tool that needs sharpening. Ultimately, Chapter 40R needs to be used along with other tools to significantly change development patterns in Massachusetts so that we can meet the Commonwealth's housing needs.



QUESET COMMONS
EASTON

HAYES VILLAGE
HAVERHILL



Endnotes

- 1 Herr, P.B. (2006). Smart and Affordable: How Communities Have Achieved Affordable Housing in “Smart” Locations, Massachusetts Housing Partnership, Boston MA, pages 1 and 7. <http://archives.lib.state.ma.us/bitstream/handle/2452/265192/ocn911187694.pdf?sequence=1&isAllowed=y>
- 2 M.G.L. c.40r, (Chapter 149 of the Acts of 2004)
- 3 Existing zoning districts that meet the statutory requirements for a 40R district can also qualify for density bonus payments (but not zoning incentive payments), but this provision has not been used to date.
- 4 963 CMR 2.18 and Massachusetts School Building Authority Reimbursement Rate Calculation Policy (downloaded 9/25/2017) state that municipalities with a 40R district can receive a 1-2 percentage point increase in the reimbursement rate for school building projects http://www.massschoolbuildings.org/sites/default/files/edit-contentfiles/Documents/Guidelines_Policies/Reimbursement-Rate-Calculation-UPDATE.pdf
- 5 M.G.L. c.40R, §9(c) requires an award method that favors municipalities with approved 40R districts or other approved zoning policies or initiatives that encourage increased affordable housing production. MassWorks guidelines (2017) do not directly refer to c.40R but the annual investment goals align with it (at least 67% of awards to support transit-oriented development, 100% to support housing at a density of at least 4u/acre, and 80% to support re-use of previously developed sites). <http://www.mass.gov/hed/economic/eohed/pro/infrastructure/massworks/guidance-documents/2017-massworks-program-guidelines-final.pdf>
- 6 M.G.L. c. 40R, added by Chapter 149 of the Acts of 2004
- 7 Edward C. Carman, Barry Bluestone and Eleanor White, “Building on Our Heritage: A Housing Strategy for Smart Growth and Economic Development: Report and Recommendations for the Commonwealth Housing Task Force,” October 30, 2003, page 2. Members include “housing organizations, the business community, organized labor, the Urban Land Institute, The Boston Foundation, Citizens’ Housing and Planning Association (“CHAPA”), elected and appointed officials and many others.”
- 8 Carman, Bluestone and White (2003), page 2
- 9 Carman, Bluestone and White (2003), page 3
- 10 Ibid, page 4
- 11 M.G.L. 40R, §9(c)
- 12 CHTF recommended the school cost payments to address the fact that “the cost of educating the students living in new single-family homes often substantially exceeds the amount of property taxes and other revenues allocable to education that are collected for the housing,” noting that net costs related to multifamily housing, by contrast, are relatively small. See Commonwealth Housing Task Force, Quarterly Report – December 31, 2005, page 2.
- 13 Language was inserted in an outside section of the FY2005 budget requiring that three state agencies issue a study by July 1, 2006 on the number of children residing in units built under 40R, the impact on local school costs and a recommended formula to measure the net cost of schooling these children.
- 14 Ted Carman, Barry Bluestone and Eleanor White, “Chapter 40R School Cost Analysis and Proposed Smart Growth School Cost Insurance Supplement – Report and Recommendations for the Commonwealth Housing Task Force,” Boston, MA, May 14, 2005.
- 15 Chapter 141 of the Acts of 2005 (Nov. 22, 2005, enacted Chapter 40S “Smart Growth School Cost Reimbursement”
- 16 The share, called the “education percentage,” is set at the statewide average ratio of municipal education spending to total municipal spending

- 17 Carman, Bluestone and White (2005), page 3, found while a typical mixed income multifamily development would trigger no payments in 57% of communities and only \$320 a unit in the remaining 43% of communities, it would trigger an average payment of \$5,000 in a non-foundation aid community for a home assessed at \$250,000.
- 18 Jenny Schuetz, *Guarding the Town Walls: Mechanisms and Motives for Restricting Multifamily Housing in Massachusetts*, July 2006 W06-3, Joint Center for Housing Studies. The author found that as of 2004, 127 of 186 municipalities in eastern Massachusetts had no available lots zoned for multifamily as-of-right, though 125 had at least some lots where multifamily housing was allowed by special permit. However, minimum lot sizes and other requirements often presented additional barriers. See pp.14-15 and Table 3. http://140.247.195.238/sites/jchs.harvard.edu/files/w06-3_schuetz.pdf
- 19 Amy Dain, *Residential Land-Use Regulation in Eastern Massachusetts: A Study of 187 Communities* December 2005 - A Joint Project of Pioneer Institute and Rappaport Institute, p.4 http://www.masshousingregulations.com/pdf/land_use_regulation.pdf
- 20 <https://commonwealthmagazine.org/opinion/in-newtonville-smart-growth-is-taking-hold/>
- 21 In municipalities below 10%, developers cannot appeal to the HAC if:
- The project is very large (equal to at least 2% of the community’s year-round stock or 300 units, with lower thresholds for smaller communities); or
 - Its subsidized housing sites exceed 1.5% of the municipality’s total land area or
 - It has a State-approved “housing production plan” and has been certified as increasing its subsidized housing count by at least 0.5%-1% of its year-round housing stock within the past 12-24 months; or
 - It has increased its subsidized housing count by a number > 2% of its year-round housing in the prior year (decisions on 40B applications filed during the year that follows that attainment can’t be appealed).
- 22 See regulation 760 CMR 56.04(4) <http://www.mass.gov/hed/economic/eohed/dhcd/legal/regs/760-cmr-56.html> and 40B guidelines <https://www.mass.gov/files/documents/2017/10/10/guidecomprehensivepermit.pdf>
- 23 See Chapter 40B Comprehensive Guidelines (December 2014) for details, including counting rules (Section II-6) <https://www.mass.gov/files/documents/2017/10/10/guidecomprehensivepermit.pdf> As of September 2017, 67 of the 351 cities and towns in Massachusetts are at or above 10% (up from 47 in May 2007) and four more are appeal-proof for 1-2 years as a result of making progress under Housing Production Plans.
- 24 760 CMR 56.00 requires zoning boards to open the hearing no later than 30 days after an application is filed, complete the public hearing within 180 days and render a decision no more than 40 days later.
- 25 M.G.L. c.40R Section 11 (h)
- 26 *The Mills at Natick Corporation v. The Town of Natick, et al.* https://www.masscourts.org/eservices/search.page.3?x=2c7Gwqda9krc7glL-qhP5TYTau*viJJ-JlCq3-uafxfXcDQMSTBoysD6um0q9QA0lQSiCsyoJBckuehSxQbhA
- 27 The housing market recovery begun in 2012, especially in Greater Boston, and demand to pre-recession levels is returning in many parts of Massachusetts since, though some planners report local prices cannot support new development. See Michael Goodman, Robert Nakosteen, *The Massachusetts Economy in a Time of Transition*, Mass Benchmarks, 2014, Vol. 16, Issue 2, p. 7 http://www.massbenchmarks.org/publications/issues/vol16i2/bmv16v2_2014.pdf
- 28 Erin Heacock, Kristin Hoffman, Alexandra Kleyman and Amy Kuykendall, “Chapter 40R: An Initial Report for the Town of Ipswich,” prepared for the Town of Ipswich, MA, May 2007, page 18.
- 29 “Chapter 40R Local Zoning Bylaw Guidance Document” and “Guidebook: Creating Design Standards for 40R Districts”, both published in March 2008 and available online at http://www.mass.gov/?pageID=ehedterminal&L=3&L0=Home&L1=Community+Development&L2=Community+Planning&sid=Ehed&cb=terminalcontent&f=dhcd_cd_ch40r_ch40r&csid=Ehed

- 30 The South Weymouth Naval Air Station district spanned two municipalities (Weymouth and Rockland). Also called Southfield (and now, Union Point), the eligibility of the redevelopment area was established by special legislation in 2007 (Chapter 303 of the Acts of 2008 – Section 37). DHCD entered discussions with the developer to determine how many units would qualify as incentive units, as Southfield reuse affordability requirements differed somewhat from 40R. New state legislation in 2014 included new zoning.
- 31 The four majority approval votes occurred in the towns of Georgetown (2009), Hingham (2008), Newbury (2008), and Norwood (2014 for Plimpton Press). In Weymouth (2010), the Town Council vote was 10-0 against.
- 32 <http://www.enterpriseneews.com/news/20171122/technicality-breathes-new-life-into-opposition-to-brockton-project>
- 33 The 8 regions, devised by the State Office of Business Development, the University of Massachusetts Donahue Institute, and the Federal Reserve Bank of Boston, are based on commuting patterns and economic ties. See “*Long-term Population Projections for Massachusetts Regions and Municipalities Prepared for the Office of the Secretary of the Commonwealth of Massachusetts*” Henry Renski, University of Massachusetts and Susan Strate Population Estimates Program Manager, UMass Donahue Institute (March 2015) http://pep.donahue-institute.org/downloads/2015/new/UMDI_LongTermPopulationProjectionsReport_2015%2004%20_29.pdf
- 34 While technically as-of-right, Haverhill’s residential zoning was found to have economically infeasible parking requirements. This was true in at least one other urban district as well.
- 35 Yuqi Wang, “State Zoning Legislation and Local Adaptation: An Evaluation of the Implementation of Massachusetts Chapter 40-R Smart Growth Legislation, June 2014, p. 78.
- 36 See Angelica Carey, Madison Burke, Alexandra Smialek and Margaret Palmer, “Mastering Mills: Recommendations for Planning Massachusetts Mill Communities,” 2016, University of Massachusetts, Amherst on challenges inherent in mill redevelopment. http://scholarworks.umass.edu/cgi/viewcontent.cgi?article=1167&context=ced_techrpts
- 37 Non-40R development does not necessarily trigger a zoning incentive payment (ZIP) repayment request. The non-40R site may have been only a small part of the district or the municipality may not have drawn down the ZIP.
- 38 Chapter 40R allows individual projects in an eligible district to have higher or lower percentages of affordable units but all projects of 13 or more units must be at least 20% affordable.
- 39 While projects only need to have a use restriction of 15-30 years to use a comprehensive permit, state courts have ruled that comprehensive permits must meet this standard in perpetuity unless the local Board of Appeals specifies a shorter term. Most localities as a general practice require affordability “in perpetuity or the longest period allowed by law” as a comprehensive permit condition. Prior to 2001, DHCD required a use restriction of at least 15 years for new construction projects and five years for rehabilitation projects, either to use a comprehensive permit or count toward the 10% goal.
- 40 For purposes of this analysis, we are defining four projects built in phases as single projects (Kensington Court in Lakeville, Tri-Town Landing in Lunenburg, the Hayes Building in Haverhill and Loft 550 in Lawrence).
- 41 DHCD initially required that 40R districts include some three-bedroom units to meet the statutory requirement that 40R districts allow “a mix of housing such as for families” but stopped in 2006 after some towns/developers argued that the mix should be market driven. In January 2014, it adopted an inter-agency agreement with other state housing agencies, requiring that least 10% of the units in affordable developments funded, assisted, or approved by a state housing agency have three or more bedrooms except where inappropriate (elderly housing, SROs) or where it would render a development infeasible. This policy applies to projects developed under Chapter 40B, but it does not apply to 40R developments unless they are subsidized by a conventional state subsidy. <https://www.massdevelopment.com/assets/who-we-help/pdfs/familyhousinginteragencyagreement.pdf> (Interestingly, Newburyport stands out as a municipality that includes a requirement in its 40R zoning text that at least 10% of affordable units have three bedrooms.)
- 42 M.G.L c.40V, enacted in 2010, amended in 2014 and 2016. See “Housing Development Incentive Program (HDIP) Implementation Guidelines,” April 7, 2017 <http://www.mass.gov/hed/docs/dhcd/cd/hdip/hdic-implementationguide.pdf>

- 43 <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter10/Section35AA>
- 44 <https://malegislature.gov/Bills/190/S80>
- 45 Chapter 188 of the Acts of 2004, July 19, 2004, established the Trust and allocated a share of future State property sale proceeds to the Trust (the first \$25 million to the General Fund, the next \$25 million to the Trust). M.G.L. c.10, §35AA
- 46 A 2016 economic development bill authorized \$15 million in capital funds for the Trust (as a practical matter, the first \$1.5 million was not transferred to the SGHTF and payments were made from a separate account). The State included \$1.5 million as part of its capital plan for the first time in FY2018.
- 47 By law, capital funds are required must be used for capital expenditures including, without limitation, for acquisition, rehabilitation, and construction of real and personal property, including items such as environmental remediation, park improvements, drainage and irrigation projects, and deferred maintenance projects.
- 48 M.G.L. c.40R, §14
- 49 DHCD 40R Districts/Activity Table, December 11, 2017
- 50 Walk Score™ is proprietary software, originally developed with foundation support, to measure the walkability of locations, using an algorithm that assigns points based on walking distances to nine types of destinations. Destinations within a 5-minute walk (1/4 mile) receive the most points and destinations more than a half mile away receive no points. Weaknesses include a failure to consider the quality of some destinations (e.g. a food store might not be a full-service grocery), the presence of sidewalks and other pedestrian amenities, traffic and safety. See <https://www.walkscore.com/methodology.shtml> and <https://www.sciencedirect.com/science/article/pii/S2211335516301164>
- 51 <https://ma-smartgrowth.org/resources/smart-growth-profiles/> (accessed February 4, 2018)
- 52 Yuqi Wang, “State Zoning Legislation and Local Adaptation: An Evaluation of the Implementation of Massachusetts Chapter 40-R Smart Growth Legislation, June 2014, pp. 80-82. <https://dspace.mit.edu/handle/1721.1/90113>
- 53 Phillip Schaffner and Jake Waxman, “Green Zoning: Creating Sustainable Communities through Incentive Zoning”, May 2009, pp. 40-41 Harvard Kennedy School https://www.hks.harvard.edu/sites/default/files/centers/rappaport/files/schaffner_waxman.pdf
- 54 John D. Landis, David Hsu, and Erick Guerra, *Intersecting Residential and Transportation CO2 Emissions: Metropolitan Climate Change Programs in the Age of Trump*, Journal of Planning Education and Research, 1-21, September 27, 2017. <http://journals.sagepub.com/doi/abs/10.1177/0739456X17729438>
- 55 Wang, p.30
- 56 Wang, p.42
- 57 Wang, pp.52-53.
- 58 Recommendations are CHAPA’s and do not necessarily reflect the views or opinions of the Advisory Group who helped with the report.
- 59 Walk Score categories: 90–100: Daily errands do not require a car; 70–89: Very walkable - most errands can be accomplished on foot; 50–69: Somewhat Walkable - some errands can be accomplished on foot; 25–49: Car-Dependent - most errands require a car; 0–24: Car-Dependent - almost all errands require a car.
Transit score categories (listed for fewer locations): 90–100: Rider’s Paradise - world-class public transportation; 70–89:Excellent Transit - Transit is convenient for most trips; 50–69: Good Transit - Many nearby public transportation options; 25–49: Some Transit - A few nearby public transportation options; 0–24: Minimal Transit - It is possible to get on a bus.

Appendices

Appendix 1: Impact of 40R on Municipal Subsidized Housing Inventory (SHI) Status

Nine municipalities were above 10% when they created their districts and a tenth was at 9.96%. Five more reached 10% by September 2017, two (Amesbury, Lynnfield) did so due entirely to 40R development, one (Sharon) due entirely to a 40R project approval, and two (Natick, Haverhill) because of both 40R and other types of development. North Reading also reached 10% as a result of its 40R development, but fell back after its year-round housing count was updated based on the 2020 Census.

	40R DISTRICT FINAL APPROVAL YR	YEAR ROUND HOUSING UNITS 2000	YEAR ROUND HOUSING UNITS 2010	SHI % 2007	SHI % 2009	SHI % 2017	AT OR OVER 10% PRE-40R	REACHED 100% POST-40R
DISTRICTS WITH 40R CONSTRUCTION								
Holyoke	2008	16,180	16,320	21.30%	21.70%	19.93%	1	-
Chelsea	2006	12,317	12,592	17.20%	17.80%	19.33%	1	-
Boston	2008	250,367	269,482	19.90%	19.40%	19.03%	1	-
Lawrence	2008	25,540	27,092	14.50%	14.80%	14.97%	1	-
Brockton	2007	34,794	35,514	12.80%	12.90%	13.01%	1	-
Lowell	2008	39,381	41,308	13.30%	13.20%	12.54%	1	-
Northampton	2008	12,282	12,604	11.80%	11.80%	10.76%	1	-
Chicopee	2010	24,337	25,074	10.40%	10.50%	10.37%	1	-
Fitchburg	2010	15,963	17,058	10.40%	10.40%	8.71%	1	-
Lynnfield	2007	4,249	4,319	2.80%	7.20%	11.46%	-	1
Amesbury	2007	6,570	7,041	7.40%	7.50%	10.48%	-	1
Natick	2008	13,337	14,052	6.80%	10.10%	10.38%	-	1
Haverhill	2007	23,675	25,557	9.10%	8.80%	10.00%	-	1
North Reading	2006	4,839	5,597	2.80%	11.10%	9.65%	-	1
Easton	2008	7,596	8,105	3.10%	3.30%	9.71%	-	-
Pittsfield	2008	21,000	21,031	9.40%	9.60%	9.21%	-	-
Reading	2008	8,811	9,584	8.40%	7.80%	8.67%	-	-
Norwood	2006	11,911	12,441	6.00%	6.00%	8.32%	-	-
Dartmouth	2006	10,839	11,775	8.30%	8.60%	8.25%	-	-
Lakeville	2006	3,385	3,852	8.50%	4.40%	7.11%	-	-
Easthampton	2010	7,058	7,567	6.70%	6.70%	6.90%	-	-
Lunenburg	2006	3,605	4,037	1.90%	1.80%	4.83%	-	-
Belmont	2008	9,936	10,117	3.20%	3.30%	3.61%	-	-
Ludlow	2014	7,815	8,337	2.40%	2.30%	3.51%	-	-
DISTRICTS WITH NO 40R CONSTRUCTION YET								
Sharon	2009	6,006	6,413	6.30%	6.30%	10.65%	-	1
Great Barrington	2017	3,116	3,072	7.90%	7.00%	9.96%	-	-
North Andover	2007	9,896	10,902	5.90%	7.00%	8.54%	-	-
Newburyport	2015	7,717	8,015	8.40%	8.30%	7.47%	-	-
Westfield	2008	15,362	16,001	7.00%	7.00%	7.24%	-	-
Bridgewater	2008	7,639	8,288	3.20%	2.80%	6.59%	-	-
Rockland	2017	6,632	7,030	6.40%	6.20%	6.40%	-	-
South Hadley	2015	6,757	7,091	5.20%	5.60%	5.98%	-	-
Grafton	2007	5,820	7,160	5.30%	5.30%	5.10%	-	-
Kingston	2007	4,370	4,881	3.90%	3.90%	4.18%	-	-
Marblehead	2010	8,746	8,528	3.80%	3.80%	3.90%	-	-
Swampscott	2015	5,804	5,795	3.60%	3.60%	3.66%	-	-
Plymouth	2007	19,008	22,285	4.40%	4.50%	3.24%	-	-
TOTAL							9	6

Appendix 2: Subsidized Housing Production in Municipalities with 40R Districts

The table below shows the estimated number of housing units in developments eligible for the Subsidized Housing Inventory (SHI) that came on line between 2007 and 2017 in the 36 municipalities with 40R districts (excluding Boston), and the zoning tools used (40R, 40B, inclusionary zoning, or other).

These estimates differ from the official SHI counts in three ways: they include only units built (as opposed to permitted), and in the case of ownership developments, units sold. They also exclude two types of SHI-eligible housing (DDS/DMH group home beds and units that received homeowner rehab loans).

The additions (“adds”) are broken out by zoning tool used (40R, 40B, inclusionary zoning and “other”). The “other” category includes units that did not require a zoning change (e.g. created by home buy-down programs) as well as development on sites rezoned for specific projects or approved using other overlays and. The table shows production by municipal type (Gateway City, not Gateway City) and within the latter, by form of government.

NOTE: The number of units added exceeds the increase in estimated total development units and affordable units in some municipalities, as some municipalities also had losses due to expiring use restrictions or refinancings that reduced the number of affordable units in individual developments.

MUNICIPALITY BY GOVERNANCE TYPE	ESTIMATED TDU ADDED 2007-2017	ESTIMATED AFF. U ADDED 2007-2017	40R TDU ADDS	40B TDU ADDS	IZ TDU ADDS	OTHER TDU ADDS	40R AFF ADDS	40B AFF ADDS	IZ AFF ADDS	OTHER AFF ADDS	40R SHARE TDU ADDS	40R SHARE AFF UNIT ADDS	40B SHARE TDU ADDS	40B SHARE AFF UNIT ADDS
Brockton	240	187	140	-	-	100	87	-	-	100	58%	47%	-	-
Chelsea	346	268	120	-	-	226	61	-	-	207	35%	23%	-	-
Chicopee	86	75	-	-	-	86	-	-	-	75	0%	0%	-	-
Fitchburg	442	195	186	-	-	256	38	-	-	157	42%	19%	-	-
Haverhill	664	361	362	183	-	119	115	151	-	107	55%	32%	28%	42%
Holyoke	136	135	54	-	-	82	54	-	-	81	40%	40%	-	-
Lawrence	452	719	137	-	-	315	134	-	-	585	30%	19%	-	-
Lowell	770	499	122	-	-	648	83	-	-	416	16%	17%	-	-
Pittsfield	151	150	112	-	-	39	110	-	-	40	74%	73%	-	-
Westfield	77	76	-	57	-	20	-	57	-	19	-	-	74%	75%
GATEWAY SUBTOTAL	3,364	2,665	1,233	240	-	1,891	682	208	-	1,787	37%	26%	7%	8%
Amesbury	308	93	240	-	44	24	60	-	9	24	78%	65%	-	-
Easthampton	124	99	50	74	-	-	50	49	-	-	40%	51%	60%	49%
Newburyport	36	15	-	-	23	13	-	-	2	13	-	-	-	-
Northampton	225	179	123	74	-	28	75	74	-	30	55%	42%	33%	41%
Bridgewater	380	96	-	380	-	-	-	96	-	-	-	-	100%	100%
OTHER CITY/TOWN COUNCIL SUBTOTAL	1,073	482	413	528	67	65	185	219	11	67	38%	38%	49%	45%
Belmont	355	103	17	298	-	40	3	60	-	40	5%	3%	84%	58%
Dartmouth	107	62	36	71	-	-	36	26	-	-	34%	58%	66%	42%
Easton	605	158	50	549	-	6	13	139	-	6	8%	8%	91%	88%
Grafton	179	42	-	160	19	-	-	38	4	-	-	-	89%	90%
Great Barrington	16	10	-	16	-	-	-	10	-	-	-	-	100%	100%
Kingston	222	42	-	127	95	-	-	33	9	-	-	-	57%	79%
Lakeville	223	164	100	123	-	-	100	64	-	-	45%	61%	55%	39%
Ludlow	103	94	75	28	-	-	66	28	-	-	73%	70%	27%	30%
Lunenburg	131	125	131	-	-	-	125	-	-	-	100%	100%	-	-
Lynnfield	410	102	180	230	-	-	45	57	-	-	44%	44%	56%	56%
Marblehead	30	11	-	30	-	-	-	11	-	-	-	-	100%	100%
Natick	1,380	313	138	882	360	-	28	221	64	-	10%	9%	64%	71%
North Andover	406	157	-	406	-	-	-	157	-	-	-	-	100%	100%
North Reading	489	116	406	54	-	29	102	13	-	1	83%	88%	11%	11%
Norwood	283	75	15	262	-	6	3	66	-	6	5%	4%	93%	88%
Plymouth	135	51	-	8	82	45	-	2	8	41	-	-	6%	4%
Reading	356	71	253	-	103	-	54	-	16	1	71%	76%	-	-
Rockland	168	44	-	168	-	-	-	44	-	-	-	-	100%	100%
Sharon	232	55	-	231	-	1	-	54	-	1	-	-	100%	98%
South Hadley	44	44	-	-	-	44	-	-	-	44	-	-	-	-
Swampscott	-	-	-	-	-	-	-	-	-	-	-	-	-	-
TOWN MEETING SUBTOTAL	5,874	1,839	1,401	3,643	659	171	575	1,023	101	140	24%	31%	62%	56%
TOTAL	10,311	4,986	3,047	4,411	726	2,127	1,442	1,450	112	1,994	30%	29%	43%	29%

Appendix 3: Projects in Planning Before 40R District Created

YR DISTRICT DHCD FINAL APPROVAL	# DISTRICTS	MUNI	PROJECT NAME(S)	TOTAL U	AFF U	PRE-PLANNING COMMENT	CP U PROPOSED OR APPROVED	GOT SP	GOT CP
2007	1	Amesbury	Amesbury Hts 40B	240	60	40B filed, approved 4/1/2007	240		1
2008	1	Boston	Hearth at Olmsted Green	59	59	State hospital LDA, overlay			
			Olmsted Green Rental - Phase III	50	50				
			Olmsted Green Rental - Phase II	50	50				
		*	Olmsted Green Condos II	41	11				
2006	1	Chelsea	Atlas Lofts	53	6	SP amended 6/6/2006		1	
			Box District	26	14	SPR approval 8/9/2005		1	
			Janus-Highland Apts	41	41	SPR approval 8/9/2005		1	
2006	1	Dartmouth	Village at Lincoln Park - Bldg I	36	36	40B LIP SA rec'd 7/14/2005; proposes 40R 2/2006	252		
		*	Village at Lincoln Park Sr Hsg -Bldg G	48	48				
2010	1	Fitchburg	Riverside Commons Phase I+II	186	38	Mill overlay sp2009 (176u)		1	
2006	1	Lakeville	Kensington Court at Lakeville Station I+II	204	100	CP approved 8/2005	192		1
2008	1	Lowell	* Mass Mills III - Picker Building	70	57	added 2012-multiple approvals 1989 fwd Hospital reuse plan; CP application ~1/2006, then town proposes 40R	406		1
2006	1	N. Reading	Edgewood Apts	406	102		406		?
2008	1	Northampton	Christopher Heights Assisted Living	83	43	Hospital LDA, overlay			
			Hillside Place (Village at Hospital Hill II)	40	32				
2008	1	Pittsfield	New Amsterdam Apts Phase I	43	43	SP approved for 43u 6/2007		1	
2010	1	Reading	30 Haven	53	11	Downtown mixed use overlay adopted 2005; next owner discussed options, including 40B LIP, decided to create 40R			
	11	SUBTOTAL-STRONGEST PREPLANNING		1,729	801		1,090	5	3
2008	1	Lawrence	Loft 550 (Malden Mills I)	75	72	MassHousing announced financing Jan 2006 for Phase I 86u - 40R district applic filed 2007-city started working on redev with Winn in 2004			
			Loft 550 Phase II (Malden Mills I)	62	62				
2008	1	Natick	Modera Natick Center	138	28	Dev. proposed HOOP I (15% aff), town then suggested 40R			
2008	1	Belmont	Oakley Neighborhood	17	3	40R planning started in response to Hous- ing Trust 40B proposal			
2010	1	Easthampton	Cottage Square	50	50	Mixed use mill industrial overlay created 2003			
	4	SUBTOTAL -SOME PREPLANNING		342	215		0	0	0
	15	TOTAL UNITS BUILT/IN CONSTRUCTION		2,071	1,016		1,090	5	3
APPROVED - CONSTRUCTION NOT YET STARTED									
2009	1	Sharon	135 Old Post Road	192	48	Town MOU 2006 permitted 168U LIP	168		
TOTAL	16			2,263	1,064		1,258	5	3

*Under construction

SP=special permit, CP=comprehensive permit under Chapter 40B

Appendix 4: Share of Two- and Three-Bedroom Units by Project

# PROJECTS	MUNI	USED SUBSIDY FUNDS? 1=YES	PROJECT NAME(S)	TENURE	POPULATION	TOTAL U	AFF U	%2BR+	%3BR
PROJECTS IN BOSTON/GATEWAY CITIES									
1	Belmont	-	Oakley Neighborhood	HO	Unr	17	3	100%	100.0%
1	Boston	1	Olmsted Green Rental - Phase III	Rental	Unr*	50	50	84%	16.0%
1	Boston	1	Olmsted Green Rental - Phase II	Rental	Unr*	50	50	84%	16.0%
1	Chelsea	1	Box District	HO	Unr	26	14	100%	53.8%
1	Chelsea	1	Janus-Highland Apts	Rental	Unr	41	41	88%	17.1%
1	Dartmouth	1	Village at Lincoln Park - Bldg I	Rental	Unr	36	36	78%	11.1%
1	Easthampton	1	Cottage Square (aka Dye Works)	Rental	Unr	50	50	78%	18.0%
1	Holyoke	-	Infill units	Mix	Unr	5	0	40%	80.0%
8	SUBTOTAL	6				275	244	84%	25.1%
1	Lunenburg	1	Tri-Town Landing Phase I,II,III	Rental	Unr	131	125	82%	9.9%
1	SUBTOTAL	1				131	125	82%	9.9%
9	TOTAL FAMILY PROJECTS	7				406	369	84%	20.2%
1	Boston	1	Olmsted Green Condos II	HO	Unr	41	11	100%	7.3%
1	Brockton	1	Green Street 102	Rental	Unr	2	2	100%	0.0%
1	Pittsfield	1	New Amsterdam Apts Phase I,II	Rental	Unr	67	67	75%	0.0%
1	Fitchburg	-	Riverside Commons Phase I+II	Rental	Unr	186	38	82%	9.1%
1	Haverhill	1	Hayes Village	Rental	Unr	57	52	81%	0.0%
1	Lowell	1	Mass Mills III - Picker Building	Rental	Unr	70	57	76%	5.7%
1	Lakeville	1	Kensington Ct, Sterling Place	Rental	Unr	204	100	73%	0.0%
1	Lawrence	1	Loft 550 (Malden Mills I)	Rental	Unr	137	134	67%	4.4%
1	Brockton	1	Station Loft Apts	Rental	Unr	25	14	64%	0.0%
1	Brockton	1	Centre 50 (Phase IA)	Rental	Unr	71	29	62%	7.0%
1	Easton	-	Queset Commons - Phase I-Bldg D/E	HO	Unr	60	3	62%	28.3%
1	Amesbury	-	Amesbury Hts 40B	Rental	Unr	240	60	59%	2.1%
1	Pittsfield	1	Silk Mill Apts	Rental	Unr	45	43	58%	15.6%
1	Reading2	-	30 Haven	Rental	Unr	53	11	57%	0.0%
1	Reading	-	Reading Woods	HO	Unr	200	43	54%	0.0%
1	Natick	-	Modera Natick Center	Rental	Unr	138	28	53%	0.0%
1	Northampton	1	Hillside Place (Village at Hospital Hill II)	Rental	Unr*	40	32	53%	5.0%
1	Holyoke	1	Chestnut Park Apts	Rental	Unr	54	54	44%	0.0%
1	North Reading	-	Edgewood Apts	Rental	Unr	406	102	41%	0.0%
1	Lynnfield	-	Market St Apts (fka Arborpoint)	Rental	Unr	180	45	40%	0.0%
1	Dartmouth	-	Village at Lincoln Park Sr Hsg -Bldg G	Rental	55+	48	48	38%	0.0%
1	Haverhill	1	Hamel Mills	Rental	Unr	305	63	37%	0.0%
1	Norwood	-	Courtyard at St. George	HO	Unr	15	3	33%	20.0%
1	Lowell	1	Counting House Lofts (fka 165 Jackson St - Phase I)	Rental	Unr	52	26	33%	0.0%
1	Easton	-	Queset Commons - Bldg A	Rental	Unr	50	13	28%	0.0%
1	Ludlow	1	Ludlow Mills Phase I	Rental	55+	75	66	16%	0.0%
1	Brockton	1	Enso Flats (Phase IB)	Rental	Artist live/wk	42	42	14%	0.0%
1	Boston	1	Hearth at Olmsted Green	Rental	Elderly*	59	59	0%	0.0%
1	Chelsea	1	Atlas Lofts	Rental	Unr	53	6	0%	0.0%
1	Chicopee	-	Kendall Apts (rehab)	Rental	Unr	41	41	0%	0.0%
1	Northampton	1	Christopher Heights Assist'd Livg	Rental	Elderly	83	43	0%	0.0%
31	TOTAL ALL OTHER	19				3,099	1,335	45%	2.0%
40	GRAND TOTAL	26				3,505	1,704	50%	4.1%

“Unr” indicates no specific population restrictions

“Unr*” indicates project includes some set-aside units for special populations or homeless

Appendix 5: 40R Incentive Payments by District to Date

DHCD FINAL APPROVAL YEAR	MUNICIPALITY	# DISTRICTS	DISTRICT NAME	FUTURE ZONED UNITS DHCD	BONUS UNITS PAID	ZIP PAID	BONUS PAID	TTL PD
2006	North Reading	1	Berry Center	434	406	350,000	1,218,000	1,568,000
2006	Chelsea	1	Gerrish Ave	125	85	75,000	255,000	330,000
2006	Lakeville	1	Residences@Lakeville Sta.	207	204	350,000	612,000	962,000
2006	Lunenburg	1	Tri-Town	204	131	350,000	393,000	743,000
2006	Dartmouth	1	Lincoln Park	319	-	350,000	-	350,000
2006	Norwood	1	St. George Ave	15	11	10,000	33,000	43,000
2006 TOTAL		6		1,304	837	1,485,000	2,511,000	3,996,000
2007	Grafton	1	Fisherville Mill	240	-	350,000	-	350,000
2007	Haverhill	1	(Haverhill) Downtown	701	362	600,000	1,086,000	1,686,000
2007	Kingston	1	1021 Kingston's Place	730	-	600,000	-	600,000
2007	Lynnfield	1	Planned Village Development	180	174	200,000	522,000	722,000
2007	North Andover	1	Osgood	530	-	600,000	-	600,000
2007	Plymouth	1	Cordage Park	675	-	600,000	-	600,000
2007	Amesbury	1	Gateway Village	249	240	350,000	720,000	1,070,000
2007	Brockton	1	Downtown	1,096	138	600,000	414,000	1,014,000
2007 TOTAL		8		4,401	914	3,900,000	2,742,000	6,642,000
2008	Easton	1	Queset SGOD	280	46	350,000	138,000	488,000
2008	Holyoke	1	SGOD	296	31	350,000	93,000	443,000
2008	Bridgewater	1	Waterford Village SGOD	594	-	600,000	-	600,000
2008	Boston	1	Olmsted Green	578	72	350,000	216,000	566,000
2008	Lawrence	1	Arlington Mills	1,031	137	600,000	411,000	1,011,000
2008	Lowell	1	SGOD	250	122	350,000	366,000	716,000
2008	Northampton	1	Village Hill SGOD	156	40	200,000	120,000	320,000
2008	Belmont	1	Oakley Neighborhood	18	12	10,000	36,000	46,000
2008	Natick	1	Smart Growth Overlay	138	138	200,000	414,000	614,000
2008	Pittsfield	1	SGOD	296	42	350,000	126,000	476,000
2008	Westfield	1	Southwick Road	244	-	200,000	-	200,000
2008	Reading	1	Gateway (Addison Wesley)	202	200	350,000	600,000	950,000
2008 TOTAL		12		4,083	840	3,910,000	2,520,000	6,430,000
2009	Sharon	1	Sharon Commons	167	-	-	-	-
2009 TOTAL		1		167	-	-	-	-
2010	Marblehead2	1	Pleasant Street	17	-	-	-	-
2010	Reading2	1	Downtown/Depot	459	53	350,000	159,000	509,000
2010	Easthampton	1	SGOD	482	50	350,000	150,000	500,000
2010	Fitchburg	1	SGOD	676	-	600,000	-	600,000
2010	Chicopee	1	Chicopee Center 40R SGOD	1,092	-	600,000	-	600,000
2010	Marblehead	1	Vinnin Square	47	-	-	-	-
2010 TOTAL		6		2,773	103	1,900,000	309,000	2,209,000
2014	Norwood2	1	Guild Street (Regal Press) SGOD	44	-	75,000	-	75,000
2014	Ludlow	1	SGOD (3 subdistricts)	350	75	350,000	225,000	575,000
2014 TOTAL		2		394	75	425,000	225,000	650,000
2015	Newburyport	1	Newburyport SGD	540	-	-	-	-
2015	South Hadley	1	South Hadley Falls SG District	383	-	350,000	-	350,000
2015	Swampscott	1	Vinnin Square	68	-	75,000	-	75,000
2015 TOTAL		3		991	-	425,000	-	425,000
2017	Great Barrington2	1	South	190	-	-	-	-
2017	Great Barrington	1	North	304	-	-	-	-
2017	Rockland	1	Downtown Revitalization OD	480	-	-	-	-
2017 TOTAL		3		974	-	-	-	-
GRAND TOTAL		41		15,087	2,769	12,045,000	8,307,000	20,352,000

Appendix 6: District Expansions/Additions Completed and Considered

Completed Expansions/Additions

- Norwood, which created its first district in 2006, added a second district in 2014. (A proposed third project-specific district - Plimpton Press - failed to receive 2/3 approval at Town Meeting in 2014 (93 voted yes, 70 no). Avalon Norwood received a comprehensive permit for the site in 2017.
- Northampton, in 2017, expanded its 2008 40R district on the former state hospital campus to add a site previously designated as market rate housing after the designated developer ran into financial difficulties. A new developer was designated, and a 65-unit affordable rental project approved.
- Northampton also created a second district covering the site of an existing affordable 15-unit single room occupancy (SRO) residence (Hampshire Inn), allowing a 16-unit expansion/renovation to create 31 enhanced SRO units.
- Haverhill (2016) expanded its district to add a mill conversion project and gave plan approval for the project in 2017 (82 units/17 affordable).
- Lowell (2012) expanded its district to add the site of a mill conversion project (Picker Building - Mass Mills III), long planned and previously approved using other processes.
- Reading (2017) expanded its 2010 Downtown district adding 15.7 acres and 203 future zoned units and approved a 50-unit condominium (10 affordable).

Pipeline Expansions/Additions

- Brockton (2017) received preliminary approval to revise and expand its Downtown district, adding 2,716 future zoned units, and dropping 2 sub-districts.
- Brockton (2017) also approved a new district (Thatcher St.) in late December on a former convent site where a nonprofit proposes to develop 175 units. (Neighborhood residents are threatening litigation.)
- Grafton is working on a second district (North Grafton Transit Village).
- Kingston has explored modifying its 40R district (no development to date) to include an MBTA parking site for which a redeveloper has been selected, but it is unclear whether a district amendment could proceed quickly enough to meet MBTA/developer requirements and goals.
- Lawrence is exploring creating a second district for part of its downtown.
- Lakeville has been exploring expansion to spur development on nearby vacant state hospital land due to weak commercial interest.
- South Hadley is exploring creating a second 40R district to revitalize a commercial area that includes the now vacant site of a former supermarket.

Appendix 7: Walkability and Transit Access of 40R Developments

PROJECT	TOTAL UNITS	AFFORDABLE UNITS	DISTRICT TYPE	WALK SCORE	WALK SCORE CATEGORY	TRANSIT SCORE/ ACCESS
CAR DEPENDENT/LARGELY CAR DEPENDENT						
Queset Commons - Bldgs A, D, E	110	16	HSL	4-6	Car dependent	no info
Edgewood Apts	406	102	HSL	16	Car dependent	2.5 mi fr commuter rail
Christopher Heights; Hillside Place	123	75	HSL	16	Car dependent	closest bus 0.7 mi
Amesbury Hts 40B	240	60	HSL	19	Car dependent	closest bus 0.7 mi
Village at Lincoln Park	84	84	HSL	19	Car dependent	one bus 0.1 mi
Riverside Commons Phase I+II	186	38	HSL	44	Largely Car dependent	20 - 1.3 mi fr commuter rail
Olmsted Green Rental - Phase III	50	50	HSL	24-47	Largely Car dependent	60-65: 7 bus lines 0.1-0.4 mi; 2 T/commuter rail stops 0.8-1.2 mi
Olmsted Green Rental - Phase II	50	50	HSL	31-35	Largely Car dependent	65-67: 7 bus lines 0-.4 mi; 5 rail and T stops 0.8-1.4 mi
Hearth at Olmsted Green	59	59	HSL	47	Largely Car dependent	" " "
Tri-Town Landing Phase I,II,III	131	125	HSL	29-40	Largely Car dependent	1.4 mi fr commuter rail
SUBTOTAL	1,439	659				
TRANSIT ACCESS/LOW WALKABILITY						
Sterling Place/Kensington Ct	204	100	Transit	24	Car dependent	0.3 mi fr commuter rail
Modera Natick Center	138	28	Transit	44	Largely Car dependent	0.4 mi fr commuter rail
SUBTOTAL	342	128				
SOMEWHAT WALKABLE						
Market St Apts (fka Arborpoint)	180	45	HSL	52	Somewhat walkable	no score
Silk Mill Apts	45	43	ACD	58	Somewhat walkable	31 - 4 bus stops .4 mi away
Olmsted Green Condos II	41	11	HSL	64	Somewhat walkable	58: 5 buslines 0.2-0.5 mi; 2 rail lines .7 mi, and two at 1.3 mi
Ludlow Mills Phase I	75	66	ACD	65	Somewhat walkable	no score - 0.1 and 0.5 mi to bus
Kendall Apts (rehab)	41	41	ACD	69	Somewhat walkable	2 bus stop 0.1 mi
Reading Woods	200	43	HSL	39-73	Somewhat walkable	0.7 to 1.2 mi from commuter rail
SUBTOTAL	582	249				
TRANSIT ACCESS/ VERY WALKABLE						
Oakley Neighborhood	17	3	HSL	71-75	Very walkable	45 - 1 bus line 0.0 mi, rail 1.3 mi
Station Loft/Enso Flats/Centre 50	138	85	Transit	87-88	Very walkable	49 - 0.2 mi fr commuter rail
Green Street 102	2	2	Transit	87	Very walkable	48 - 0.3 mi fr commuter rail
Box District; Janus Highlands; Atlas	120	61	Transit	83-85	Very walkable	54 - 0.4 mi fr commuter rail
Cottage Square	50	50	ACD	74	Very walkable	0.1m fr bus - hard to tell
Hamel Mills	305	63	Transit	86	Very walkable	40 - 0.3 mi fr commuter rail
Hayes Village	57	52	Transit	86	Very walkable	40 - 0.1 mi commuter rail, 9 bus lines within 0.1 mi
Infill units	5	0	ACD	82-87	Very walkable	no score; 7 bus lines in 0.2 mi
Chestnut Park Apts	54	54	ACD	87	Very walkable	no score; 7 bus lines in 0.2 mi
Loft 550 (Malden Mills I, II)	137	134	HSL	78-81	Very walkable	33 - 2 bus lines 0.2, 0.3 mi
Mass Mills III - Picker Building	70	57	Transit	94	Walkers paradise	48 - 0.9 mi to commuter rail, 10 bus lines within 0.2 mi
Counting House Lofts	52	26	Transit	95	Walkers paradise	53 - 0.5 mi fr commuter rail
Courtyard at St. George	15	3	ACD	72	Very walkable	0.8 mi fr commuter rail
New Amsterdam Apts Phase I+II	67	67	ACD	84-86	Very walkable	36 - 9 bus lines within 0.2 mi
30 Haven	53	11	Transit	83	Very walkable	0.1 mi from commuter rail
SUBTOTAL	1,142	668				
TOTAL	3,505	1,704				

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