

The Time is Past Due for Zoning Reform in Massachusetts

Massachusetts is listed by the American Planning Association as one of the states with the weakest and most outdated state land use laws.

In the Commonwealth, land use planning and the regulation of development is largely a local matter. However, the enabling state laws contain unclear or restrictive provisions that effectively deprive cities and towns of authority consistent with their responsibilities. These impediments render local planning ineffective—and even discourage it. Current planning, zoning and subdivision control statutes subvert local planning by laying down a minefield of exemptions, prohibitions and zoning freezes that consistently get in the way of local plan implementation. The realization of local land use plans is hindered.

The end result of the status quo is that no one is well-served—neither advocates for housing, economic development, nor environmental and resource protection.

An Act Promoting the Planning and Development of Sustainable Communities (Senate Bill 122) is the first major update of the Commonwealth's planning, zoning, and subdivision control statutes in over 39 and 60 years, respectively. S122 rewrites Massachusetts' outdated statutes governing local land use planning.

S122 encourages communities to adopt planning that achieves the state's goals for housing, economic development and natural resource protection. In exchange, it provides strong incentives in the form of enhanced planning tools and preferential consideration for state infrastructure funding and other state funds and grants. At the same time, many of the existing statutory impediments to the achievement of "smart growth" in Massachusetts are eliminated so that communities may better manage their growth and shape their futures.

An Act Promoting the Planning and Development of Sustainable Communities (S122) has been filed by Senator Daniel Wolf.

See the reverse side for a summary of the bill's main features.

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Highlights of

“AN ACT PROMOTING THE PLANNING AND DEVELOPMENT OF SUSTAINABLE COMMUNITIES” (S122)

Sponsored by Senator Daniel Wolf

Statutory Authority: Defines and explicitly authorizes the use of some planning tools, including impact fees, inclusionary zoning, natural resource protection zoning and transfer of development rights.

Zoning Vote: Allows communities to lower the required vote down to a simple majority to adopt zoning changes.

Vested Rights (grandfathering): Provides reasonable and standardized zoning protections for development projects proposed in building permits, special permits and subdivision plans, and creates a more level playing field between developer and municipality. Eliminates some excessive grandfathering provisions.

Special Permits: Amends current statute to address unreasonable burdens on both applicants and local boards.

Site Plan Review: Authorizes site plan review in statute and establishes standardized procedures for its use.

Development Impact Fees: Currently unavailable in Massachusetts in most cases, this section authorizes impact fees in statute and establishes standards for its use.

Inclusionary Zoning: This new section in the Zoning Act authorizes and provides parameters for adopting zoning measures that require the creation of affordable housing in development projects.

Land Use Dispute Avoidance: Offers an “off-line” avenue for applicants, municipal officials, and the public to work through the difficulties in a prospective development project by using a neutral facilitator.

Variations: Rewrites the current variance statute to create more reasonable procedures and criteria for variances while still maintaining a community’s discretion to condition or deny a variance.

Consolidated Permitting: Helps to ensure that for larger, more complex projects, local boards receive common information about the project and have the opportunity to bring all decision-making bodies together at the beginning of a project for more timely review.

Master Plans: Updates and simplifies the master planning process, divides the plan elements between those that are required and optional, incorporates the state’s Sustainable Development Principles, makes master plans optional, and allows for more flexibility in creating a plan based on local needs.

Approval Not Required (ANR): Allows municipalities to replace ANR with minor subdivision regulations, enabling greater regulatory oversight. Current ANR is practically unregulated and is a great sprawl generator.

Parks and Playgrounds: Gives municipalities the ability to require parks and playgrounds in new subdivisions.

Appeals: Streamlines and reforms the appeals language for site plan review, special permits, and subdivisions.

Planning Ahead for Growth Act (opt-in): Provides strong incentives for smart growth that promotes housing, economic development and natural resource protection. In exchange for adopting measures that embrace these state goals, communities are given enhanced planning tools and preferential consideration for infrastructure funding and other state funds and grants.