



Department of Housing and  
Community Development

**07**





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## Department of Housing and Community Development

### POLICIES

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One measure of a successful community is whether it provides an adequate supply of housing for residents of all levels of income and at all stages of life. The vitality of each community depends on how and where that housing is built.

Compact, mixed use and infill development near transit, jobs, shops, schools and other community centers can strengthen communities, expand housing choices and affordability, and promote the prosperity. On the other hand, sprawling “greenfield” development without mixes of uses tends to limit housing choices, segregate citizens by income level and force many to live in places that are far from their jobs. Poorly planned development also can negatively affect regional economic competitiveness if employers cannot attract workers due to high housing costs.

In this section, we describe ways that housing can foster comprehensive redevelopment, encourage neighborhood revitalization, improve air quality, reduce traffic and create more vibrant, livable communities.

# 1

## Encourage cities and counties to permit more multi-family and higher density housing

### ACTION

States should provide state aid and revise the state's planning laws to encourage local governments to permit more construction of higher density and multi-family housing near transit, jobs, retail, and other centers of the community.

Local zoning codes control the look, location, and supply of housing — including the location and number of apartments, duplexes, townhouses, and other higher density housing that can be built in a given jurisdiction. Most local zoning regulations limit or prohibit higher density development. Even where such development is allowed, it is often segregated from other housing types and isolated from schools, jobs, shops and other centers of community.

Overcoming local regulatory barriers to higher density and multi-family development is an important way to meet current housing needs and to increase housing choices statewide.

### PROCESS

State planning enabling legislation usually establishes the topics or areas that communities must address when developing their comprehensive plans. Only 25 states currently have planning laws that require localities to indicate how their comprehensive plan will meet their citizens' housing needs.

As a first step toward getting cities and counties to increase housing choices, states should update their enabling legislation to require localities to plan for housing, and to develop strategies and policies that meet a variety of housing needs and that expand housing choices. As part of this process, local governments should be required to determine whether they have the capacity to meet housing needs for their jurisdiction's projected population size and mix.

States can also provide incentives that encourage local governments to change their development regulations and to increase housing choice. Incentives could include increased education funding for every additional unit of multi-family housing that is permitted or built in a community (see *Policy 4, Increase State share of education costs in communities that are increasing density, in the Department of Education section*).

States can require local governments to allow for a range of housing in their comprehensive plans and to zone for diverse housing in order to be eligible for state housing funds. This would require state review or certification of local plans and zoning regulations.

States can also give priority in the allocation of housing funds (such as HOME Investment Partnership Program and Community Development Block Grants) and other discretionary funding, including economic development funds, to communities that permit higher density or multi-family housing development. Changing the process of allocating federal funds would require updating the state housing agency's consolidated plan, because the U.S. Department of Housing and Urban Development requires states to develop consolidated housing plans that outline how they will spend federal dollars. Changing the criteria for allocation of state discretionary funding would not require a change in this plan.

### EXAMPLES

#### Massachusetts' Chapter 40R and 40S

The Massachusetts Legislature adopted a smart growth zoning statute (Chapter 40R) that provides incentives for local governments to establish smart growth zoning districts. Smart growth zoning districts must fulfill certain density, affordability and location requirements. Communities receive some incentives upon making zoning changes and receive further incentives based upon building permits issued, which ensures that the funding is supporting actual implementation, as well as planning and zoning.

The legislature also enacted Chapter 40S, which created a Smart Growth School Cost Reimbursement Fund to compensate schools for additional costs incurred due to more compact development in the smart growth zoning districts.

Massachusetts' Chapters 40R and 40S: <http://www.bos.frb.org/economic/ineppcl/briefs/2006/briefs061.pdf>

#### Oregon's statewide housing goals

To be eligible for state assistance, localities in Oregon must meet statewide housing goals. The Oregon Housing and Community Services Department administers state assistance in the form of grants and tax credits to individuals, lending institutions, developers, and nonprofit organizations. Applicants are eligible for state funds if the Oregon Department of Land Conservation and Development certifies their plans as

being in accordance with state planning goals.

Oregon Department of Land Conservation and Development: <http://www.oregon.gov/>

Oregon Housing and Community Services: <http://www.oregon.gov/OHCS>

## 2

### Update or establish state sub-code for housing rehabilitation

#### ACTION

America's housing stock is aging and homeowners are increasingly seeking to renovate their properties to meet their changing needs. While local building codes govern new construction, many states do not have codes for rehabilitation. Without specific and consistent guidance, rehabilitation of older properties often must conform to the same standards as new construction, standards that do not accommodate the specific needs and challenges of updating older homes.

A second factor in construction is state building codes, which are typically applied to the rehabilitation process. The State should ensure that its building codes not only allow for but encourage the rehabilitation of older homes.

Problems arise when there are no codes tailored for rehabilitation or when local governments seek to apply their own standards to the rehabilitation process, which are sometimes inconsistent from jurisdiction to jurisdiction. Action can be taken to revise or establish a sub-code that includes standards for rehabilitation and renovation. For example, states can review building codes for inconsistencies and suggest elements of the rehabilitation codes that can be updated.

#### PROCESS

States can develop a rehabilitation code either by writing the code from scratch or by adopting a model code. Starting from scratch requires willingness on the part of the State to administer and maintain the code, a factor that has deterred many states from following this approach. Due to a lack of model rehabilitation codes, Maryland and New Jersey effectively developed building codes from scratch, although Maryland borrowed heavily from New Jersey's code.

In response to the New Jersey and Maryland successes, the U.S. Department of Housing and Urban Development (HUD), the International Code Council, and the National Fire Protection Association developed a set of model rehabilitation codes that can be adopted by states and jurisdictions. Also, many states are adopting the 2006 International Existing Building Code, which contains requirements intended to encourage the use and reuse of existing buildings, as their building rehabilitation code.

#### EXAMPLE

##### New Jersey's Rehabilitation Sub-code

New Jersey adopted a rehabilitation sub-code in 1997. The sub-code applies to all rehabilitation activity in the state and is part of the State's Uniform Construction Code. The code had an immediate impact on redevelopment activity across the state. As a result, rehabilitation spending in New Jersey's largest cities increased. The success of the sub-code is attributed to the lower rehabilitation costs, a perception that the state is now in favor of rehabilitation, and a streamlined plan review process.

New Jersey's Rehabilitation Sub-Code: <http://www.state.nj.us/dca/codes/rehab/>

## 3

### Support redevelopment of vacant and abandoned properties

#### ACTION

States should support the redevelopment of vacant and abandoned properties by removing barriers that hinder redevelopment efforts and by assisting local redevelopment authorities.

Abandoned buildings often prevent or hinder comprehensive urban redevelopment by depressing property values, reducing tax revenues, and discouraging development. In addition, redeveloping vacant properties rather than building on "greenfields" can prevent the loss of open space and is more fiscally responsible. In the typical large city, vacant and abandoned properties occupy more than 12,000 acres, or over 15 percent of the typical city area.

This is usable land already connected to urban infrastructure and services. For metropolitan areas looking to accommodate growth without consuming the surrounding countryside, such properties amount to a vast reservoir of land for well-planned development. To take advantage of the resource, local governments must take control of neglected properties, prioritize reclamation opportunities, and utilize technology to document and redevelop vacant properties.

### PROCESS

States can support redevelopment efforts by removing barriers that hinder the revival of vacant properties, including state laws that govern land assembly, foreclosure and eminent domain. States can conduct statewide or citywide inventories of vacant properties and provide more targeted technical and financial assistance to local redevelopment authorities.

Downtown business associations can be instrumental in providing the assistance and contacts necessary to review tax rolls, coordinate with the tax assessor's office, and identify lots and buildings that have the greatest potential for redevelopment. States can also reform eminent domain laws and require all redevelopment authorities to automatically acquire property in distressed neighborhoods.

### EXAMPLE

Michigan's Land Bank Fast Track legislation passed in 2004. The law facilitates the redevelopment of vacant properties by extending the rights of land banks. For example, much like private companies, land banks can borrow money, buy and sell land, and build on land. Land banks are also entitled to an expedited process for foreclosures and title clearing. Genesee County, and particularly the City of Flint, have benefited from this Fast Track Authority. The land bank is now more independent in financing and managing vacant properties, which facilitates the rehabilitation and sale of the properties.

Michigan Department of Labor and Economic Growth:  
<http://www.michigan.gov/dleg/>

## 4

### Provide incentives to encourage people to live near work or transit

#### ACTION

When people can conveniently walk and bicycle to jobs, stores, transit and other destinations, they tend not to drive as much. This improves air quality, reduces greenhouse gas emissions, saves on commuting costs, and lessens traffic congestion.

State governments can encourage people to live in walkable communities by providing targeted mortgage assistance. The transportation savings that come with living near transit, jobs and shops can enable people who live in "location-efficient neighborhoods" to qualify for a higher amount of financing for home purchase.

#### PROCESS

States should promote homeownership near transit and in high-density areas by integrating location-efficiency criteria into their existing mortgage programs or by partnering with an existing lender to provide location-efficient mortgages statewide.

Housing finance authorities issue mortgages that contain eligibility and evaluative criteria that guide funding decisions. A state's housing finance agency could revise loan eligibility criteria so that applicants who live in neighborhoods or census tracts that are served by transit, that are within a half-mile of transit, or that are higher density (ranging from eight to 20 dwellings per acre) could qualify for greater housing assistance.

Another strategy is to require a development plan to outline transit and housing plans before the state provides economic development funds. The Department of Housing and Community Development can work with other agencies to establish appropriate criteria. Funds should be based on the proximity of projects to available workforce housing and transit.

#### EXAMPLE

##### Illinois' Business Location Efficiency Incentive Act.

Illinois' Business Location Efficiency Incentive Act was signed into law in 2006 and became effective in 2007. In the disbursement of tax credits from the Economic Development for a Growing Economy (EDGE) program, the Act gives preference to business locations that are transit and housing accessible.

EDGE offers tax incentives to companies that ultimately decide to locate, expand and invest in Illinois after seriously considering another state. Companies that locate in location-efficient sites can receive up to 10 percent more EDGE tax credits than the amount for which they would otherwise be eligible.

Illinois General Assembly: <http://www.ilga.gov/legislation>

## 5 Support Community Development Corporations

### ACTION

All states are interested in strengthening their communities and promoting vitality and prosperity for their citizens. The work of government can be enhanced when it collaborates with not-for-profits, faith-based groups, or Community Development Corporations (CDCs). These organizations have generally demonstrated an ability to develop affordable housing and to provide services to community residents. States can assist these organizations by providing funding, education, and technical assistance that can enhance their capacity.

### PROCESS

Community organizations often know what needs to be done to catalyze neighborhood revitalization but lack the financial resources to do it. States have several options for building the capacity of CDCs. They can create a funding stream that can be accessed directly by community organizations. They also can encourage private companies to become involved in helping fund local CDCs. Area corporations often have a desire to contribute to neighborhood improvement, but need guidance for effective investment in community organizations.

Programs directed at the state level can provide the financial incentive and infrastructure needed to bring local stakeholders together as partners in neighborhood revitalization. When funding is made available directly to CDCs, it can be done through tax-exempt bonds or via a grant program. Incentives for private corporations to engage in community development can include state tax credits in exchange for their contributions to community-based organizations.

### EXAMPLE

#### The California Communities Program

The California Statewide Communities Development Authority or "California Communities" provides local governments and private entities access to low-cost, tax-exempt project financing. At least 495 cities, counties, and special districts are program participants.

The California Communities program has awarded more than \$9.9 billion to local agency participants, including \$147 million of community infrastructure bonds to plan future growth, to 59 agencies; and \$481 million for water/wastewater treatment facility upgrades in 98 water and sanitation districts. California Communities also funds public benefits projects, including more than 51,000 affordable housing units, 131 educational facilities, and 16 solid waste disposal and alternative energy facilities.

California Communities program: <http://www.cacommunities.org/>

## 6 Modify allocation of Low- Income Housing Tax Credits to reinforce location efficiency

### ACTION

The Low-Income Housing Tax Credit is a federal program that subsidizes the rehabilitation and construction of affordable and workforce housing. States should modify the allocation of Low-Income Housing Tax Credits to encourage affordable housing where walking to work, to school and for simple errands is an option.

A number of states have modified the allocation criteria for tax credits to encourage new affordable housing to be built near employment and transit centers. Nearly all states have allocation criteria that encourage rehabilitation and preservation of historic and existing low-income housing, target investment to existing communities or communities of most need, and restrict development in environmentally sensitive or undesirable areas. Many states award points to projects if they are located near or within a specific distance (1/4 mile, for instance) of retail, civic and recreational uses.

## PROCESS

Each state is required by federal law to develop a Qualified Allocation Plan that establishes state policy goals for the use of housing credits. The Qualified Allocation Plan is adopted each year by the state housing credit agency. Federal law requires that the Qualified Allocation Plan give priority to projects that serve the lowest income households and remain affordable for the longest period of time. But states have the flexibility to establish additional criteria so that tax credits meet their housing goals.

States can promote their policy objectives via the Qualified Allocation Plan in several ways. The most direct one is to establish a threshold requirement whereby credits are restricted to projects that meet the requirement. States can also establish a credit set-aside or create a system where points are awarded based on certain development characteristics. Most states promote housing goals by modifying their scoring process because it retains flexibility.

## EXAMPLE

### Georgia's Qualified Allocation Plan

Georgia modified its project scoring system to support smart growth outcomes. Under its 2006 Qualified Allocation Plan, the state Department of Community Affairs evaluates projects to determine if they are located on infill sites, are brownfield or greyfield properties, are located adjacent to transit stations, or are part of a mixed-income project.

The Qualified Allocation Plan also grades projects based on their proximity to a set of desired or undesired activities. Projects that are located near desired activities (retail, grocery, jobs) and are connected to them through sidewalks or bikeways receive points. Points are deducted for projects located near undesirable activities (junkyards, hazardous or heavy manufacturing activities). This scoring process applies to the distribution of state low-income housing tax credits.

In 2008, Georgia updated its Qualified Allocation Plan by establishing a scoring system for the Department of Community Affairs to evaluate affordable housing projects and award available tax credits and other benefits. The updated program favors projects that promote the revitalization of urban areas and incorporate elements of smart growth such as walkability. For example, projects receive additional points if they are designated as Transit Oriented Development, are located on infill sites, are mixed-income projects, or preserve

existing affordable housing. Additionally, Georgia has gained national recognition by promoting green standards by awarding extra points to projects that meet higher energy efficiency standards.

Georgia Department of Community Affairs: <http://www.dca.state.ga.us/>

## 7

### Adopt fair-share requirements for affordable housing

## ACTION

States across the nation have difficulty supplying affordable housing in a range of types and locations. It is one thing for select communities to address the deficit, but a more viable option is for regions and states to adopt fair-share housing standards. This requires all new housing developments to incorporate a portion of affordable units. Proportional requirements typically are in the 10-to-15 percent range, but can vary depending on the needs of communities. This system works best when there is clear consensus and buy-in on the process from local, regional and state stakeholders.

Inclusionary zoning, or planning ordinances that require a specific share of new construction to be affordable to people of low or moderate income, is another successful technique used by some jurisdictions. Several states, including Texas and Oregon, however, have established laws that forbid jurisdictions from enacting inclusionary zoning laws.

## PROCESS

One common way to ensure the provision of a fair share of affordable housing is a top-down approach, in which all counties and municipalities with insufficient affordable housing are required to adopt an affordable housing plan. Other options include tying the funding of community development projects, housing tax credits and infrastructure improvements to compliance with an affordable housing plan. Another strategy is to exempt communities from a fair housing requirement if they can demonstrate they already provide an overwhelming supply of housing to residents who make 80 percent or less of the area median income.

### EXAMPLE

#### Massachusetts' Chapter 40B Affordable Housing Zoning

Also known as the Comprehensive Permit Law, Massachusetts' Chapter 40B Affordable Housing Zoning law encourages all local governments to ensure that at least 10 percent of the housing in their community is affordable. It does this by applying more flexible and streamlined review standards to development projects with an affordable component in communities where the 10 percent threshold has not been met.

More specifically, in communities that do not meet the 10 percent threshold, developers of state or federally subsidized projects can apply for a comprehensive permit through a streamlined process before the local Zoning Board of Appeals — if at least 25 percent of their project is affordable. Such development can then be approved under rules that are more flexible and often more lenient than local zoning would permit. For example, the Zoning Board of Appeals is generally able to provide permits for 40B developments even if the density of the development exceeds that permitted by local zoning.

Not only does 40B enable the development of affordable housing by providing more flexible permitting standards, the statute also provides an incentive for local governments to reach the 10 percent threshold in order to avoid the loss of local zoning control. Since the early 1970s, 40B has contributed to the construction of 40,000 units. Between 2003 and 2006, 71 percent of new Subsidized Housing units in Boston were a result of 40B legislation.

Over time, Massachusetts discovered that projects occurring under Chapter 40B were often sprawl development. In response, smart growth criteria were added that called for favors redevelopment projects that are walkable to transit, village centers, schools, libraries or retail; meet a minimum of five of the Commonwealth's 10 development principles; are environmentally sensitive; include fair participation by the public; meet standards for diversity and social equity; are energy efficient; provide transportation choices; and increase job opportunities.

Massachusetts Department of Housing and Community Development: <http://www.mass.gov/dhcd>

## 8

### Establish a dedicated revenue source for affordable housing

#### ACTION

Housing affordability has become a chronic problem for metropolitan areas. The lack of affordable housing can adversely affect regional economic competitiveness when companies are unable to attract workers because the cost of housing is too high. The private sector often will not produce affordable housing unless encouraged to do so by government. To address this challenge, local, regional and state governments need a coherent strategy for producing affordable housing. This can be done through directives from state housing finance agencies, and housing and mortgage finance agencies.

#### PROCESS

According to the Center for Community Change's 2007 Housing Trust Fund Progress Report, nearly 600 housing trust funds in cities, regions, and states generate more than \$1.6 billion a year to meet housing needs. Thirty-eight states plus the District of Columbia have created 49 funds.

Most states base their housing trust fund financing on real estate or housing sources. Funding can come from real estate transfer taxes, document recording fees, excise taxes, developer impact fees, Tax Increment Financing, interest on various government-held accounts, loan repayments, and a whole slew of other taxes and fees. The revenue source will vary depending on whether the housing trust fund is established at the state or local government level.

The strong role of housing finance authorities in establishing rules gives them latitude to encourage smart growth. One looming problem is that many states are shifting their funding for affordable housing from grants to loan programs. This shift could reduce the efficacy of the program because many affordable housing developers cannot generate enough income from development to pay back even a small amount of interest on a loan.

### EXAMPLE

#### Vermont's Housing and Conservation Trust

The Vermont Housing and Conservation Trust funds housing construction and land conservation projects by issuing loans and grants to local governments, non-profits, housing co-ops, and state agencies. The Vermont Housing and Conservation Board administers the fund. Eligible projects include affordable housing, as well as natural resource conservation, preservation and rehabilitation efforts.

Vermont's Housing and Conservation Board: <http://www.vhcb.org/>

## 9

### Encourage upper-story housing development downtown

#### ACTION

In many aging central business districts, the upper floors above stores sit vacant. These spaces offer potential space for affordable housing.

Downtown housing produces numerous benefits. The town increases its tax base. Property owners gain additional income, which increases property values. The residents form a consumer group to anchor businesses, such as restaurants and stores. Encouraging affordable downtown housing can also help businesses by providing lower-paid service workers with nearby housing options. In addition, upper-story housing allows people to more easily walk, bike or take transit.

#### PROCESS

There are many ways that states can provide incentives to develop upper-story housing in downtowns. They should identify downtowns that would benefit the most from upper-story housing and assist those communities in conducting inventories of vacant space. States should ensure that the fire prevention and life safety code, and the accessibility code are applied in a predictable and flexible manner that supports state goals. States can provide financial incentives to encourage upper-story housing development, such as increasing tax credits, instituting property tax stabilization or reduction measures, utilizing Tax Increment Financing, or directing Community Development Block Grant funds to designated downtowns.

### EXAMPLE

#### Vermont's Downtown Program

The Vermont Downtown Program was established in 1994 to provide technical assistance and training to communities and help local leaders develop skills and strategies for their downtown revitalization efforts. The program is an affiliate of the National Main Street Center, a division of the National Trust for Historic Preservation, which has worked in over 1,400 communities nationwide revitalizing and redeveloping downtown commercial districts in small towns and urban neighborhoods.

Vermont Division for Historic Preservation: <http://historicvermont.org/>

## 10

### Align Community Development Block Grant funds with state land-use policies

#### ACTION

States receive a significant portion of funding for affordable housing and community development activities from the federal Community Development Block Grant program. The CDBG program provides funding to assist a wide range of activities, including housing improvements, public facilities such as water and sewer, buildings such as local health centers, and economic development projects.

Federal statutes require CDBG funds to support the needs of low- and moderate-income households and their neighborhoods. When distributing funds, states must meet this programmatic goal, but they have significant latitude in promoting or achieving other state housing and community development goals, including smart growth objectives.

Funds can be used, among other things, to locate affordable housing near transit, commercial center or employment centers; to promote rehab of historic buildings; and to fund brownfield cleanups. Governors should direct their housing agencies to revise the distribution criteria for CDBG funds to more effectively support smart growth.

## PROCESS

To receive CDBG funds, states and jurisdictions must have a consolidated three-to-five-year plan that is approved by U.S. Department of Housing and Urban Development. The consolidated plan identifies housing and community development needs and objectives, and sets forth the criteria and process for distribution of CDBG funds. States can establish geographic criteria that prioritize the distribution of funds to designated locations, such as downtowns or designated growth locations.

## EXAMPLE

### Vermont's Consolidated Plan

Under Vermont's Consolidated Plan, funding preference for all programs is given to projects that maintain the historic settlement pattern of compact village and downtown centers separated by rural countryside. The plan also focuses resources on designated growth centers in the state and defines growth center characteristics.

Vermont Department of Housing and Community Affairs: <http://www.dhca.state.vt.us/>

## Help Desk

The following resources are available on our Web site at <http://www.govinstitute.org/policyguide/Housing/helpdesk.html>

### Reports

*2006 International Existing Building Code; State of the Nation's Housing; Shared Prosperity, Stronger Regions: An Agenda for Rebuilding America's Older Core Cities; Streamlining Building Rehabilitation Codes to Encourage Revitalization; A Greener Plan for Affordable Housing: How States are Using the Housing Credit to Advance Sustainability; Stuart Meck, Rebecca Retzlaff and James Schwab, Regional Approaches to Affordable Housing* American Planning Association, Planning Advisory Service Report 513/514; *Center for Community Change: Housing Trust Fund Progress Report 2007*

### Organizations

National Vacant Properties Campaign; International Code Council; National Multi Housing Council; National Housing Trust; Policy Link

### Websites

Policy Link; List of Housing Trust Web sites, USHUD