

# URBAN GROWTH BOUNDARY (UGB)



*Downtown Amherst*

## What are the objectives of Urban Growth Boundaries?

To control urbanization and minimize sprawl by designating the area inside the urban growth boundary for higher density urban development and the area outside the boundary for lower density rural development.

## Why are Urban Growth Boundaries needed?

Across Massachusetts, development is occurring in an increasingly sprawling form, with many negative impacts on both rural areas and central cities. UGBs seek to prevent sprawl by encouraging new development in and around existing town or urban centers, and slowing growth in more rural, undeveloped open areas.

## How do Urban Growth Boundaries work?

Ideally, urban growth boundaries are prepared as part of an overall community or regional Master Plan. In any case, careful analysis and documentation must be done in preparing urban growth boundaries. Boundaries should be drawn based upon detailed analysis of the carrying capacity of the land, environmentally sensitive areas, existing and planned infrastructure, and natural resource areas. Some states, such as Oregon, have adopted special legislation to enable the creation of UGBs. However, even in states without such enabling legislation, such as Massachusetts, it is possible to combine multiple growth control strategies to create “de facto urban growth boundaries.” For example, the following components could become part of an overall growth boundary strategy:

- Moratoria on sewer and water extensions to areas beyond the established urban growth boundary;
- Reduced lot size, and related zoning incentives for areas within the UGB and lot size disincentives for areas outside the UGB;
- Subdivision regulations which require that developers pave town roads leading to new subdivisions;
- Annual building permit limits for areas inside and outside UGBs, with project evaluation and rating criteria. Substantially more building permits would be allowed within the UGB than outside its boundaries. All development projects would be rated and permits awarded to projects best meeting community goals;
- Establishment of a community or regional fund to match state grants for land acquisition of farmlands or environmentally sensitive areas outside urban growth boundaries only.

## DID YOU KNOW...

Over the past decade in the Pioneer Valley, while the region’s population has remained relatively stable, sprawl has consumed 37,329 acres of land, or about 5% of the total acreage in the region.

*(PVPC Data Center, 2004)*

## EXAMPLES FROM THE PIONEER VALLEY

### Towns of Hadley and Amherst

There are two types of growth limitations in use in the Pioneer Valley region: building permit caps and phased growth bylaws. Examples of each type are noted below.

The *Town of Amherst* Phased Growth Bylaw was adopted in 1987, and has a more complex system of incentives for awarding building permits to projects that best meet town goals for open space preservation, affordable housing and other issues. There are three major components of this bylaw:

- Growth Cap: An overall cap of 250 dwelling units during any two year period (based on a rolling two year calculation) is imposed. This cap, based on historical trends, was determined to be appropriate to provide time to respond to infrastructure needs created by growth.
- Development Schedule: All developments of four residential units or more are required to phase the construction of those units over a time period of from two to five years, based on the number of units proposed.
- Point System: All developments of four residential units or more are reviewed against a series of criteria, including provision of affordable housing, open space and farmland protection, cluster developments and a discretionary category. Based on this review, positive or negative points are assigned which in turn, allow a development to be constructed in a faster time period, or require it to be phased out longer than the development schedule normally requires.

The *Town of Hadley* had a simple cap on the maximum number of building of building permits which could be issued in a calendar year. Hadley's bylaw, adopted in 1988, limited building permits as follows:

- For subdivisions of less than ten lots, one dwelling unit per year was allowed;
- For subdivisions of more than ten lots, one tenth of the maximum number of dwellings permitted on the total land area per year was allowed.

Hadley's Building Permit Cap bylaw was recently challenged and overturned in the *Zuckerman v. Town of Hadley* case. The Supreme Judicial Court held that the bylaw failed to meet the classic test for constitutionality: whether the bylaw is "clearly arbitrary and unreasonable, having no substantial relation to public health, safety, morals and general welfare" and more specifically whether the bylaw bears a "rational relation to a legitimate zoning purpose". This case provided the important guidance to communities regarding the legal parameters surrounding phased growth bylaws:

- It is possible to legally adopt a Phased Growth Bylaw, but it must have a sunset provision, such as five years;
- The bylaw must also have a specified purpose, such as addressing public sewer, water or school capacity problems;
- Finally, the bylaw must establish a recognized problem, and be established in concert with planning to solve that problem.

The Hadley case has forced Amherst to consider revisions to their bylaw, to give the bylaw a five-year duration and tie it to the formation and execution of a comprehensive plan.

### [MODEL PHASED GROWTH BYLAW](#)