

SMART GROWTH PUBLIC INFRASTRUCTURE POLICY ACT OF 2010

In October 2010, the State enacted the Smart Growth Public Infrastructure Policy Act of 2010 ("Infrastructure Act") -- a law that promotes Smart Growth and sustainable infrastructure investments.

In a nutshell, the Infrastructure Act establishes ten Smart Growth criteria in State law – infrastructure projects reviewed by the State must meet those criteria "to the extent practicable." State agencies and public authorities that approve or fund infrastructure projects are required to form Smart Growth Advisory Committees. These Advisory Committees are responsible for ensuring that funding and approval decisions for public infrastructure are consistent with the "relevant" Smart Growth criteria in the law. The Advisory Committees will produce a Smart Growth Impact Statement after reviewing each project; if the project cannot practicably meet the Smart Growth Criteria, the agency must provide a written Statement of Justification setting out the reasons why.

The Infrastructure Act does not provide an express definition of "public infrastructure." But the language of the law indicates that it primarily covers roads, bridges, streetscapes, transit, other mobility systems, drinking water, sewers, drainage systems, and utilities, among others.

The ten Smart Growth criteria in the Infrastructure Act can be broken down into two broad categories of land use – the "where" and the "how": "where" focuses on locations that maximize and strengthen existing communities and infrastructure; and "how" refers to design features and planning processes that promote livability, sustainability, housing and mobility choices, environmental protection, equity and broad-based community participation.

Here is a summary of the ten Smart Growth criteria used to review public infrastructure projects:

- **Maintenance and use of existing infrastructure.** Similar to a "fix-it-first" policy, which focuses funding on repair and maintenance of existing infrastructure, rather than constructing new infrastructure.
- **Location in "municipal centers."** Development and re-development in existing or new centers of activities – e.g., downtowns, Main Streets, central business districts, brownfield areas, local waterfront revitalization areas, environmental justice areas, hardship/low-income areas and transit-oriented development, among others.
- **Infill Development.** Redevelopment, rehabilitation and development between existing buildings and on vacant, abandoned or underutilized properties.

- **Natural resource protection.** Preserving, protecting and enhancing water, air, agricultural land, forests, recreation, open spaces, scenic areas and historic/archaeological resources.
- **Smart Growth planning and design principles.** Includes density, mixed-uses, public spaces, diverse housing choices near employment and other amenities and age- and income-integration.
- **Mobility and transportation choices.** Reducing car-dependence through walkable, bikable, transit-friendly neighborhood design and street connectivity.
- **Inter-governmental coordination.** Regional, inter-municipal and state/local coordination.
- **Community-based planning.** Projects that result from inclusive, bottom-up, stakeholder-driven planning processes.
- **Predictability and reliability in building and zoning codes.** Clear codes that promote smart growth and are consistently and predictably applied.
- **Sustainability Development.** Projects that use existing resources in ways that do not compromise the needs of future generations – e.g., reducing greenhouse gas emissions, promoting broad-based public participation and adequate governance structures to ensure and maintain sustainability.

Although State Infrastructure Agencies that approve and fund public infrastructure are responsible for implementation of the Infrastructure Act, municipalities, planners and developers might consider incorporating Smart Growth principles into projects in the early planning and design phases – in anticipation of State agency Smart Growth review.

The specific State Infrastructure Agencies covered by the law include the Departments of Education, Environmental Conservation, Health, State and Transportation; Environmental Facilities Corporation (sewer and water); NYS Housing Finance Agency and Housing Trust Fund; Empire State Development Corporation; Urban Development Corporation; Thruway, Dormitory and Port Authorities; subsidiaries of, or corporations with the same members or directors as, any of these entities that are public benefit corporations; and all other New York authorities.

The Department of State offers several Smart Growth courses – including “An Introduction to Smart Growth.” For more information on these courses, consult the DOS website at <http://www.dos.ny.gov/lg/lut-index.html> or call the DOS at (518) 473-3355.

