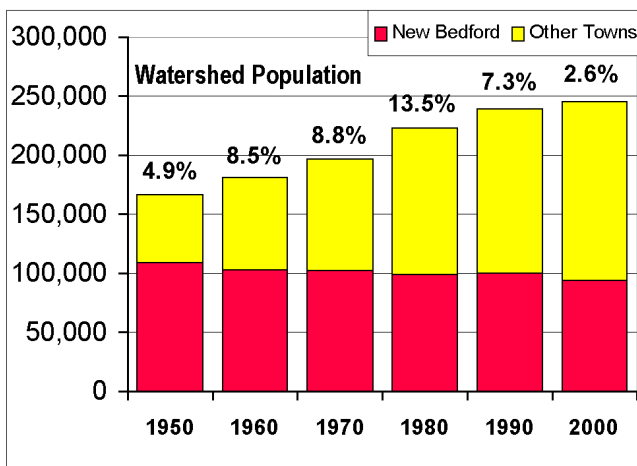


## Action Plan 4: Improving Land Use Management and Promoting Smart Growth

### Land Use in Buzzards Bay

The Buzzards Bay ecosystem is relatively healthy. With the exception of waters around New Bedford, the water quality and living marine resources in the Bay have not yet experienced the degree of stress associated with other coastal areas such as Chesapeake Bay, Narragansett Bay, and Long Island Sound. However, the ability of the Buzzards Bay environment to sustain its many beneficial uses is threatened as growth in the area continues to accelerate.

Population in the watershed has increased from approximately 150,000 to 250,000 in the past fifty years. During this period population declined in urban areas (such as New Bedford), with continued sprawl into the country-side, requiring longer commutes to jobs and schools. Buildout analyses in the member communities demonstrate the potential for continued growth.



This population increase reflects the development of land programmed for subdivision by the Buzzards Bay communities through their zoning bylaws. Expansion of the second-home market and the increasing willingness of home buyers to pay inflated prices to live near the coast are creating economic pressure to convert rural or agricultural land to residential development. In addition, seasonal seaside homes are now commonly converted to year-round residences. These trends are demonstrated in the Buzzards Bay drainage basin by the 100% increase in residential land use between 1951 and 1985. Most of this development has occurred in low and medium density areas, indicating a move towards subur-

ban sprawl and away from more established urban centers.

These recently developed areas are contributing new pollutant loads to the Buzzards Bay ecosystem. These loads are the result of increased runoff from roads and lawns and increased volumes of sewage from residences and commercial establishments. Imprudent development will ultimately impact coastal ecosystems by providing pollutants such as bacteria, viruses, heavy metals, hydrocarbons, and nutrients through pathways to the Bay. The Alliance for the Chesapeake Bay (1989), in its white paper on growth management, reinforced the need for greater control and predicted that growth management would become the watchword of the '90s. The Alliance further indicated that managing growth is essential to protecting natural resources and that regulations, financial resources, and pollution-control devices are of limited value. More recently, the EPA and the Commonwealth of Massachusetts have become proponents of "Smart Growth" as the planning tool for this first decade of the new millennium, and beyond.

"Smart Growth" is well-planned development that benefits the community, protects open space and farmland, keeps housing affordable, provides more transportation choices and preserves the natural environment.

Smart growth provides an opportunity to foster quality development that provides both economic and environmental benefits to a community and a region. It directs growth into village centers that have appropriate wastewater treatment infrastructure, broader transportation choices and more diverse (and affordable) housing opportunities. It also preserves and protects critical environmental resources, agricultural areas and open space.

Other Action Plans in this CCMP address specific types of pollution sources or sensitive habitats, or contain specific recommendations for reducing pollutant loads and protecting areas of special concern. These individual action plan recommendations alone are not sufficiently protective; inherent in each set of recommendations is an understanding that a holistic approach to water quality protection is needed. **The cornerstone of such an approach is land-use planning for growth management and more specifically, smart growth.**

### Developing a Local Land-Use Plan

The underlying assumption of growth management is that there are limits to the amount of unmanaged growth that an area can withstand without serious harm

to public health, safety, regional economy, or the environment. Environmental systems, and specifically coastal embayments, reach limits at which they can no longer absorb the impacts from additional development without degradation or impairment of uses. This is known as the “carrying capacity.” Of specific concern in Buzzards Bay are the localized embayments where the greatest amount of human activity (swimming, fishing, and boating) takes place. Aggressive land-use management and planning can ensure that the water quality of an embayment is protected, particularly when drainage basins contain appreciable amounts of developable land.

A key component of local land-use planning is the identification of critical areas for protection. Escalating growth patterns place stress on these critical resource areas, and the stress is often proportional to growth. Identification of these areas will provide communities with a planning tool to begin answering questions of where to allow development, how best to design development, how much of it can occur, and how best to regulate potentially detrimental future land uses.

Equally important is the identification of growth centers, areas that can accommodate growth, where appropriate infrastructure (including wastewater treatment) and environmentally sensitive design standards can be provided. These growth centers can then absorb the “vested” rights of land owners in the region by redirecting (or transferring) them from more critically-sensitive areas. They can also provide better diversity of housing types (including affordable), a range of transportation options (transit, cycling and pedestrian) and a higher quality lifestyle. The resulting form of development (more compact village centers surrounded by protected open spaces) can also provide opportunities for the reduction of carbon emissions, leading to minimization of the “greenhouse” affects and sea level rise.

Important agriculture areas must also be delineated. Cranberry and other agriculture have been an important part of the landscape in Southeastern Massachusetts and Cape Cod for well over one hundred years. This unique environment plays an increasingly important role in the preservation of open space, in providing opportunities for water conservation and in providing wildlife habitat.

Although, 12,700 acres are in actual production, cranberry growers own and manage nearly 62,000 acres of related ponds, bogs, wetlands and upland forest. As the region becomes more developed, this land takes on more and more importance. For example, A.D. Makepeace Company, a large cranberry grower and the largest private land owner in Massachusetts, is poised to develop a large portion of their land. The development of this area will change much of the landscape in the upper watershed, and should utilize some of the planning and design methods described below to minimize the impacts of the development on water quality, water quantity, habitat and the environment. This project is in the plan-

ning stages, and BBNEP expects it will continue to take shape on paper and on the ground over the next several years.

## **Tools & Techniques**

The validity of local government regulation is predicated on the broad concept of police power: the power of government to regulate for the advancement and protection of the health, safety, economy, and welfare of the inhabitants of the community. In the Buzzards Bay area, this broad authority has been typically limited to zoning techniques such as dimensional requirements including lot size, setbacks, and lot coverage.

A handful of communities have expanded their zoning regulations to focus on the protection of water quality, and a smaller number have given the protection of Buzzards Bay water quality a high priority in their zoning codes and subdivision and health rules.

Smart growth provides a new approach to land use planning that recognizes “vested” land values and development rights of current landowners, and re-directs (and re-designs) this growth in patterns that are more sensitive to environmental constraints. The following regulatory and non-regulatory techniques represent a sampling of those methods that the Buzzards Bay watershed communities could adopt to provide added protection from the pressures of growth and development by offering alternative designs and techniques.

### ***Regulatory Techniques:***

#### ***Overlay Ground/Surface Water Protection Districts***

An overlay ground or surface water protection district clearly identifies and recognizes critical water resources and protects these resources through regulatory restrictions. These ordinances (cities) and bylaws (towns), while varying in their approach toward resource protection (i.e., prohibition of various uses versus special permitting and/or performance criteria), are similar in their goals of defining a resource by mapping boundaries and enacting specific legislation for land uses and development within these boundaries. Whenever possible, stormwater should be contained and treated on-site.

#### ***Overlay Smart Growth Zoning District***

Many communities in Buzzards Bay watershed and throughout Massachusetts are faced with a shortage of affordable (or “work force”) housing units. Communities that do not meet the minimum requirements for availability of affordable housing can be faced with proposed affordable housing projects that are allowed to bypass certain local zoning regulations through a comprehensive permit application process, under M.G.L. Chapter 40B. As a result, high-density projects can be proposed in areas that may not be best suited for this

level of development. One mechanism to pre-plan and provide incentives for creation of affordable housing and open-market housing is to develop a Smart Growth Overlay Zoning District (authorized by MGL Chapter 40R). Within the district, development must meet a set of design standards created by the municipality, but development can occur by right, easing the comprehensive permitting requirements for the developer in comparison to Chapter 40B developments (which are often contentious and end up in court). Chapter 40R allows a municipality to designate areas where mixed use and residential growth should occur in the town, in accordance with a Land Use Plan, and then provide an incentive in the form of a simpler permit process. Such a district can relieve development pressures in more environmentally constrained areas through a transfer of development rights process (described below).

In addition, and perhaps its biggest selling point to the general public, state approval of a Chapter 40R Overlay District results in an incentive payment to the community general fund commensurate with the number of units the district allows, and then additional payments of \$3,000/unit as the residential units receive building permits, as long as one unit is built within three years. This new program has only been employed by a handful of communities to date; Plymouth recently passed a Chapter 40R district in the area of Cordage Park (outside the Buzzards Bay watershed).

#### Surface Water Buffer

Stormwater runoff is a major component of non-point-source pollution in surface water and contains pathogens, nutrients, and contaminants associated with road runoff. Studies have shown that undisturbed lands are generally more permeable and, as a result, allow higher levels of stormwater percolation and natural treatment of associated contaminants. Municipalities can require that undisturbed vegetative upland buffers be maintained adjacent to and within a defined buffer area (e.g., 100 feet or more) of surface waters in order to promote natural stormwater treatment.

#### **Performance Standards**

Performance standards are based on the assumption that any given resource has a critical limit (carrying capacity) beyond which the resource deteriorates to unacceptable levels. Performance controls assume that most uses are allowable within a designated area, provided that the use or uses will not overload natural or man-made resources. To apply this concept to Buzzards Bay, the critical limits of nitrogen-sensitive embayments must be determined. Once determined, each development project within the drainage basin would be allowed to contribute a defined percentage of nitrogen, relative to the capacity of the embayment.

This approach may provide the only comprehensive mechanism for equitably protecting Buzzards Bay from

increasing additions of nitrogen. The Bay's ability to assimilate nitrogen is limited, but establishing a program that is based upon performance regulations is an exciting and imaginative mechanism for ensuring the Bay's long-term viability.

#### Cluster Design

Cluster zoning is an alternative to the standard grid-style subdivision. In a cluster development, smaller building lots are allowed, with resulting land savings set aside in contiguous areas of open space. Clustering can be done at the same density that could be obtained in a grid system or with greater density "bonuses". Typically, cluster development allows shorter streets, reducing construction and maintenance costs. It provides tremendous flexibility for both the developer and municipality, and often allows for greater creativity in the division of large land parcels. Among other benefits, large open spaces may serve as buffers.

#### Open Space Residential Design

Open Space Residential Design (OSRD) is similar to cluster design, but generally is a partnership process between the developer and the town. It requires a larger portion of land to be set aside as open space, offers more flexible incentives, and establishes a design process to be followed. OSRD design process starts with identifying areas of the site with conservation value, such as water resources, wetlands and habitat areas, placing residential units on the site to avoid these areas and to provide residents with the best vantage to enjoy these resource areas, then placing roads and walkways on the site that align with the natural topography of the site, and finally drawing lot lines around the units. The conservation value of the open space conserved through this technique is often greater than through traditional cluster subdivisions.

#### Transfer Development Rights

Transfer of Development Rights (**TDR**) is a regulatory strategy that harnesses private market forces to accomplish two [smart growth](#) objectives. First, [open space](#) is permanently protected for water supply, agricultural, [habitat](#), recreational, or other purposes via the transfer of some or all of the development that would otherwise have occurred in these sensitive places to more suitable locations. Second, other locations, such as city and town centers or vacant and underutilized properties, become more vibrant and successful as the development potential from the protected resource areas is transferred to them. In essence, [development rights](#) are "transferred" from one district (the "[sending district](#)") to another (the "[receiving district](#)"). Communities using TDR are shifting development densities within the community to achieve both [open space](#) and economic goals with change loss to their overall development potential.

### Traditional Neighborhood Development

Traditional Neighborhood Design (TND), also known as "new urbanism", "neo-traditional" or village-style development, includes a variety of housing types, a mix of [land uses](#), an active center, a walkable design, and often a transit option within a [compact](#) neighborhood scale area either as infill in an existing developed area or as a district scale project.

### Transit Oriented Development

Transit Oriented Development (TOD) creates mixed-use, higher [density](#) communities that encourage people to live, work and shop near transit services and decrease their dependence on driving.

### Low Impact Development

[Low Impact Development](#) (LID) is a more [sustainable](#) land development pattern that results from a [site planning](#) process that first identifies critical natural resources, and then determines appropriate building envelopes. LID also incorporates a range of best management practices (BMPs) that preserve the natural hydrology of the land. LID is described in much more detail in Action Plan 3. LID techniques can be incorporated in a variety of smart growth approaches listed here.

### Subdivision Control

Subdivision regulations, as described in Massachusetts General Laws Chapter 41 (the "Subdivision Control Law"), differ from zoning bylaws in that they focus less on land use and more on engineering concerns such as street design (grade, width, intersection angles), utility placement and traffic patterns of individual subdivisions. Protecting water resources via subdivision control can help limit the degree of imperviousness of the watershed, thereby controlling stormwater runoff.

### Stormwater Management Requirements

Stormwater from subdivisions and commercial developments can be regulated through the use of local stormwater bylaws, as well as through local stormwater performance standards and design criteria that can be incorporated into the local subdivision regulations, local wetlands protection bylaw or site plan review process. A model stormwater bylaw has been developed by for the Town of Duxbury, Marshfield and Plymouth using Massachusetts CZM grant funding.

### Nitrogen Management Overlay Districts

Overlay districts such as the Buttermilk Bay Overlay District in Plymouth and Wareham can be used to regulate the nitrogen impacts from development on coastal and groundwater resources. It is possible, for example, to determine the water quality impact of a 20-lot subdivision by calculating the nitrogen contribution from road and lawn runoff and septic systems. Planning boards can use this information to regulate subdivisions by limiting development size and placing restrictions and

requirements on lawn size, fertilizer use, and wastewater treatment so that water quality will not be compromised. In cases where the project is located in an already-impaired subwatershed, positive-impact development can be required where off-site mitigation must be provided in exchange for development permits.

### Board of Health Review

Section 81-U of the Subdivision Control Law requires that boards of health review all subdivision plans to ensure that they do not pose any public health concerns. When used appropriately, board of health review under Section 81-U can ensure that threats to water quality are minimized. Planning boards are constrained from approving subdivision plans that the board of health stipulates are not suitable for construction due to public health issues. This review authority vests considerable power in the board of health, but also has the effect of encouraging planning boards to work cooperatively with local health boards to ensure adequate protection of public health.

### Board of Health Regulations

The development of health regulations, as provided for in Massachusetts General Laws, Chapter 111, can be an extremely effective method of land-use management. Although zoning bylaws and subdivision rules and regulations have limited ability to protect water resources, regulations adopted by boards of health can be powerful protective mechanisms. This is due in part to the fact that health regulations can be adopted very quickly, only requiring a majority vote of the board of health. Because of the extensive protection afforded to land owners through zoning, many communities have opted for regulatory programs administered by boards of health. The urgency of adopting growth controls and the impressive powers that boards of health possess make these boards probably the most effective local institution upon which to base a strategy for land-use management. The courts have consistently upheld these powers when they have been challenged, as long as the process is well conceived, is logical in its approach, and does not totally deny the use of property. Several examples of effective board of health regulations are discussed below.

### Dennis:

State law currently governs the siting and operation of septic systems, requiring setbacks from environmentally sensitive areas. Concerned about the rising number of variances being granted from these regulations, the Dennis Board of Health has defined environmentally sensitive areas to include:

- Land area (whether developed or not) that borders on and is within 100 ft of marshlands, tidal flats, coastal dunes, barrier beaches, coastal banks, coastal beaches and surface wa-

ter.

- Land area containing subsurface water that is 6 ft or less below natural ground surface elevation.
- Existing or known future water supplies.
- Terrestrial and/or threatened or endangered species.
- Variances from septic system regulations are granted by the Dennis Board of Health in environmentally sensitive areas only under exceptional circumstances.

#### ***Brewster:***

Brewster requires a water quality report to be submitted to the board of health for all developments that will discharge greater than 2000 gallons per day (GPD) of wastewater. This regulation attempts to address large projects with heavy wastewater discharge flows that will not meet the state review threshold of greater than 15,000 GPD. Proposed projects with a density of less than one unit per two acres are exempt.

Information submitted to the Brewster Board of Health must demonstrate that no significant impact to water resources will occur as a result of the project. Also, it must be demonstrated that the nutrient contribution of the proposed project, when added to the existing and potential nutrient level of other developments and acreage within the specific recharge or drainage area, will not result in nutrient levels that exceed the receiving water's critical eutrophic level.

Variances may be granted by the board of health, but the applicant must prove that sewage disposal will not adversely affect, among other uses, any shellfish or recreational waters. The information required is extensive and amounts to a local environmental impact report.

#### ***Bourne:***

The Bourne Board of Health prohibits the construction of septic systems in areas of shifting sands (coastal beaches, coastal dunes, barrier beaches, coastal banks). This is to prevent systems from being torn loose during storms and becoming health and safety hazards. In addition, in an attempt to discourage septic systems highly "mounded" above natural ground level in coastal areas, the board of health requires greater than 6 ft of separation between the original ground elevation and groundwater.

A duplicate regulation administered by the Sandwich Board of Health was recently challenged in court. The Superior Court of Barnstable found that the restrictions are a valid exercise of the town's police power to prevent the use of property in a manner that is detrimental to the public's interest. The court also found that the regulations were promulgated in response to identifiable

local concerns regarding (1) the installation of septic systems as affecting the public health, and (2) maintenance and preservation of coastal areas.

#### ***Non-Regulatory Techniques:***

##### *District Improvement Financing/Tax Increment Financing*

[District Improvement Financing](#) (DIF) and [Tax Increment Financing](#) (TIF) are economic tools that promote redevelopment by use of public/private partnerships. TIF offers tax breaks to developers, while DIF channels tax dollars into targeted redevelopment districts. Both of these programs can indirectly help to preserve open space and reduce the pattern of sprawl.

##### *Donations of Land*

Landowners can donate a piece of land (as part of a development project or an entire developable parcel) either to the community or a nonprofit land-holding organization. Donating the land for preservation is advantageous to land owners because of a variety of tax savings. Donations eliminate estate or capital gains taxes and avoid real-estate taxes, insurance, and maintenance costs. The entire value of the donation can be deducted, over time, from federal income tax obligations.

##### *Purchase of Land*

Many communities are committed to the acquisition of selected parcels of land deemed so significant to the town's future that it may be willing to purchase them outright at market prices. These acquisition priorities include large tracts of undeveloped land, land within defined water resource areas, land containing unique or rare and endangered wildlife, and land with unique ecological character. There are four variations:

1. Sale at fair market value: Sale at the price a buyer is willing to pay a seller to purchase a piece of property.
2. Bargain sale: The sale of property below fair market value to a conservation organization or municipality. The difference between fair market value and the reduced price may qualify as a charitable deduction from income taxes.
3. Installment sale: Sale that allows the seller to spread the income from the sale of property over several years, thus deferring and, in some cases, reducing income taxes. This allows the buyer greater flexibility in raising funds for acquisition.
4. Sale with a reserved life estate: The transfer of property upon the death of the individual land owner. This option allows landowners to sell or donate now, but continue to use the property during their lifetimes or the lifetimes of other members of their immediate families. This allows use of tax benefits now and avoids inheritance tax requirements that can lead to the sale of property later.

### Tax Deferments

One factor that often pressures individuals into selling their land is the property tax, because it taxes land based on the market price for development, regardless of the land's present use. All New England states currently provide for some degree of reduction in real-estate tax for lands used for conservation. In Massachusetts, open space for forest, agricultural, or recreational uses can receive from 75% to 90% reduction in real-estate taxes. Inheritance tax generally is 50% of value. In land-rich, cash-poor situations, this can lead to the need to sell property at the highest value to settle an estate.

### Conservation Easements

An easement is a limited right to use or restrict land owned by someone else. Easements are either positive (rights-of-way) or negative (conservation, scenic) and may take a variety of forms. Negative easements can effectively assist a community in protecting land from development by restricting all or a portion of the property to open-space or limited development uses. The granting of a conservation easement does not involve the transfer of ownership of the land; instead it means giving up certain development rights of the property. For example, a conservation restriction may limit the number of houses to be built upon a parcel, restrict development to specified types, or specify that portions of the parcel within sensitive areas will remain undeveloped in perpetuity.

### Conservation Commission Policies

Local conservation commissions, in their role of implementing the Wetlands Protection Act, have significant land-use responsibility. For example, they have the authority to protect critical wetland areas through local initiatives that assert their jurisdiction within the 100 ft buffer zone around wetlands. Conservation commissions can protect sensitive coastal wetlands by requiring strict standards within buffer areas. A buffer zone is extremely important for the protection of both wetland functions and wildlife habitat.

Neither state nor federal government has a setback requirement in its wetland regulations, but towns are permitted to adopt construction setbacks from wetlands. Some towns have adopted wetland setbacks of 25-50 feet and, in the case of Areas of Critical Environmental Concern, 100 ft. Others, such as Falmouth, have adopted regulations requiring new construction to provide at least 25 feet of vegetated buffer to the wetland. Most towns on Buzzards Bay do not, however, have standard wetland setbacks and thus must negotiate buffer belts on a case-by-case basis. The drawback to this ad hoc approach is that negotiations begin from the wetlands edge rather than some distance away.

## Action Plan 4: Improving Land Use Management and Smart Growth

### Goal

To improve land use management through the use of smart growth strategies in the Buzzards Bay Watershed to maintain and improve the natural resources and healthy ecology of Buzzards Bay.

### Objectives:

1. To implement smart growth techniques in each of the Buzzards Bay watershed communities to preserve open space, revitalize urban and village centers, focus development on growth centers, and protect natural resources and the environment.
2. To improve local zoning, subdivision, health and wetlands regulations to manage future growth in a way that protects the environment of Buzzards Bay and its watershed.
3. Promote sustainable agriculture that does not impact water quality.

### Recommendations and Commitments

#### Buzzards Bay NEP

4.1 The BBNEP should work with municipalities to develop and implement model bylaws and local plans that incorporate smart growth techniques, such as transit oriented development and traditional neighborhood design as part of TDRs, nitrogen management overlay districts, and transfer of development rights.

*Priority: Medium*

*Responsible Agent(s): BBNEP, support from BBAC*

*Commitments: The Buzzards Bay NEP is committed to this*

*Legislation required: None*

*Estimated Costs: None if incorporated into mission, but would require additional staff if other mission goals are not curtailed.*

*Potential Funding: various state and federal grants to expand level of effort*

*Implementation Strategy: BBNEP staff working with municipal staff to bring regulations and bylaws to town meeting or board meetings where applicable*

*Measuring success: Adoption of smart growth regulations and bylaws, and incorporation of strategies into Master Plans and Open Space plans. Should be tracked by community and specific smart growth strategy.*

*Schedule: Initiate in 10/2007 and continuing thereafter.*

*Comments: Technical assistance by the BBNEP may need to be phased approach, targeting certain communities initially based on GIS land use and prioritizations in the regional open space plan. See also Action Plan 14. Coordination of outreach through the Buzzards Bay Action Committee will be an important part of the outreach strategy. Outreach materials should be developed targeting developers as well.*

#### Federal Agencies

4.2 Towns should work with the USDA NRCS to identify areas with prime farmland soil areas, to protect these areas for agricultural uses.

*Priority: Medium*

*Responsible Agent(s): USDA-NRCS*

*Commitments:*

*Legislation required: None*

*Estimated Costs: None if incorporated into existing mission*

*Potential Funding: NA*

*Implementation Strategy:*

*Measuring success:*

*Schedule:*

*Comments: Important agricultural soil areas are in limited supply, and it would be unwise to direct TDR receiving areas and growth centers to these locations. When properly managed, agricultural lands can have less impact on the environment than the same land used for residential or commercial development. For these reasons, these important agricultural soil areas should be preserved.*

#### Commonwealth of Massachusetts

4.3 Massachusetts should continue to provide assistance in the implementation of smart growth techniques by local government, and the adoption of those techniques by developers.

*Priority: Medium*

*Responsible Agent(s): EOEA and CZM*

*Commitments:*

*Legislation required: None*

*Estimated Costs: \$200,000 annually?*

*Potential Funding: state bond funds, smart growth grants*

*Implementation Strategy: grants and technical assistance*

*Measuring success:*

*Schedule: Ongoing. Toolkit should be updated as per recommendation 3.8*

*Comment: This can be accomplished through the smart growth grant funding and by providing technical/educational assistance like the Smart Growth Toolkit. EOEA should also host workshops for developers.*

4.4 The Executive Office of Environmental Affairs should develop guidelines for ACEC management plans and require that towns and regions develop and adopt plans.

*Priority: Medium*

*Responsible Agent(s): DCR and CZM*

*Commitments:*

*Legislation required: None, but change in state regulations required*

*Estimated Costs: None*

*Potential Funding: NA*

*Implementation Strategy: promulgation of new regulations*

*Measuring success: Local adoption of management plans*

*Schedule: Regulations adopted in 2008*

*Comment: This concern can be addressed through broadening and strengthening the ACEC program. The Executive Office of Environmental Affairs should be aggressive in nominating and designating ACECs, and then mandating local and regional management plans as required. Management plans should contain specific provisions that will adequately protect the resource areas.*

### Regional Planning Agencies

4.5 Regional planning agencies (SRPEDD and the CCC) should provide technical assistance to communities in promoting smart growth incentives and assisting communities in the development of regulatory amendments and should encourage the creation of management plans for areas that extend beyond community boundaries.

*Priority: Medium*

*Responsible Agent(s): SRPEDD and CCC*

*Commitments:*

*Legislation required: None*

*Estimated Costs: may require funding for additional staff*

*Potential Funding: state or federal grants*

*Implementation Strategy:*

*Measuring success:*

*Schedule:*

*Comment: These plans could include the development of inter-municipal TDR programs. RPAs should also work with all communities around Buzzards Bay and provide effective management tools for regulating land-use activities. Performance standards, such as nitrogen-loading bylaws, are particularly valuable. The BBNEP and EOEPA may need to provide training and workshops.*

4.6 CCC, a regulatory agency, should be aggressive in protecting critical resources, and both CCC and SRPEDD, when they comment on development projects through the MEPA process, should focus attention on the protection of critical resource areas.

*Priority: Medium*

*Responsible Agent(s):*

*Commitments:*

*Legislation required: None*

*Estimated Costs: None*

*Potential Funding:*

*Implementation Strategy:*

*Measuring success:*

*Schedule:*

*Comment:*

4.7 The Cape Cod Commission and SRPEDD should encourage the use of "growth incentive zones" to establish village centers and TDR programs.

*Priority: Medium*

*Responsible Agent(s): Cape Cod Commission*

*Commitments:*

*Legislation required: None*

*Estimated Costs:*

*Potential Funding:*

*Implementation Strategy: Education and outreach*

*Measuring success:*

*Schedule:*

*Comment: Both regional entities should help towns identify where growth centers should be located for TDRs. Growth areas should be designed with sufficient size and density to make sewerage and wastewater treatment with municipal or package wastewater treatment facilities economical over onsite wastewater systems.*

### Municipalities

4.8 Buzzards Bay watershed municipalities should evaluate the wide range of Smart Growth techniques,

and implement those that best protect their critical resource areas and minimize growth impacts on water quality and habitat.

*Priority: High*

*Responsible Agent(s): Selectmen, Town Meeting, Planning Board*

*Commitments:*

*Legislation required: Revision to Zoning bylaws, General bylaws, wetland regulations Site Plan Review, Open Space Plans, Master Plans*

*Estimated Costs :unknown*

*Potential Funding: State and federal grants*

*Implementation Strategy: Principally changes to local laws and regulations*

*Measuring success: Tracking town-specific changes to laws and regulations*

*Schedule: Begin in the fall of 2007*

*Comment: This recommendation is a catch-all for all possible recommendations that could be implemented under this action plan. Every municipality has special needs that must be addressed by a town-specific strategy. Certain techniques, like cluster zoning, should be universally adopted. Others are more town specific.*

*Technical support and outreach from BBNEP, as per recommendation 4.1, and the state support, as per recommendation 4.,3 will be an important for success of this recommendation*

4.9. Buzzards Bay watershed municipalities should adopt transfer of development rights (TDRs) to transfer development from identified sensitive resource areas (sending areas) to the identified growth centers (receiving areas).

*Priority: Medium*

*Responsible Agent(s): Selectmen, Town Meeting, Planning Board*

*Commitments:*

*Legislation required: Zoning bylaws, General bylaws, Site Plan Review Regulations.*

*Estimated Costs: None.*

*Potential Funding:*

*Implementation Strategy: Adoptions of new laws and regulations, designations of growth centers for TDRs*

*Measuring success: Adoption of TDR regulations, designation of Growth Centers*

*Schedule: Begin 10/2007*

*Comment: This process should include the identification of village growth center boundaries, revisions to zoning, and planning for appropriate wastewater infrastructure. Receiving areas should be able to accommodate sewerage and wastewater treatment goals and recommendations in Action Plan 6: Managing On-Site Wastewater Disposal Systems and Action Plan 7: Managing Sewage Treatment Facilities. Technical support from BBNEP as per recommendation 4.1 will be an important ingredient for success of this recommendation.*

4.10 Buzzards Bay watershed municipalities should establish buffer zones around agricultural lands by using mandatory (OSRD) zoning or other appropriate land use techniques, including a required setback for residential structures of 200 feet from active cranberry bogs.

*Priority: Low*

*Responsible Agent(s): Planning Board most likely*

*Commitments:*

*Legislation required: bylaw required*

*Estimated Costs: None*  
*Potential Funding: NA*  
*Implementation Strategy: This could be implemented by zoning or non-zoning bylaws*  
*Measuring success: adoption of bylaws*  
*Schedule:*  
*Comment: This buffer zone would protect the public from exposure to pesticide applications on bogs. However, this is a controversial recommendation because it is a form of reverse condemnation of property where one property owner limits the rights of an abutting property owner.*

#### Non-Governmental Organizations

4.11 The Coalition for Buzzards Bay should host and coordinate public outreach and education to residents about smart growth techniques, in conjunction with town and BBNEP efforts to promote and implement smart growth techniques with municipal boards.

*Priority: Medium*  
*Responsible Agent(s): Coalition for Buzzards Bay*  
*Commitments: None*  
*Legislation required: None*  
*Estimated Costs: \$10,000 annually*  
*Potential Funding: State or Federal Grants, base program support*  
*Implementation Strategy: Printed outreach materials for town meetings, brochures, articles in newsletters*  
*Measuring success:*  
*Schedule: Begin Fall Of 2007*  
*Comment: For example, the Coalition could assist with public education about identification of growth centers, use of open space residential design, traditional neighborhood design, low impact development, and transfer of development rights, especially when issues come to town meeting for votes.*

4.12 The Buzzards Bay Action Committee should continue to host forums and workshops for Buzzards Bay municipal officials to exchange ideas and success stories on growth management and smart growth techniques.

*Priority: Medium*  
*Responsible Agent(s): BBAC*  
*Commitments: None*  
*Legislation required: None*  
*Estimated Costs: \$3,000 annually*  
*Potential Funding: State and federal grants*  
*Implementation Strategy: Host meetings and workshops for town officials*  
*Measuring success: Number of workshops and meetings held.*  
*Schedule: Begin in Fall 2007*  
*Comment: The BBAC should host two meetings or workshops annually on the topic of smart growth and growth management. The BBAC could coordinate with the homebuilders association to implement recommendation 4.13*

4.13 Massachusetts and Cape Cod Homebuilders Association's should promote Smart Growth techniques through training programs and other education programs.

*Priority: Medium*  
*Responsible Agent(s):*  
*Commitments:*

*Legislation required: None*  
*Estimated Costs: Cost of workshops and educational brochures*  
*Potential Funding: State or Federal grants, member dues*  
*Implementation Strategy:*  
*Measuring success:*  
*Schedule:*  
*Comment: Case study projects should be identified and promoted.*

#### Related Recommendations in other Action Plans

3.8 EOEa should keep its LID Model Bylaw and Smart Growth Toolkit up-to-date.

5.7. The Environmental Protection Agency and the Department of Environmental Protection should co-develop a policy on anti-degradation as it relates to nutrient (especially nitrogen) inputs to embayments and other pollutants.

Recommendations in Action Plan 14, Protecting Open Space

