

MBTA Multifamily Zoning Requirements (M.G.L., Chapter 40A, Section 3A)



Town of Walpole
Department of Community & Economic Development

Agenda

- Zoning 101
 - What is zoning?
 - Why does it matter?
 - What impact does zoning have on our communities?
- Why was Section 3A passed?
- Overview of the MBTA Communities Law and Guidelines
 - Basic requirements
 - Benefits of multifamily housing
 - Opportunities and limitations
- What are the requirements for Walpole?
- What is the process moving forward?

What is zoning?

A code that regulates how we can use land. Includes:

- Shape (height and size) of buildings
- Distance between buildings and other land uses
- What the land can be used for
 - Residential - single or multifamily
 - Commercial
 - Industrial
 - Open Space
- Can also include requirements for things like parking, affordability, and design standards



Why does zoning matter?

- Zoning codes provide guidance for what can be built and where
- If done correctly, it is one of the most powerful tools we have to meet our goals for housing, economic development, transportation, climate, and diversity
- Many Massachusetts communities have stringent and inflexible zoning that has made it illegal or impossible to build anything other than a single-family home. This is often referred to as “exclusionary zoning”
- This pushes out people who can’t afford a single-family home as well as people who *want* to live in multifamily housing

What is the impact of restrictive zoning?

- Restrictive zoning creates excessive barriers to building housing, and when there is only so much housing to go around, prices will naturally skyrocket
- Residents seeking more affordable housing options are forced to move further away from their jobs, causing them to spend more time driving
- High housing costs can also harm future job growth as people move out of Massachusetts due to the high cost of living

Why was Section 3A passed?

- Growing a healthy and sustainable regional economy requires providing housing options at a variety of scales and at a wide range of price points
- Decades of under-producing housing across *every* municipality has created a serious housing shortage
- High home prices are pushing out college graduates, young families, older adults, and even people with moderate incomes
- This poses a serious threat to our economy as working families are squeezed out, and many residents are leaving the state

Why was Section 3A passed?

- We leave our most important housing policy decisions to local governments, but these local governments aren't elected to think *regionally*
- Local resistance has prevented thousands of new homes
- A comprehensive, regional approach was needed, state leadership stepped in to address this issue
- MBTA Multifamily Zoning Requirements (Section 3A) signed into law by Governor Charlie Baker in 2021 as part of the economic recovery and reform bill

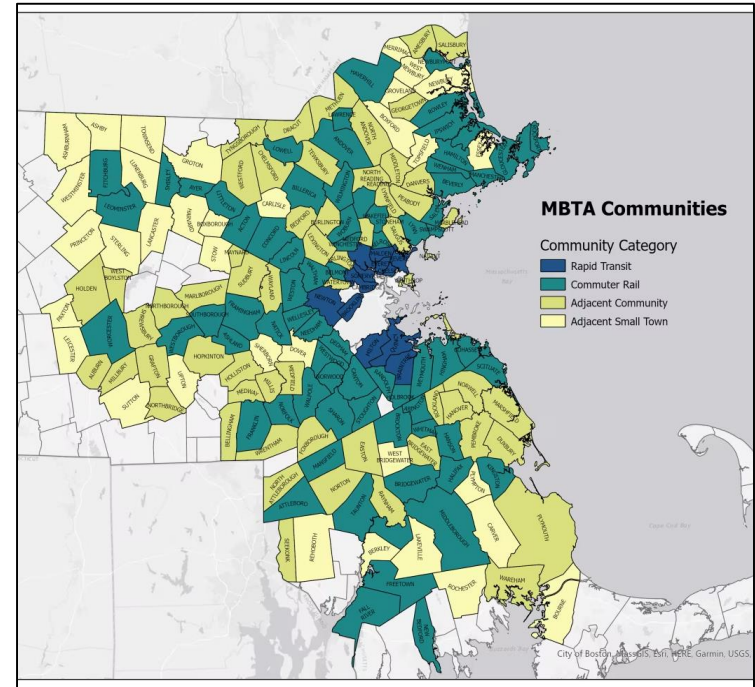
What is the MBTA Communities Law?

- Housing Choice Initiative: 2021 Economic Development Bill
- Zoning Requirement for MBTA Communities: G.L. c. 40A, Section 3A
- Applies to 177 cities and towns around Boston
- Intent: to reduce local regulatory barriers to the creation multifamily housing



What is an “MBTA Community”?

- Proximity to rapid transit or commuter rail
 - The original 14 that hosted MBTA transit service
 - 51 more that host MBTA service and joined the system later
 - Adjacent communities
 - Others that adopted a ballot question to be added to the MBTA service area (G.L. 161A, Sec. 6)
- Communities classified by service type & location
 - Each group has different requirements
 - All MBTA communities are required to comply



Basic Requirements

- Legalize multifamily housing near transit “as of right”
- Minimum allowance of 15 units/acre by right
- Certain percentage must be within 0.5 miles of commuter rail station, subway station, ferry terminal or bus station, *where possible*
- No age restrictions or limits on unit sizes, number of bedrooms, and must be suitable for families
- Zoning District must be of “reasonable size”
- Impacts all 177 MBTA Communities
 - Rapid Transit
 - Commuter Rail
 - Adjacent Community
 - Adjacent Small Town

What the law does not do

- Require new housing development
- Require communities to pay for infrastructure to support housing development in a 3A district
- Override the Massachusetts Wetlands Protection Act or Title V of the Massachusetts Environmental Code
- Provide options for waivers or exemptions



State government's role

- The law exists because the legislature enacted it
- The Executive Office of Housing and Livable Communities (formerly DHCD):
 - Develop guidelines to determine compliance
 - Provide technical assistance
 - Coordinate the work of multiple organizations with a role to play in funding, technical assistance, planning and zoning, etc.



What if we don't comply with the law?

- Makes a community ineligible for certain state grants
 - MassWorks, Housing Choice, and the Local Capital Projects Fund
- Reduces a community's competitiveness for a variety of state grants
 - 13 separate grant programs were identified within the revised guidelines, this includes some notable programs such as the Site Readiness Grant, Municipal Vulnerability Preparedness, and the Brownfield Redevelopment Fund
- Potential enforcement action under federal and state fair housing laws
- May involve other penalties

Understanding Compliance Guidelines: Basics, Opportunities, & Limitations



Multifamily Housing can take many forms!



Missing Middle Housing = modest, gentle density housing options intended for those who are not eligible for income-restricted affordable housing but who cannot afford current market prices

What are the benefits of multifamily housing?

- More housing closer to the places that we go every day, such as local shops, jobs, schools, restaurants, parks, etc.
- Better access to work, services, and other destinations by increasing mobility and utilization of public transit
- Reduced reliance on single occupancy vehicles, which helps in reducing excessive traffic, carbon emissions, and damage to local roadways

What makes a potential 3A Zoning District

- Minimum gross density 15 units/ac., developable land
- Minimum unit capacity - varies by municipality and is based on community's category and a percentage of their total housing units
- “District of reasonable size”
 - The lesser of 50 acres or 1.5% of the community's developable land
 - Minimum unit capacity
 - At least half the district must be contiguous parcels
 - In most cases, a contiguous area of at least 5 acres is required

What does 15 units per acre look like in Walpole?



Residential Units: 3
Parcel Acreage: 0.16
Parcel Density: 19 units/acre



Residential Units: 10
Parcel Acreage: 0.67
Parcel Density: 15 units/acre



Residential Units: 4
Parcel Acreage: 0.24
Parcel Density: 17 units/acre

What does 15 units per acre look like in Walpole?



Residential Units: 12
Parcel Acreage: 0.73
Parcel Density: 16 units/acre



Residential Units: 6
Parcel Acreage: 0.32
Parcel Density: 19 units/acre

What does high density look like on smaller lots?



Residential Units: 5
Parcel Acreage: 0.12
Parcel Density: 42 units/acre



Residential Units: 8
Parcel Acreage: 0.15
Parcel Density: 53 units/acre

What does zoned capacity mean?

Zoned capacity is:

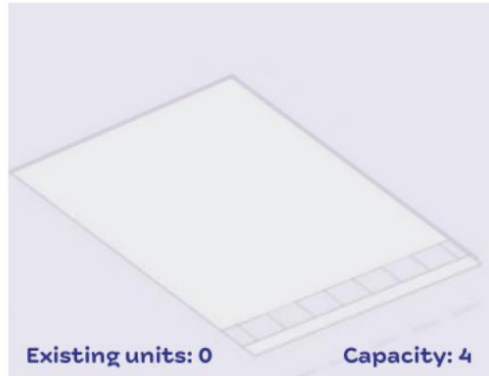
- A hypothetical unit yield based on district regulations
- The number of units that could be permitted across the district by right

Zoned capacity is not:

- Limited to vacant land
- A requirement to construct units
- Concerned with existing units

CORE CONCEPT: “CAPACITY”

Existing use: duplex → Treat or count as an undeveloped parcel → Evaluate for what could be built by right under zoning: fourplex

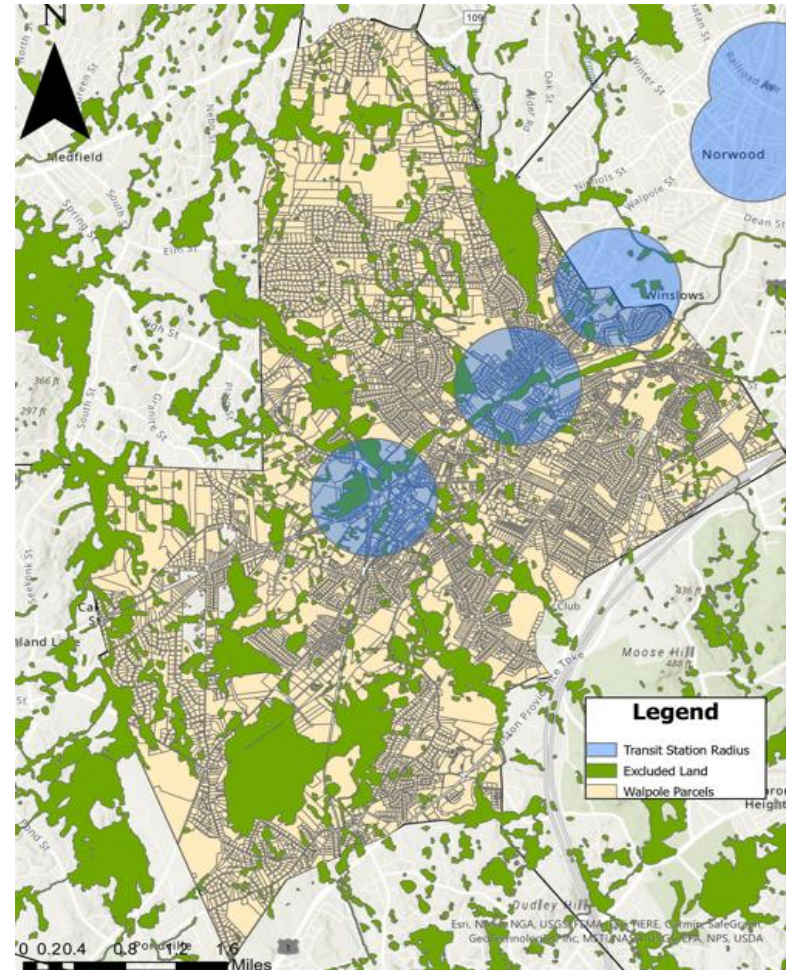


IMPORTANT! To determine the unit capacity of a new or existing multi-family zoning district, you do not “count” existing units—you instead determine how many multi-family units the zoning district would allow by right on that parcel if it were undeveloped.

Area, location, transit station access

For communities within 1/2 mile of a train station	
Total developable station acres in the MBTA community	Portion of multifamily district that must be within a transit station area
0-100	0%
101-250	20%
251-400	40%
401-600	50%
601-800	75%
801+	90%

Developable Station Area is determined by the developable acreage within the half-mile radius of each Transit Station that is within a community



Opportunities & limitations

- Permitting can be subject to Site Plan Review to regulate aspects such as:
 - Vehicular/emergency access
 - Pedestrian/Vehicular Circulation
 - Exterior architectural design
 - Screening of adjacent properties
- Site Plan Review may not be used to deny a project or impose conditions that make it infeasible or impractical to proceed
- Under very limited circumstances, communities may be able to count the housing potential of an existing mixed-use district toward the number of multifamily units the MBTA Communities district has to support. The effect: up to a 25% reduction in the “zoned capacity” requirement. State approval is not guaranteed.

Opportunities & limitations

- Communities may require up to 10% of a multi-family development be designated affordable (at 80% Area Median Income)
- Communities may pursue a higher percentage of affordability of up to 20% only with proof that it will not impede multifamily development
 - An economic feasibility analysis, prepared by an independent third party approved by EOHLC is required in order to do this
- A Community with a smart growth zoning district under chapter 40R with a 25 percent affordability requirement approved and adopted prior to the issuance can be utilized



What are the requirements for Walpole?

- Transit Type: Commuter Rail
- Compliance Deadline: December 31st, 2024
- Population: 26,277
- Current housing units: 10,042
- Minimum Land Area: 50 acres
- Developable Station Area: 638 acres
- Multifamily Zone Capacity: 1,506
- Percentage of District to be located in Station Area: 75%



Existing Density – Walpole Station



1/2 mile radius from station

Total Residential Units: 1099

Neighborhood Area: 501.74 acres

Neighborhood Density: 2.19 units/acre



Walpole MBTA Zoning Steering Committee

- The Steering Committee comprises local elected officials and citizen volunteers
 - Glenn Maffei, Select Board Representative
 - Phil Czachorowski, Planning Board Representative
 - Ed Forsberg, Resident At-Large
 - A.J. Lorusso, Resident At-Large
 - Kevin Greener, Resident At-Large
 - Kevin Smith, Resident At-Large
 - Tyler Church, Resident At-Large
- Support will be provided by Town Staff and their consultant, The Barrett Planning Group
- Will assist in the planning, writing, review, and outreach necessary for the completion of a zoning bylaw and map amendment that meets compliance requirements



Process going forward

- Walpole is currently in interim compliance with the state law and has until **December 31, 2024** to come into full compliance
- The next several month will focus on working committee meetings, stakeholder meetings, and community engagement
- This effort will culminate in final approval at Town Meeting through a compliant zoning bylaw and map amendment

Questions?

