



TOWN OF WALPOLE COMMONWEALTH OF MASSACHUSETTS

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April 10, 2024

Dear Representative Town Meeting Member,

Enclosed you will find materials to help you prepare for the Spring 2024 Annual Town Meeting which is set to begin at 7:30PM on Monday May 6, 2024 at the Walpole High School. The Finance Committee is recommending No Action on Articles 4, 7, and 8. Some articles of note that I would like to bring to your attention include:

Article 2 – FY 24 Budget Adjustments

This article relates to the current fiscal year budget. At this time there is one item set to be addressed through this article. In December 2023 a portion of the High School roof suffered significant damage as a result of the December 18th windstorm and the science wing, media center, and Walpole Media studio suffered significant damage. In the meantime, the Building Maintenance Department has contracted with a roofer to secure the roof and has made necessary repairs in the appropriate spaces to allow for students to return to those areas.



Massachusetts General Laws Chapter 44, sec. 53 limits the amount of money a Town can spend on an insurance claim. Any claim over \$150,000 requires Town Meeting to appropriate funds to address the physical damage done to a building. The Town has enlisted the services of a third-party claims adjuster to assist with this claim. It is expected that the settlement for this claim will take a significant amount of time. It is estimated that the cost to replace the roof in this portion of the building is \$580,000+/- plus design and construction oversight. The specific estimates to repair the inside of the building have yet to be finalized however it is expected that the entire insurance claim will be significantly greater than \$1,000,000.

The total request for this Article amounts to \$1,000,000 from Free Cash. This will allow the Town to complete some of the needed repairs over the summer. Free Cash has a balance of \$4,301,311.

Once the claim is finalized the insurance settlement money will be submitted to the general fund and eventually close out to Free Cash.

Article 3 – FY 25 Budget

This article addresses the upcoming Fiscal Year budget that begins on July 1, 2024. The Town budget is included in the warrant booklet that has been sent to all Walpole residents. I urge Town Meeting members to review the booklet. If you would like additional information regarding the budget the Town Administrator's budget message can be found on the Town's website at; [Budget Information | walpolema \(walpole-ma.gov\)](https://walpolema.walpole-ma.gov)

Articles 5 & 6 Sewer and Water FY 25 Operating Budgets

On Wednesday March 6th the Sewer and Water Commissioners voted 4-0-0 to approve the FY 25 Sewer and Water Budgets. I expect the Commissioners will set the rates for FY 25 towards the end of the current fiscal year. The current Water Retained Earnings balance is \$1,597,161 and the current Sewer Retained Earnings balance is \$1,438,012.

Article 9 – Walpole Media Corp FY 25 Budget

Each year Walpole Media Corp requests funding for their operating budget at Town Meeting. This year their budget request totals \$527,235.01.

Article 10 - Solar

This Article will allow the Town to move forward with solar panels on multiple Town sites in the future.

Article 11 – Warrant booklet distribution change

This will allow the Town to simply make copies of the Warrant booklet available online and in Town Buildings rather than mailing this out to 8000+ households.

Article 12 – Inclusionary Zoning

This article seeks to require inclusionary zoning for apartments and condos. This version is similar to a bylaw already established by the Town of Mansfield. A big difference with this version compared to previous versions is that affordable units within a development (of 6 or more units) is a requirement and not something a developer can opt out of. Previous versions of this bylaw that failed at town meeting was incentive based and factored in subdivisions and required the establishment of a housing trust. This version is not incentive based and does not include subdivisions.

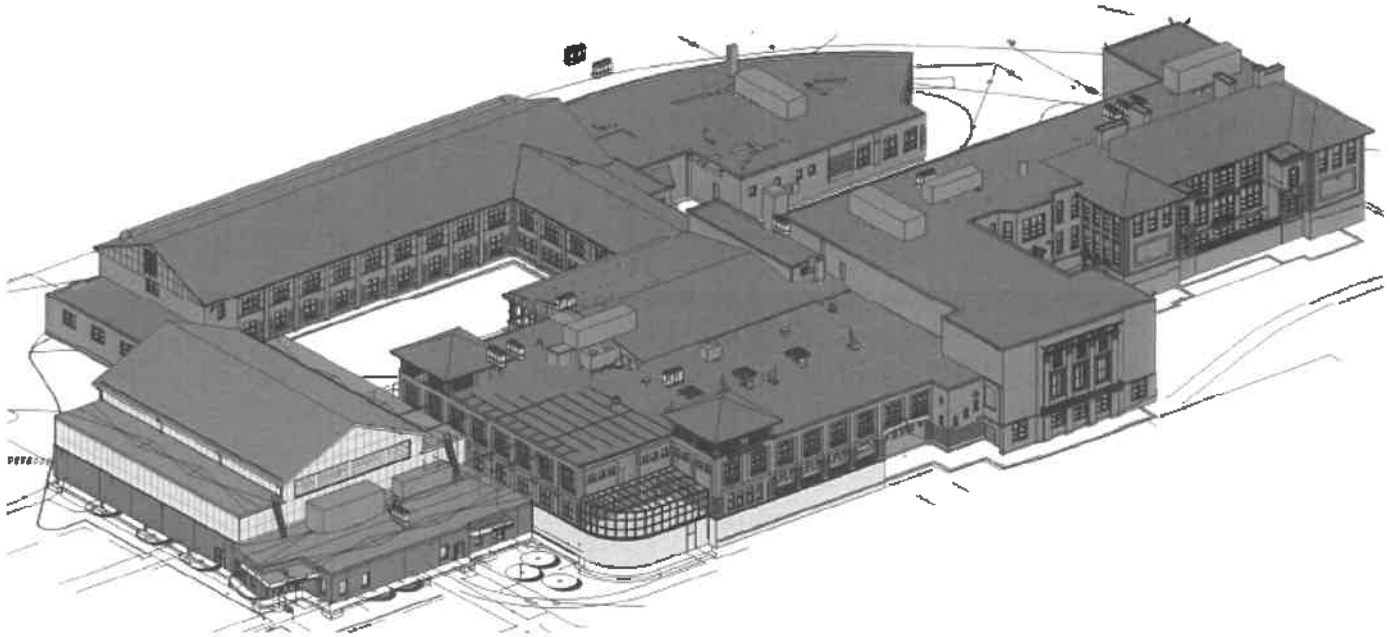
Article 13 – MBTA Communities Zoning

In 2021, the Massachusetts legislature enacted Section 3A of the Zoning Act, requiring that municipalities in the MBTA service area adopt zoning to allow multifamily residential development by right (i.e., without the need for a discretionary permit). The MBTA service area consists of 175 cities and towns. As host to a commuter rail station, Walpole is subject to the new law. The Department of Housing and Community Development (DHCD) issued final "Compliance Guidelines for Multi-family Zoning Districts under Section 3A of the Zoning Act" (Section 3A Guidelines) in October 2022. Under these guidelines, communities have until December 31, 2024, to certify to DHCD that they have adopted a conforming zoning district. There is additional information regarding this article enclosed in this packet.

Article 14 – Citizen Petition

This article was submitted via citizen petition in regards to a quiet zone in South Walpole. Town Counsel reviewed the citizen petition and provided the following opinion, "*The Citizen petition proposes a few different items relating to a quiet zone in South Walpole. Although Town Meeting does have the authority to vote to authorize the expenditure of funds for a particular project, the body does not have authority to "force" the Select Board to do any of the proposed actions in the article, including spending the money authorized. The Select Board has the sole authority to petition for a quiet zone if they deem it necessary and in the best interests of the Town of Walpole.*" Given this information the Finance Committee decided to refer this article back to the petitioner and allow her to work with the Select Board on this matter.

I would be remiss if I did not take this opportunity to provide each of you with brief update regarding the renovation project at Walpole High School. The School Committee voted in March to endorse the Design Development phase of the project and move on to the Construction Document phase of the project. The Permanent Building Committee will be working side by side with Vertex our Owners Project Manager and our architect Tappe to finalize the plans for the project. We remain on track to request funding for this project at the Fall 2024 Town Meeting. If you would like addition information regarding this project I encourage you to attend one of the Permanent Building Committee's meetings or contact me directly.



Thank you for taking the time to review the information included in this packet. Please visit the Town's website to view the most recent information related to Town Meeting and to review the Fiscal Year 2025 Town Administrator's budget message. Feel free to contact this office or any other Town official to address any questions or concerns you may have once you have completed your review of the documents in this packet.

Sincerely,

A handwritten signature in black ink, appearing to read "James A. Johnson". The signature is fluid and cursive, with a large loop at the end. It is positioned above the printed name and title of the signatory.

James A. Johnson
Town Administrator

SPRING 2024 ANNUAL TOWN MEETING
Finance Committee and Select Board Votes

	Title	FinCom Vote	Select Board Vote
Article 2	FY24 Budget Adjustment	FA 10-0-0	FA 5-0-0
Article 3	FY25 Budget	FA 10-0-0	FA 5-0-0
Article 4	S&W FY24 Budgets	NA 9-0-0	NA 5-0-0
Article 5	FY25 Water Budget	FA 9-0-0	FA 5-0-0
Article 6	FY25 Sewer Budget	FA 9-0-0	FA 5-0-0
Article 7	Snow & Ice Budget	NA 9-0-0	NA 5-0-0
Article 8	Unpaid Bills	NA 12-0-0	NA 5-0-0
Article 9	Walpole Media FY25 Budget	FA 12-0-0	FA 5-0-0
Article 10	Solar on Facilities	FA 12-0-0	FA 5-0-0
Article 11	Warrant Booklet Distribution Change	FA 11-1-0	FA 5-0-0
Article 12	Inclusionary Zoning	FA 10-0-0	FA 5-0-0
Article 13	MBTA Communities Multifamily Overlay District	FA 9-1-0	FA 5-0-0
Article 14	Citizen Petition - S.Walpole Quiet Zone	Refer Back 10-0-0	Refer Back 5-0-0

ARTICLE 5

Summary of Proposed FY 2025 Water Department Budget

168 Miles of Main Line Piping, 8,175 Connections, 1,425 Hydrants, 1,540 Valves, 18 Wells, 4 Booster Stations, 6 Water Storage Tanks, 2 Water Treatment Facilities, 8 Pressure Regulator Valves.

Personnel Services:

This section of the budget includes salaries of 10 Public Works and 3 Clerical employees that are assigned to the Water Department. Salaries of the Assistant Superintendent, as well as one-half of the salaries for the Board of Sewer & Water Commission's secretary, Department Superintendent, and a portion of a part-time principle clerk's position, are also accounted for in this budget.

Total Personnel Services: \$1,093,373

Expenses:

This section of the budget includes all of the expenses that are necessary and required to operate and maintain the water system. It also includes expenses that are necessary to maintain compliance with Federal and State Drinking Water Regulations. This year's budget is proposed to increase by \$27,205 or 1.37% over the FY 2024 budgeted amount of \$1,993,010. The cost of the three major water treatment chemicals that are used have stabilized allowing for a 6% reduction in this major expense line for FY25. Other notable adjustments are in the pump station professional services and electricity lines.

Total Expenses: \$2,020,215

Debt Service: \$1,713,257

TOTAL BUDGET REQUEST: \$4,826,845

***Current Retained Earnings Balance: \$1,597,161**

ARTICLE 6

Summary of Proposed FY 2025 Sewer Department Budget

93 Miles of Main Line Piping; 5,750 Connections; 8 Pump Stations; Septage Receiving Facility

Personnel Services:

This section of the budget includes the salaries of 3 Public Works employees and 1 Clerical employee that are assigned to the Sewer Department. Also included is one-half of the salary for the Board of Sewer & Water Commission's secretary, and Department Superintendent. It also includes a portion of the salary of a part-time principle clerk.

Total Personnel Services: \$338,260

Expenses:

This section of the budget includes all expenses that are necessary and required to operate and maintain the sanitary sewer system of the town. This year's requested budget is proposed to increase by \$193,757 or 3.9% over the FY 2024 amount of \$4,975,595. As in the past, the most significant factor of this budget are the costs associated with the MWRA

	MWRA	\$4,908,332
Septage Facility Operational Maintenance		\$26,700
Sewer System Operational Expenses		\$234,320
Total Expenses:		5,169,352

Debt Service: \$77,200

TOTAL BUDGET REQUEST: \$5,584,812

***Current Retained Earnings Balance: \$1,438,012**



Town of Walpole
Commonwealth of Massachusetts
Office of Community & Economic Development

JAMES A. JOHNSON
Town Administrator

Patrick Deschenes
*Community & Economic
Development Director*

Article 12: Inclusionary Housing Requirement

Town Meeting Members will find in their packets a motion for Article 12 as approved by the Finance Committee. This motion reflects necessary edits as suggested by Town Counsel and the Director of Community & Economic Development. This article received a 10-0-0 vote from the Finance Committee on April 8, 2024 in favor of the article with the proposed motion. Previously, the Planning Board voted 5-0-0 in favor of the article at their regulatory public hearing on March 21, 2024. The Article proposes for the creation of an inclusionary housing requirement which will require developments of 6 housing units or more provide a percentage of those units as affordable for inclusion on the Town's subsidized housing inventory. Town Meeting Members may remember a similar bylaw proposed in the fall of 2020 which ultimately did not pass. This proposal seeks to address concerns brought up from that previous proposal. This includes removing any connection to developments proposed under the Subdivision Control Law, a separate housing trust, or a payment in lieu which would have allowed developers the ability to opt out of providing affordable housing units.

Article 12 Motion as approved by the Finance Committee

It is moved that the Town amend its Zoning Bylaws to establish Section 5-J: Inclusionary Zoning Requirement, as written herein, or do or act anything in relation thereto (Petition of the Planning Board)

Section 5-J. INCLUSIONARY HOUSING REQUIREMENT

1. Purpose

The purposes of the Inclusionary Housing Requirement Bylaw are to produce high-quality dwelling units affordable to low- or moderate-income households, to encourage the provision of more housing choices in Walpole, to promote geographic distribution of affordable housing units throughout the Town and avoid over-concentration, to prevent the displacement of low- or moderate-income residents of Walpole, to assist the Town in addressing "local housing need" as defined in MGL c. 40B, §§ 20 through 23.

2. Definitions

As used in this bylaw, the following shall have the definitions indicated:

ACCESSIBLE - As applied to the design, construction, or alteration of a dwelling unit, accessible housing is a housing unit that can be approached, entered, and used by individuals with mobility impairments.

AFFORDABLE HOUSING RESTRICTION - A contract, mortgage agreement, deed restriction, or other legal instrument, acceptable in form and substance to the Town of Walpole, that effectively restricts occupancy of an affordable housing unit to a qualified purchaser or qualified renter, and which provides for administration, monitoring and enforcement of the restriction during the term of affordability. An affordable housing restriction shall run with the land in perpetuity or for the maximum period of time allowed by law, so as to be binding on and enforceable against any person claiming an interest in the property. An affordable housing restriction shall be enforceable under the provisions of MGL c. 184, § 32, and be approved by the Executive Office of Housing and Livable Communities, or their successor, through the Local Initiative Program.

ANTI-SEGMENTATION - Development shall be defined as any effort to improve land on a single parcel, or on one or more contiguous parcels, creating new or additional dwelling units in which the parcels are under common ownership or common control, as determined by the Building Department. Development shall not be segmented to avoid compliance with this section. Segmentation shall mean one or more divisions of land that cumulatively result in a net increase of six or more lots or dwelling units above the number existing 36 months prior to an application to develop any parcel or set of contiguous parcels held in common ownership or under common control on or after the effective date of this Bylaw.

LOCAL INITIATIVE PROGRAM - A program administered by the Massachusetts Executive Office of Housing and Livable Communities (EOHLC), pursuant to 760 CMR 56.00 et seq. and the Local Initiative Program Guidelines to develop and implement local housing initiatives that produce low- and moderate-income housing.

LOW- OR MODERATE-INCOME HOUSEHOLD - A household with income at or below 80% of area median income, adjusted for household size, for the metropolitan or non-metropolitan area that includes

the Town of Walpole as determined annually by the U. S. Department of Housing and Urban Development (HUD).

MAXIMUM AFFORDABLE PURCHASE PRICE OR RENT - A selling price or monthly rent, exclusive of utilities, that meets the maximum purchase price or rent guidelines of the Local Initiative Program.

QUALIFIED PURCHASER - A low- or moderate-income household that purchases and occupies an affordable housing unit as its principal residence.

QUALIFIED RENTER - A low- or moderate-income household that rents and occupies an affordable housing unit as a tenant.

SUBSIDIZED HOUSING INVENTORY - The Executive Office of Housing and Livable Communities Chapter 40B Subsidized Housing Inventory as provided in 760 CMR 56.02.

3. Applicability

- a. This bylaw applies to all developments involving the creation of six or more dwelling units or six or more lots for residential use. Developments may not be segmented to avoid compliance with this bylaw.*
- b. This bylaw shall not apply to any development under Subdivision Control Law, nor shall it conflict with the requirements established for development specific affordability requirements already permitted within these Zoning Bylaws.*

4. Mandatory provision of affordable housing units

In any development subject to this bylaw, the sixth housing unit and every seventh unit thereafter shall be an affordable housing unit. Nothing in this section shall preclude a developer from providing more affordable housing units than required under the provisions of this bylaw.

5. Methods of providing affordable housing units

The Planning Board, in its discretion, may approve one or more of the following methods, or any combination thereof, for the provision of affordable housing units by a development that is subject to this bylaw:

- a. The affordable housing units may be constructed or rehabilitated on the locus of the development.*
- b. The affordable housing units may be constructed or rehabilitated on a locus different than that of the development. The Planning Board, in its discretion, may allow a developer of non-rental dwelling units to develop, construct or otherwise provide affordable units equivalent to those required by this bylaw in an off-site location in the Town of Walpole. All requirements of this bylaw that apply to on-site provision of affordable units shall apply to provision of off-site affordable units. In addition, the location of the off-site units shall be approved by the Planning Board as an integral element of the development's site plan review and approval process.*

6. Administration, location of affordable units, selection of purchasers or renters

- a. *The Planning Board shall be charged with administering this bylaw and shall be reviewed within the process of Site Plan Review. At the Board's discretion they shall promulgate rules and regulations to implement the provisions of this bylaw, including but not limited to submission requirements and procedures, methods of setting the maximum affordable sale price or rent, minimum requirements for a marketing plan, and documentation required by the Town to qualify the affordable housing units for listing on the Chapter 40B Subsidized Housing Inventory.*
- b. *Affordable dwelling units shall be dispersed throughout the building(s) in a development and shall be comparable to market housing units in terms of location, quality and character, room size, bedroom distribution, and external appearance.*
- c. *The selection of qualified purchasers or qualified renters shall be carried out under an approved marketing plan. The duration and design of this plan shall reasonably inform all those seeking affordable housing, both within and outside the Town, of the availability of such units. The marketing plan must describe how the applicant will accommodate local preference requirements, in a manner that complies with the nondiscrimination in tenant or buyer selection guidelines of the Local Initiative Program. To the maximum extent permitted by law, including the regulations of EOHLC, any development permitted hereunder shall include a condition that a preference for existing Walpole residents, Town of Walpole employees, employees of Walpole businesses, and families of students attending Walpole schools shall be included as part of the lottery and marketing plan for the affordable units.*

7. Timing of construction

- a. *Where feasible, affordable housing units shall be provided coincident to the development of market-rate units, but in no event shall the development of affordable on-site or off-site units be delayed beyond the schedule below. Fractions of units shall not be counted.*

<i>Percentage of Market-Rate Units</i>	<i>Percentage of Affordable Housing Units</i>
<i>Up to 30%</i>	<i>None required</i>
<i>30% plus 1 unit</i>	<i>At least 10%</i>
<i>Up to 50%</i>	<i>At least 30%</i>
<i>Up to 75%</i>	<i>At least 50%</i>
<i>75% plus 1 unit</i>	<i>At least 70%</i>
<i>Up to 90%</i>	<i>100%</i>

- b. *Certificates of occupancy for any market-rate housing units shall be issued at a ratio of certificates of occupancy for required affordable housing units in accordance with the schedule above.*

8. Preservation of affordability and restrictions on resale

- a. *An affordable housing unit created in accordance with this bylaw shall be subject to an affordable housing restriction or regulatory agreement that contains limitations on use, resale*

and rents. The affordable housing restriction or regulatory agreement shall meet the requirements of the Local Initiative Program, and shall be in force for the maximum period allowed by law.

- b. The affordable housing restriction or regulatory agreement shall be enforceable under the provisions of MGL c. 184, § 32.*
- c. The Planning Board shall require that the applicant comply with the mandatory provision of affordable housing units and accompanying restrictions on affordability, including the execution of the affordable housing restriction or regulatory agreement.*
- d. All documents necessary to ensure compliance with this bylaw shall be subject to the review and approval of the Planning Board and, as applicable, Town Counsel. Such documents shall be executed prior to and as a condition of the issuance of any certificate of occupancy.*

9. Severability

- a. To the extent that a conflict exists between this bylaw and other bylaws of the Town of Walpole, the more restrictive provisions shall apply.*
- b. If a court of competent jurisdiction holds any provision of this bylaw invalid, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections, or parts of any section or sections, of this bylaw shall not affect the validity of the remaining sections or parts of sections or the other bylaws of the Town of Walpole.*

ARTICLE 12

Inclusionary Zoning Bylaw Supplemental Information

Article 12 seeks to require affordable housing for new housing developments of 6 or more units that are not created under subdivision control law, such as multifamily or condos. This version is similar to a bylaw already established by the Town of Mansfield. A big difference with this version from the previous versions is that including affordable units within a development (of 6 or more units) is a requirement and not something a developer can opt out of.

Finance Committee members may recall that previous versions of this bylaw that failed at Town Meeting factored in subdivisions and required the establishment of a housing trust. This version is not incentive based, does not include subdivisions, and does not include a separate Housing Trust article. The intent with this latest version was to simplify things as much as possible, and at least have some affordable component in place within our zoning bylaws to mitigate the increase of our housing stock when residential developments come to Walpole. The longer that Walpole goes without having some form of an Inclusionary Zoning Bylaw, we risk not keeping our subsidized housing inventory numbers maintained with the gradual increase of our total housing stock. The result of this can lead to the Town being at risk for future 40B developments as a result of our increased housing stock numbers by the 2030 census.

The Planning Board held their public hearing for this article on March 21st and voted Favorable Action 5-0-0. Town Counsel has advised making some minor edits to improve clarity which are within the motion as approved by the Finance Committee and voted 10-0-0 in favor of at this April 8th meeting.

ARTICLE 13

MBTA Communities Zoning Bylaw

Supplemental Information

In 2021, the Massachusetts legislature enacted Section 3A of the Zoning Act, requiring that municipalities in the MBTA service area adopt zoning to allow multifamily residential development by right (i.e., without the need for a discretionary special permit). The MBTA service area consists of 177 cities and towns. As host to a commuter rail station, Walpole is subject to the new law. The Executive Office of Housing and Livable Communities (EOHLC, and formerly known as the Department of Housing and Community Development) issued final “Compliance Guidelines for Multi-family Zoning Districts under Section 3A of the Zoning Act” (Section 3A Guidelines) in October 2022. Under these guidelines, communities like Walpole have until December 31, 2024, to certify to EOHLC that they have adopted a conforming zoning district.

The general principals of Section 3A were that a community shall have at least one zoning district of reasonable size in which multi-family housing is permitted as of right and meets the general criteria of the statute which includes:

- Minimum gross density of 15 units per acre;
- Located not more than a half-mile from a commuter rail station, subway station, ferry terminal or bus station, if applicable; and
- There shall be no age restrictions and shall be suitable for families with children.

Noncompliance with this law would make communities ineligible to receive grant funding from State run grant programs such MassWorks, Local Capital Projects Funds, and the Housing Choice Initiative. Noncompliant communities would also have noncompliance taken into consideration for 13 additional discretionary grant programs.

A question that continues to arise when discussing this law is whether this is a requirement to build housing. To be clear, this is not a requirement to build housing, nor is the defined minimum multi-unit capacity figure a housing production target. The requirement of the law is to pass zoning for a defined zoning district that meets the requirements of the guidelines, and could calculate density out to that minimum capacity figure.

The state is mandating that municipalities within the service area comply with the bylaw. The Attorney General has gone so far to issue an Advisory (<https://www.mass.gov/doc/advisory-concerning-enforcement-of-the-mbta-communities-zoning-law/download>) in 2023 advising Cities and Towns within the service area that, “*All MBTA Communities must comply with the Law. Communities that do not currently have a compliant multi-family zoning district must take steps outlined in the DHCD guidelines to demonstrate interim compliance. Communities that fail to comply with the Law may be subject to civil enforcement action. 8 Non-compliant MBTA Communities are also subject to the administrative consequence of being rendered ineligible to receive certain forms of state funding.9 Importantly, MBTA Communities cannot avoid their obligations under the Law by foregoing this funding. The Law requires that MBTA Communities “shall have” a compliant zoning district and does not provide any mechanism by which a town or city may opt out of this requirement.10 MBTA Communities that fail to comply with the Law’s requirements also risk liability under federal and state fair housing laws.*”

On February 27, 2024 the Attorney General filed suit against the Town of Milton for failure to comply with the MBTA Communities Law. In her complaint she argues that she has the authority under the law to force compliance with 3A, including but not limited to asking the court to appoint a Special Master to develop a compliant district. She’s requesting that SJC consider this matter directly.

Governor Healey has gone so far to say, “If you don’t comply with the act, then you’re going to see us withholding as a state money for any number of programs that you’re used to receiving money for,” Healey said. “That includes for schools, it includes for roads and bridges, it includes for a whole host of things that are important to communities.” (<https://www.wbur.org/news/2023/12/08/maura-healey-mbta-communities-act-zoning-law>)

The MBTA Communities Multifamily Overlay Bylaw is not something Town officials advocated for when it was proposed and signed into law by Governor Baker in January 2021 however, it is something the Town of Walpole along with 176 other communities in the State are required to comply with. If accepted, this proposed bylaw will allow Walpole to remain in compliance with State law, remain eligible for certain State grant funding, and avoid litigation with the Attorney General’s Office.

Although this initiative is primarily a planning initiative the Select Board is sponsoring this because the Planning Board decided not to sponsor the Article. The Select Board appointed a steering committee of Walpole residents to work with Community & Economic Development Director, Patrick Deschenes and a grant provided consultant, the Barret Planning Group, to develop a compliant zoning overlay district and to assist with public outreach.

The Planning Board held their public hearing for this article on April 4th and voted Favorable Action 2-1-2. Town Counsel had advised making some minor edits to improve clarity which are within the motion as approved by the Finance Committee and voted 9-1-0 Favorable Action at their April 8th meeting.

Below is a general overview of what the Town of Walpole is required factor in within its proposed zoning bylaw in order to comply with the MBTA Communities Law:

MBTA Community Categories and General Requirements:

Communities with access to different modes of public transportation are broken down into four categories in order to calculate the percentage of total housing units they must create zoning for. They are as follows:

Category	Percentage of total housing units
Rapid transit community	25%
Commuter rail community	15%
Adjacent community	10%
Adjacent small town	5%

Walpole has been categorized as a Commuter Rail Community. With this designation in place, we are able to determine our multi-family unit capacity which is summarized within the following table:

Community	Category	2020 Housing Units	Minimum multi-family unit capacity*	Minimum land area**	Developable Station Area***	Percentage of district to be located in Station Area
Walpole	Commuter Rail	10,042	1,506	50 acres	638 acres	75%

* Minimum multi-family unit capacity for most communities will be based on the 2020 housing stock and the applicable percentage for that municipality's community type.

**** Minimum land area is 50 acres for all communities in the rapid transit, commuter rail and adjacent community types.**

***** Developable station area is derived by taking the area of a half-mile circle around an MBTA commuter rail station, rapid transit station, or ferry terminal and removing any areas comprised of excluded land.**

As of Right zoning and Affordable Requirement Option

- Multi-family must be allowed within the district as of right without the additional requirement of a Special Permit. Site Plan Review is still permissible.
- There is no requirement to put in place an affordability requirement with this new zoning, but it is allowed should a municipality choose to do so. EOHLC will consider an affordability requirement to be consistent with as of right zoning as long as the zoning requires not more than 10 percent of the units in a project to be affordable units, and the cap on the income of families or individuals who are eligible to occupy the affordable units is not less than 80 percent of area median income. EOHLC will only consider affordable requirements greater than 10% if the location is zoned as a 40R district, or is an economic feasibility analysis is prepared for the municipality by an independent third party acceptable to EOHLC. Walpole is utilizing a 10% affordability requirement within its proposed zoning.

Determining “Reasonable Size”

- For determining a district’s size, EOHLC takes into account the community’s applicable land area for a multi-family zoning district, and a community’s multi-family unit capacity. As a commuter rail community, Walpole’s minimum land area for a multi-family zoning district is 50 acres.
- In all cases, at least half of the district must be contiguous lots of land. No portion of the district can be less than 5 contiguous acres of land.
- Our minimum multi-family unit capacity number of 1,506 units is determined by our community category percentage (15%) and our total housing stock according to the 2020 census. So therefore, 10,042 housing units (Walpole total housing stock) multiplied by 0.15 equates to 1,506 housing units as a multi-family unit capacity number (rounded to the closest whole number).
- For showing compliance with this minimum unit capacity we will need to utilize EOHLC’s compliance model which factors in the amount of developable land in the district, the dimensional requirements applicable to lots and buildings (including, for example, height limitations, lot coverage limitations, and maximum floor area ratio), and the parking space requirements.

Minimum Gross Density

- The requirement for calculating density utilizes gross density of the entire district not just the individual lots within the district. The Zoning Act defines “gross density” as “a units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial and other nonresidential uses.”

- To meet the district-wide gross density requirement, the dimensional restrictions and parking requirements for the multi-family zoning district must allow for no less than a gross density of 15 units per acre of land within the district.
- The EHLOC compliance model will not count any excluded land located within the proposed district, except public rights-of-way, private rights-of-way, and publicly-owned land used for recreational, civic, commercial, and other nonresidential uses. This excluded land includes areas such as wetlands, waterbodies, and wellhead among other things. The compliance model utilize a GIS data layer of this area that can be factored in when determining the total buildable area.
- Subdistricts can be utilized within a district as a way of dispersing density to incentivize greater development within certain locations of that primary district. Subdistricts are permissible provided the gross density for the district as a whole meets the statutory requirement of not less than 15 multi-family units per acre.

Determining Suitability for families with children

- The requirement essentially mandates that the zoning district cannot place age restrictions, limit or restrict the size of units, cap the number of bedrooms, or number of occupants.

Location of Districts

- Shall be located not more than 0.5 miles from a transit station. However, based on the amount of developable station area a community has, a defined percentage of a community's district may be permitted to be outside of a half-mile of a transit station as shown below:

Total developable station area within the MBTA community (acres)	Portion of the multi-family zoning 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%

Determination of Compliance

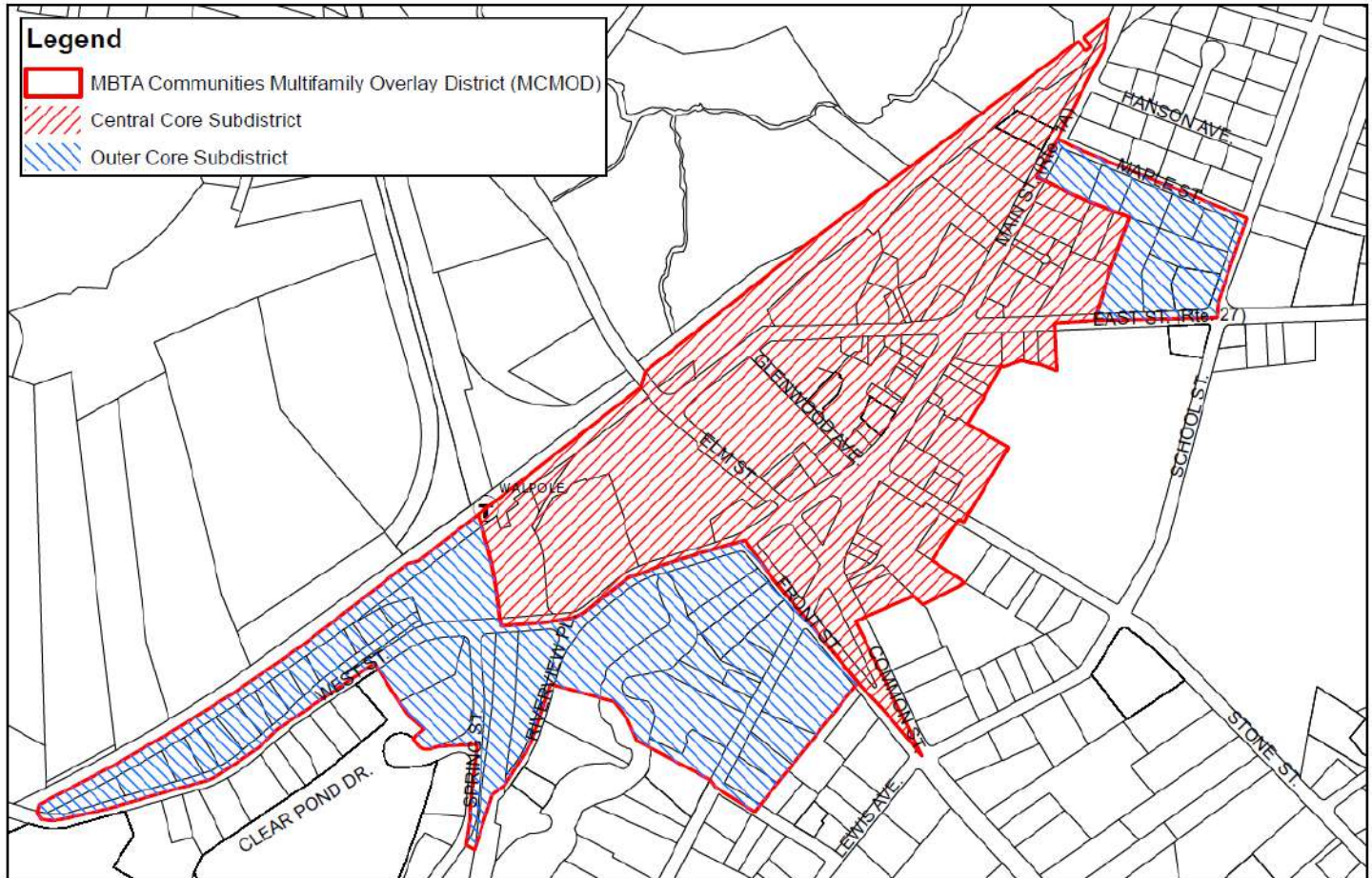
Transit Category (# of municipalities)	Deadline to Submit District Compliance Application
Rapid transit community (12)	December 31, 2023
Commuter rail community (71)	December 31, 2024
Adjacent community (58)	December 31, 2024
Adjacent small town (34)	December 31, 2025

Walpole's designation as a Commuter Rail Community requires us to submit for district compliance by December 31, 2024.

Community forums and additional information:

Community forums were held on November 29, 2023 and March 27, 2024. A copy of the March 27th presentation is included within Town Meeting packets. Additional information can be found on the Town's website at the following: <https://www.walpole-ma.gov/community-and-economic-development/pages/mbta-community-initiative>

The overlay district is to include the location shown below, which is officially detailed on the map titled *MBTA Communities Multifamily Overlay District (MCMOD)* and dated May 6, 2024.





Town of Walpole
Commonwealth of Massachusetts
Office of Community & Economic Development

JAMES A. JOHNSON
Town Administrator

Patrick Deschenes
*Community & Economic
Development Director*

Article 13: MBTA Communities Multifamily Overlay District Zoning Bylaw

Town Meeting Members will find in their packets a motion for Article 13 as approved by the Finance Committee. This motion reflects necessary edits as suggested by Town Counsel, as well as the Attorney General's Office as determined through a pre-review application (only applicable for MBTA Zoning proposals). This article received a 9-1-0 vote from the Finance Committee on April 8, 2024 in favor of the article with the proposed motion. Previously, the Planning Board voted 2-1-2 in favor of the article at their regulatory public hearing on April 4, 2024. The Article proposes for the creation of a new multifamily overlay zoning district which meets the Town's legal obligation as required within Massachusetts General Law, Chapter 40A, Section 3A, as well as the affiliated compliance guidelines promulgated through the Massachusetts Executive Office of Housing & Livable Communities.

Article 13 Motion as approved by the Finance Committee

It is moved that the Town amend its Zoning Map and Zoning Bylaws, Section 4: Establishment of District, establish a new Section 16: MBTA Communities Multifamily Overlay District, and amend Section 14: Definitions, as written herein, or do or act anything in relation thereto (Petition of the Select Board)

SECTION 4: ESTABLISHMENT OF DISTRICTS

1. Classes of Districts (add the following to the list of Overlay Districts)

MCMOD MBTA Communities Multifamily Overlay District

2. Purposes of Districts (add the following new paragraph (5) to Subsection C, Overlay Districts)

(5) MCMOD – The purposes of this district are to comply with G.L. c. 40A, § 3A, known as the “MBTA Communities Law,” and achieve other purposes as described under Section 16 of this Bylaw.

3 Location of Districts (add the following new Subsection E)

E. The MCMOD is shown on the map entitled, MBTA Communities Multifamily Overlay District, dated May 6, 2024 and on file with the Town Clerk.

SECTION 16. MBTA COMMUNITIES MULTIFAMILY OVERLAY DISTRICT

1. Purposes

The purpose of the MBTA Communities Multifamily Overlay District (MCMOD) is to allow multifamily housing development in accordance with G.L. c. 40A, § 3A and the Section 3A Compliance Guidelines of the Executive Office of Housing and Livable Communities (EOHLC), as may be amended from time to time. In addition, Section 16 is intended to encourage:

- A. New or redeveloped housing in close proximity to the Downtown Walpole commuter rail station;*
- B. A mix of housing sizes and types in walkable areas to promote public health, reduce greenhouse gases, improve air quality, and concentrate development where adequate facilities and services exist to support it;*
- C. Creation of housing in Walpole that is permanently available to and affordable by low- and moderate-income households;*
- D. New investment in housing and mixed-use development that can support the revitalization of Downtown Walpole.*

2. Establishment of District

The MCMOD is shown on the map entitled, MBTA Communities Multifamily Overlay District, and dated May 6, 2024, on file with the Town Clerk. The MCMOD contains the following sub-districts, all of which are shown on the map of the MCMOD:

Subdistrict 1/Central Core

Subdistrict 2/Outer Core

3. Applicability

- A. *The requirements of the underlying zoning district(s) shall remain in full force and effect except for development proposed under this Section 16. Within the boundaries of the MCMOD, a developer may elect to develop a project in accordance with the MCMOD, or to develop a project in accordance with the requirements of the regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the underlying zoning district(s).*
- B. *Unless otherwise regulated within this Section 16, all use, dimension, and all other provisions of the Zoning Bylaw shall remain in full force. Where the MCMOD authorizes uses, dimensional controls or other provisions not otherwise allowed in the underlying district, the provisions of the MCMOD shall control. Uses and dimensional controls of the MCMOD are not subject to any special permit requirement of the underlying district and /or applicable overlay districts.*
- C. *An Applicant proposing any development under this Section 16 shall obtain MCMOD Development Plan Approval from the Planning Board prior to issuance of a building permit.*

4. Use Regulations

The following use regulations shall apply in the MCMOD.

<i>Table of MCMOD Use Regulations</i>		
<i>Use</i>	<i>Central Core</i>	<i>Outer Core</i>
<i>Dwelling, multifamily*</i>	<i>Yes</i>	<i>Yes</i>
<i>Mixed-use development, subject to the requirements of Section 7 below</i>	<i>Yes</i>	<i>Yes</i>
<i>Off-street parking accessory to a multifamily or mixed-use development, subject to Section 9(D) below</i>	<i>Yes</i>	<i>Yes</i>

**Note. For purposes of this Section 16, multifamily dwelling shall include any building with three or more residential dwelling units or two or more buildings on the same lot with more than one residential dwelling unit in each building*

5. Density and Dimensional Regulations

<i>Table of Density and Dimensional Regulations</i>		
<i>Requirement</i>	<i>Central Core</i>	<i>Outer Core</i>
<i>Minimum lot area</i>	<i>6,000</i>	<i>8,000</i>
<i>Maximum lot coverage</i>	<i>90%</i>	<i>40%</i>
<i>Minimum required open space</i>	<i>0%</i>	<i>30%</i>
<i>Maximum height</i>		
<i>Stories (maximum)</i>	<i>4</i>	<i>2.5</i>
<i>Feet (maximum)</i>	<i>50</i>	<i>35</i>

<i>Table of Density and Dimensional Regulations</i>		
<i>Requirement</i>	<i>Central Core</i>	<i>Outer Core</i>
<i>Minimum frontage</i>	<i>50</i>	<i>75</i>
<i>Required setbacks:</i>		
<i>Front (minimum-maximum)</i>	<i>0 / 10</i>	<i>30</i>
<i>Side</i>	<i>10</i>	<i>10</i>
<i>Rear</i>	<i>10</i>	<i>30</i>
<i>Maximum units per acre</i>	<i>45</i>	<i>20</i>

- A. *In the Central Core subdistrict, for a Mixed-Use Development in accordance with Section 7 below, the maximum height shall be 5 stories and 60 feet.*
- B. *Exceptions. Vertical projections or roof structures that house elevators, stairways, tanks, ventilating fans, or similar equipment required to operate and maintain the building, or to fire or parapet walls, skylights, towers, steeples, flagpoles, chimneys, smokestacks, water tanks, wireless, radio or television masts, silos, energy generation and conservation apparatus, or similar unoccupied features, may be erected above the height limits in this Section 16 provided the structures are in no way used for living purposes and do not constitute more than 25% of the ground floor area of the building.*
- C. *More than one residential or accessory building or structure shall be allowed on a lot in the MCMOD. Buildings shall be separated by a minimum of 20 feet unless the Fire Chief requires a greater separation to comply with the Massachusetts Fire Code.*

6. Affordable Housing

Any residential or mixed-use development in the MCMOD shall provide affordable units in accordance with the following:

A. Basic Requirements.

- 1) In any multifamily development under Section 16 resulting in a net increase of 10 or more dwelling units on any parcel or contiguous parcels comprising a proposed development site, at least 10 percent of the dwelling units shall be affordable units. Fractions shall be rounded down to the next whole number.*
- 2) Developments shall not be segmented to avoid compliance with this Section 16. Segmentation shall mean one or more divisions of land that cumulatively result in a net increase of ten or more lots or dwelling units above the number existing 36 months earlier on any parcel or set of contiguous parcels held in common ownership on or after the effective date of this Section 16.*
- 3) All the affordable units required in a proposed development shall be located within the development site ("on-site units").*

B. Affordable Unit Location and Standards.

- 1) Affordable units shall be dispersed throughout a project. They shall be indistinguishable from and comparable to the market-rate units in construction quality and exterior design. The number of bedrooms in affordable units shall be comparable to the bedroom mix in market-rate units in the development.*

- 2) *The affordable units must have the same access to all on-site amenities as the market-rate units.*
- 3) *All affordable units must be constructed and occupied concurrently with or prior to the construction and occupancy of market rate units or development. In phased developments, affordable units may be constructed and occupied in proportion to the number of units in each phase of the project.*

C. Tenant or Homebuyer Selection.

- 1) *The selection of qualified purchasers or qualified renters shall be carried out under an Affirmative Fair Housing Marketing Plan (AFHMP) submitted by the applicant and approved by the Planning Board. The AFHMP shall comply with the Executive Office of Housing and Livable Communities (EOHLC) Local Initiative Program (LIP) guidelines in effect on the date of the site plan review application to the Planning Board.*
- 2) *Local Preference for Affordable Units. The applicant shall comply with local preference requirements, if any, established by the Planning Board, subject to an Affirmative Fair Housing Marketing Plan approved by the Executive Office of Housing and Livable Communities (EOHLC) Local Action Unit (LAU) Program.*

D. Term of Affordability.

- 1) *All affordable units created under this Section 16 shall be subject to an affordable housing restriction approved by the Planning Board, Town Counsel, and the Executive Office of Housing and Livable Communities (EOHLC). The restriction shall run with the land in perpetuity under G.L. c. 184, §§ 31-33 and shall be recorded with the Norfolk County Registry of Deeds or Registry District of the Land Court prior to issuance of a building permit.*
- 2) *The affordable housing restriction shall be a condition of zoning compliance and shall be incorporated within the Planning Board's MCMOD Development Plan Approval decision.*

7. Mixed-Use Development

A. *A Mixed-Use Development in the MCMOD shall be permitted if it complies with all of the requirements of this Section 16(7).*

B. *The nonresidential component of the development shall include one or more of the following:*

- 1) *Workshop or studio of an artist, artisan, or craftsperson, which may include as an accessory use retail sales limited to products constructed on the same premises*
- 2) *Bank*
- 3) *Business or professional office*
- 4) *Medical or dental office*
- 5) *Personal service establishment providing specialized goods or services frequently used by consumers, such as a hair salon or barber shop, garment or shoe repair, tailoring dry cleaning service, or other similar establishments.*
- 6) *Restaurant, with service of alcoholic beverages, or with no service of alcoholic beverages, with or without outdoor dining as an accessory use*
- 7) *Bakery, café, deli, or walk-in fast-food service*
- 8) *Retail sales or service with a maximum gross floor area not exceeding 15,000 sq. ft.*

9) *Small-scale grocer or specialty food store with a maximum gross floor area not exceeding 15,000 sq. ft.*

- C. *The nonresidential uses shall be located only on the ground floor of the front façade facing the street or other public space, such as public park, plaza, or sidewalk.*
- D. *Access to and egress from multifamily units above the ground floor shall be clearly differentiated from access to other uses, e.g., using separate entrances from the building or within a lobby area shared by different uses within the building.*
- E. *Paved pedestrian access from the residential component shall be provided to residential parking and amenities and to the public sidewalk, as applicable.*
- F. *Mixed-use development in the MCMOD shall be exempt from the Section 5.B.1, Schedule of Uses, subsection 3.g.i.*

8. MCMOD Development Plan Approval

- A. *Development within the MCMOD shall be subject to Site Plan Review under Section 13 of this Bylaw as noted under Subsection 9 below. In addition, Site Plan Review for as of right uses in the MCMOD may not be denied.*
- B. *Pre-Application. The Applicant is encouraged to request an informal pre-Application meeting with the Director of Community and Economic Development before filing an Application with the Town Clerk. The purpose of pre-Application review is to obtain advice and comments from Town staff and verify all applicable submission requirements.*
- C. *Criteria for Conditional Approval. The Planning Board may impose reasonable conditions on a Development as necessary to ensure compliance with the requirements of this Section 16, or to mitigate any extraordinary adverse impacts of the Development on nearby properties, provided that the Board's conditions do not unduly restrict opportunities for housing development by adding unreasonable costs or by unreasonably impairing the economic feasibility of a proposed Development.*
- D. *Time Limit. MCMOD Development Plan Approval shall remain valid and shall run with the land indefinitely provided that construction has commenced within three years after the Planning Board issues the decision, excluding time required to adjudicate any appeal from the Planning Board's decision. The time for commencing construction shall also be extended if the Applicant is actively pursuing other required permits for the project, or if there is good cause for the Applicant's failure to commence construction, or as may be provided in an approval for a multi-phase Development under this Section 16.*

9. Site Development Standards

- A. *Developments in the MCMOD shall conform to the standards in this Section 16 and the following:*
 - 1) *Section 7, Signs;*

- 2) *Section 8, Parking Regulations, except as modified below;*
- 3) *Drainage Standards under Subsection 11 of Section 13, Site Plan Review.*

B. Setbacks.

- 1) *No use other than landscaping, sidewalks, multiuse paths, street furniture, seating, and permitted signs shall be permitted in the front yard of any lot.*
- 2) *The maximum front setback may be increased by the Planning Board for purposes of amenities such as a courtyard, recessed entrance, sidewalk, multi-use path, raised terrace, or façade offsets, but not for automobile use.*

C. Sidewalks, Internal Walkways, and Landscaping.

- 1) *Sidewalks shall be separated from the road with a 3 foot wide landscaped buffer to protect pedestrians and create a pleasing environment, unless pre-existing conditions make it infeasible or where state jurisdiction supersedes local control. The landscaped buffer shall consist of shade trees placed at appropriate intervals and other landscaping, and street design elements such as benches, shrub, or grass. Landscaping shall be organized in clusters of plantings rather than in a rigid line along the front of the lot.*
- 2) *All developments shall provide accessible walkways connecting building entrances to building entrances, buildings to streets, and buildings to sidewalks and adjacent public features, such as parks and playgrounds, with minimal interruption by driveways.*
- 3) *Parking lot aisles and access and interior driveways shall not count as walkways. The Planning Board may require benches, waiting areas, bicycle racks, stroller bays, and other sheltered spaces near building entrances.*
- 4) *To the maximum extent possible, walkways should have some degree of shelter achieved through the use of building fronts, trees, low hedges, arcades, trellised walks, or other means to delimit the pedestrian space.*
- 5) *Site landscaping shall not block a driver's view of oncoming traffic.*
- 6) *Compliance with these standards shall be demonstrated in Site Circulation and Landscaping Plans submitted with the MCMOD Development Plan Application.*

D. Off-Street Parking. *Development in the MCMOD shall comply with Section 8 of this Bylaw and the following additional provisions. Any conflict between Section 8 and this Section 16 shall be resolved in favor of this Section 16.*

- 1) *The minimum number of off-street parking spaces for a multifamily unit shall be 1.5 spaces per unit.*
- 2) *Surface parking shall be located to the rear or side of the principal building and shall not be located within the minimum setback between the building and any lot line adjacent to the street or internal access drive. No surface parking shall be located between the front building line of a residential building and the front lot line.*
- 3) *Structured parking in a separate parking garage shall be located at least 20 feet behind the front building line of the multi-family dwellings on the lot.*
- 4) *For structured parking that is located partially or entirely under a residential building, the vehicular entry to the parking area shall be subordinate in design and placement to the principal pedestrian entry into the building. For example, vehicle parking that is not underneath the multifamily building but is covered by it shall be effectively shielded from view from the street*

and sidewalks by any combination of the following methods: fence, trees, or building wall sufficiently articulated to avoid the appearance of a blank wall at the street level.

E. Bicycle Parking. For multifamily developments with 10 or more units, there shall be a minimum of one covered bicycle storage space per two dwelling units.

F. Buildings.

- 1) In developments with multiple buildings, a paved pedestrian network shall connect parking to the entries to all buildings and the buildings to each other.*
- 2) The orientation of multiple buildings on a lot should reinforce the relationships among the buildings. All building façade(s) (front, side, and rear) shall be treated with the same care and attention in terms of entries, fenestration, and materials.*
- 3) Building(s) adjacent to a principal access drive shall have a pedestrian entry facing that access drive.*
- 4) To encourage clustering of buildings and preservation of open space, no building may be more than 80 feet from the nearest adjacent building unless approved by the Planning Board.*

G. Shared outdoor space. Multi-family housing shall have common outdoor space that all residents can access. The outdoor space may be located in any combination of ground floor, courtyard, rooftop, or terrace.

H. Exterior Lighting. Throughout the MCMOD district, the goal of an exterior lighting plan shall be to light sidewalks and walkways, building entrances, and parking areas in a consistent, attractive, safe, and unobtrusive manner that minimizes off-site impacts. To this end, exterior lighting in the MCMOD shall conform to the following standards and shall be in accordance with a lighting plan approved by the Planning Board.

1) Pedestrian Lighting

- a) Pedestrian lighting shall complement the character, aesthetic appeal, and safety of a development and promote greater pedestrian activity.*
- b) Pedestrian lighting shall use consistent fixtures, source colors, and illumination levels. To prevent glare and light pollution, developments shall be equipped with downcast or full-cutoff fixtures.*
- c) When pedestrian lighting is used in conjunction with street lighting, the illumination provided by the former shall be distinguishable from the illumination provided by the latter to clearly define the pedestrian path of travel.*
- d) Placement of fixtures shall facilitate uniform light levels and work with the placement of sidewalks, landscaping, signage, building entries, and other features to contribute to the continuity of the streetscape. Where possible, the Planning Board prefers the use of a greater number of low fixtures in a well-organized pattern rather than fewer, taller fixtures.*

2) Parking Areas

- a) Within parking areas, there shall be a unified system that provides attractive lighting throughout the lot.*
- b) Fixtures shall minimize spill light and glare onto adjacent properties. Fixtures adjacent to residential districts shall direct the light away from residential properties and limit off-site light levels.*

- c) *Lighting shall complement the lighting of adjacent streets and properties and shall use consistent fixtures, source colors, and illumination levels. When adjacent to walkways, parking area lighting shall not overpower the quality of pedestrian area lighting.*

- I. *Waivers. Upon the request of the Applicant, the Planning Board may waive by majority vote the requirements of the Site Development Standards found in this Section 16 in the interests of design flexibility and overall project quality, and upon a finding that the proposed variation is consistent with the overall purpose and objectives of the MCMOD.*

10. Planning Board MCMOD Rules and Regulation.

The Planning Board shall adopt reasonable administrative MCMOD Rules and Regulations to implement this Section 16. The Rules and Regulations shall prescribe the form and contents of a complete Application for MCMOD Development Plan Approval, including filing fees and technical review fees under G.L. c. 44, § 53G, as well as any plans, specifications, and reports required for the Applicant to demonstrate Section 16 compliance and compliance with any other applicable provisions of this Bylaw. The Rules and Regulations shall be on file with the Town Clerk.

11. Appeals

Any person aggrieved by the Planning Board's decision may appeal to the Superior Court, the Land Court, or other court of competent jurisdiction within 20 days after the MCMOD Development Plan Approval decision has been filed with the Town Clerk.

12. Modifications to Approved Development Plans

- A. *Minor Change. After MCMOD Development Plan Approval, an Applicant may apply to make minor changes involving minor utility or building orientation adjustments, or minor adjustments to parking or other site details that do not affect the overall buildout of the site, or provision of open space, number of housing units, or affordable housing. A change of 5 percent or less in the number of housing units in a Development shall constitute a minor change. Minor changes must be submitted to the Planning Board in accordance with the Planning Board's Multifamily Overlay District Rules and Regulations and shall include redlined prints of the Approved Plan. The Planning Board may authorize the proposed changes at any regularly scheduled meeting without the need to hold a public hearing. The Planning Board issue a written decision to approve or deny the minor changes and provide a copy to the Applicant for filing with the Town Clerk.*
- B. *Major Change. Changes deemed by the Planning Board to constitute a major change in an Approved Development because of the nature of the change or because the change cannot be appropriately characterized as a minor change under subsection (A) above shall be processed by the Planning Board as a new Application for MCMOD Development Plan Approval under Section 13 of this Bylaw.*

SECTION 14: DEFINITIONS.

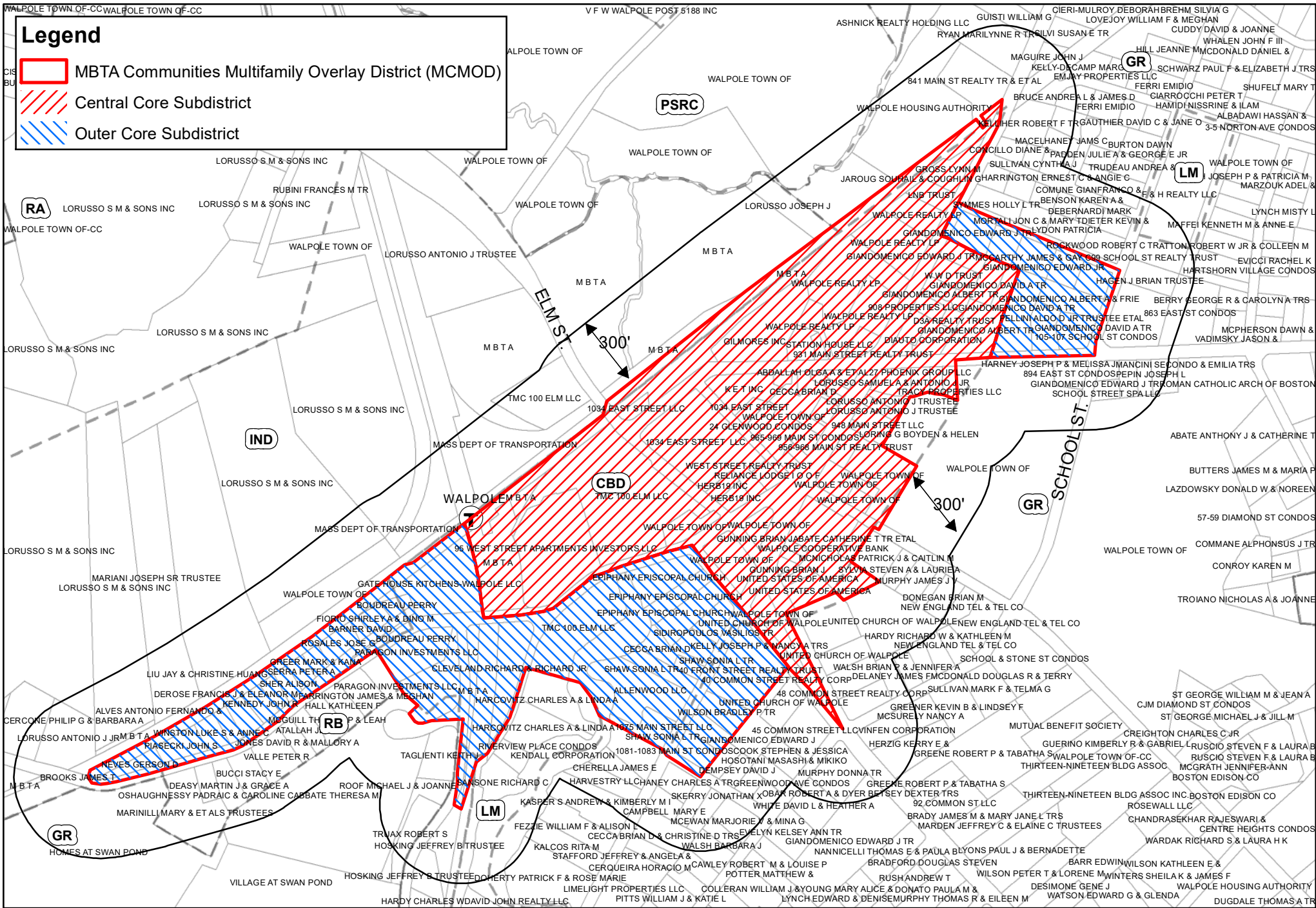
AFFIRMATIVE FAIR HOUSING MARKETING PLAN – A plan for outreach, advertising, application procedures, and tenant selection for affordable housing units, subject to approval by the Executive Office of Housing and Livable Communities (EOHLC) for the affordable units to be eligible for the Chapter 40B Subsidized Housing Inventory.

AFFORDABLE HOUSING - A dwelling unit that is affordable to and occupied by a Low or Moderate Income Household and meets the requirements for inclusion on the Subsidized Housing Inventory.

AFFORDABLE HOUSING RESTRICTION - A contract, mortgage agreement, deed restriction or other legal instrument, acceptable in form and substance to the Town, that effectively restricts occupancy of an affordable housing unit to a qualified purchaser or renter, and which provides for administration, monitoring, and enforcement of the restriction during the term of affordability. An affordable housing restriction shall run with the land in perpetuity or for the maximum period allowed by law, and be entered into an enforceable under the provisions of G.L. c. 184, §§ 31-33 or other equivalent state law.

AREA MEDIAN INCOME (AMI) - The median income for households within the designated statistical area that includes the Town of Walpole, as reported annually and adjusted for household size by the U.S. Department of Housing and Urban Development for the Boston Standard Metropolitan Statistical Area.

LOW OR MODERATE INCOME - Household income that does not exceed 80 percent of the area median family income, adjusted for household size, as determined by the U.S. Department of Housing and Urban Development (HUD), then in effect.

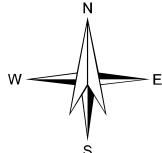


MBTA Communities Multifamily Overlay District (MCMOD)

May 6, 2024

1 inch = 500 feet

0 125 250 500 750 1,000 Feet



MBTA Communities Law: Compliance in Walpole

Town Meeting
May 6, 2024



Walpole MBTA Zoning Steering Committee

- 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 provided by Town Staff and their consultant, The Barrett Planning Group



What is the “MBTA Communities Law”?

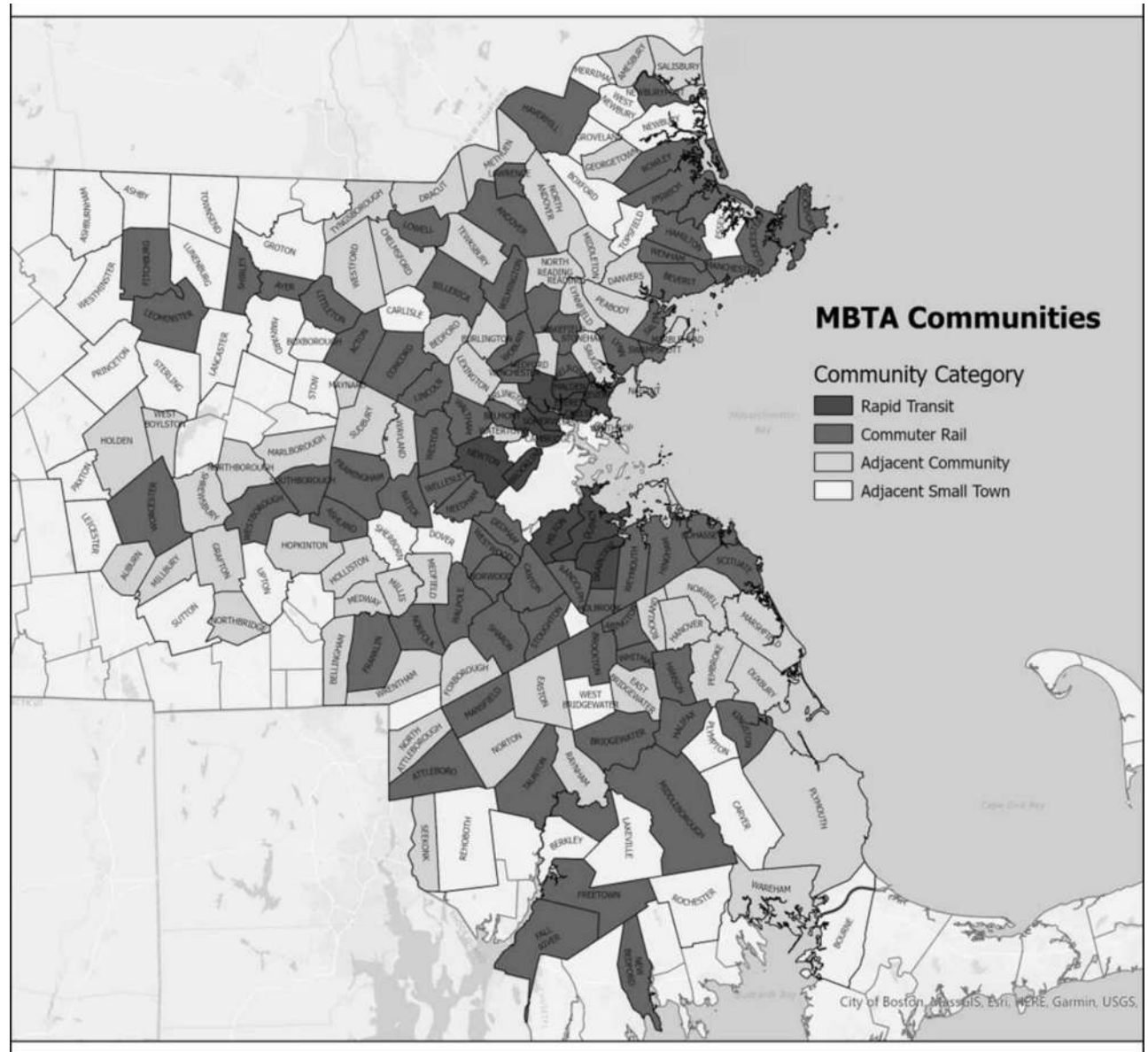
- New provision in Massachusetts Zoning Act: G.L. c. 40A, Section 3A
- Adopted by state legislature in 2021
- Applies to 177 cities and towns with or near transit or rail service
- Requires at least one zoning district “of reasonable size”
- Within ½ mile of a commuter rail station, subway station, ferry terminal or bus station, where possible
- Have a minimum gross density of 15 dwelling units per acre
- No age restrictions or limits on unit sizes
- Legislature designated Executive Office of Housing & Livable Communities (EOHLC) to develop guidelines and determine whether communities comply



What are the MBTA Communities Law Guidelines?

- Developed by EOHLC as required by the legislation
- Purpose of the guidelines: to help communities understand how to comply
- Guidelines add specifics to measure compliance with the law
 - Communities classified based on proximity to MBTA infrastructure/services
 - “District of reasonable size” – in most cases, 50 acres
 - In addition to minimum density of 15 units/acre, every town has a “zoned capacity” requirement – a determination of how many multifamily units each town’s district should be designed to accommodate
 - Communities must use EOHLC’s computer model to prove they comply with the law

An MBTA
Community's
category is
determined by
access, proximity,
and population



How it applies to Walpole

- MBTA Communities Law minimum requirements:
 - Minimum zoned capacity: 1,506 units
 - Minimum district size: 50 ac. (does not necessarily need to be in one location)
 - Minimum gross density: 15 units/acre
 - Much of the district must be within ½ mile of the train station
- Compliance means zoning must be adopted and application for compliance submitted to state by December 31, 2024
- State has 90-day state decision period

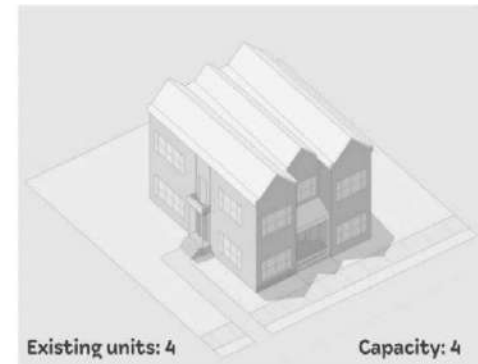
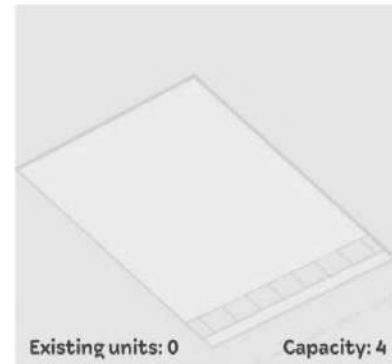
Understanding “zoned capacity”

- Zoned capacity is:
 - The number of units that could be permitted across the district *by right*
 - A hypothetical unit yield based on district regulations
 - Walpole: 1,506 units is based on 15% of the Town’s 2020 Housing Stock (percentages are dictated by MBTA Community Category)
- Zoned capacity is not:
 - Limited to vacant land
 - A requirement to construct units
 - Concerned with existing units

Understanding “zoned capacity”

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.

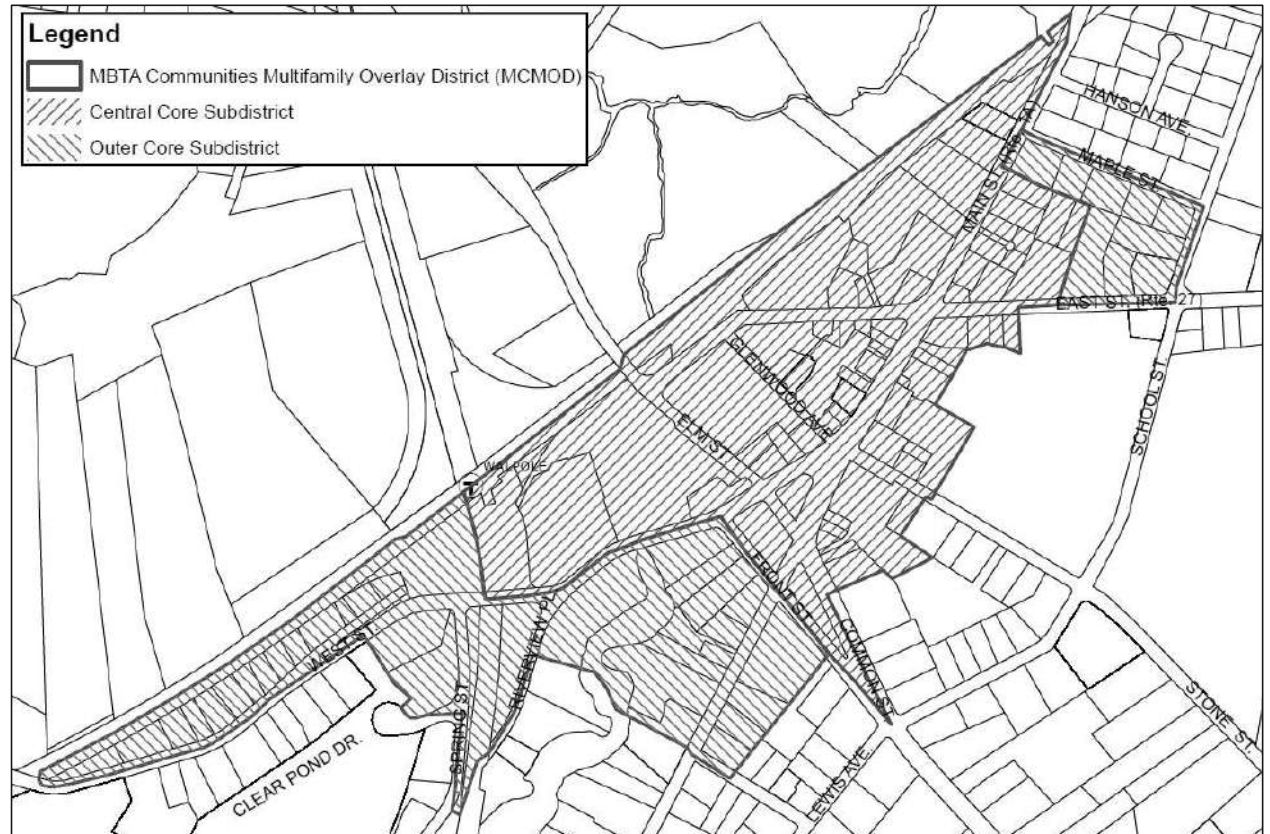
The law does not:

- 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



Proposed MBTA Communities Multifamily Overlay District

Town of Walpole

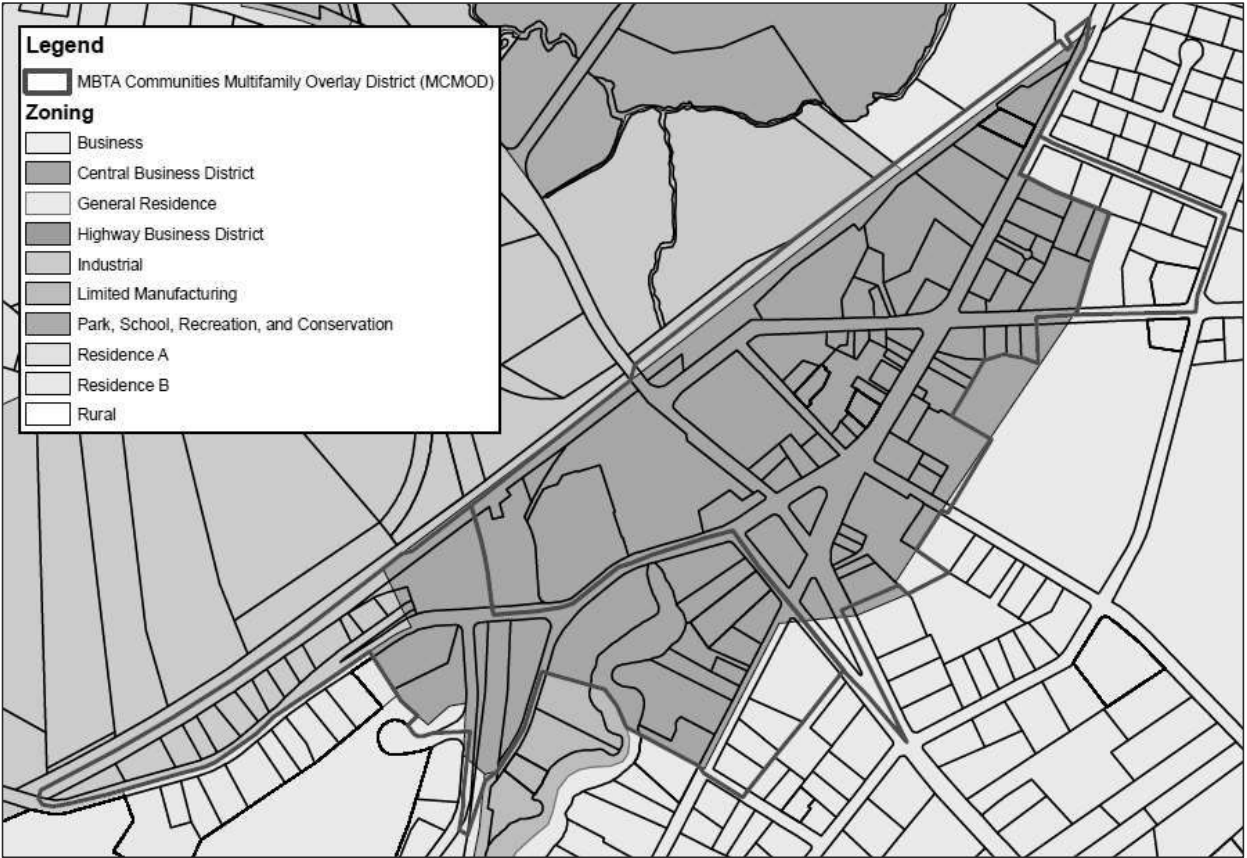


Why this location?

- Proximity to commuter rail station
 - This put the entire proposed district within the ½ mile radius of the train station and over the 50 acre minimum land area requirement
- The existing zoning was comparable in both use and density
 - The primary underlying zoning district is the Central Business District. This zoning district already allows mixed-use residential development by-right
- Opportunity to distribute zoned capacity with Subdistrict approach
 - The purpose of the Outer Core Subdistrict is to allow for a transitional zone between Central Core Subdistrict and the surrounding neighborhoods.

Existing Zoning

Town of Walpole



Proposed MCMOD Dimensional Regulations

	Central Core	Outer Core
Density (units/acre)	45	20
Minimum lot area	6,000 sq. ft.	8,000 sq. ft.
Maximum lot coverage	90%	40%
Minimum open space	0%	30%
Maximum height	4 stories/50'	2.5 stories/35'
Setbacks		
Front	Min. 10' / Max. 30'	Min. 30'
Side	Min. 10'	Min. 10'
Rear	Min. 10'	Min. 30'
Minimum Frontage	50'	75'



Opportunities & limitations

- Permitting is still subject to Site Plan Review (SPR) in order to regulate aspects of a project such as:
 - Vehicular/emergency access
 - Pedestrian/vehicular circulation
 - Architectural design, landscaping, buffering & screening, etc.
 - Screening of adjacent properties
- Communities may require by-right up to 10% of units in a development to be affordable
 - Walpole's proposed zoning has incorporated this
- Mixed-use can be allowed along with multifamily
 - Walpole's proposed zoning allows for both uses, but has specifically incentivized mixed-use in order to encourage maintaining the downtown's commercial characteristics

Opportunities & limitations cont.

- Incentives for mixed-use development
 - Mixed-use development within the Central Core only are granted relief for an additional story
 - Mixed-use developments within the entire MBTA district are granted relief from our existing zoning's commercial space to residential space percentage requirements (see Zoning Bylaw, Section 5.B.1.3.g.i)
- Site development standards are intended to promote better pedestrian access, reduce impact to surrounding area, and improve placement of buildings

Impact on non-compliance with 3A

- Non-compliant communities are ineligible by law for the following grants
 - Community One Stop for Growth (formerly MassWorks & other programs)
 - Has funding recent infrastructure initiatives along Coney Street and Union Street
 - Housing Choice
 - Currently funding ongoing zoning audit & recodification initiative
 - Local Capital Projects Fund

Impact on applications for other state grants: loss of competitiveness

- Community Planning Grants, EOHLC,
- Massachusetts Downtown Initiative, EOED
- Urban Agenda, EOED
- Rural and Small Town Development Fund, EOED
- Brownfields Redevelopment Fund, MassDevelopment
- Site Readiness Program, MassDevelopment
- Underutilized Properties Program, MassDevelopment
- Collaborative Workspace Program, MassDevelopment
- Real Estate Services Technical Assistance, MassDevelopment
- Commonwealth Places Programs, MassDevelopment
- Land Use Planning Grants, EOEEA
- Local Acquisitions for Natural Diversity (LAND) Grants, EOEEA
- Municipal Vulnerability Preparedness (MVP) Planning and Project Grants, EOEEA

Other potential penalties

- The MBTA Communities Law is a State Law
- Non-compliance may involve enforcement actions by the State

“Communities that fail to comply with the Law’s requirements also risk liability under federal and state fair housing laws. The Law requires that MBTA Communities shall have a compliant zoning district and does not provide any mechanism by which a town or city may opt out of this requirement.” – MA Attorney General’s Advisory Letter, March 15, 2023

Questions?

- For more information please visit our MBTA Zoning Initiative webpage: <https://www.walpole-ma.gov/community-and-economic-development/pages/mbta-community-initiative>



MBTA Communities Frequently Asked Questions



General Information:

What is the MBTA Communities Law, or Section 3A of M.G.L. Chapter 40A?

The requirement for multifamily zoning for MBTA Communities was part of a bill adopted by the Massachusetts Legislature and signed by the Governor on January 14, 2021. It is often referred to as “Section 3A” because it is codified as Section 3A of Chapter 40A, the chapter of Massachusetts General Laws that governs zoning for all cities and towns in Massachusetts except Boston. Section 3A requires that all municipalities in the MBTA service district have at least one area where multifamily housing is allowed as of right.

What does this law require?

A Section 3A district must allow multifamily housing as of right at a minimum gross density of 15 units per acre. The district must be located within the area created by a half-mile radius from a commuter rail, subway, or ferry station if applicable. The district must allow for housing suitable for families with children and the zoning cannot include age restrictions. The land in the district must be feasible for development for example, a district that is entirely conservation land would not comply because it is restricted from being developed.

The law discusses guidelines for how a community is to comply with the law. What are those?

Compliance with this law is determined by the Section 3A Guidelines which were promulgated by the Executive Office of Housing and Livable Communities (EOHLC) on August 10, 2022. A Full copy of which you can find here: <https://www.mass.gov/info-details/multi-family-zoning-requirement-for-mbta-communities>

Why should we comply with this law?

Communities that fail to comply will be ineligible for grant funding from the Housing Choice Initiative, the Local Capital Projects Fund, the MassWorks infrastructure program, as well as a number of discretionary grants from the state across a variety of program areas. In March 2023 State Attorney General Campbell further clarified that failure to comply may result in civil enforcement action or liability under federal and state fair housing laws i.e. the state will sue

municipalities that do not comply. (<https://www.mass.gov/news/ag-campbell-issues-advisory-on-requirements-of-mbta-communities-zoning-law>)

Can we still use Site Plan Review for a 3A district development?

Yes, site plan review can be required for multifamily housing in a 3A district. Site plan approval criteria typically cover matters such as vehicular access and circulation on a site or screening of adjacent properties. However, the process must not unreasonably delay a project or impose conditions that make it infeasible or impractical to proceed with a project that complies with applicable dimensional regulations.

Are we required to build a certain amount of housing?

No, the law does not require the construction of any units. Rather it mandates that zoning allow property owners/developers the option to construct multifamily housing without discretionary permits issued by a municipal Planning Board, Zoning Board of Appeals, or other granting authority. Additionally, the zoning district can be located in areas that are already developed; it does not need to be located on vacant lots.

Zoning Terminology:

What is zoning?

Zoning is a set of rules that regulates how we can and cannot use land within a municipality. This includes regulating the types of uses allowed within defined locations, size and siting of structures, amount of required parking, open space considerations, and much more. Zoning is one of the most important tools that a municipality can use to shape and regulate development.

What is a zoning district?

A municipality designates certain allowable use districts or zones within its borders. You can identify these zoning districts through a Town's zoning map. Typical zoning districts include, but are not limited to, residential, commercial, and industrial.

What is a zoning overlay district?

A zoning overlay district is laid on top of an existing zoning district(s) to create additional use and/or dimensional regulations for that specific location in order to address a site or area-specific needs. The intent is to provide relief for that specific use in a location without altering the underlying zoning district. By doing this a developer has the option to utilize either the zoning of the overlay district or develop a property under the existing zoning district.

What does multi-family housing" mean?

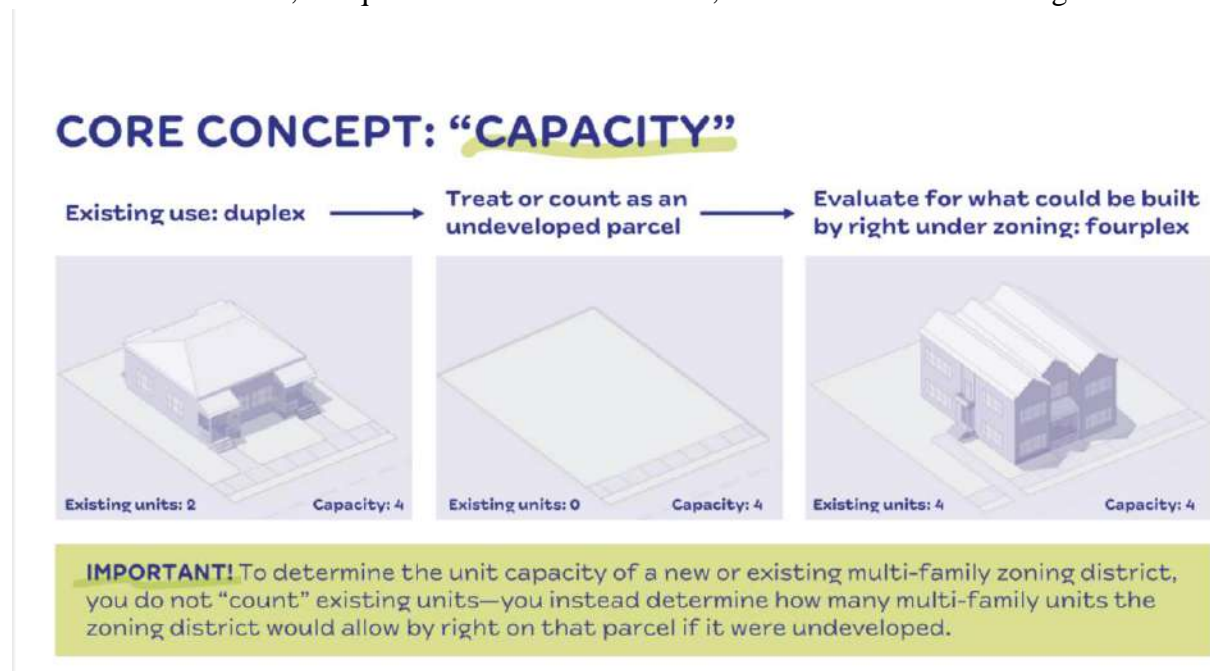
For the purposes of this law, “multi-family housing” means a building with 3 or more residential dwelling units, or 2 or more buildings on the same lot with more than 1 residential dwelling unit in each building.

What is "by-right" or "as of right" development?

“By right” or “as of right” means development that may proceed under a zoning bylaw without the need for a special permit, variance, zoning amendment, waiver, or other discretionary zoning approval.

What is zoning capacity as it relates to residential dwelling units?

Zoning capacity is a hypothetical unit yield based on district regulations. Zoning capacity is not limited to vacant land, a requirement to construct units, or concerned with existing units.



Additional Questions and Concerns:

Do existing multifamily or mixed-use housing complexes count towards this law?

The law is a zoning mandate only. It is not a construction or production mandate and does not take into account existing dwelling units. Compliance with the law is not measured by the number of actual units on the ground, either before or after the bylaw is passed.

Will this cause a lot of new multifamily development?

Development only occurs when the market supports it and when property owners are in a position to redevelop. While the proposed overlay district bylaw provides a property owner the option to build a multifamily development by-right, not every property included within the district will need or want to utilize the bylaw given what may currently exist at that property. Many existing residential developments within the location of Walpole's proposed zoning overlay district were built following the Town's existing zoning bylaws. In some locations of our proposed zoning overlay district, the proposed density allowed would be equivalent or less than what was built following our current zoning.

Can we require mixed-use or commercial units on the ground floor with residential above?

We can allow mixed-use but we cannot require it over multi-family, and we cannot restrict residential units to any one floor. The Town has proposed zoning that will incentivize mixed-use by allowing for relief in building height and for a reduction in commercial space square footage. This would be a beneficial alternative in comparison to our existing zoning requirements for mixed-use within the Central Business Zoning District which is the principal underlying zoning district within the location of our proposed overlay zoning district.

Does the law require affordable units?

There are no express requirements for affordable housing. However, a maximum of 10% of the dwellings can be required to be affordable by-right. The cap on income of families or individuals who are eligible to occupy the affordable units cannot be less than 80% of the area median income. Walpole is proposing that projects applied through the MCMOD require 10% of units to meet the requirements for affordable housing to be included on the Town's Subsidized Housing Inventory.

How and when must Walpole comply with the law?

Town Meeting will need to approve changes to our zoning by December 31, 2024, in order to comply with the law. The proposed changes have been submitted to the warrant for the May 6, 2024 Annual Town Meeting. If Town Meeting approves this zoning amendment, staff will submit the changes to both the Attorney General and EOHLC for final approval.