

Town of Hamilton

- Discussion regarding:
MBTA Massachusetts Zoning 3A**

FINCOM – Book of Recommendations

July 14th STM - FINCOM – Book of Recommendations

The proposed zoning revisions contained in the two warrant articles achieve an appropriate Town Center design within a framework that is also compliant with the requirements of the MBTA Communities Act (3A).

This zoning amendment proposes to divide the downtown area into five Town Center sub-districts. Future development in each of these sub-districts would be governed by **Form Based Code** rules and regulations which have been tailored to reflect the character of the various Town Center streets and neighborhoods. These sub-districts would replace the existing zoning designations for the affected properties.

The content of the two articles was crafted as a single comprehensive overhaul of Hamilton’s zoning governing the Town Center. The language is separated into two articles to comply with state law. The Warrant Articles *reflect the different voting requirements for Section 3A compliance* (Article 6 1) and other amendments to the Zoning Bylaw involving land uses (Article 6 2).

Article 6 1 contains many significant elements of the **Form-Based Code** (but not all) for the three, Section 3A compliant Sub-Districts (Downtown Residential, Willow Street Mixed Use, and Bay Road Mixed Use) and only permits multi-family housing by right. (It also contains the 3A Multi-family Overlay District on Asbury Street).

Article 6 2 *supplements and amends* Article 6 1, adding additional land uses to the multi-family use and providing for the Depot Square Sub-District and the Bay Road Civic Sub-District. Additional **Form-Based Code** elements are included in this article as well.

It is imperative to understand that the most important element of these zoning changes is the **Form-Based Code.**

These provisions allow Hamilton to retain control over the physical form, scale and architectural design of future development despite the by-right zoning required by MBTA 3A.

July 14th STM - FINCOM Favorable Action Recommended

The Planning Board, the Select Board, the Town and a group of residents with the assistance of Utile have developed a thoughtful, collaborative Form-Based Code zoning proposal. It aims to manage the development of an evolving Town Center by providing for MBTA 3A compliant by-right housing while ensuring retention of the Town's visual appeal.

Simply stated, the MBTA 3A law applies to Hamilton. There are no opt out mechanisms nor can compliance be avoided by foregoing state funding. There could be significant costs resulting from non-compliance including legal costs. Hamilton has monitored closely all the legal proceedings which have been litigated over the past year. The most recent ruling from the Superior Court added additional clarity on many topics under discussion in our community and across the State.

Implementing MBTA 3A compliant multi-family housing may have a significant impact on the town over the years and decades ahead due to the potential scale and scope of development. FINCOM believes that there are too many unknowns to accurately quantify financial results from implementation and instead is providing a range of outcomes. FINCOM acknowledges the possibility of long-term capital-intensive challenges and also highlights barriers to development.

Hamilton residents value the town's semi-rural character, its small town feeling and its open space. Many worry that the proposed zoning could result in gross overdevelopment and further strain already stretched Town budgets. The FINCOM feels the Form-Based Code provisions contained in the proposed warrant articles are designed to proactively address and partially mitigate these concerns.

The Finance and Advisory Committee recommends FAVORABLE ACTION (4-0) on both ARTICLES: 2025/6 1 - MBTA (G.L. c. 40A – 3A) Zoning and 2025/6 2 Zoning Bylaw Amendment

Zoning

Form-Based Code



Form-Based Codes Defined

Form-Based Code

/fôrm-bāsed kōd/

noun

1. A form-based code is a land development regulation that fosters predictable built results and a high-quality public realm by using physical form (rather than separation of uses) as the organizing principle for the code. A form-based code is a regulation, not a mere guideline, adopted into city, town, or county law. A form-based code offers a powerful alternative to conventional zoning regulation.



Form-based codes address the relationship between building facades and the public realm, the form and mass of buildings in relation to one another, and the scale and types of streets and blocks. The regulations and standards in form-based codes are presented in both words and clearly drawn diagrams and other visuals. They are keyed to a regulating plan that designates the appropriate form and scale (and therefore, character) of development, rather than only distinctions in land-use types.

This approach contrasts with conventional zoning's focus on the micromanagement and segregation of land uses, and the control of development intensity through abstract and uncoordinated parameters (e.g., FAR, dwellings per acre, setbacks, parking ratios, traffic LOS), to the neglect of an integrated built form. Not to be confused with design guidelines or general statements of policy, form-based codes are regulatory, not advisory. They are drafted to implement a community plan. They try to achieve a community vision based on time-tested forms of urbanism. Ultimately, a form-based code is a tool; the quality of development outcomes depends on the quality and objectives of the community plan that a code implements.

Form-Based Code

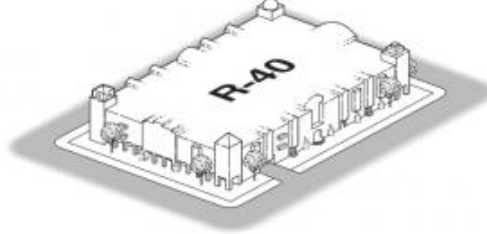
Conventional Zoning

Density use, FAR (floor area ratio), setbacks, parking requirements, maximum building heights specified



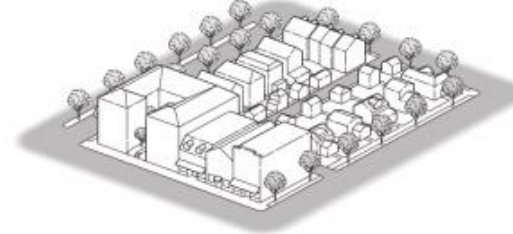
Zoning Design Guidelines

Conventional zoning requirements, plus frequency of openings and surface articulation specified



Form-Based Codes

Street and building types (or mix of types), build-to lines, number of floors, and percentage of built site frontage specified.



Five Main Elements of Form-Based Codes

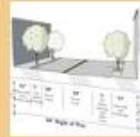
1. Regulating Plan

A plan or map of the regulated area designating the locations where different building form standards apply.



2. Public Standards

Specifies elements in the public realm: sidewalk, travel lanes, on-street parking, street trees and furniture, etc.



3. Building Standards

Regulations controlling the features, configurations, and functions of buildings that define and shape the public realm.



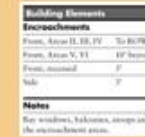
4. Administration

A clearly defined and streamlined application and project review process.



5. Definitions

A glossary to ensure the precise use of technical terms.



“by-right zoning”

What does “by-right zoning” mean? What controls does the Town have over development when it allows development “by-right”? What does “by-right zoning” mean? What controls does the Town have over development when it allows development “by-right”?

By-right zoning means that a property owner is able to pursue a development without any special permitting and approvals from the Town's Planning Board beyond the baseline site plan review and permitting requirements that all development is subject to.

This baseline site plan review and permitting includes a public review of the the following:

Site Plan Review

Site plan review is handled by the Hamilton Planning Board through a public hearing process that includes an opportunity for public comment. This process is designed to ensure a project meets zoning requirements and adequately resolves qualitative and contextual impact issues.

Specifically, this process includes:

- Verification that a project meets the applicable zoning requirements with the advice of Town staff, including all design standards set by a form-based code, such as but not limited to:
 - Height
 - Coverage
 - Setbacks
 - Floor to Area Ratio (FAR)
 - On-site parking
 - Roof form
 - Entry and facade relationship to the street

- Design review to ensure an acceptable solution to qualitative and contextual impact issues like:
 - Traffic and other impact analysis
 - Safe vehicular and pedestrian access / egress
 - Appropriate site drainage
 - Appropriate screening of nearby properties
 - Architectural design review

The scope of Site Plan Review is limited to imposing reasonable terms and conditions on the proposed use, consistent with applicable case law. This review cannot unreasonably delay a project nor impose conditions that make it infeasible or impractical to proceed.

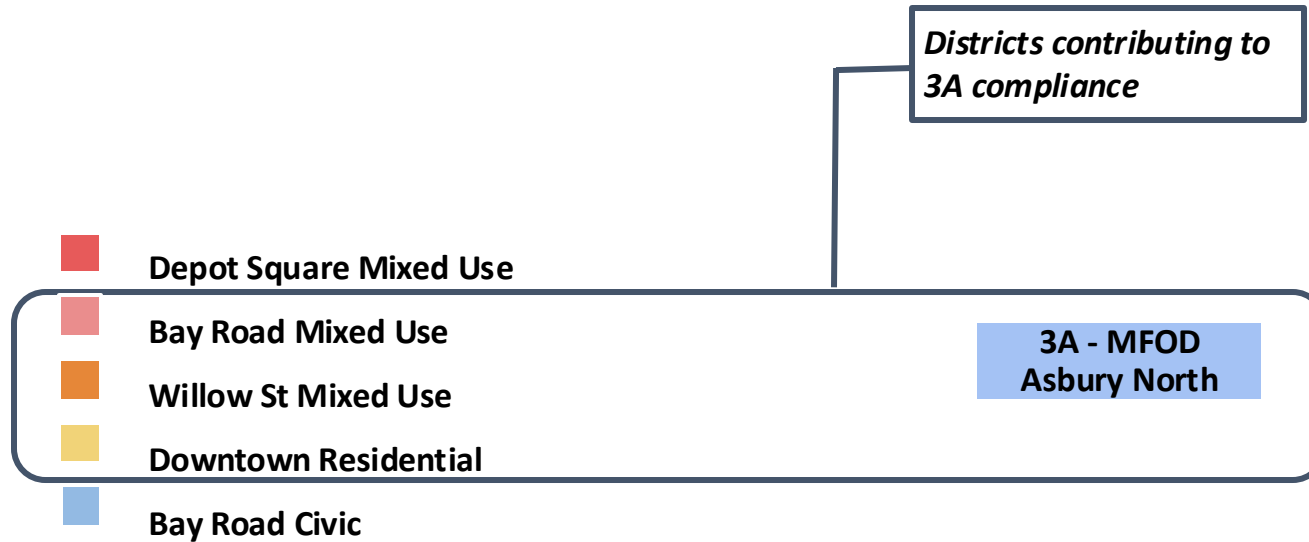
Permitting

Engineering and environmental review and permitting is an entirely separate technical process independent of zoning, and can prevent a project from moving forward if the proposed development is incompatible with what that specific site and its infrastructure can physically support from an engineering and environmental perspective. This includes, at minimum:

- Septic system review (by Board of Health)
- Wetlands permitting (by Conservation Commission if applicable)

In all cases, the developer will be responsible for preparing and paying for impact studies and evaluations associated with site plan review and permitting, as well as any improvements that are deemed necessary, which must be specific to their site and development proposal.

Overall Zoning & Compliance Approach



New Base Zoning

Town Center Zoning with Design Standards

This to includes 5 subdistricts, each with distinctive patterns and standards. This would replace existing zoning in these areas.

Overlay

3A Multi Family Overlay District

The Asbury subdistrict outside of the boundaries of the Town Center provides the final piece of the puzzle to meet 3A requirements. Outside of the Town Center, this would be an alternative to existing zoning.

Town Center Zoning Subdistricts



Context - Understanding “By-Right” Zoning

The strength of zoning that incorporates form-based rules is that it adds specificity and teeth to the zoning compliance and design review addressed under Site Plan Review.

Zoning is only one piece of what needs to be addressed for development to move forward. Here are some of the other elements that control development beyond zoning:

Economic Feasibility

Land value, site complexities, labor costs, market interest, and design and approval process expenses all play a big role in determining whether a development is economically feasible.

Environmental Permitting

Determines if development can proceed based on site constraints.

This includes, at minimum:

- Septic system review (by Board of Health)
- Wetlands permitting (by Conservation Commission if applicable)

In all cases, the developer will be responsible for preparing and paying for impact studies and evaluations associated with site plan review and permitting, as well as any improvements that are deemed necessary, which must be specific to their site and development proposal.

Building Code

Building code ensures all buildings are safe and healthy to occupy, durable, and resilient to known shocks and stressors.

Site Plan Review

Ensures permitted development meets standards through a public review process with comment.

- Zoning Compliance: verification that a project meets the applicable zoning requirements with the advice of Town staff, including all design standards set by a form-based code, such as but not limited to:
 - Height
 - Coverage
 - Setbacks
 - Floor to Area Ratio (FAR)
 - On-site parking
 - Roof form
 - Entry and facade relationship to the street
- Design Review: to ensure an acceptable solution to qualitative and contextual impact issues like:
 - Traffic and other impact analysis
 - Safe vehicular and pedestrian access / egress
 - Appropriate site drainage
 - Appropriate screening of nearby properties
 - Architectural design review

Note: The scope of Site Plan Review is limited to imposing reasonable terms and conditions on the proposed use, consistent with applicable case law. This review cannot unreasonably delay a project nor impose conditions that make it infeasible or impractical to proceed.

Financial Considerations

Key Considerations

As noted above, Hamilton is advancing a package of zoning proposals which should be viewed as a single proposal as they mesh together to deliver a comprehensive revamping of the Town Center.

FINCOM feels there is **no definitive “impact” statement** which anyone could make regarding the 3A Zoning change. Ultimately the “3A” impact will be determined by the economic viability of construction opportunities given the lack of open “buildable” land in Hamilton and the cost to purchase existing properties and redevelop such properties.

Therefore, FINCOM has decided to:

1. Present a range of possible outcomes and
2. Provide an illustrative “Scenario 3.”
 - This is not a prediction or forecast of what the future might hold for the town but rather a means of providing a simple model with which to structure a point-of-view.

Key Considerations – MBTA 3A Zoning

All amounts listed are estimates

Hamilton is advancing a Zoning Proposal which will be presented to the voters at an upcoming Special Town Meeting. FINCOM feels there is no definitive “impact” statement which anyone could make regarding the 3A Zoning change.

Therefore, FINCOM had decided to: 1) Present a range of possible outcomes and 2) Provide an illustrative “Scenario 3.”

Revenue: Revenue for 100 additional units could be \$783 Thousand.....while revenue for 700 additional units could be \$5.5M.

School Operating Costs: The most expensive part of expanding the number of housing units would likely be the cost to educate additional students. Using variable cost rates of \$5k, \$10 & \$20k per student (and varying numbers of new students) cost could range from \$250k - \$7 Million above their current levels.

Schools Buildings: For purposes of this June 25th discussion, we assume that a new school building has been previously approved by the HWRSD taxpayers / voters.

Town Operating Costs: We have made an assumption that town operating cost could move to \$1M above their current levels.

Water Availability: The MBTA 3A Communities Act does NOT require Hamilton to install new water or wastewater infrastructure.

Loss of access to State Grant Funding: Refer to the May 19, 2025 letter from Rep Kristin Kassner (below) regarding past and potential grant funding. She feels that there are “real fiscal consequences from the administration if a community does not approve their local 3A district.”

Litigation Expense: Lack of compliance would likely trigger legal proceedings by the State Attorney General’s office against Hamilton which would require the Town to defend itself.

Revenue / Expense Discussion – MBTA 3A Zoning

All
amounts
listed are
estimates

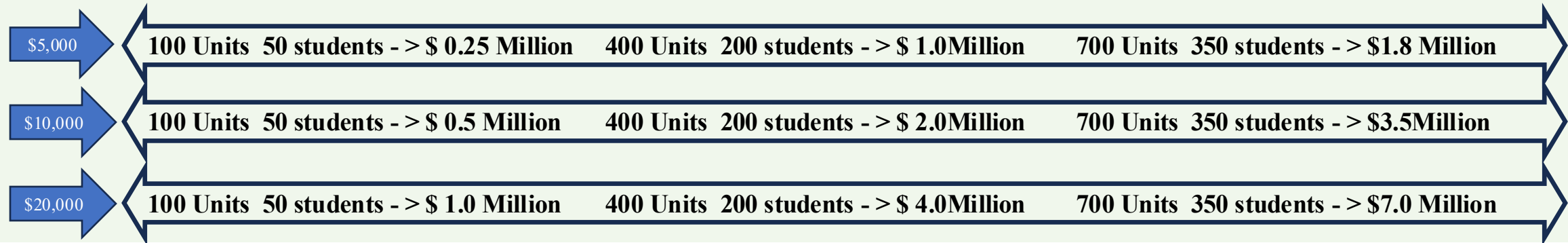
- Below is an attempt to frame a potential impact discussion by looking at some key revenue, expense focus areas:

Revenue: Property tax revenue will be realized with any new construction. If we assumed that the market value of a single unit of new housing was ~ \$500,000. An estimated range of annual property tax revenue could be:

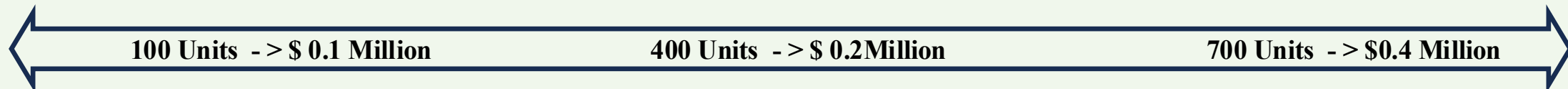


Schools: The most expensive part of expanding the number of housing units would likely be the cost to educate additional students. Additional costs such as public safety and public works would be impacted as well.

Using a range of variable cost rates, \$5,000, \$10,000 & \$20,000 per student and the stated # of students noted (0.5 per unit) below the costs could range as follows:



Public Safety: Additional staffing resources will be deployed as required: Public Safety and Public Works:



Scenario 1 - Impact Illustration

Revenue

Property Tax Revenue

- \$534k X 735 Units = \$ 392M
- Current Tax Rate per \$1,000 = \$ 15.65
-
- \$392M x \$15.65 = \$ 6,142k

Auto Excise Tax 500 Autos @ 300 each = \$ 150k

Water Enterprise 735 @ \$550 each = \$ 404k

Hamilton Annual Tax Revenue = \$ 6,696k

Costs

School Variable Cost

- 400 incremental students
- Variable Cost per student = \$ 13,962
-
- 400 x \$13,962 = \$ 5,585k*

Other Costs

- Water
- Police / Fire
- DPW
- Other = \$ 1,000k

Hamilton Annual Cost = \$ 6,585k

* no cost sharing with Wenham assumed

Revenue Topics – Property Tax Revenue - for Illustration

Scenario 1 vs. Scenario 2

Scenario 1: 735 units of Multi – Family Housing

New Construction:

- \$534k (assessed Value) X 735 Units = \$ 392M
- Current Tax Rate per \$1,000 = \$ 15.65
-
- \$392M x \$15.65 = \$ 6,142k

Scenario 2: 39 Houses removed from Tax base replaced by 294 units

New Construction:

- \$534k (assessed Value) X 735 Units = \$ 392M
- Current Tax Rate per \$1,000 = \$ 15.65
-
- \$392M x \$15.65 = \$ 6,142k

Loss of Property Tax - Existing Property Purchased

- 735 Units X 40% = 294 / 15 per Acre / .5 Acre / home = 39 Houses
- \$700k (assessed Value) X 39 Units = \$ 27M
- Current Tax Rate per \$1,000 = \$ 15.65
-
- \$ 27 M x \$15.65 = \$ 422k

Hamilton Annual Property Tax Revenue (Net) = \$ 5,720k

Scenario 3 – Illustrative Example

Revenue

Property Tax Revenue

- \$500k X 700 Units = \$ 350M
- Current Tax Rate per \$1,000 = \$ 15.65
-
- \$350M x \$15.65 = \$ 5,478k

Auto Excise Tax 500 Autos @ 300 each = \$ 150k

Water Enterprise 700 @ \$550 each = \$ 385k

Hamilton Annual Tax Revenue = \$ 5,998k

Costs

School Variable Cost

- 350 incremental students = 350
- Variable Cost per student = \$ 10,000
-
- 350 x \$10,000 = \$ 3,500k*

Other Costs

- Water
- Police / Fire
- DPW
- Other = \$ 1,000k

Hamilton Annual Cost = \$ 4,500k

* no cost sharing with Wenham assumed

Warrant Articles

Explanation of STM Warrant Articles (Note from Marnie Crouch)

At our June 17th meeting, Town Counsel explained in detail how the two Warrant Articles and accompanying appendices were prepared for voting purposes under G.L. Ch. 40, Sec. 5, and how the articles fit together for purposes of a fully re-zoned Town Center.

The draft Explanation prepared by Mark Connors is very helpful but fails to emphasize that Article II, if adopted, amends Article I to fully implement the form-based code and provide for the additional two of the five Town Center Sub-Districts that are not zoned for 3A compliant multi-family housing by right. In other words, if you were to read the Appendices for each Warrant Article, it is not intuitive that Article II amends Article I without explanatory materials.

The Planning Board will be considering a Report and Recommendation at the meeting on 6/24. The most significant consideration, and this is my personal view which has not yet been endorsed by a majority of the Planning Board, is that absent a favorable report G.L. ch. 40A, Sec. 5 would preclude the PB from considering form-based zoning for the Town Center for two years. Thus, the actual outcome of the vote is less critical in some respects than empowering the Town to be able to consider form-based zoning to ameliorate the density requirements of Section 3A without a two-year exclusionary window.

Because of the density of the Warrant Articles themselves and, by necessity, the disjointed nature of the appendices that show, first, modification of the Zoning Bylaw for 3A compliance in Appendix A and, then, modification of both the (approved) amendments set forth in Appendix A and further amendment of the Zoning Bylaw in Appendix B, your attendance at the meeting on June 24th might be insightful.

A full understanding of the interaction of the two Articles is critical to the ability to explain them to the public at STM.

Explanation of STM Warrant Articles

Draft Explanation for Special Town Meeting Articles 1 and 2:

Draft written by Town Staff

The proposed Town Center zoning addresses many of the Town's long-term planning goals, including the incorporation of form-based regulations placing a greater emphasis on the physical form, scale, architectural design, orientation, and arrangement of development in Hamilton's Downtown/Town Center, and better governs the interaction of development with features of the public realm, including the fronting streetscape. The proposal is also designed to comply with the state's MBTA Communities/Section 3A zoning requirement for multi-family housing. This is accomplished through the proposed re-zoning of all parcels in the Downtown area into one of five Town Center Sub-Districts and the creation of an overlay zoning district outside the Town Center.

Massachusetts State Law (G.L. c. 40A, §5) governs the process by which the Town may amend its Zoning By-law. In most instances, a two-thirds vote of Town Meeting is required to approve a zoning amendment. One exception is that a simple majority vote of Town Meeting is required to amend the Zoning Bylaw to allow multi-family housing as of right in an eligible location. State law (G.L. c. 40A, §5) also provides that "[a]ny amendment that requires a simple majority vote shall not be combined with an amendment that requires a two-thirds majority vote" and that the effective date of any Zoning Bylaw amendment is the date on which it is voted upon by Town Meeting.

For these reasons, the proposed Town Center zoning is separated into two Articles. Article I includes only provisions that require a simple majority to pass. This includes the addition of three new Town Center Sub-Districts, the Bay Road Mixed-Use, Willow Street Mixed-Use, and Downtown Residential Sub-Districts which would replace the existing base zoning - of either Business or R-1A - on the affected parcels. A new 3A Multi-Family Overlay District, to encompass two parcels on Asbury Street outside of the Town Center, is also proposed. In these sub-districts and within the overlay district, multi-family housing would be permitted by right. Because state law does not allow other land uses to be passed by a simple majority, other land uses are not addressed under Article I and are reserved for Article II. Article I also includes dimensional requirements and associated regulatory language for the new districts and, if passed, would bring the Town into compliance with the state's MBTA Communities/Section 3A zoning requirement for multi-family housing.

Importantly, not all of Hamilton's Town Center is proposed to be re-zoned under Article I. Several areas, including portions of Railroad Avenue, Bay Road, and Walnut Road, which include most of Hamilton's commercial land uses, were deliberately excluded in order to protect the Town's core commercial tax base and to provide the Planning Board greater control over mixed-use development in these areas.

Article II incorporates all other provisions of the proposed Town Center zoning, including the incorporation of new zoning districts covering the remainder of the Town Center which would not permit multi-family housing as of right. This includes the proposed new Depot Square and Bay Road Civic Sub-Districts which will replace the existing base zoning - of either Business or

R-1A - on the affected parcels. The existing Business District and Willow Street Overlay Districts would be eliminated as they would be superseded by the new zoning. Article II also includes provisions related to all proposed land uses in the Town Center (apart from multi-family housing addressed in Article I), and includes additional regulatory language. Article II assumes that Article I has been adopted and treats the amendments proposed in Article I as already being in place.

Although Articles I and II were drafted as a single comprehensive overhaul of Hamilton's zoning governing the Town Center, the language is separated into two articles to comply with state law. However, the zoning language included in *both* Articles I and II is designed to be comprehensive and synergistic to accomplish the Town's goals related to the Town Center and to comply with the state's MBTA Communities/Section 3A multi-family zoning requirement. The Planning Board would strongly recommend against passage of only one of the articles as this would work against the interests of the community. If only Article I passes and Article II fails, the new Town Center districts created would only allow multi-family housing by right and not allow any other land uses, including single-family housing, commercial uses, and mixed-use development (these land uses are accounted for in Article II). This would also leave an extensive area of the Town Center without form-based controls. Similarly, Article II cannot be passed without the passage of Article I because it depends on language and frameworks established under Article I. Accordingly, the Planning Board would recommend that Article II be referred back to the Planning Board for further study if Article I fails.

Zoning Warrant Articles

<div>ARTICLE 2025/6 1</div> <div>MBTA (G.L. c. 40A, §3A) Zoning</div>	<p>To see if the Town will vote to amend the Town of Hamilton Zoning Bylaw and Zoning Map to: (1) identify and create three new zoning districts, being the Bay Road Mixed-Use, Willow Street Mixed-Use and Downtown Residential sub-districts of the Town Center, to specify that multi-family housing is the only use allowed in those districts, and to incorporate intent and purpose statements for those districts; (2) re-zone certain land from the Business (B) District or the Residence (R-1a) District to one of the two new districts; (3) add or amend comprehensive provisions, including but not limited to, treatment of accessory uses and structures, and inclusionary housing, parking, signs, design, site, dimensional, use and administrative/permitting/site plan requirements applicable to those three new districts; (4) create a new 3A Multi-family Overlay District in which multi-family housing is allowed as of right, add comprehensive provisions regulating that use in the new overlay district and amend the application of Section 9.1 Groundwater Protection Overlay District to that new overlay district; (5) add or amend definitions; and (6) make related or necessary changes to other provision of the Zoning Bylaw, all as set forth in Appendix A attached hereto; and to authorize the Town Clerk to undertake any necessary and related renumbering of the Zoning By-law, or take any action thereon or relative thereto.</p> <p><i>A majority vote is required to approve this article.</i></p> <p>Brief Summary: This article seeks to _____.</p> <p>Fiscal Year 2026 Tax Rate Impact: None.</p> <p>Recommendations from the Select Board, Finance Advisory Committee, and Planning Board, if provided, and associated vote tallies.</p>
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<div>Zoning Bylaw Amendment -</div>	<p>and Zoning Map as just amended by Article 1 to: (1) identify and create two new zoning districts, being the Depot Square and Bay Road Civic sub-districts of the Town Center, and to specify the uses allowed and prohibited therein, and incorporate intent and purpose statements for those districts; (2) re-zone certain land from the Business (B) District or the Residence (R-1a) District to one of the two new districts (3) eliminate the Business District and Willow Street Overlay district and delete references to the Business District and Willow Street Overlay District on the Zoning Map and throughout the Zoning Bylaw; (4) re-zone certain land from the Business (B) District to the Residence (R-1a) District; (5) add or amend comprehensive provisions, including but not limited to, treatment of nonconformities and accessory uses and structures, and parking, sign, design, site, administrative/permitting/site plan review, use and dimensional requirements applicable to the new Depot Square and Bay Road Civic districts; (6) specify additional provisions applicable to, and uses that are allowed and prohibited in, the new Bay Road Mixed-Use, Willow Street Mixed-Use and Downtown Residential districts and uses prohibited in the Residence (R-1a and R-1b) and Residential Agricultural (RA) Districts; (7) add and amend definitions; (8) amend section 10.6 Site Plan Review and (9) make related or necessary changes to other sections of the Zoning Bylaw, all as set forth in Appendix B attached hereto; and to authorize the Town Clerk to undertake any necessary and related renumbering of the Zoning Bylaw, or take any action thereon or relative thereto.</p> <p><i>A 2/3 vote is required to approve this article.</i></p> <p>Brief Summary: This article seeks to _____.</p> <p>Fiscal Year 2026 Tax Rate Impact: None.</p> <p>Recommendations from the Select Board, Finance Advisory Committee, and Planning Board, if provided, and associated vote tallies.</p>
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Superior Court Civil Action – Decision

June 6, 2025

June 6, 2025 Superior Court Decision...

Towns lose their latest challenge to controversial state housing law

Nine towns had sued the state after Auditor called MBTA Communities an ‘unfunded mandate.’

By [Andrew Brinker](#) Globe Staff, Updated June 6, 2025, 5:56 p.m.



A Superior Court judge Friday dismissed a group of lawsuits from nine Eastern Massachusetts communities over [a controversial state housing law](#) that mandates cities and towns with access to the MBTA make it easier to build multifamily housing.

The lawsuits — filed by the towns of Duxbury, **Hamilton**, Hanson, Holden, Marshfield, Middleton, Wenham, Weston, and Wrentham — sought relief from the MBTA Communities Act on the grounds that it constitutes an “unfunded mandate,” and that more multifamily development would strain their local infrastructure like roads and sewer systems.

Judge Mark Gildea rejected the towns’ argument as “speculative,” saying they did not provide concrete examples of the costs multifamily housing would inflict on them.

“The Municipalities have neither pled specific costs for anticipated infrastructure costs, nor provided any specific timeline for anticipated construction projects,” Gildea wrote in the ruling. “Instead, the only allegations and averments before the court are generalized comments about large-scale issues they foresee, which are insufficient to sustain the Municipalities’ claims.”

The ruling is the latest legal blow to towns that have sought to avoid passing new zoning rules under the four-year-old MBTA Communities Act.

June 6, 2025 Superior Court Decision - Standard of Review

COMMONWEALTH OF MASSACHUSETTS

SUPERIOR COURT
CIVIL ACTION
NO. 2583CV00303

2577CV00430 ✓

I. Standard of Review

There are two separate, but interrelated, motions before this court: the Municipalities' motions for a preliminary injunction, and the defendants' motions to dismiss.

As to the Municipalities' motions, a party seeking a preliminary injunction must demonstrate "(1) a likelihood of success on the merits; (2) that irreparable harm will result from denial of the injunction; and (3) that, in light of the moving party's likelihood of success on the merits, the risk of irreparable harm to the moving party outweighs the potential harm to the nonmoving party in granting the injunction" (citations omitted). *Garcia v. Department of Hous. and Community Dev.*, 480 Mass. 736, 747 (2018). "Where a party seeks to enjoin government action, the judge also must determine that the requested order promotes the public interest, or, alternatively, that the equitable relief will not adversely affect the public" (quotations and citations omitted). *Garcia*, 480 Mass. at 747.

As to the defendants' motions, to survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual allegations" plausibly suggesting (not merely consistent with) an entitlement to relief." *Iannacchino v. Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth. v. Commonwealth*, 493 Mass. 27, 30 (2023). The extent of the court's review generally is limited to the factual allegations in the complaint and any facts

contained in any attached exhibits. See *Eigerman v. Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. See *Marram v. Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004); *Schaer v. Brandeis Univ.*, 432 Mass. 474, 477 (2000).

Taken together, the Municipalities cannot show a likelihood of success on the merits if their complaints are dismissed for failure to state a claim under Mass. R. Civ. P. 12(b)(6). Thus, dismissal of their claims would require denial of their motions for a preliminary injunction.

June 6, 2025 Superior Court Decision...

COMMONWEALTH OF MASSACHUSETTS

SUPERIOR COURT
CIVIL ACTION
NO. 2583CV00303

2577CV00430 ✓

H. Unfunded Mandate Conclusions

In summation, the court concludes that: 1) § 3A is not an unfunded mandate; 2) the Municipalities have failed to identify nonspeculative direct costs requiring appropriation for anticipated infrastructure costs; 3) the court is not bound by DLM's determination; 4) § 3A is a zoning regulation that does not compel construction; and 5) the Municipalities have recourse in pursuing grants specifically intended to fund infrastructure considerations upon compliance with § 3A. Thus, the defendants' motions to dismiss the counts of the Municipalities' complaints seeking declaratory and/or injunctive relief specific to deeming § 3A an unfunded mandate as to future anticipated costs are therefore **ALLOWED**.

Given such conclusion, the Municipalities have not shown a likelihood of success on the merits of their claims that § 3A constitutes an unfunded mandate as to future anticipated

June 6, 2025 Superior Court Decision...

COMMONWEALTH OF MASSACHUSETTS

SUPERIOR COURT
CIVIL ACTION
NO. 2583CV00303

2577CV00430 ✓

F. Hamilton

Hamilton seeks an exemption from § 3A, alleging that it violates the Local Mandate Law because it imposes direct costs on municipalities as opposed to just incidental local administration expenses. It further alleges that Hamilton cannot be considered an “MBTA Community” because one commuter rail station straddles the boundary between Hamilton and Wenham. Instead of an “MBTA Community,” Hamilton alleges it should be defined as an “Adjacent Community” because the town does not have at least 100 acres of “Developable Station Area” within a half mile of the station but has “less than 100 acres of Developable station area.” 760 Code Mass. Regs. § 72.02.⁹

Hamilton and Wenham each argue they were improperly classified as an MBTA Commuter Rail Community. An MBTA station, the Hamilton/Wenham Station, straddles the boundary between the Municipalities. These Municipalities argue that they cannot both be deemed a Commuter Rail Community where the entire station is not within its boundaries.^{21 22}

However, neither Municipality has set forth any legal or factual basis for this court to conclude that the geographic nature of the shared Hamilton/Wenham Station disqualifies it from characterization as a Commuter Rail Community.

The defendants’ motions to dismiss are therefore **ALLOWED** as to this issue. Given such conclusion, the Municipalities have not shown a likelihood of success on the merits of these regulatory characterization arguments, and their motions for a preliminary injunction are therefore **DENIED** as to this argument.

²¹ Wenham states:

The Town does host an MBTA station, referred to by the MBTA as the “Hamilton/Wenham Station” on the Newbury/Rockport Line of the Commuter Rail System. However, this station is a shared station between the Towns of Wenham and Hamilton, as the station sits on the shared town-line with its formal address in Hamilton.

Based on the record before this court, however, Wenham has not provided any basis for this court to conclude that the formal address of a station is dispositive of its characterization under the applicable regulations.

²² Hamilton’s motion references “split lots” in the context of zoning. It argues that the “active” portions of the station, namely the platform, building, and parking, are all located in Wenham, and thus the Hamilton portion only reflects the “passive” portion of the station. However, Hamilton has not provided any basis for this court to

conclude that location of the “active” portion of the MBTA Commuter Rail stop is dispositive of Hamilton’s characterization under the applicable regulations.

June 6, 2025 Superior Court Decision...

COMMONWEALTH OF MASSACHUSETTS

SUPERIOR COURT
CIVIL ACTION
NO. 2583CV00303

2577CN 00430 ✓

VIII. Hamilton Excluded Land

The Gordon-Conwell Theological Seminary (“the Seminary”) sits within Hamilton’s borders. Per the regulations, “[p]rivately-owned land used for educational or institutional uses such as a hospital, prison, electric, water, wastewater or other utility, museum, or private school, college or university” is “excluded land.” 760 Code Mass Regs. 72.02. Hamilton argues that there are limitations to such excluded land characterization, as the regulation further states “[i]f privately owned land that would otherwise be excluded is no longer being used for such educational or institutional uses, EOHLC may determine that such land no longer being so used is Developable Land.” *Id.* Hamilton states that construction is underway on Seminary property and therefore the EOHLC should deem it developable.

However, Hamilton seemingly ignores a critical word in the excluded land definition. Per 760 Code Mass. Regs. 72.02, the EOHLC “may” determine whether to characterize land like the Seminary property, which purportedly is no longer used for such educational purposes, as developable. Thus, EOHLC is not required to deem the Seminary property developable simply because its current use has purportedly changed.

Hamilton states that excluding the Seminary as undevelopable land under § 3A significantly decreases the available acreage in the town and “[i]ncluding the Seminary property would materially change Hamilton’s ability to comply by opening up over a hundred additional acres for multi-family housing in the Town of Hamilton.” While this may be true, Hamilton has

not alleged sufficient facts to show that this factor makes it unique and thus exempt from § 3A compliance. Instead, as discussed herein, all municipalities are faced with various considerations in designating their § 3A district and, per the *Milton* decision, EOHLC and related entities are the “subject matter experts” in assessing all factors when determining § 3A compliance.

Therefore, Hamilton has not shown a likelihood of success on the merits of its Town Meeting argument, and its motion for a preliminary injunction is therefore **DENIED** as to this argument.²³

School Costs

HWRSD Cost

HWRSD Cost					
IMPLEMENTATION OF MBTA COMMUNITIES ACT					
Potential financial scenarios of compliance - Operating Revenue(Costs):					
	Current	Impact of MBTA Housing Addition Scenarios			
		25% Increase (1)	Avg Assessed Value per Housing Unit Decrease (2)	Avg Assessed Value per Housing Unit Decrease (3)	Avg Student per Housing Unit Increase (4)
# of Housing Units	2,925	731	731	731	731
# of Students	1,068	267	400	400	731
Assessed Value per Housing Unit	798,442	798,442	534,000	522,004	534,000
Assessed Property Tax per Housing Unit	12,496	12,496	8,357	8,169	8,357
School Costs per Student	24,036	24,036	13,962	13,962	13,962
# of Students per Housing Unit	0.365	0.365	0.547	0.547	1.000
Property Tax Revenues	36,549,661	9,137,415	6,111,129	5,973,846	6,111,129
Other Revenues	4,529,265	1,132,316	520,000	520,000	520,000
School Costs (excluding NSA&T)	(25,669,983)	(6,417,496)	(5,584,800)	(5,584,800)	(10,209,713)
Other Costs	(17,245,609)	(4,311,402)	(1,000,000)	(1,000,000)	(1,000,000)
Net, covered by Free Cash	(1,836,666)	(459,167)	46,329	(90,954)	(4,578,583)
<i>Explanation of financial scenarios</i>					
(1) MBTA Communities Act requires a minimum multi-family unit capacity equal to 25% of 2020 housing units.					
Increased all FY2026 budget revenue and expense items and # of students by 25% to benchmark.					
(2) Assessed value and resulting property tax revenue for incremental MBTA housing units expected to be less than current average of \$798,442 and \$12,496 based on Developers' Cost method.					
School Costs increased by variable costs versus full costs.					
(3) Assessed value and resulting property tax revenue for incremental MBTA housing units expected to be less than current average of \$798,442 and \$12,496 based on 2 comparable Willow St properties.					
School Costs increased by variable costs versus full costs.					
(4) The number of students per MBTA housing units adjusted to be higher than the current average of .365 in this What-If.					
Used a factor of 1 student per unit to test impact of an increase.					

HWRSD Variable Cost

		FY23 Actuals	FY24 Actuals	FY25 Budget	FY26 Budget	FY '23 & '24 Avg Annual Variable Cost	Less Offsets & revenues	Net Variable Cost Base	Variable Cost Per Student @1,620
	Gross Budget								
	School District Spending by DESE Category								
1	Administration	1,315	1,359	1,694	1,752	-			
2	Operations, Maintenance	2,806	3,616	2,770	3,513	-			
3	Capital & Fixed Assets Improvements	375	2,244	1,035	-	-			
4	Guidance, Counseling, Testing	1,417	1,390	1,371	1,496	1,403			
5	Instructional Materials, Equipment & Technology	1,126	1,056	882	971	1,091			
6	Instructional Leadership	2,600	2,640	2,974	2,914	-			
7	Benefits & Fixed Charges-Insurance, Retirement, Other	7,256	5,514	7,410	7,105	6,385			
8	Other Teaching Services	2,904	3,056	3,423	3,605	2,980			
9	Professional Development	507	517	608	620	512			
10	Pupil Services	2,998	3,333	3,589	4,121	3,166			
11	Teachers	13,559	13,713	14,277	15,786	13,636			
12	Programs with Other School Districts (Tuitions)	3,946	4,507	4,536	4,707	4,226			
	Less Offsets						(2,647)		
	Less Revenue						(8,057)		
	Total	40,809	42,945	44,569	46,589	33,400	(10,704)	22,696	\$ 13,962
							Additional Students	Incremental Variable Cost	Hamilton \$ @66%
							100	\$1,396,223	\$ 921,507
							200	\$2,792,447	\$1,843,015
							300	\$4,188,670	\$2,764,522
							400	\$5,584,894	\$3,686,030
							500	\$6,981,117	\$4,607,537
							600	\$8,377,340	\$5,529,045



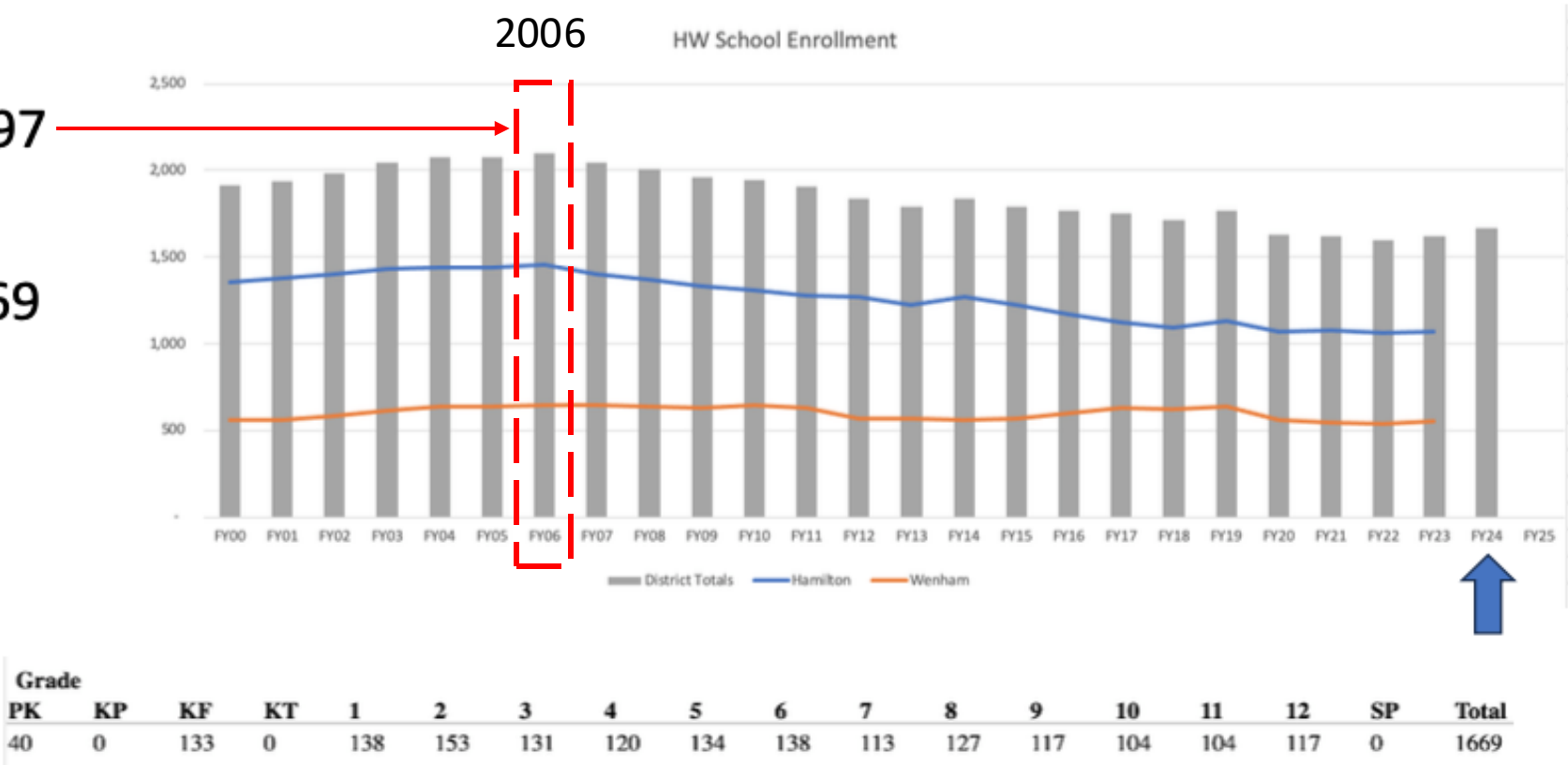
HWRSD Variable Cost – Offsets & Revenue

		FY23 Actuals	FY24 Actuals	FY25 Budget	FY26 Budget	FY '23 & '24 Avg Annual Variable Cost	Less Offsets & revenues	Net Variable Cost Base	Variable Cost Per Student @1,620
100									
101									
102									
103									
104									
105	23	487	110	335	305	298			
106	24	-	-	117	117	-			
107	24	-	-	40	39	-			
108	26	-	-	2	2	-			
109	27	518	419	480	480	469			
110	28	173	92	-		132			
111	29	142	69	64	33	106			
112	30	1,311	1,481	1,352	1,578	1,396			
113	31		491	455	541	245			
114		2,631	2,662	2,846	3,096	2,647			
115									
116									
117									
118									
119	32	3,889	4,019	4,019	4,189	3,954			
120	33	545	-	-		273			
121	34	-	-	-		-			
122	35	119	65	105	65	92			
123	36	182	524	33	50	353			
124	37	103	157			130			
125	38	68	-			34			
126	39	57	115			86			
127	40					-			
128	41	775	773	773	2,088	774			
129	42	2,325	2,399	1,529	-	2,362			
130		8,062	8,053	6,460	6,392	8,057			
131									
132									

School Enrollment -

School Enrollment- FY 2000 – FY 2024

- Peak - FY ' 06 - 2,097
- June 2024 - 1,669



Summary: Over the next 10 years the Northshore will be facing two problems related to water. The first is water supply, and the second is water infrastructure. Geographically Hamilton is best located to share and/or transfer water with the surrounding communities of Ipswich, Wenham, Essex, Topsfield, and Manchester. This will require new infrastructure and multiple upgrades to existing infrastructure.

Water

Regulations – Water Infrastructure

The MBTA 3A
Communities Act does
NOT require Hamilton to
install new water or
wastewater infrastructure.

(e) Water and Wastewater Infrastructure within the Multi-family Zoning District.

1. MBTA communities are encouraged to consider the availability of water and wastewater infrastructure when selecting the location of a new Multi-family zoning district. Compliance with M.G.L. c. 40A, § 3A does not require a municipality to install new water or wastewater infrastructure, or add to the capacity of existing infrastructure, to accommodate future Multi-family housing production within the Multi-family zoning district. In most cases, Multi-family housing can be created using private septic and wastewater treatment systems that meet state environmental standards. Where public systems currently exist, but capacity is limited, private developers may be able to support the cost of necessary water and sewer extensions. While the zoning must allow for gross average density of at least 15 units per acre, there may be other legal or practical limitations, including lack of infrastructure or infrastructure capacity, that result in actual housing production at lower density than the zoning allows.

2. The Multi-family unit capacity analysis does not need to take into consideration limitations on development resulting from existing water or wastewater infrastructure within the Multi-family zoning district, or, in areas not served by public sewer, any applicable limitations under 310 CMR 15.000: *The State Environmental Code, Title 5: Standard Requirements for the Siting, Construction, Inspection, Upgrade and Expansion of On-site Sewage Treatment and Disposal Systems and for the Transport and Disposal of Septage*. For purposes of the unit capacity analysis, it is assumed that housing developers will design projects that work within existing water and wastewater constraints, and that developers, the municipality, or the Commonwealth will provide funding for infrastructure upgrades as needed for individual projects.

760 CMR - 687

North Shore Water Resilience Task Force

The North Shore Water Resilience Task Force aims to identify and advance long-term solutions to improve water supply resilience and ecosystem health in the Ipswich River Watershed.

About

The Task Force includes the 18 communities of Andover, Beverly, Boxford, Burlington, Danvers, Hamilton, Ipswich, Lynn, Lynnfield, Middleton, North Andover, North Reading, Peabody, Reading, Salem, Topsfield, Wenham and Wilmington. It also includes the Ipswich River Watershed Association and the Lynn Water and Sewer Commission, Lynnfield Center Water District, and Salem and Beverly Water Supply Board. Additional state and regional stakeholders also participate as partners adding value to the work of the Task Force.

The Task Force is convened by legislators of the region, including Co-founder and Chair Senator Bruce Tarr. The group is facilitated by staff at MAPC and the Department of Conservation and Recreation (DCR).

- **Public Water Supply (PWS) communities/agencies included:**
 - ❖ Hamilton, Wenham, Ipswich, Topsfield, Salem, Beverly
 - ❖ Danvers, Middleton, Lynnfield Center Water District (LCWD)
 - ❖ Peabody, Salem & Beverly Water Supply Board (SBWSB)

2024 Dewberry Study:

Goal: To evaluate and advance long-term solutions to improve water supply resilience and ecosystem health in the Ipswich River Watershed

Water Supply Solutions Studied

1. **SBWSB** – (Salem Beverly Water Supply Board) supplying PWS communities on a regional basis
2. **New Reservoir** - Constructing a new reservoir in Topsfield to assist PWS communities to meet future drinking water needs;
3. **MWRA** - Extending the MWRA's water system into the region to provide an out-of-basin source for PWS communities to meet the future drinking water needs;
4. **Sharing Surplus** – Share available surplus supply among study PWS communities based on WMA allocations to supplement supply deficits and shortages on a mutual aid basis.

North Shore Water Resilience Task Force

The North Shore Water Resilience Task Force aims to identify and advance long-term solutions to improve water supply resilience and ecosystem health in the Ipswich River Watershed.

	Option	Conceptual Cost	Considerations / Discussion
1	SBWSB		<ul style="list-style-type: none"> Charter allows for sale of water to Wenham, Hamilton & Danvers-Middleton along w/ Salem and Beverly. Currently, no additional capacity...will prepare Master Plan in 2025 to evaluate the upgrade of plant capacity to 24 MGD.
2	New Reservoir	\$378 M	<ul style="list-style-type: none"> 1.8 BG reservoir (drainage area of 0.6 square miles) Raw water pump station (PS) /Transmission main from PS to reservoir 2,500' of transmission main from reservoir to SBWSB's Putnamville reservoir Raising 1,400' of Rte. 1 roadway by 35'
3	MWRA	3 Alternatives Studies a) 42.1 MGD - \$1.200 M --> 20 to 25 years b) 12.3 MGD - \$ 0.410M -- > 10 to 15 years c) 13.5 MGD - \$ 0.130M --> 5 to 7 years	
4	Sharing Surplus	\$9.5 M	<ul style="list-style-type: none"> Possibly share supplemental supply during lower demand periods (October to April) Additional upgrades may be needed based on future supply rates and localized system hydraulics

North Shore Water Resilience Task Force

The North Shore Water Resilience Task Force aims to identify and advance long-term solutions to improve water supply resilience and ecosystem health in the Ipswich River Watershed.

2024 Dewberry Study:

1. New Reservoir in Topsfield - Having SBWSB supplying study PWS communities on a regional basis;
2. Constructing a new reservoir in Topsfield to assist study PWS communities to meet future drinking water needs;
3. Extending the MWRA's water system into the region to provide an out-of-basin source for PWS communities to meet the future drinking water needs;
4. Sharing available surplus supply among study PWS communities based on WMA allocations to supplement supply deficits and shortages on a mutual aid basis.

Combined PWS Future Supply Needs:

- Groundwater Based Systems: 2.48 MGD (ADD) & 4.43 MGD (MDD)
- Surface Water Systems: 16.62 (ADD) & 27.83 MGD (MDD)
- Total Future Supply Needs: 19.10 MGD (ADD) & 32.26 MGD (MDD)

Town Costs

Position Summary Schedule

FTE Positions – Fiscal Years 2024, 2025, and 2026

Description	FY2024	FY2025	FY2026 Budget
Town Manager	3	3.5	3
Finance	7	7	7
Town Clerk	2	2	2
Planning & Inspectional Services	3	3.5	3.5
Conservation	.5	1	.5
Police	15.5	15.5	15.5
Fire	6	6	6
Department of Public Works	15	15	15
Health & Human Services (Health and COA)	3	3	3
Library	n/a	n/a	n/a
Recreation	2.5	2.5	2
Emergency Communications	4	4	4
Total # of FTEs	61.5	63	61.5

Budget

Account Description	FY2023 Actual	FY2024 Actual	FY2025 Budget	FY2026 Proposed Budget	FY2025 vs. FY2026 Variance	
Emergency Communications Salaries	319,915	321,993	361,745	363,231	1,486	0.41%
Emergency Communications Expenses	46,121	46,101	50,756	51,645	889	1.75%
Total	366,036	368,094	412,501	414,876	2,375	0.58%

Budget

Account Description	FY2023 Actual	FY2024 Actual	FY2025 Budget	FY2026 Proposed Budget	FY2025 vs. FY2026 Variance	
Fire Salaries	738,029	850,274	937,540	1,036,059	98,519	10.51%
Fire Expenses	102,522	128,123	125,548	128,692	3,144	2.50%
Fire Capital	118,431	125,938	111,712	111,712	-	0.00%
Total	958,982	1,104,335	1,174,800	1,276,463	101,663	8.65%

Budget

Account Description	FY2023 Actual	FY2024 Actual	FY2025 Budget	FY2026 Proposed Budget	FY2025 vs. FY2026 Variance	
Police Salaries	1,775,477	1,831,672	2,246,842	2,175,099	(71,743)	-3.19%
Police Expenses	125,814	118,484	139,878	142,213	2,335	1.67%
Police Capital	18,980	18,980	25,086	-	(25,086)	-100.00%
Emergency Management Expenses	1,024	1,099	1,100	1,100	-	0.00%
Total	1,921,295	1,970,235	2,412,906	2,318,412	(94,494)	-3.92%

Budget

Account Description	FY2023 Actual	FY2024 Actual	FY2025 Budget	FY2026 Proposed Budget	FY2025 vs. FY2026 Variance	
Public Works Salaries	283,538	300,522	325,710	355,445	29,735	9.13%
Public Works Expenses	16,820	19,417	32,700	31,600	(1,100)	-3.36%
Public Works Capital	-	9,783	10,000	10,000	-	100.00%
Highway Salaries	209,880	225,669	292,826	281,984	(10,842)	-3.70%
Highway Expenses	163,588	137,863	236,900	236,900	-	0.00%
Snow Removal Salaries	78,196	67,956	99,410	99,410	-	0.00%
Snow Removal Expenses	172,878	136,780	179,250	183,250	4,000	2.23%
Vehicle Maintenance Salaries	70,292	79,993	117,858	100,751	(17,107)	-14.51%
Vehicle Maintenance Expenses	104,043	101,073	84,532	94,194	9,662	11.43%
Cemetery Salaries	139,848	134,810	161,845	162,597	752	0.46%
Cemetery Expenses	12,136	14,518	13,000	13,000	-	0.00%
Sanitation Salaries	4,947	4,848	6,345	6,611	266	4.19%
Sanitation Expenses	806,021	840,770	833,610	878,205	44,595	5.35%
Parks, Fields & Grounds Salaries	85,252	92,032	82,976	85,167	2,191	2.64%
Parks, Fields & Grounds Expenses	4,509	2,653	5,150	4,500	(650)	-12.62%
Public Building & Maintenance Salaries	63,189	66,591	77,919	82,260	4,341	5.57%
Public Building & Maintenance Expenses	260,716	231,535	227,151	224,990	(2,161)	-0.95%
Public Building & Maintenance Capital	-	-	-	-	-	0.00%
Total	2,475,853	2,466,813	2,787,182	2,850,864	63,682	2.28%

Position Summary Schedule

FTE Positions – Fiscal Years 2024, 2025, and 2026

Description	FY2024	FY2025	FY2026 Budget
Town Manager	3	3.5	3
Finance	7	7	7
Town Clerk	2	2	2
Planning & Inspectional Services	3	3.5	3.5
Conservation	.5	1	.5
Police	15.5	15.5	15.5
Fire	6	6	6
Department of Public Works	15	15	15
Health & Human Services (Health and COA)	3	3	3
Library	n/a	n/a	n/a
Recreation	2.5	2.5	2
Emergency Communications	4	4	4
Total # of FTEs	61.5	63	61.5

			Salaries		Cost Per		
Public Safety	Fire		\$ 1,036,059		\$ 100,000	1	\$ 100,000
	Police	Additional Officer	\$ 2,175,099	15.5	\$ 140,329	1	\$ 140,329
							\$ -
							\$ -
Public Works					\$ 80,000	2	\$ 160,000
		Additional Staff					
							\$ 400,329

Market Valuation / Revenue of Construction Options

Impact Analysis – Construction Cost – Boston Globe Spotlight - Dec 2023



Multi-Family – Development in Hamilton

Using “Developer’s Perspective” Cost for Assessed Value

\$90.8M per 170 units = \$534k per unit

• 49 Acres X 15* = 735 Units

• \$534k X 735 Units = \$392M

Market Value of \$392M

• Current Tax Rate per \$1,000 = 15.65

• \$392M x \$15.65 = \$6.2M Annual Tax revenue

300 Willow St



# of Residential Units	Market Valuation	Annual Revenue	30 Year Revenue
50	\$41M	\$619k	\$18.6M
200	\$158M	\$2,368K	\$71.0M

Project	Calculation of Annual Tax Revenue					
	# of Taxable Units	Value per unit	Assessed Value	Tax Rate	Recurring Tax Revenue	30 - Year Revenue Stream
300 Willow	7	\$ 818,329	\$ 5,728,300	\$ 15	\$ 85,925	\$ 2,577,735
Residential	10	20%	\$ 818,329	\$ 8,183,286	\$ 15	\$ 122,749
Residential - 40B - 75%	5	10%	\$ 613,746	\$ 3,068,732	\$ 15	\$ 46,031
Sub-Total Residential	15	30%	\$ 11,252,018		\$ 168,780	
Commercial	5		\$ 200,000	\$ 15	\$ 15,000	
Total	20		\$ 12,252,018		\$ 183,780	\$ 5,513,408

Residential	40	80%	\$ 818,329	\$ 32,733,143	\$ 15	\$ 490,997	
Residential - 40B - 75%	10	20%	\$ 613,746	\$ 6,137,464	\$ 15	\$ 92,062	
Sub-Total Residential	50	100%	\$ 38,870,607		\$ 583,059		
Commercial	12		\$ 200,000	\$ 2,400,000	\$ 15	\$ 36,000	
Total	62		\$ 665,655	\$ 41,270,607		\$ 619,059	\$ 18,571,773

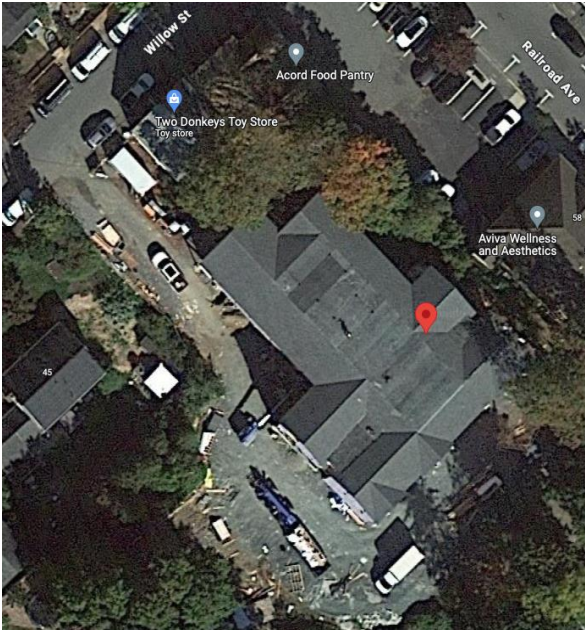
Residential	80	80%	\$ 818,329	\$ 65,466,286	\$ 15	\$ 981,994	
Residential - 40B - 75%	20	20%	\$ 613,746	\$ 12,274,929	\$ 15	\$ 184,124	
Sub-Total Residential	100	100%	\$ 77,741,214		\$ 1,166,118		
Commercial	12		\$ 200,000	\$ 2,400,000	\$ 15	\$ 36,000	
Total	112		\$ 715,547	\$ 80,141,214		\$ 1,202,118	\$ 36,063,546

Sale of Property							
Residential	120	80%	\$ 818,329	\$ 98,199,429	\$ 15	\$ 1,472,991	
Residential - 40B - 75%	30	20%	\$ 613,746	\$ 18,412,393	\$ 15	\$ 276,186	
Sub-Total Residential	150	100%	\$ 116,611,821		\$ 1,749,177		
Commercial	12		\$ 200,000	\$ 2,400,000	\$ 15	\$ 36,000	
Total	162		\$ 734,641	\$ 119,011,821		\$ 1,785,177	\$ 53,555,320

Sale of Property							
Residential	160	80%	\$ 818,329	\$ 130,932,571	\$ 15	\$ 1,963,989	
Residential - 40B - 75%	40	20%	\$ 613,746	\$ 24,549,857	\$ 15	\$ 368,248	
Sub-Total Residential	200	100%	\$ 155,482,429		\$ 2,332,236		
Commercial	12		\$ 200,000	\$ 2,400,000	\$ 15	\$ 36,000	
Total	212		\$ 744,728	\$ 157,882,429		\$ 2,368,236	\$ 71,047,093

1	\$ 807,200
2	\$ 907,500
3	\$ 837,200
4	\$ 926,300
5	\$ 683,300
6	\$ 715,900
7	\$ 850,900
	\$ 5,728,300
	\$ 818,329

59 Willow St)



# of Residential Units	Market Valuation	Annual Revenue	30 Year Revenue
50	\$12M	\$188k	\$5.6M
200	\$45M	\$670K	\$20.1M

Project	Calculation of Annual Tax Revenue					
	# of Taxable Units	Value per unit	Assessed Value	Tax Rate	Recurring Tax Revenue	30 - Year Revenue Stream
Comparative 59 Willow	18	\$ 225,678	\$ 4,062,200	\$ 15	\$ 60,933	
Residential	20	40% \$ 225,678	\$ 4,513,556	\$ 15	\$ 67,703	
Residential - 40B - 75%	5	10% \$ 169,258	\$ 846,292	\$ 15	\$ 12,694	
Sub-Total Residential	25	50%	\$ 5,359,847		\$ 80,398	
Commercial	5	\$ 150,000	\$ 750,000	\$ 15	\$ 11,250	
Sub-Total Winthrop	30	\$ 203,662	\$ 6,109,847		\$ 91,648	\$ 2,749,431
Residential	40	80% \$ 225,678	\$ 9,027,111	\$ 15	\$ 135,407	
Residential - 40B - 75%	10	20% \$ 169,258	\$ 1,692,583	\$ 15	\$ 25,389	
Sub-Total Residential	50	100%	\$ 10,719,694		\$ 160,795	
Commercial	12	\$ 150,000	\$ 1,800,000	\$ 15	\$ 27,000	
Sub-Total Winthrop	62	\$ 201,931	\$ 12,519,694		\$ 187,795	\$ 5,633,863
Residential	80	80% \$ 225,678	\$ 18,054,222	\$ 15	\$ 270,813	
Residential - 40B - 75%	20	20% \$ 169,258	\$ 3,385,167	\$ 15	\$ 50,778	
Sub-Total Residential	100	100%	\$ 21,439,389		\$ 321,591	
Commercial	12	\$ 150,000	\$ 1,800,000	\$ 15	\$ 27,000	
Sub-Total Winthrop	112	\$ 207,495	\$ 23,239,389		\$ 348,591	\$ 10,457,725
Residential	120	80% \$ 225,678	\$ 27,081,333	\$ 15	\$ 406,220	
Residential - 40B - 75%	30	20% \$ 169,258	\$ 5,077,750	\$ 15	\$ 76,166	
Sub-Total Residential	150	100%	\$ 32,159,083		\$ 482,386	
Commercial	12	\$ 150,000	\$ 1,800,000	\$ 15	\$ 27,000	
Sub-Total Winthrop	162	\$ 209,624	\$ 33,959,083		\$ 509,386	\$ 15,281,588
Residential	160	80% \$ 225,678	\$ 36,108,444	\$ 15	\$ 541,627	
Residential - 40B - 75%	40	20% \$ 169,258	\$ 6,770,333	\$ 15	\$ 101,555	
Sub-Total Residential	200	100%	\$ 42,878,778		\$ 643,182	
Commercial	12	\$ 150,000	\$ 1,800,000	\$ 15	\$ 27,000	
Sub-Total Winthrop	212	\$ 210,749	\$ 44,678,778		\$ 670,182	\$ 20,105,450

Massachusetts Zoning Law / MBTA 3A

MBTA Communities Act - What & Why?

- The MBTA Communities Act (also known as 3A) requires that 177 cities and towns serviced by the MBTA implement zoning that allows transit-oriented, multi-family housing by right.
- The purpose of the Act is to:
 1. Address the housing availability and affordability crisis by increasing supply and encouraging a diversity of housing options;
 2. Address the climate crisis by promoting transit-oriented development;
 3. Support a commercial center.
- The Act applies to the Town of Hamilton and compliance is mandatory.

Zoning Act Section 3A -

Source: Mass.gov Website May 30, 2025



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Multi-Family Zoning Requirement for MBTA Communities

This page includes information about Section 3A of MGL c. 40A.



The MBTA communities law, also known as Section 3A of the Zoning Act, creates zoning that encourages new missing middle housing in areas served by public transit. Housing enabled by the MBTA communities law provides opportunities for people to live, work and thrive in walkable neighborhoods closer to transit. Below please find resources and information about how cities and towns are implementing the law.

Why is multi-family zoning near transit and in neighboring communities important?

Massachusetts is in a housing crisis.

- Massachusetts has among the highest, and fastest growing, home prices and rents of any state in the nation.
- Rising costs have dramatically increased financial pressures on low- and middle-income families, forcing them to sacrifice other priorities in order to pay housing costs. High housing costs are a primary driver of homelessness.
- These high costs are a disadvantage as we compete economically against peer states. The risk of future job growth moving outside Massachusetts is rising due to the high costs of living.

How does creating zoning for multi-family housing help the housing crisis?

The lack of zoning for multi-family housing is a barrier for new housing development in Massachusetts. By allowing multifamily housing near transit, we can create new housing in walkable neighborhoods closer to transit. This is not just good housing policy, it is good climate and transportation policy, too. The result of transit-oriented development is:

- 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 our larger effort to confront the climate crisis, reduce our region's traffic congestion, and makes our roads safer and our air cleaner.

Zoning Act Section 3A -

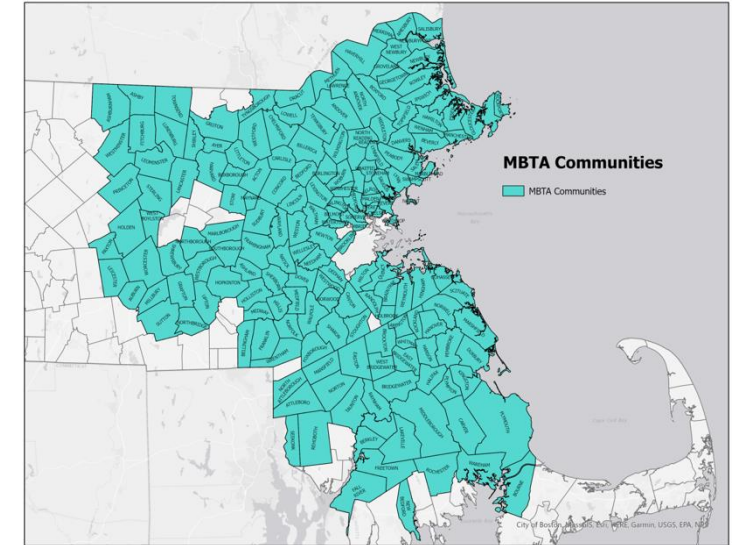
Source: Mass.gov Website May 30, 2025

What is an "MBTA Community"?

"MBTA community" is defined by reference to Section 1 of MGL c. 161A:

- one of the "14 cities and towns" that initially hosted MBTA service;
- one of the "51 cities and towns" that also host MBTA service but joined later;
- other "served communities" that abut a city or town that hosts MBTA service; or
- a municipality that has been added to the MBTA under G.L. c. 161A, sec. 6 or in accordance with any special law relative to the area constituting the authority.

In total, 177 MBTA communities are subject to the requirements of Section 3A of the Zoning Act. While served by the MBTA, Boston is exempted from the Zoning Act, including section 3A. This is illustrated in the map below.



What is the law?

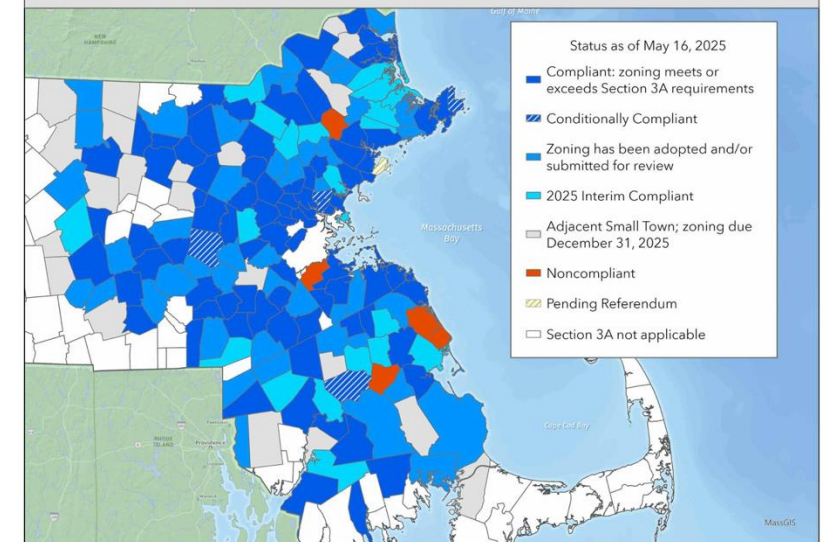
The requirement is codified as Section 3A of MGL c. 40A:

Section 3A. (a)(1)An MBTA community shall have a zoning ordinance or by-law that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right; provided, however, that such multi-family housing shall be without age restrictions and shall be suitable for families with children. For the purposes of this section, a district of reasonable size shall: (i) have a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A; and (ii) be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.

(b) An MBTA community that fails to comply with this section shall not be eligible for funds from: (i) the Housing Choice Initiative as described by the governor in a message to the general court dated December 11, 2017; (ii) the Local Capital Projects Fund established in section 2EEEE of chapter 29; (iii) the MassWorks infrastructure program established in section 63 of chapter 23A, or (iv) the HousingWorks infrastructure program established in section 27½ of chapter 23B.

(c) The executive office of housing and livable communities, in consultation with the executive office of economic development, the Massachusetts Bay Transportation Authority and the Massachusetts Department of Transportation, shall promulgate guidelines to determine if an MBTA community is in compliance with this section.

131 MBTA Communities submitted and/or adopted zoning to comply with the law. 85 have been determined fully or conditionally compliant by EOHLC.



Law and Regulations

Source: Mass.gov Website May 30, 2025

(b) An MBTA community that fails to comply with this section shall not be eligible for funds from:

- (i) the Housing Choice Initiative as described by the governor in a message to the general court dated December 11, 2017;
- (ii) (ii) the Local Capital Projects Fund established in section 2E of chapter 29;
- (iii) (iii) the MassWorks infrastructure program established in section 63 of chapter 23A, or (iv) the HousingWorks infrastructure program established in section 27½ of chapter 23B.

(c) The executive office of housing and livable communities, in consultation with the executive office of economic development, the Massachusetts Bay Transportation Authority and the Massachusetts Department of Transportation, shall promulgate guidelines to determine if an MBTA community is in compliance with this section.

72.09: Determinations of Compliance

(1) M.G.L. c. 40A, § 3A provides that any MBTA community that fails to comply with M.G.L. c. 40A, § 3A's requirements will be ineligible for funding from any of the Listed funding sources. EOHLC will make determinations of compliance with M.G.L. c. 40A, § 3A in accordance with 760 CMR 72.00 to inform state agency decisions on which MBTA communities are eligible to receive funding from the Listed funding sources. The following discretionary grant programs will take compliance with M.G.L. c. 40A, § 3A into consideration when making grant award recommendations:

- (a) Community Planning Grants, EOHLC;
- (b) Massachusetts Downtown Initiative, EOED;
- (c) Urban Agenda, EOED;
- (d) Rural and Small Town Development Fund, EOED;
- (e) Brownfields Redevelopment Fund, MassDevelopment;
- (f) Site Readiness Program, MassDevelopment;
- (g) Underutilized Properties Program, MassDevelopment;
- (h) Collaborative Workspace Program, MassDevelopment;
- (i) Real Estate Services Technical Assistance, MassDevelopment;
- (j) Commonwealth Places Programs, MassDevelopment;
- (k) Land Use Planning Grants, EOEEA;
- (l) Local Acquisitions for Natural Diversity (LAND) Grants, EOEEA; and
- (m) Municipal Vulnerability Preparedness (MVP) Planning and Project Grants, EOEEA.

(2) Determinations of compliance also may inform other funding decisions by EOED, EOHLC, the MBTA and other state agencies which consider local housing policies when evaluating applications for discretionary grant programs or making other discretionary funding decisions.

(3) EOHLC will recognize both interim compliance, which means an MBTA community is taking active steps to enact a Multi-family zoning district that complies with M.L. c. 40A, § 3A, and District compliance is achieved when EOHLC determines that an MBTA community has a Multi-family zoning district that complies with M.L. c. 40A, § 3A and the requirements set forth below. Table 3 includes deadlines, shown with an asterisk, established under prior guidelines that many municipalities have met, and prospective deadlines for certain categories of municipalities as shown without an asterisk.

Zoning Act

Section 3A -

Under Section 3A of the Zoning Act, Hamilton is required to

- Establish a 49 Acre zone...
 - Within 1/2 mile of the commuter rail station
 - With a gross density of 15 units per acre
 - Without age restriction on occupants
 - Suitable for families with children

1. Overview of Section 3A of the Zoning Act

Section 3A of the Zoning Act provides: *An MBTA community shall have a zoning ordinance or by-law that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right; provided, however, that such multi-family housing shall be without age restrictions and shall be suitable for families with children. For the purposes of this section, a district of reasonable size shall: (i) have a minimum gross density of 15 units per acre, subject to any further limitations imposed by [section 40 of chapter 131](#) and title 5 of the state environmental code established pursuant to [section 13 of chapter 21A](#); and (ii) be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.*

49 Acre District

15 Units / Acre

1/2 Mile Radius

The purpose of Section 3A is to encourage the production of multi-family housing by requiring MBTA communities to adopt zoning districts where multi-family housing is allowed as of right, and that meet other requirements set forth in the statute.

The Executive Office of Housing and Livable Communities (EOHLC), in consultation with Executive Office of Economic Development, the Massachusetts Bay Transportation Authority and the Massachusetts Department of Transportation, is required to promulgate guidelines to determine if an MBTA community is in compliance with Section 3A. EOHLC promulgated preliminary guidance on January 29, 2021. EOHLC updated that preliminary guidance on December 15, 2021, and on that same date issued draft guidelines for public comment. These final guidelines supersede all prior guidance and set forth how MBTA communities may achieve compliance with Section 3A.

(i) In rapid transit communities, commuter rail communities, and adjacent communities, the minimum land area of the multi-family zoning district is 50 acres, or 1.5% of the developable land in an MBTA community, whichever is less. In certain cases, noted in Appendix 1, a smaller minimum land area applies.

Appendix 1: MBTA Community Categories and Requirements

Show 5 entries

Search: hamilton

Community	Community category	2020 Housing Units	Minimum multi-family unit capacity*	Minimum land area**
+ Hamilton	Commuter Rail	2,925	731	49

MBTA 3A Requirements – “Concentration” Hamilton

72.08: Location of Districts

(1) General Rule for Determining the Applicability of M.G.L. c. 40A, § 3A's Location Requirement.

(a) A Multi-family zoning district shall "be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable." When an MBTA community has only a small amount of Transit station area within its boundaries, it may not be possible or practical to locate all of the Multi-family zoning district within 0.5 miles of a Transit station. Transit station area may not be a practical location for a Multi-family zoning district if it does not include Developable land where Multi-family housing can actually be constructed. Therefore, for purposes of determining compliance with M.G.L. c. 40A, § 3A and 760 CMR 72.00, EOHLIC will consider the statute's location requirement to be "applicable" to a particular MBTA community only if that community has within its borders at least 100 acres of Developable station area. A Multi-family zoning district shall be located within transit station areas depending on how much total developable station area is in that community, in accordance with Table 2:

Table 2.

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%

(b) The percentages specified in this table apply to both the minimum land area and the minimum Multi-family unit capacity. For example, in an MBTA community that has a total of 500 acres of Transit station area within its boundaries, a Multi-family zoning district will comply with M.G.L. c. 40A, § 3A's location requirement if at least 50% of the district's minimum land area is located within the Transit station area, and at least 50% of the district's minimum Multi-family unit capacity is located within the Transit station area.

(c) A community with Transit station areas associated with more than one Transit station may locate the Multi-family zoning district in any of the Transit station areas. For example, a Rapid transit community with Transit station area around a Subway station in one part of town, and Transit station area around a Commuter rail station in another part of town, may locate its Multi-family zoning district in either or both Transit station areas.

(d) MBTA Communities with Limited or No Transit Station Area. When an MBTA community has less than 100 acres of Developable station area within its boundaries, the MBTA community may locate the Multi-family zoning district anywhere within its boundaries. To encourage transit-oriented Multi-family housing consistent with the general intent of M.G.L. c. 40A, § 3A, MBTA communities are encouraged to consider locating the Multi-family zoning district in an area with reasonable access to a Transit station based on existing street patterns, pedestrian connections, and bicycle lanes, or in an area that qualifies as an "eligible location" as defined in M.G.L. c. 40A — for example, near an existing downtown or village center, near a regional transit authority bus stop or line, or in a location with existing under-utilized facilities that can be redeveloped into new Multi-family housing.

Community	Community category	2020 Housing Units	Minimum multi-family unit capacity*	Minimum land area**	Developable station area***	% of district to be located in station area
Groton	Adjacent Small Town	4,153	208	-	-	0%
Groveland	Adjacent Small Town	2,596	130	-	-	0%
Halifax	Commuter Rail	3,107	750	50	300	40%
Hamilton	Commuter Rail	2,925	731	49	184	20%

What are the requirements for Hamilton?

This law is about allowing multi-family housing in the zoning code. The law carries no obligation that anything gets built, it only requires zoning regulations to be updated.

Specifically, this new law requires that each MBTA Community have at least one zoning district of reasonable size in which multi-family housing is permitted as of right and meets other criteria set forth in the statute:

- Minimum gross density of 15 units per acre
- 20% of the total area of this new district is not more than 0.5 miles from the Hamilton/Wenham Station on the Newburyport/Rockport Line Commuter Rail Line
- No age restrictions and suitable for families with children

The State's Executive Office of Housing & Livable Communities has defined a zoning district of reasonable size for Hamilton as:

- At least 49 acres, which represents 1.5% of developable land area in the town.
- Allowing at least 731 multi-family units, which represents 25% of Hamilton's 2,925 existing year-round housing units, as recorded in the most recent Census data.

"Multi-family housing" is defined, for the purposes of this law, as either:

- 1 building with 3+ units, or
- 2+ buildings on the same lot, each with 2+ units

Risk of Non-Compliance



ANDREA JOY CAMPBELL
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL
ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

(617) 727-2200
www.mass.gov/ago

Advisory Concerning Enforcement of the MBTA Communities Zoning Law

The Office of the Attorney General is issuing this Advisory to assist cities, towns, and residents in understanding the requirements imposed by the MBTA Communities Zoning Law (G.L. c. 40A, § 3A) (the “Law”). The Law was enacted to address the Commonwealth’s acute need for housing by facilitating the development of transit-oriented, multifamily housing. By any measure, Massachusetts is in a housing crisis that is inflicting unacceptable economic, social, and environmental harms across our state – particularly on working families and people of color. The Law directly responds to this crisis by implementing zoning reforms that require MBTA Communities to permit reasonable levels of multifamily housing development near transit stations.¹

Massachusetts cities and towns have broad authority to enact local zoning ordinances and by-laws to promote the public welfare, so long as they are not inconsistent with constitutional or statutory requirements.² The MBTA Communities Zoning Law provides one such statutory requirement: that MBTA Communities must allow at least one zoning district of reasonable size in which multifamily housing is permitted “as of right.”³ The district must generally be located within half a mile of a transit station and allow for development at a minimum gross density of fifteen units per acre.⁴ MBTA Communities cannot impose age-based occupancy limitations or other restrictions that interfere with the construction of units suitable for families with children within the zoning district.⁵ For example, the zoning district cannot have limits on the size of units or caps on the number of bedrooms or occupants. The required zoning district must also allow for the construction of multifamily units without special permits, variances, waivers or other discretionary approvals.⁶ These measures can prevent, delay, or significantly increase the costs of construction. As directed by the Legislature, the Department of Housing and Community Development has promulgated guidelines regarding compliance.⁷ These guidelines provide

¹ An MBTA Community is a town or city which hosts MBTA service; which abuts a town or city that hosts service; or which has been added to the Transit Authority pursuant to a special law. *See* G.L. c. 40A, § 3A(a)(1); G.L. c. 40A, § 1. Currently, there are 177 MBTA Communities in Massachusetts. A list of these MBTA Communities, and other information related to the Law, can be found [here](#).

² *See generally* Mass. Const. Amend. Art. 89 (amending Mass. Const. Amend. Art. 2); G.L. c. 40A, § 1 et seq. (the “Zoning Act”).

³ G.L. c. 40A, § 3A(a)(1) (requiring that MBTA Communities “shall have” a compliant zoning district).

⁴ *Id.*

⁵ *Id.*

⁶ G.L. c. 40A, § 1A.

⁷ G.L. c. 40A, § 3A(c) (“The [D]epartment . . . shall promulgate guidelines”); Department of Housing and Community Development, *Compliance Guidelines for Multi-family Zoning Districts Under Section 3A of the Zoning Act* (revised October 21, 2022).

additional information and benchmarks to be utilized in determining whether MBTA Communities are complying with the Law.

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. The Massachusetts Antidiscrimination Law¹¹ and federal Fair Housing Act¹² prohibit towns and cities from using their zoning power for a discriminatory purpose or with discriminatory effect.¹³ An MBTA Community may violate these laws if, for example, its zoning restrictions have the effect of unfairly limiting housing opportunities for families with children, individuals who receive housing subsidies, people of color, people with disabilities, or other protected groups.

⁸ *See, e.g.*, G.L. c. 12, § 10 (the Attorney General shall take notice of “all violations of law” and bring “such . . . civil proceedings before the appropriate state and federal courts . . . as [s]he may deem to be for the public interest”); G.L. c. 231A, § 2 et seq. (authorizing declaratory judgment actions to “secure determinations of right, duty, status, or other legal relations under . . . statute[s]”).

⁹ G.L. c. 40A, § 3A(b).

¹⁰ G.L. c. 40A, § 3A(a)(1).

¹¹ G.L. c. 151B § 1 et seq.

¹² 42 U.S.C. § 3601 et seq.

¹³ *See, e.g.*, G.L. c. 151B, § 4(4A) (prohibiting activities that interfere with the exercise or enjoyment of fair housing rights); 804 C.M.R. § 2.01(2)(f)-(h) (Antidiscrimination Law applies to “persons who . . . interfere with another person in the exercise or enjoyment of any right under M.G.L. c. 151, § 4 . . . persons who directly or indirectly prevent or attempt to prevent the construction, purchase, sale or rental of any dwelling or land covered by M.G.L. c. 151B, § 4 . . . [and] persons who aid or abet in doing any illegal acts . . .”); 804 C.M.R. § 2.01(5)(f) (“Examples of unlawful housing practices include . . . to pass an ordinance that unlawfully denies a dwelling, commercial space or land to a person or group of persons because of their protected status.”).

Recent Correspondence

May 19th – Update from the Rep Kassner



The Commonwealth of Massachusetts
HOUSE OF REPRESENTATIVES
STATE HOUSE, BOSTON 02133-1054

Committees:
Ways and Means
Environment and Natural Resources
Municipalities and Regional Government
Revenue
STATE HOUSE, ROOM 254
TEL: (617) 725-2220
Kristin.Kassner@MAhouse.gov

May 19, 2025
MBTA Communities 40A, Section 3A - Funding

Dear Members of the Select Board and Planning Board,

As we approach Town Meeting I wanted to convey information regarding state funding and 3A compliance. In conversation with many of the executive offices we have gleaned the following information.

The [MBTA Communities Act](#) was passed under the Baker administration in 2021. To date 131 communities have approved their local districts at Town Meeting. The legislation included protections under existing wetlands and stormwater laws and protections subject to the availability of water and wastewater systems. I.e if there is no water and land area not large enough to construct a wastewater system and mitigate stormwater runoff the unit count will be significantly reduced from the compliance number.

Funding: The MBTA Communities legislation includes listed grant programs that are contingent on approval of the local 3A district in our communities. The Executive Office of Housing and Livable Communities MBTA 3A [Regulations](#) include additional grant programs that require compliance. Further additional funding programs have been identified requiring compliance including within, the Housing and Economic Development Bond Bills, supplemental budgets and executive office advisories.

What we know to date: Any state discretionary grant funding is on the table for consideration of compliance with the following exceptions. Federal funding and grants to non-town entities (Iron Ox Farm for example) and more recently Public Safety grants are not linked to compliance. We do not yet have a clear answer as to if MSBA funding is impacted, however we do know that in the [Supplemental Fair Share Budget](#) in the

1

Senate they included a requirement that a community be in compliance with MBTA 3A for a community to access that supplemental funding from MSBA. Previous funding awards should remain intact as long as the project is under contract by the compliance deadline of July 14, 2025. The funding to the district is significant. Over the past few years there has been millions of dollars that have come out of these programs to the 2nd Essex District for water quality and infrastructure, transportation, education, veterans, mental health, seniors and the environment.

The grants that we have tracked and collaborated with Hamilton since 2023 are below. There may be others for which we were not involved and therefore not included.

Hamilton 2023 to 2024: \$929,138.00, which at this point all are secure, assuming they are all under contract. However \$917, 547 (98%) MBTA 3A may be a factor if the Town pursues these grants in the future.

2023-2024 Awarded Grants	Hamilton
Cultural Council	\$12,100.00
Safe Drinking Water Grants	\$232,490.00
Firefighter Safety Grants	\$11,591.00
Transportation Infrastructure Grants	\$133,505.00
MYCAP (schools)	\$5,500.00
2024 Municipal Road Safety (PD)	\$15,864.00
FY25 Municipal Road Safety Grants	\$11,488.00
Green Communities Competitive Grants	\$500,000.00
MassDEP Sustainable Materials Recovery Program	\$6,600.00
Total	\$929,138.00

Hamilton 2025 to Date: \$\$305,890.37 of that \$279,775 (91%) MBTA 3A may be a factor for which the Town must get under contract for already awarded and may be ineligible for future grants.

2

2025-2026 Awarded Grants	Hamilton
Firefighter Safety Equipment Grants 2nd Round	\$3,715.37
Firefighter Safety Equipment Grants 1st Round	\$15,500.00
Student Awareness of Fire Safety (SAFE)	\$4,700.00
Senior SAFE	\$2,200.00
MassDEP Ipswich River Grant	\$279,775.00
	\$305,890.37

I do believe that we need to provide a diversity of housing options, in line with community character that our residents need; and that if communities are doing their part to create opportunities for housing funding should be available, that is why I commented along with the Town on the then draft regulations and have sponsored [legislation](#) to that end. While I disagree with the withholding of critical funding, the law is in effect and many communities have already approved their district locally. We are seeing that there are real fiscal consequences from the administration if a community does not approve their local 3A district. Further, we that represent towns that have not yet passed their district have fought fiercely to ensure that funding like public safety money must not be linked to compliance under this section and will continue to fight, however we are an increasingly small faction of the legislature as more and more communities approve their districts.

I commend the Town of Hamilton, Select Board, and Planning Board for their work over the past two years to carefully create the 3A District, providing many open sessions and including input from residents. I hope that this information is helpful. This is a local decision. As the vote is contemplated, consider the lost funding under the many programs affected. I wish that it was not a reality and I will always continue to fight to keep intact funding opportunities for critical programs to bring back every dollar I can to Hamilton. Please reach out at any time with any questions.

Sincerely,

Kristin E. Kassner

State Representative 2nd Essex, Room 254

Ipswich, Hamilton, Rowley, Newbury, Georgetown, Topsfield (1)

3

May 29th Response Letter from EOHLC



Commonwealth of Massachusetts
EXECUTIVE OFFICE OF HOUSING &
LIVABLE COMMUNITIES

Maura T. Healey, Governor ♦ Kimberley Driscoll, Lieutenant Governor ♦ Edward M. Augustus Jr., Secretary

Via email: mconnors@hamiltonma.gov

May 29, 2025

Mark Connors
Planning Director
650 Asbury Street
P.O. Box 429
Hamilton, MA 01982

Re: Hamilton - Pre-Adoption Feedback for Compliance with Section 3A of the Zoning Act (Section 3A)

Dear Mr. Connors,

The Executive Office of Housing and Livable Communities (EOHLC) received a pre-adoption review application from the Town of Hamilton, requesting that EOHLC review the Town's proposed "Willow Street Mixed Use District," "Bay Road Mixed Use District," "Downtown Residential District," and "Asbury Street 3A Multi-family Overlay District," (together, the District), based on the criteria set forth in Section 3A and 760 CMR 72.00 (the Regulations).

EOHLC appreciates all the work the Town has done to prepare for compliance with Section 3A. MBTA Communities staff at EOHLC were pleased to meet with Hamilton staff and consultants last week to discuss this feedback in detail. This letter serves as the formal notice of EOHLC comments.

Hamilton is designated as Commuter Rail community with 2,925 existing housing units per the 2020 United States Decennial Census. The Town is required to have a district with a minimum multi-family unit capacity of 731 units, a minimum land area of 49 acres and a gross density of at least 15 dwelling units per acre. At least twenty percent of the district's minimum unit capacity and land area requirements must be met within one half mile of Hamilton's commuter rail station.

EOHLC identified the following issues which may affect the District's compliance with Section 3A and the Regulations:

1. EOHLC recommends reviewing Section 10.6: Site Plan Review to ensure that the standards set forth are objective and nondiscretionary, and consult with town counsel to ensure that this section aligns with the existing case law concerning site plan review for as of right uses.

MBTA Communities staff at EOHLC will meet with you and your staff should you want to review the details of this letter. If you have questions or need further assistance regarding this determination, please contact MBTA Communities Compliance Coordinator Nathan Carlucci, at nathan.carlucci@mass.gov.

Sincerely,

Caroline "Chris" Kluchman
Director, Livable Communities Division

cc: Senator Bruce Tarr, Bruce.Tarr@masenate.gov
Representative Kristin Kassner, Kristin.Kassner@mahouse.gov
Joseph J. Domelowicz Jr., Town of Hamilton, jdomelowicz@hamiltonma.gov