



Multi-family Zoning Requirement for MBTA Communities

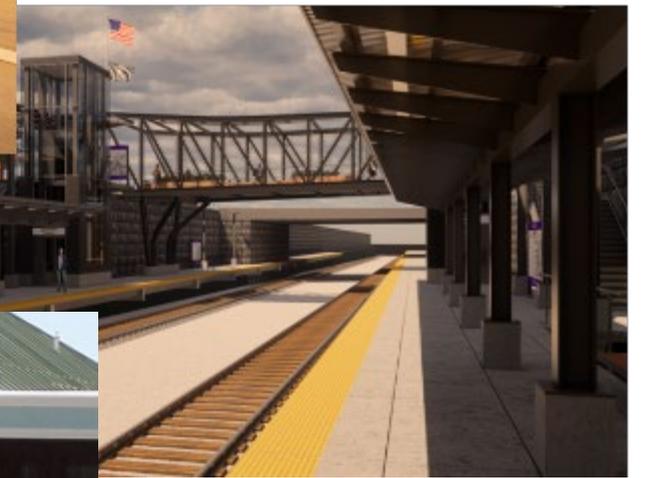
An Introduction to Section 3A of the Zoning Act

Presented by The Executive Office of Housing and Livable Communities to:
Charles River Chamber of Commerce
September 12, 2023



Presentation Overview

- **Massachusetts' housing crisis**
- **Local housing data**
- **Why was the Zoning Act revised?**
- **What is an MBTA Community?**
- **Section 3A Basic Requirements**
- **Zoning for What and Whom**
- **Important Clarifications**
- **Contact information**



Housing is not just about numbers!

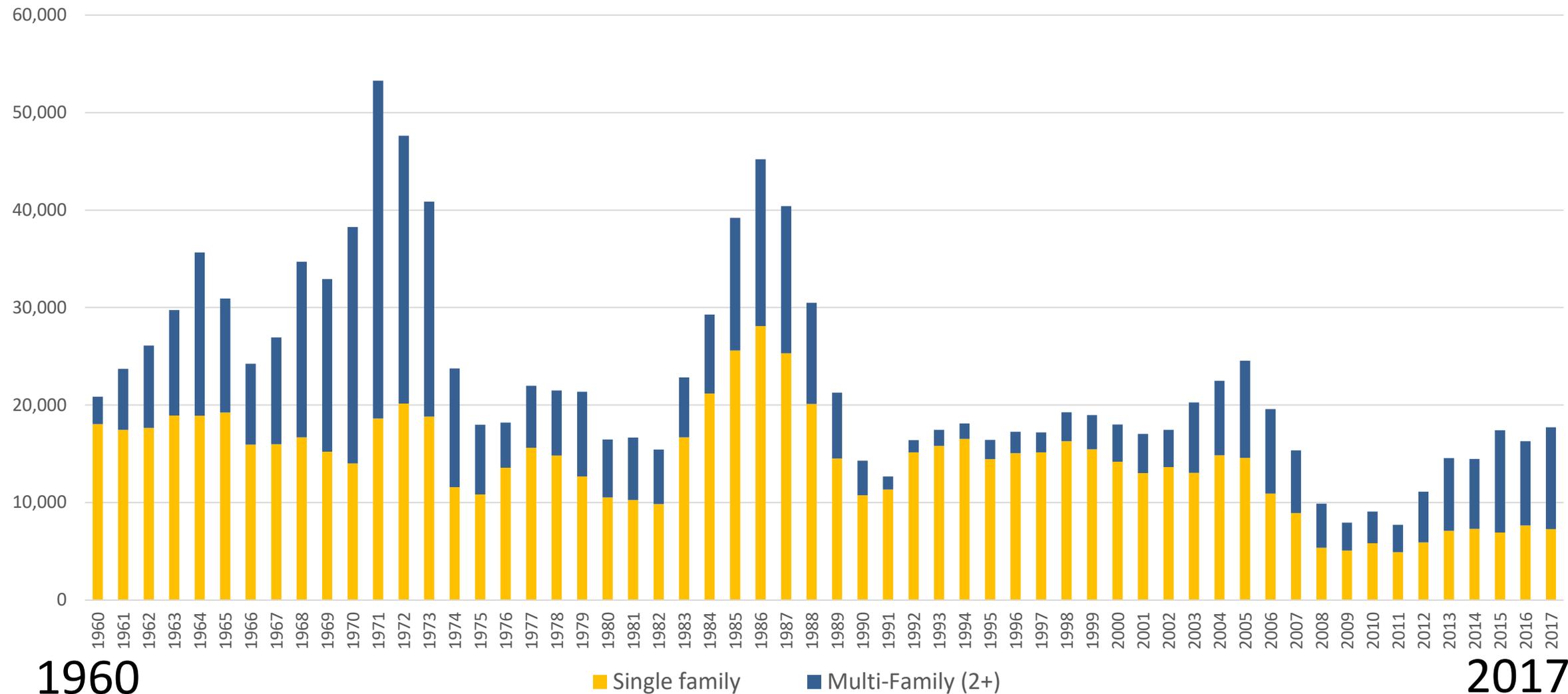




Housing Crisis: Limited housing production

In recent years Massachusetts cities and towns have permitted less new housing than at almost any point since the 1950s. Between 1960 and 1990, Massachusetts communities permitted almost 900,000 housing units. In the period 1990 to 2020 communities have permitted only 434,685 new units.

Building Permits Issued

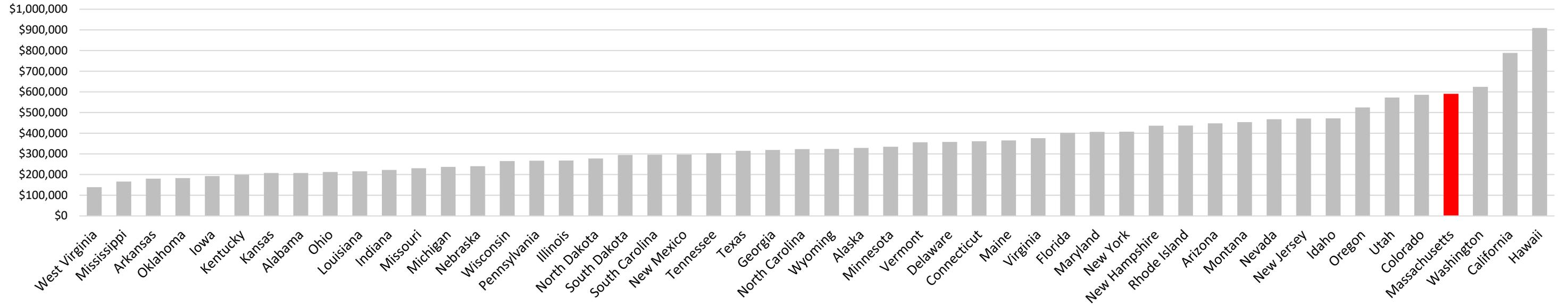


Housing Crisis: Housing Costs Among the Highest in the Nation



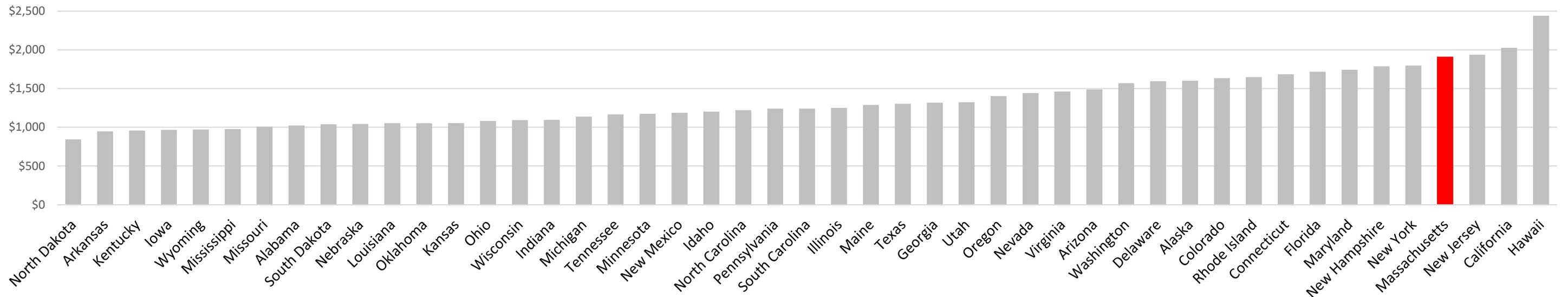
Typical Home Value (July 2022)

Source: Zillow Home Value Index



2 Bedroom Rent Estimates (July 2022)

Source: Apartment List State-Level Historic Estimates

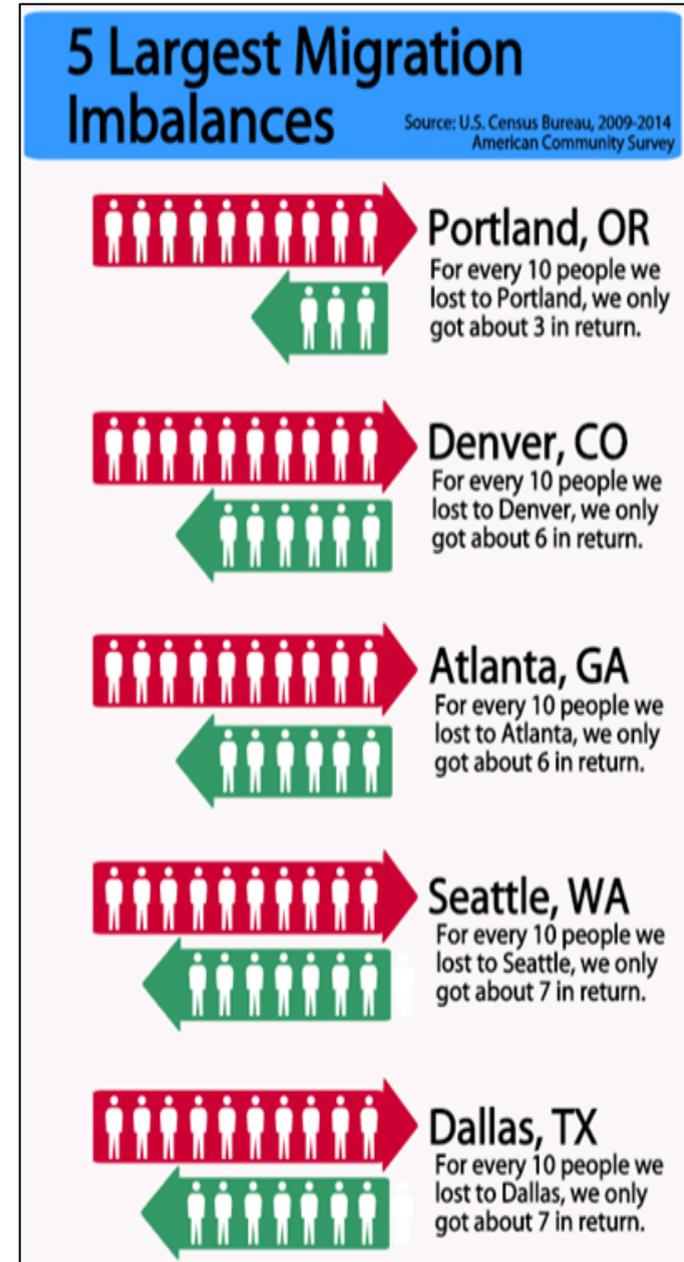
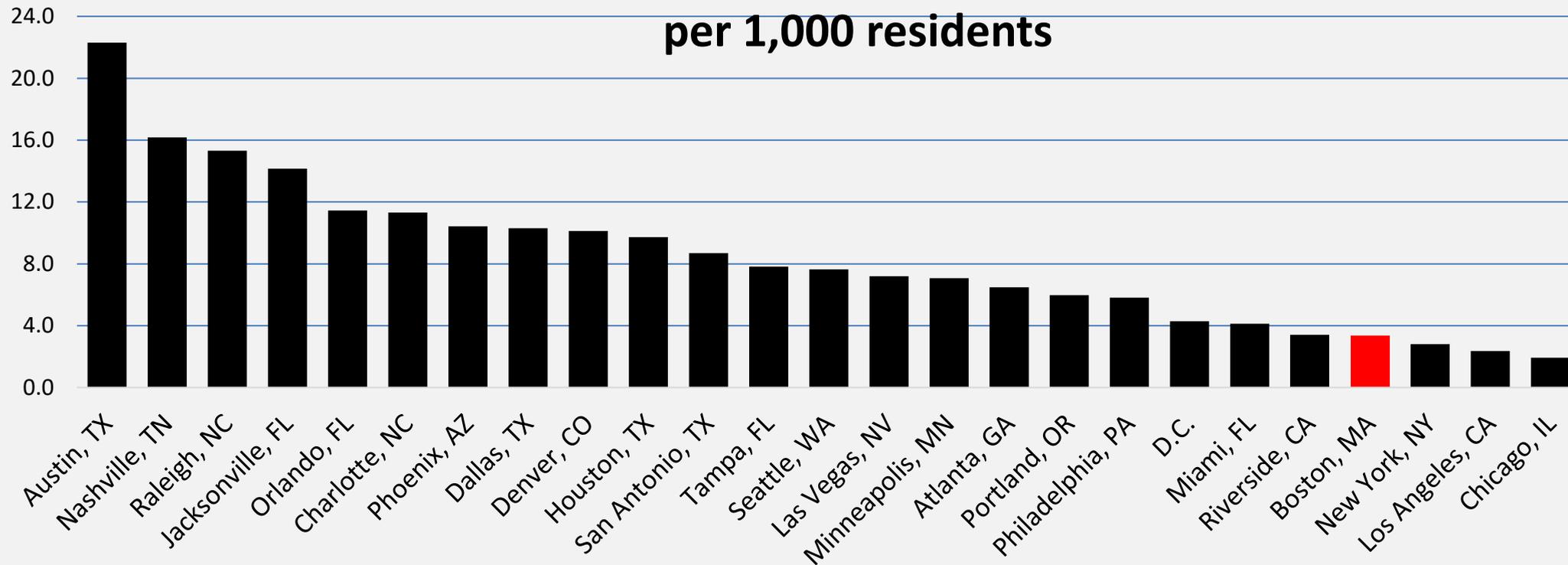




Housing Crisis: Competitive Disadvantage for MA

- Massachusetts' core competitive advantage is its highly skilled workforce.
- High housing costs will make it harder for us to attract and retain talent. This weakens our economy and our employers and hurts our long-term growth and prosperity.
- Those cities that permitted at least 6 units/1000 all saw population gains from domestic migration. In contrast, Boston metro area saw a net loss of population from domestic migration.

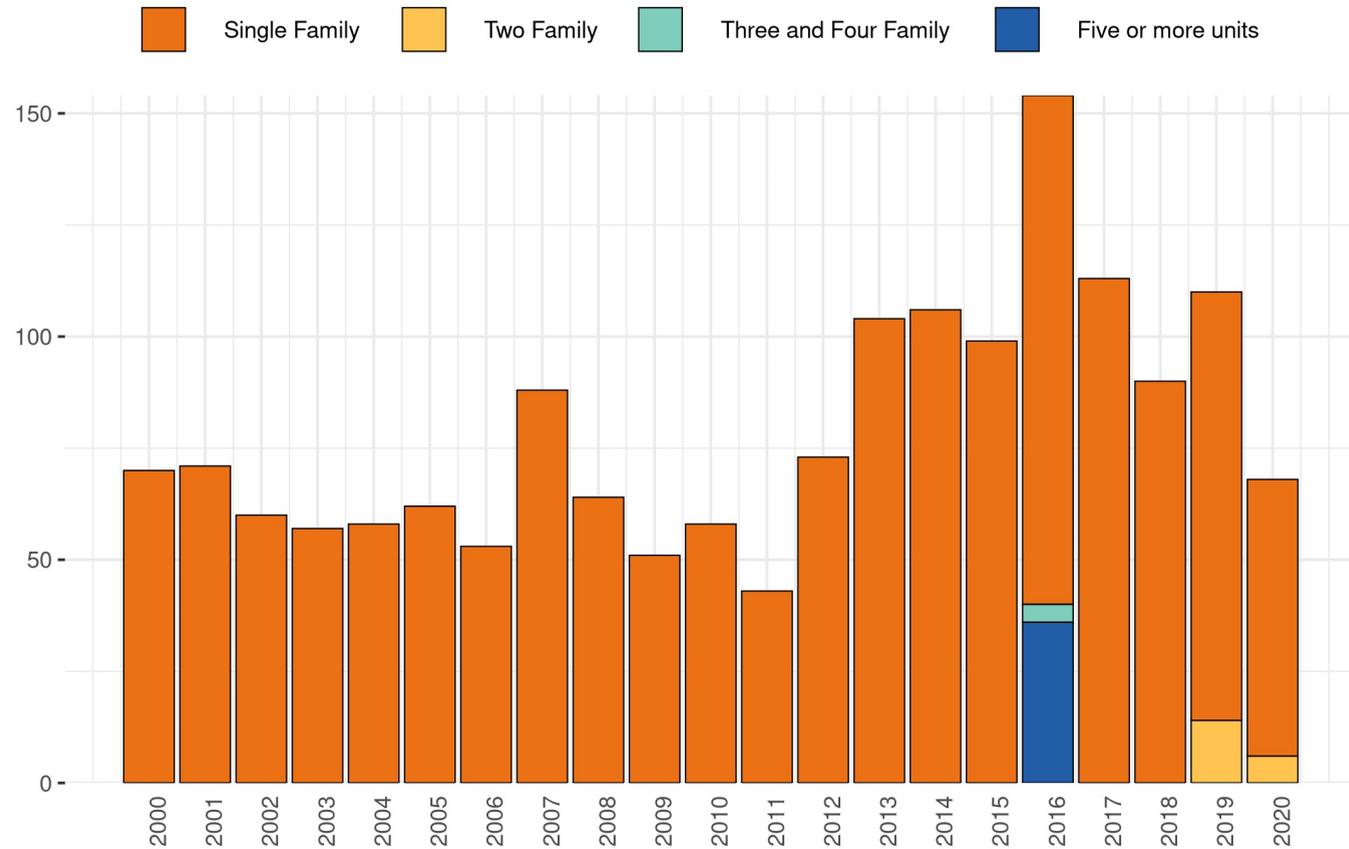
2021 Building Permit Rates of the 25 Largest Competing Metros per 1,000 residents



Needham Housing Data



Annual housing units permitted by building type in Needham



Source: U.S. Census Bureau - Annual Building Permit Survey (Reported and Imputed)



Needham housing statistics:

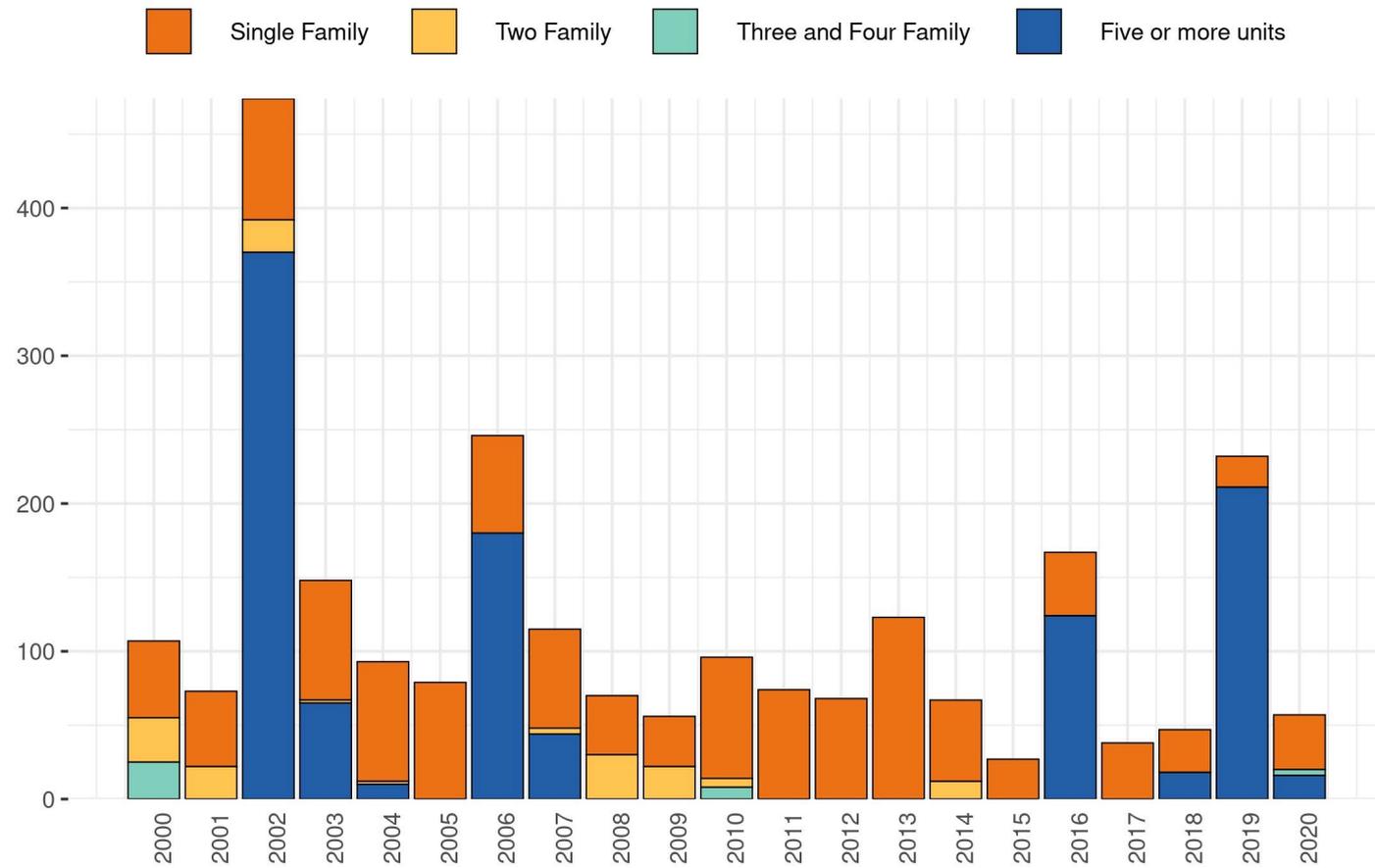
- Approx. 12,000 housing units (2020 census)
- 79% of all housing units are single family
- 769 new units 2010 to 2020
6.9% increase – similar to statewide increase 6.8%
- Increase in 2016 housing units did not cause similar increase in public school enrollment

Source: DataTown – MHP data tool

Newton Housing Data



Annual housing units permitted by building type in Newton



Source: U.S. Census Bureau - Annual Building Permit Survey (Reported and Imputed)



Newton housing statistics:

- Approx. 33,300 housing units (2020 census)
- 58% of all housing units are single family
- 672 new units 2010 to 2020
2.1% increase (for comparison statewide increase was 6.8%)
- Increase in 2002 housing units did not cause similar increase in public school enrollment

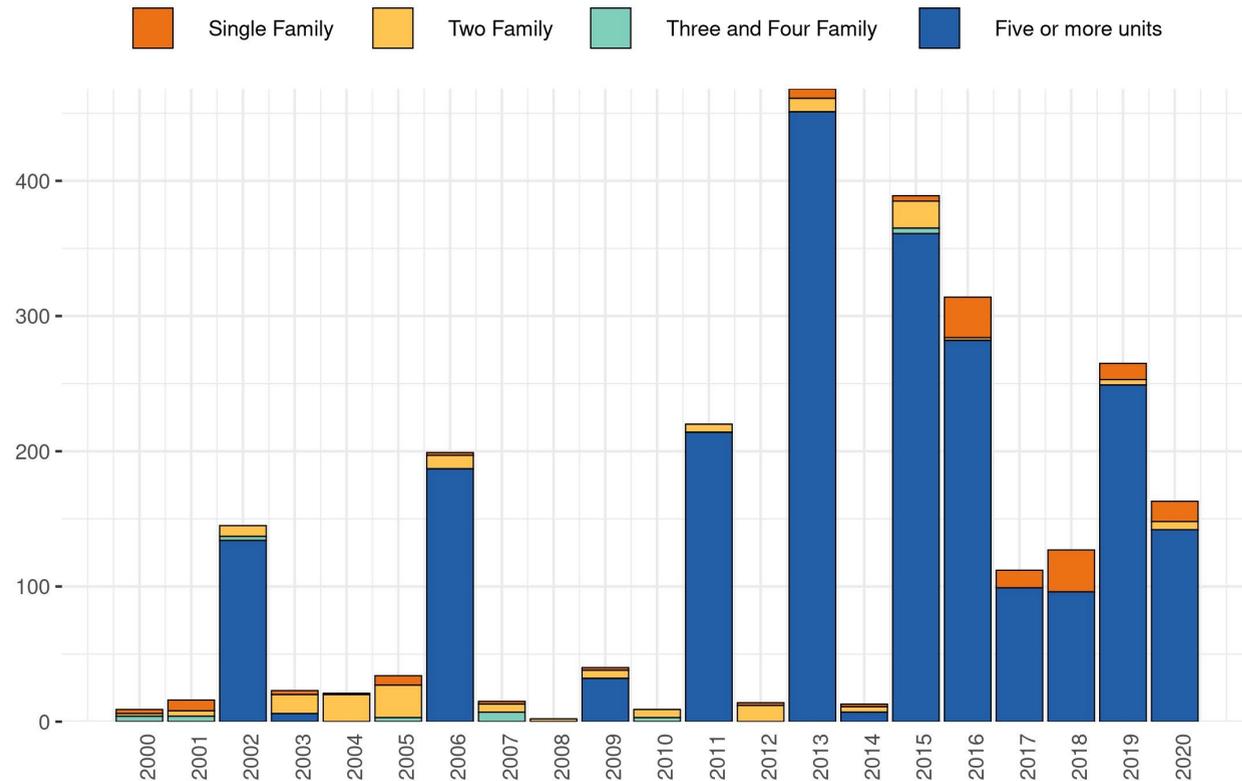


Source: DataTown – MHP data tool

Watertown Housing Data



Annual housing units permitted by building type in Watertown



Source: U.S. Census Bureau - Annual Building Permit Survey (Reported and Imputed)



Watertown housing statistics:

- Approx. 17,000 housing units (2020 census)
- 22% of all housing units are single family
- 1,426 new units 2010 to 2020
3.6% increase (for comparison statewide increase was 6.8%)
- Increase in 2013 housing units did not cause similar increase in public school enrollment

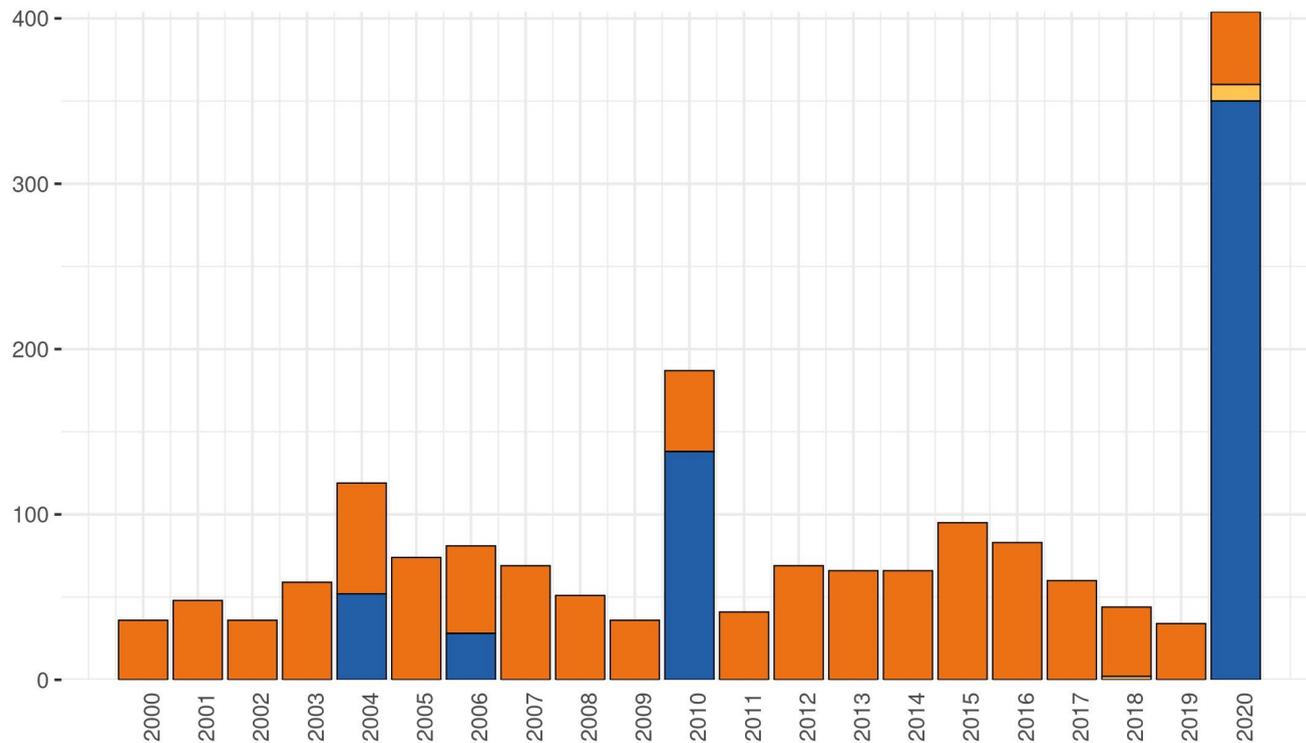
Source: DataTown – MHP data tool

Wellesley Housing Data



Annual housing units permitted by building type in Wellesley

Single Family Two Family Three and Four Family Five or more units



Source: U.S. Census Bureau - Annual Building Permit Survey (Reported and Imputed)



Wellesley housing statistics:

- Approx. 9,300 housing units (2020 census)
- 82% of all housing units are single family
- 93 new units 2010 to 2020 = 1% increase
- 2020-2022 the town added approx. 600 new units (which were not captured in 2020 census)

Source: DataTown – MHP data tool

Why revise the Zoning Act?



- **Most multi-family housing (if allowed) is subject to an unpredictable, time-consuming process.**
 - It often requires a special permit, rezoning, or 40B.
 - *Only 14% of multi-family units in the greater Boston area were permitted as of right from 2015-2017.*
 - Researcher and Newton resident Amy Dain has done significant research on this topic
- **Section 3A establishes a new paradigm** for removing zoning barriers to allow multi-family development.
- **We can create new housing in walkable neighborhoods**, by allowing multi-family housing near transit and in communities with access to transit.



[Mass.gov/mbtacommunities](https://www.mass.gov/mbtacommunities)



Timeline



Date	Action
January 14, 2021	Governor Baker signs Economic Development Bond Bill into law which included reforms to the Zoning Act (MGL C 40A) <ul style="list-style-type: none">• "Housing Choice" simple majority provisions +• Section 3A = MBTA Communities provisions
January 29, 2021	Preliminary guidance states municipalities are in compliance until guidelines are published
December 15, 2021	Draft guidelines published for public comment, Community Information Forms
March 31, 2022	Public comment period ends (about 400 comments received)
August 10, 2022	Guidelines published, website established with information and resources
October 21, 2022	Guidelines revised to allow Inclusionary Zoning over 10% of units with a feasibility analysis
November 2022	Compliance model published
January 31, 2023	Deadline for Action Plan submittal
August 17, 2023	Guidelines revised so that Mandatory Mixed Use allowed to count for 25% offset and Additional grant programs listed that will consider non-compliance

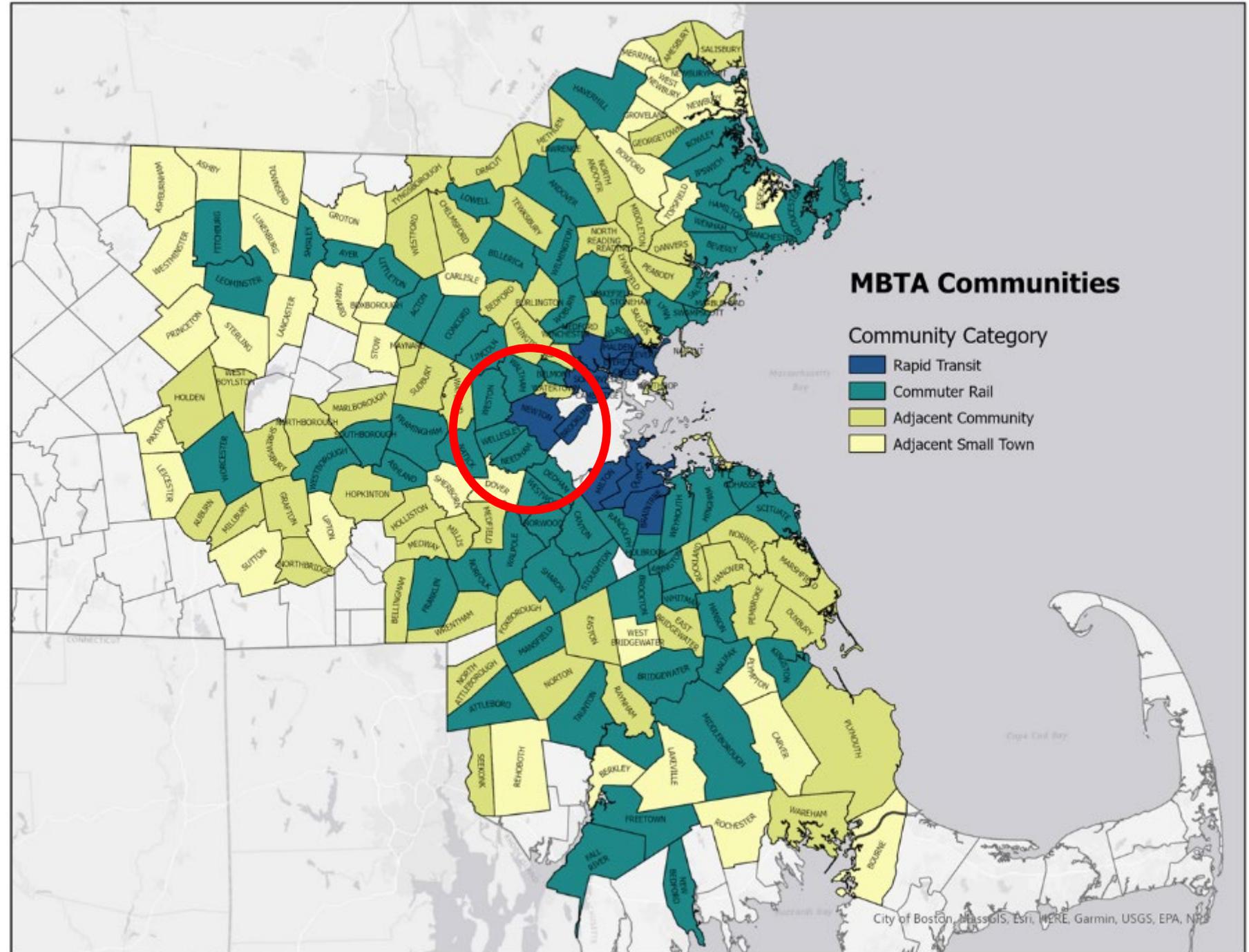
What is an MBTA Community?

- 177 municipalities
- Generally, have a fixed transit station or abut a municipality that does
- 4 Community categories
 - Rapid Transit (12)
 - Commuter Rail (71)
 - Adjacent (59)
 - Adjacent Small Towns (35)
- Categories affect “reasonable size”, district location, and timeline

Newton = Rapid Transit

Needham and Wellesley = Commuter Rail

Watertown = Adjacent



Basic Requirements



- Have a **Zoning district** that allows Multi-family as of right
- **Minimum gross density** of 15 units per acre
- **Housing suitable for families with children** (no age restrictions, bedroom limitations, or occupancy caps in zoning)
- **Transit Orientation:** Within ½ mile of a commuter rail station, subway station, ferry terminal or bus station, if applicable and where development is possible
- **Minimum land area:** 50 acres (some are less)
- **Unit capacity:** what the zoning allows, requirement based on community category and existing housing units
- **Non-compliance:** ineligible for MassWorks, **NEW HousingWorks Infrastructure Program**, Housing Choice Grant program and the Local Capital Project Fund. 13 grant programs will consider non-compliance. **AGO Advisory (3/15/23).**



Basic Requirements



	Rapid Transit	Commuter Rail	Adjacent	Adjacent Small Town
Land Area	50 Acres	50 Acres	50 Acres	n/a
Unit Capacity ¹	25%	15%	10%	5%
Location	Near Transit ²	Near Transit ²	n/a	n/a
Deadline	12/31/2023	12/31/2024	12/31/2024	12/31/2025

1. Unit Capacity is expressed as percentage of 2020 Housing Stock. For example, Rapid Transit Unit Capacity = Housing Stock x 0.25
2. Percentage of district located near transit depends on developable land near stations

What does this multi-family housing look like?

Multi-family housing: “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” – MGL c. 40A §1A



What does this multi-family housing look like?



<https://storymaps.arcgis.com/stories/5d32b4fb61ed41338d0b250800f7e5f6>

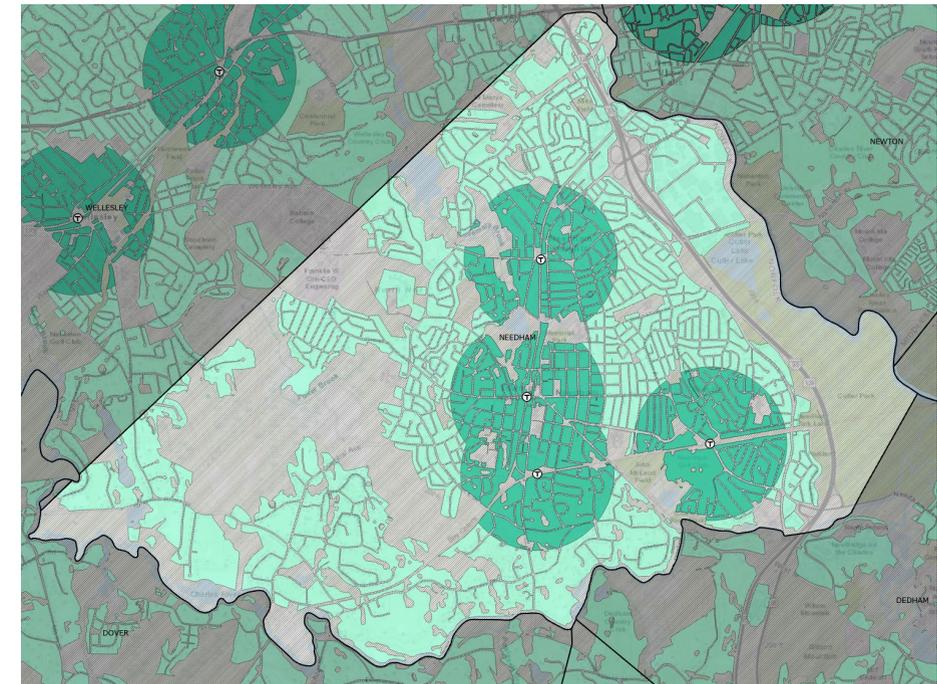
District Locations



“located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.”

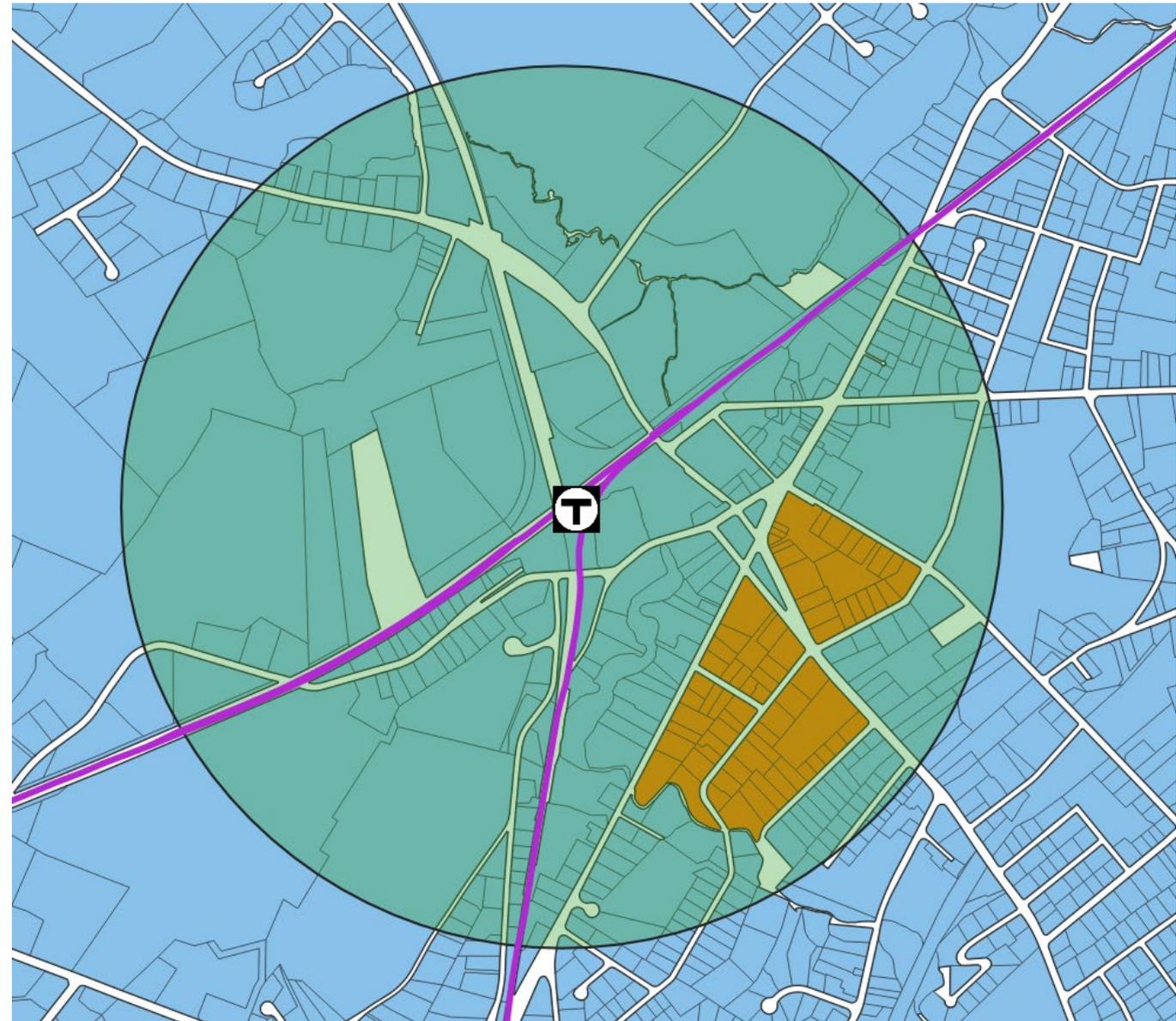
More station area means more of the district near transit stations

Acres of Developable Station Area	Portion of District that must be in transit station area	Number of Municipalities
0-100	0%	94
101-250	20%	17
251-400	40%	26
401-600	50%	16
601-800	75%	14
801+	90%	10



Reasonable Size: Minimum Land Area

- In most communities, district must be at least 50 acres
- 50 acres is about 1/10th of the land area within ½ mile of a transit station
- Communities may choose to have larger districts at lower density, or smaller districts at higher density
- **In practice, no community is required to locate more than ~25 acres in a single transit station area**



Reasonable Size: Unit Capacity as a measurement of *zoning*



“Unit capacity” is a measure of the number of multi-family units that the zoning allows as of right in the district. You do not “count” existing units, instead you determine how many multi-family units the zoning district would allow as of right on that parcel as if it were undeveloped.

In this example, zoning allows for 4 units on this parcel.

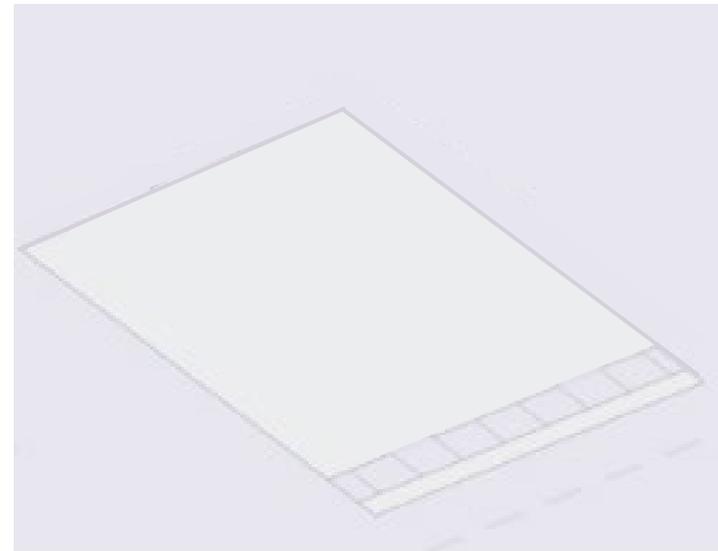
Existing use: duplex



Existing units = 2 Capacity = 4



Count as an undeveloped parcel



Existing units = 0 Capacity = 4



Evaluate what could be built under zoning: fourplex



Existing units = 4 Capacity = 4

Compliance Model: Evaluating districts



- District land area
- Parcel land area
- Excluded land area
- Sensitive land area

- EOHLC and its partners developed an automated tool to estimate how much multi-family housing a district allows
- The model applies zoning to conditions on the ground to quantify zoning restrictions on multi-family housing
- The model requires minimum parking inputs to ensure that excessive minimum parking requirements in zoning do not render the allowable housing illusory
- The compliance model is NOT a build-out analysis. As zoning barriers are removed, compliance model outputs will exceed a buildout analysis – the model is an **estimate** of the number of multi-family units based on the zoning capacity

Affordable Housing with Section 3A



- Although the statute is silent on affordability, the compliance guidelines allow districts to include an affordability component
- All districts may require that up to 10% of units are affordable to households earning up to 80% of Area Median Income
- Some districts may require affordability for a higher percentage of units, and/or for units to be affordable at lower incomes
 - Smart growth zoning districts – c. 40R
 - Economic Feasibility Analysis
- Units may, but are not required, to be eligible for Subsidized Housing Inventory – This allows “workforce housing” (AMI over 80%)



Mandatory Mixed-use Zoning



- August 17, 2023, revision to guidelines allows for municipalities to require ground floor commercial
 - May “offset” up to 25% of required unit capacity
 - Location must be approved by EOHLC
 - Broad mix of uses as of right
 - No parking requirement for non-residential
 - **See Guidelines for more details**



Photos: Utile presentation in Newton 6.20.23

Technical Assistance



Goal: Provide TA to every municipality that wants it. This goal will be achieved through a multi-year effort starting FY23 and carrying out over the next several years

- In the 12 months since guidelines were issued EOHLC and partners have provided over \$2.5M to over 120 municipalities



**COMMUNITY
ONE STOP
FOR GROWTH**
mass.gov/onestop

Assistance is being provided to communities through collaboration and coordination:

- Massachusetts Housing Partnership (MHP): Leveraging a variety of resources MHP is delivering a comprehensive technical assistance program available to all interested MBTA Communities. **To date: 100 municipalities received consultant assistance.**
- EOHLC: Via the Community One Stop, the following grant programs are available: Housing Choice Grant Program, Community Planning Grants **To date: over 40 grants (more to be announced this fall).**
- EEA: Land Use Planning Grant program will also prioritize MBTA municipalities. **To date: 7 grants for 3A compliance.**
- Regional Planning Agencies: Support from eight Regional Planning Agencies through prioritization of Commonwealth-provided District Local Technical Assistance (DLTA) funding. To date: **To date: 20 municipalities getting assistance via DLTA**



What Section 3A Doesn't Do



3A DOES NOT:

- Require production of housing
- Compel communities to pay for infrastructure for future development
- Supersede Wetlands Protection Act or Title V of MA Environmental Code
- Supersede historic districts
- Allow municipalities to get a waiver or exemption from the requirements





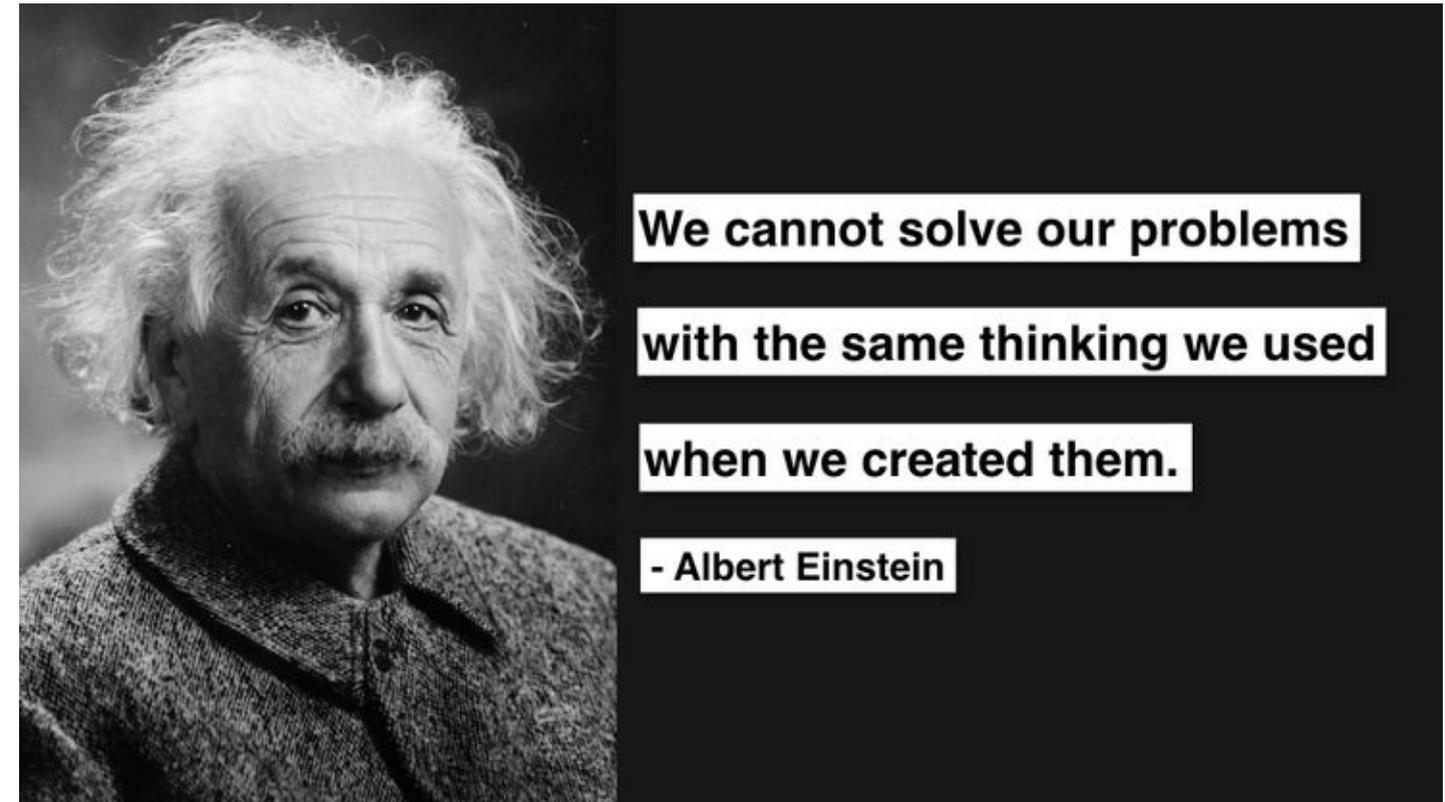
Clarifications

- 3A zoning will remove zoning barriers – but 3A districts may not see development for years. As with most zoning, it “sets the table” for future actions
- Many cities and towns are rolling up their sleeves to work on districts (over 100 municipalities have technical assistance)
- The unit capacity analysis conducted by local governments does not mean that production of all the units will follow



What can you do now?

- 176 of 177 communities have submitted Action Plans, 3 District Compliance Applications have been submitted; 2 pre-adoption reviews are underway
- Review Action Plans on mass.gov/mbtacommunities
- Get involved at the **local level** to contribute towards planning the best possible district in your community
- Compliance Deadlines:
 - December 31, 2023 (Rapid Transit)
 - December 31, 2024 (Commuter Rail and Adjacent)
 - December 31, 2025 (Adjacent Small Town)



If you need more information to help others in your community to understand this legislation, please let us know! You can email program staff at:

DHCD3A@mass.gov

mass.gov/mbtacommunities



Questions?





Appendix

Section 3A of the Zoning Act



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 27 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.

- **Site Plan Review**
 - Can be required for as of right multi-family uses but cannot impose unreasonable requirements or undue delay on proposed project

- **Energy Efficiency**
 - Multi-family housing cannot be required to meet higher standards than other uses in the municipality

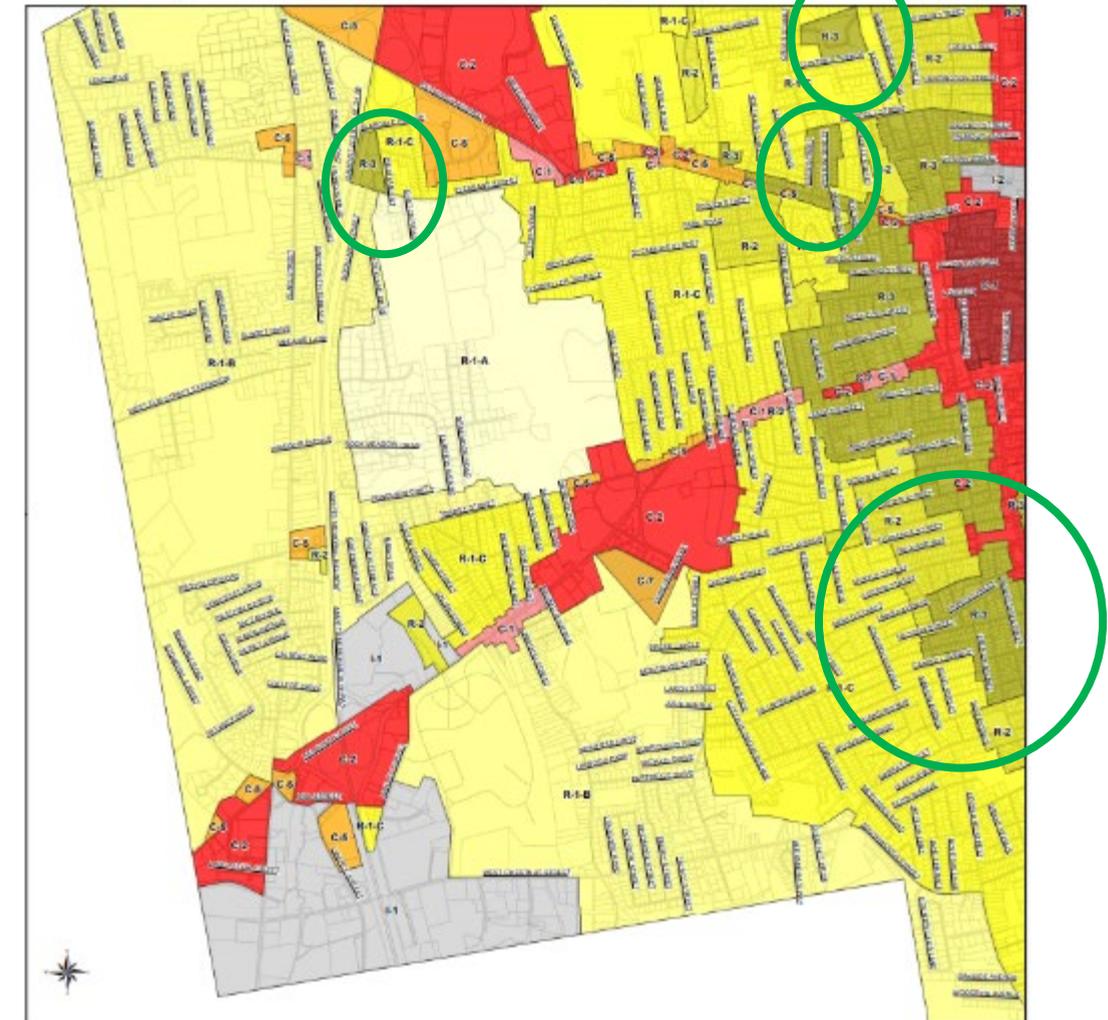


District Location - Contiguity



- **Section 5 has Location and Contiguity requirements**
 - 50% of the total district size must be contiguous (this is **not** the same as 50% of the minimum land area).
 - For example: if a municipality has a 50 acre minimum land area but designs an 80 acre district that will meet unit capacity/density requirements, then one part of the district must have 40 contiguous acres.
- **If district has multiple locations, there is a 5 acre minimum size in order to count towards the minimum land area**
 - Purpose: Allow district to be located in multiple locations, and create neighborhoods, not just “project sites”
 - Exception: if a municipality can meet unit capacity in less than 5 acres, then entire district must be contiguous

City of Brockton - Zoning Map - Section 3



SWITCH TO: Section 1 | Section 2 | Section 3 | Section 4 | Section 5

Brockton	R-3 (Multi-Family Residential)	C-7 (Sports & Convention)
Zone Designation	C-1 (Neighborhood Commercial)	C-8 (Highway Commercial)
R-1-A (Single-Family Residential)	C-2 (General Commercial)	I-1 (Industrial Park)
R-1-B (Single-Family Residential)	C-3 (Central Business)	I-2 (General Industrial)
R-1-C (Single-Family Residential)	C-4 (Office Commercial)	I-3 (Heavy Industrial)
R-2 (Multi-Family Residential)		

Accurate as of 2014
Please Contact
Brockton Building
Department
for Zone Boundary
Confirmation