

Informational Paper (Section 3A of MGL c.40A – MBTA Communities Zoning Requirement)

Issue Date: September 9, 2024; updated October 3, 2024

The League of Women Voters of Hamilton-Wenham (LWVHW), the local organization of the League of Women Voters, is a nonpartisan political organization which focuses on encouraging informed and active participation of the residents of Hamilton and Wenham in the political process. The LWVHW foundational principle is that of nonpartisanship. The purpose of this Informational Paper is to provide the residents of Hamilton and Wenham with information and resources related to Section 3A of MGL c.40A (multi-family zoning as-of-right in MBTA communities). We hope that this resource will be helpful to guide its residents to learn more about this issue.

The Law

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.

([https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter40A/Section3A\(a\)\(1\)](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter40A/Section3A(a)(1)))

The stated intent behind Section 3A is to address Massachusetts housing shortage by requiring all MBTA communities to change zoning regulations to provide for more housing, including affordable options. Section 3A of the Massachusetts Zoning Act requires every MBTA Community to have at least one zoning district “of reasonable size” that allows multi-family housing as of right, and without age restrictions, and that meets other criteria set forth in the statute:

- **Multifamily housing** – the multi-family housing must be permitted “as of right”, without age restrictions, and suitable for families with children.
- **District Size** – the zoning district must be of “a reasonable size” with a minimum gross density of 15 units per acre.
- **Location** – The zoning district must be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station.

Compliance Deadline: December 31, 2024 – deadline date for all MBTA communities to have a multi-family zoning district that complies with Section 3A.

Section 3A Guidelines

Compliance Guidelines are located on the Mass.gov website and were issued to describe how the requirements are defined and measured. The Executive Office of Housing and Livable Communities (EOHLC) determines whether an MBTA community has met the compliance requirements. ([Section 3A Guidelines | Mass.gov](#)).

How does this apply to Hamilton and Wenham?

Hamilton and Wenham are both considered an MBTA Community and are required to create a district and zoning bylaw in order to be in compliance under the Law. Hamilton is required to have a district with a land area of 49 acres with a unit capacity for 731 housing units and Wenham is required to have a district with a land area of 24 acres with a unit capacity of 365 units.

- **June 5, 2024** – Wenham Planning Board held a public forum to present a proposed overlay district and zoning that would comply with the requirements. The June 5, 2024 MBTA Communities Presentation and a link to the recording of the meeting are both available on the Wenham Town Website
- **August 14, 2024** – The Hamilton Planning Board and the Wenham Planning Board hosted a webinar to discuss MBTA 3A Zoning.
- **August 21, 2024** – The Wenham Planning Board will be reviewing the draft MBTA 3A Zoning Bylaw at their Wednesday meeting at 7:00 pm – in person and via zoom.

- **November 16, 2024 (canceled)** – previously scheduled Special Town Meeting [Note the Wenham Select Board voted to cancel the Special Town Meeting which was scheduled for this date and to reschedule a Town Meeting for a date no later than April 5, 2024 “if the Massachusetts Supreme Judicial Court (SJC) in its forthcoming decision in Attorney General v. Town of Milton, et al., Docket No. SJC-13580 (the “Milton Case”) affirms the Act and the Guidelines (a) in full and/or in a manner that does not alter the Town’s obligations under the Act and the Guidelines, and (b) with sufficient notice for the Town to include the Re-Zoning Proposal in a Town Meeting warrant prior to April 5, 2025.” (See [letter from Town of Wenham](#))
- **April 2025** – Hamilton is scheduled to vote at its next Town Meeting

How Do I Learn More?

- Town of Wenham Website - [MBTA Communities: Requirement for Multi-Family Zoning](#)
- [Wenham’s MBTA Question and Answer Document \(September 10, 2024\)](#)
- Town of Hamilton Website - [MBTA Communities Law Pertinent Information](#)
- Compliance Guidelines for Multi-Family Zoning Districts under Section 3A of the Zoning Act: Mass.gov – for Section 3A Guidelines (<https://www.mass.gov/info-details/section-3a-guidelines>)
- [MA Attorney General Advisory Concerning Enforcement of the MBTA Communities Zoning Law](#)