

Frequently Asked Questions MBTA Overlay District



Is the Town responsible for upgrading sewer and water infrastructure for new development?

Upton is not required to spend money upgrading its water and sewer infrastructure in anticipation of new development in the MBTA Overlay District. If multifamily housing is proposed, the developer will need to show that there is adequate infrastructure to support their project in order to proceed and will be required to pay water and sewer mitigation and connection fees.

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, new housing can be created in walkable neighborhoods closer to transit.

Do the units within new 40B developments count toward this requirement and will the 150 units count toward the Town's 10% goal of affordable housing to enter "Safe Harbor" status?

No. The requirements of the MBTA Communities (MGL 40A Sec 3A) are not tied to the requirements.

How does this proposal address housing affordability?

The Law does not directly require the inclusion of affordable housing within MBTA Community's MBTA Zoning Districts. However, EOHL will consider an affordability requirement to be consistent with as of right zoning as long as the zoning requires not more than 10 percent of the units in a project to be affordable units, and the cap on the income of families or individuals who are eligible to occupy the affordable units is not less than 80 percent of area median income. Notwithstanding the foregoing, EOHL may, in its discretion, approve a greater percentage of affordable units if:

- (i) The affordability requirements applicable in the multi-family zoning district are reviewed and approved by EOHL as part of a smart growth district under chapter 40R, or under another zoning incentive program administered by EOHL; or
- (ii) The affordability requirements applicable in the multi-family zoning district are supported by an economic feasibility analysis.

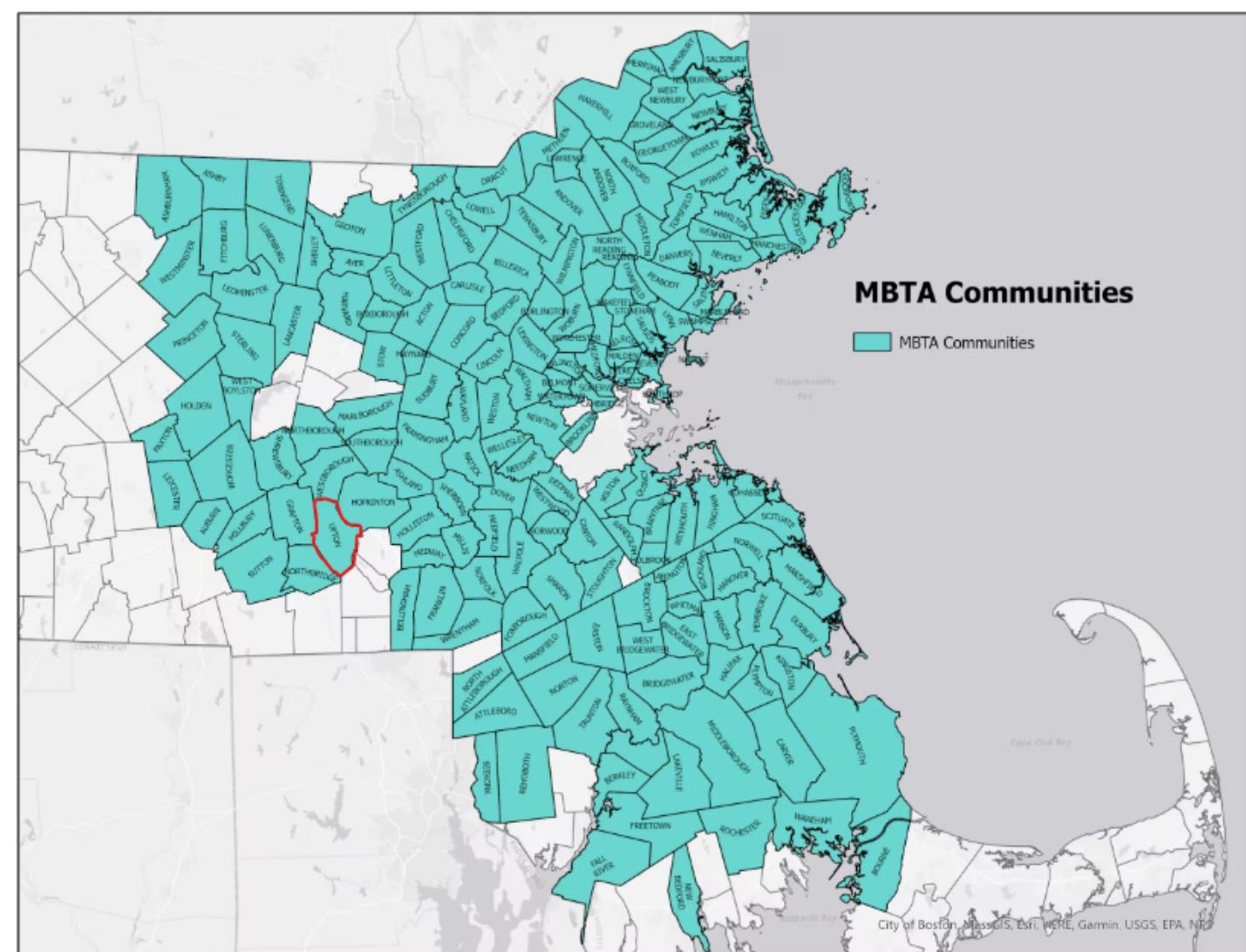
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What is an "MBTA Community"?

- 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;
- **(Upton) 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.

In total, 177 MBTA communities are subject to the new requirements of Section 3A of the Zoning Act.



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What does the MBTA Communities Law require Upton to do in order to comply?

Host a Zoning District which allows:

- Multi-family by-right;
- At a density of 15 units per acre;
- A minimum of 150 units.

Compliance is required by December 31, 2025. What happens if Upton does not comply?

- Civil enforcement action by the Attorney General's Office;
- Civil enforcement by legal groups;
- Liability under federal and state fair housing laws;
- Ineligibility for grants from the MassWorks and HousingWorks infrastructure programs;
- Lossing eligibility in the Housing Choice Initiative and the town's designation as a Housing Choice Community.

Over the past five years, Upton has received over \$3-million in grants from the above state programs for priority projects and programs that have helped the need for the local tax.

Is Upton required to build all 150 units of housing?

No. There is no building mandate. The requirement is not a building quota. It is to provide a Zoning District which can support the minimum.

Where must the Town locate this district?

The Town own can choose the location of the new district. However, the proposed district must be approved by the Executive Office of Housing and Livable Communities (EOHLC).

Can there be mixed-use development within the district?

The EOHLC updated their guidelines in August 2023 to allow for a certain amount of mixed used-development to be provided in the district should a Town choose to allow for it.

How is the State Law aligned with Upton's local goals?

The Upton community worked published a 2023 Housing Production Plan Action Plan, which expresses the goals of the Town not just the State law. The following goals are aligned with the State's mandate regarding M.G.L. 40A Section 3A.::

GOAL 1: BUILD LOCAL CAPACITY TO PRMOTE AFFORDABLE HOUSING

GOAL 2: MAKE ZONING AND PLANNING REFORMS

GOAL 3: PATNER WITH DEVELOPERS TO PRODUCE NEW AFFORDABLE HOUSING GOAL 4:

PRESERVE EXISTING HOUSING FOR ALL UPTON RESIDENTS

During the Housing Production Plan process, CMRPC and the Housing Production Plan Committees identified study areas for potential rezoning based on previous planning efforts and locations of Town-owned land. The areas include locations with a red circle:

