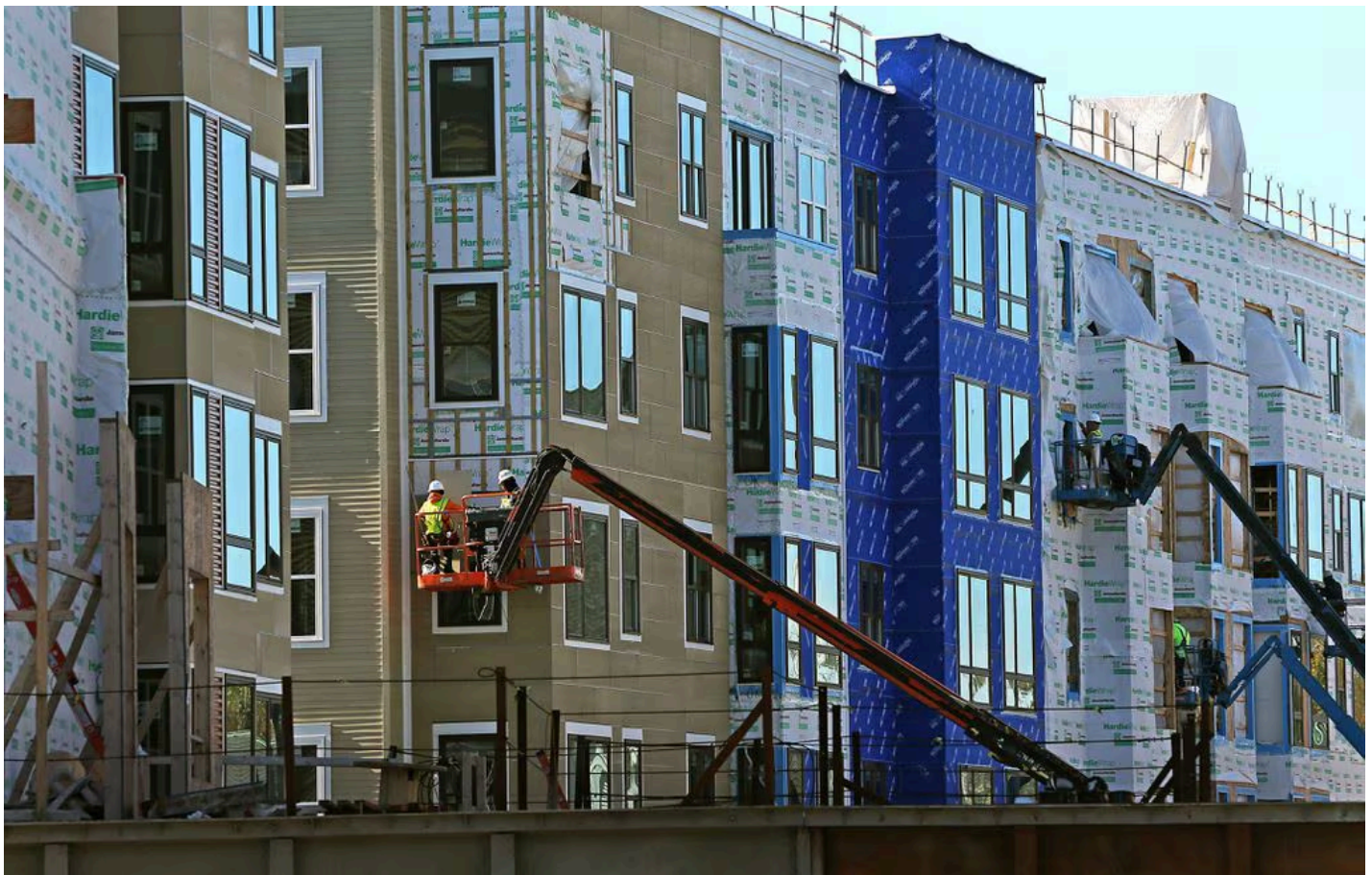


An ambitious Mass. housing law is coming to your town. Here's what you need to know.

A handbook to the much-debated housing law that's upending town meetings all over Eastern Massachusetts this year

By **Andrew Brinker** Globe Staff, Updated April 26, 2024, 5:52 a.m.



An apartment building under construction in Waltham in 2015. DAVID L. RYAN

There's an ambitious new housing law in Massachusetts, and — if it hasn't already — it's coming soon to your town.

That would be the MBTA Communities Act, a 2021 state law that requires cities and towns served by the T to allow for more multifamily housing. It promises to open up thousands of parcels across Eastern Massachusetts for new apartment and condominium buildings, in an attempt to chip away at a deepening housing crisis fueled by decades of restrictive zoning rules in the suburbs and small towns of Greater Boston.

It's also complex. Some 130 towns have to pass new zoning rules that will comply with the law by the end of this year, and to the average resident unfamiliar with the intricacies of zoning codes, the law can be quite confusing.

And it's controversial. Housing is a lightning-rod issue, particularly when it is proposed close to home. Already, [one town is in court battling the state](#) over the law, and a few other communities have publicly considered following suit.

All of that has propelled the law into the spotlight and created a lot of confusion about what it actually does.

Here's what you need to know about MBTA Communities, and what it might mean for your community.

What is the law?

MBTA Communities was included in a broad economic development bill that was signed into law in early 2021 by then-Governor Charlie Baker.

Very simply, it requires [177 communities, mostly in Eastern Massachusetts](#), to write new land-use rules allowing multifamily housing by-right — meaning developments do not need a special permit — in at least one district of town. The district should be within a half-mile of a transit station, if the town has one, and provide a density of at least 15 units per acre — which could be a single five- to six-story building, or a cluster of townhouse condos.

Communities have quite a bit of flexibility on where to place their zone and what to allow in it. A town could draw a relatively small zone that allows for denser, taller buildings, or a larger zone (or zones) that keeps buildings smaller.



An aerial view of single-family homes in Arlington on Aug. 14. In October, Arlington passed new land-use rules to comply with a state zoning law that requires communities served by the MBTA to zone for denser housing. VINCENT ALBAN FOR THE BOSTON GLOBE

What are the guidelines and how were they created?

The statute itself is relatively short and charges the state housing office with creating the law's parameters — which it did in August 2022.

The most significant piece of the guidelines created “unit capacity” targets that each community's zoning must hit. The state established four categories of communities with varying levels of obligation under the law.

The first — rapid transit communities, the 12 cities and towns served by the T's light rail system (the Red, Orange, Green, and Blue lines) — have the greatest obligation, a

requirement to create zones that would, theoretically, allow for enough units to increase their housing stock by 25 percent or more. So if a town has 7,500 housing units, they'd have to allow for an additional 1,875. The 12 rapid transit communities had to draw up plans by the end of 2023.

The other categories — commuter rail, adjacent community, and adjacent small town — have lesser obligations. Commuter rail communities, for example, must zone for an additional 15 percent of existing units. Adjacent communities have to zone for five percent. Their plans are due by the end of this year — setting up key votes at spring and fall town meetings in many communities.

Does the law require communities to build all this housing?

No. Not at all. MBTA Communities only requires towns to write new zoning rules. Building the housing is largely up to the market, and that's where things start to get really complicated.

For starters, those “unit capacity” numbers the state requires are basically a measurement of what would get built in a given zone if the land was entirely empty. Of course, in urban and suburban Massachusetts, empty land is exceedingly rare. And many towns are targeting their most developed areas — downtowns — for their new zoning.

When the state says Newton needs to create a zone that can accommodate 8,330 units, it really means that, in a theoretical scenario where every building in whatever zone the town draws is razed to the ground and then rebuilt at maximum density and height allowed under the zoning, 8,330 units could fit there.

Of course, there are lots of buildings already there. They're owned by someone. That owner would have to agree to sell before any developer could replace them with something bigger. Most won't.

There's also the economy. Interest rates and construction costs are already slowing new housing construction. And — if a town rezones two-story parcels to hold three stories, as

Brookline and Newton did last year — there's not much money in it for a developer, who would have to buy the building, raze it, and then rebuild it just to add one additional floor of apartments.

At its core, MBTA Communities is a zoning law, not a housing production requirement. It asks towns to update antiquated rules that were often passed after towns were built out with more modern ones. That will spark some new development, but only so much.

Does the MBTA have anything to do with the law?

No. Despite the name, the MBTA is in no way involved in the law. MBTA Communities simply applies to [cities and towns that have an MBTA stop](#) or are adjacent to a community that has one.

The idea behind the law is to create housing near transit stations — many (though not all) of which are in relatively dense town centers. It aims to encourage transit use and walkability, and it means that most of the density that might result from the law would be clustered near transit stations, generally not in the single-family neighborhoods many residents want to protect.

Whose law is it, anyway?

The law was signed by Baker, but it wasn't his idea. Housing advocates and some legislators had been kicking around a transit-oriented housing law for the better part of a decade before MBTA Communities was tucked with little fanfare into a 3,000-page economic development bill. Baker did resist calls to veto the measure though, and his administration wrote the guidelines that communities are grappling with today.

[Governor Maura Healey inherited the rollout of MBTA Communities](#) when she took office in 2023 and has enforced it enthusiastically.



The Mattapan Trolley crossed Capen Street in Milton on Sept. 28. LANE TURNER/GLOBE STAFF

What's going on in Milton?

Because the Mattapan Trolley runs along its northern edge, Milton is classified as a rapid transit community under the guidelines and was supposed to pass new zoning rules by the end of 2023. It did, with a compliant zoning plan that was approved by Town Meeting late last year.

But opponents quickly forced a referendum, and in February, the town's voters overturned that zoning plan, making Milton the first community in the state to be formally out of compliance with the law.

Attorney General Andrea Campbell sued the town a few weeks later, and the case is set to be heard by the Supreme Judicial Court this fall. Milton, in its legal filings, has claimed that the law's guidelines are not legally enforceable and put too great a burden on towns. It objects in particular to the town's "rapid transit" classification, saying the train is too

slow and doesn't hold enough passengers to be in that category. (The state has rebuffed multiple requests from town officials to have Milton reclassified.)

Communities across [Eastern Massachusetts are watching closely](#).

Does the state have legal authority over zoning?

This question is really at the heart of the debate over MBTA Communities, and it's a question that will be answered by the Supreme Judicial Court later this year.

In their filings, attorneys for Milton argue that the town has constitutional claims to local zoning control under Home Rule, the amendment that grants municipalities the ability to pass their own local rules. They've also argued that the attorney general does not have the legal standing to force local governments to adopt certain zoning provisions.

Campbell, as the state's chief law enforcement officer, sees it differently. MBTA Communities is a state law, she argues, and towns are obligated to comply. Legal experts have told the Globe recently that zoning powers ultimately lie with the state. Municipalities, they say, are creatures of the state, and there are other longstanding state zoning laws that override local control.

The SJC will ultimately rule on a couple of key questions, including whether and to what extent municipalities are obligated to comply with the requirements" of MBTA Communities "and the related [guidelines] issued by what is now the Executive Office of Housing and Livable Communities," according to recent filings.

Whatever the ruling, it will have huge implications on local zoning and the state's broader efforts to address the housing crisis.

Andrew Brinker can be reached at andrew.brinker@globe.com. Follow him [@andrewnbrinker](#).



Show 85 comments

©2024 Boston Globe Media Partners, LLC