

The "Housing Choice" Initiative

Chapter 358 of the Acts of 2020

Overview

- Changes to Definition within the Zoning Act
- “MBTA Communities” and Multi-Family Housing
- New Quantum of Vote Requirements
- Appeal Bonds and Additional Planning and Zoning Amendments.

G.L. c. 40A, § 1A – New Definitions

Ten (10) new definitions added to the Zoning Act:

- Accessory Dwelling Unit
- As of Right
- Eligible Locations
- Gross Density
- Lot
- MBTA Community
- Mixed-Use Development
- Multi-Family Housing
- Natural Resource Protection Zoning
- Open Space Residential Development

MBTA Communities and Multi-Family Housing

- G.L. c. 40A, § 3A (new section) requires an “MBTA Community” to provide at least one zoning district of reasonable size where multi-family housing is permitted as of right. Note that the dwelling units constructed pursuant to this requirement do not need to meet c.40B’s requirements for inclusion on the Town’s SHI.
 - Defined as any of the “51 cities and towns,” “fourteen cities and town” or “other served communities” defined in G.L. c. 161A, §1, or a municipality added to the MBTA under G.L. c. 161A, §6.
 - Manchester-by-the-Sea is an MBTA Community.
- The multi-family MBTA Community District must be located within one ½ mile of a commuter rail, subway, ferry, or bus station (if applicable), and comply with the following:
 - No age restrictions
 - Suitable for families with children
 - Minimum density of 15 units/acre

MBTA Communities and Multi-Family Housing

- Failure to comply with Section 3A will/may result in the loss of certain state funding sources.
 - I.e. Housing Choice Fund, the Local Capital Projects Fund, and MassWorks Funding.
- Further guidance from DHCD, EOHEd, and the MBTA will be issued concerning necessary requirements for MBTA Community Districts.
- DHCD has determined that all communities are compliant until further guidelines are developed.

Quantum of Vote – Zoning Amendments

Town Meeting may amend a Zoning Bylaw with a **majority vote** for the following (G.L. c. 40A, § 5):

1. To allow any of the following as of right:
 - Multi-family housing or mixed-use developments in an eligible location
 - Accessory dwelling units (principal dwelling or detached structure)
 - Open-space residential developments

2. To allow any of the following by special permit:
 - Multi-family housing or mixed-use developments in an eligible location
 - Increase in the permissible density a proposed multi-family or mixed-use development
 - Accessory dwelling units in a detached structure
 - A diminution of parking required for residential or mixed-use developments

Quantum of Vote – Zoning Amendments (continued)

3. Additional zoning amendments that may require only a majority vote for:
 - Transfer of Development Rights; and
 - Certain bulk, height, parking, and dimensional requirements to allow for additional housing beyond what would otherwise be permitted.
 - Adoption of a Smart Growth Zoning District or Starter Home District (Chapter 40R);

Quantum of Vote – Special Permits

A SPGA may issue a special permit with a **majority vote** for the following (G.L. c. 40A, § 9):

- Multi-family housing located within one ½ mile of a transportation station, provided that not less than 10% of the housing is affordable (for 30 years) and occupied by household whose annual income is less than 80% of the area-wide median income
- Mixed-use developments in commercial centers, including town centers and rural village districts, provided that not less than 10% of housing is affordable (for 30 years) and occupied by household whose annual income is less than 80% of the area-wide median income
- A reduced parking space to residential unit ratio, provided that the reduction in parking will result in additional housing units.

Appeal Bonds

Amendment to G.L. c. 40A, § 17:

A court, in its discretion, may require a plaintiff appealing a decision to approve a special permit, variance or site plan to post a surety or cash bond in an amount of not more than \$50,000, if the court finds that the harm to the defendant or to the public interest resulting from delays caused by the appeal outweighs the financial burden of the surety or cash bond on the plaintiffs. “The court shall consider the relative merits of the appeal and the relative financial means of the plaintiff and defendant”.