

MEETING NOTICE-WEST NEWBURY  
FINANCE COMMITTEE

REC'D W. NEWBURY CLERK  
'24 MAR 21 PM 4:46

Date & Time: Monday, March 25, 2024, 7:00 PM  
Location: 1910 Building 1st Floor Hearing Room  
By: Rob Phillips, Finance Committee Chairperson

AGENDA

1. Call to Order (join Select Board meeting, already in process)
2. Public Comment.
3. Review and discuss budgets and articles for spring Town Meeting to be held on April 29, 2024. Proposed FY25 operating budgets to include:

Education                      Veterans' Services  
Harbormaster

Warrant Articles:

- Article 62. Citizens' petition: 40R study/zoning and MBTA Communities zoning
- Article 63. Citizens' petition: Home Rule Petition to reduce voting age to 16
- Article 3. School Stabilization Fund Transfer
- Article 5. Transfer of Free Cash to reduce FY25 tax rate
- Article 7. Proposed FY25 Water Operating budget
- Article 35. Replace Water Pump at Wellfield
- Article 43. Funding for unbudgeted personnel costs, FY24-25
- Article 48. Supplemental funding for MBTA Communities consulting services
- Article 55. Proposed amendments to Finance Committee Bylaw
- Article 67. Funding for River Road study and engineering

4. Communications
5. Schedule of future meeting dates.  
-March 27, 2024 at 6:00 pm- Finance Committee/Select Board joint meeting
6. Adjournment

**Addendum to Meeting Notice regarding Remote Participation**

This meeting is being broadcast on local cable TV and recorded for rebroadcast on the local cable channels and on the internet. Meeting is also accessible by remote participation as follows:

Zoom Meeting

Phone: (646) 558-8656

Meeting ID: 892 8172 1732

Passcode: 988867

Join at: <https://us06web.zoom.us/j/89281721732?pwd=xBX1Jk6kOwzq372oOPKn9SmnbKC8lk.1>

Every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. In the event that we are unable to do so, despite best efforts, we will post on the West Newbury website an audio or video recording of proceedings as soon as practicable after the meeting.



**TOWN OF WEST NEWBURY**  
**PROPOSED FY25 OPERATING BUDGET**  
 Updated draft: March 23, 2024

Name	FY22	FY23	FY24	FY25 TM	Change from FY24		Increase as % of total increase	FY25 FinCom	FinCom
	Actual	Actual	Amended	Proposed	\$	%		Proposed	change from TM
<b>General Government</b>									
MODERATOR	230	200	260	260	0	0.0%	0.0%	260	0
SELECT BOARD	40,609	21,149	13,940	27,060	13,120	94.1%	1.5%	15,960	(11,100)
TOWN MANAGER	321,610	265,886	334,685	423,186	88,501	26.4%	10.2%	418,986	(4,200)
FINANCE DEPARTMENT	254,515	294,709	326,336	364,452	38,116	11.7%	4.4%	364,452	0
FINANCE COMMITTEE	1,312	919	42,000	52,000	10,000	23.8%	1.2%	42,000	(10,000)
BOARD OF ASSESSORS	173,887	165,833	165,372	168,581	3,209	1.9%	0.4%	168,581	0
LEGAL COUNSEL	53,677	65,124	82,349	82,127	(222)	-0.3%	0.0%	82,127	0
TOWN CLERK	125,300	141,166	156,594	156,262	(332)	-0.2%	0.0%	156,262	0
BOARD OF REGISTRARS/ELECTIONS	10,965	20,994	18,770	21,950	3,180	16.9%	0.4%	21,950	0
CONSERVATION COMMISSION	31,894	41,171	76,506	102,249	25,743	33.6%	3.0%	102,249	0
PLANNING BOARD	67,175	66,981	80,163	87,921	7,758	9.7%	0.9%	87,921	0
BOARD OF APPEALS	700	0	700	1,400	700	100.0%	0.1%	700	(700)
OPEN SPACE COMMITTEE	69	0	750	750	0	0.0%	0.0%	0	(750)
<b>Public Safety</b>									
POLICE DEPARTMENT	1,195,914	1,219,223	1,195,755	1,299,568	103,813	8.7%	12.0%	1,299,568	0
FIRE DEPARTMENT	282,867	251,720	320,919	328,091	7,172	2.2%	0.8%	328,091	0
PUBLIC SAFETY DISPATCH	266,322	284,827	327,848	341,366	13,518	4.1%	1.6%	341,366	0
INSPECTION DEPARTMENT	138,480	141,728	151,738	139,420	(12,318)	-8.1%	-1.4%	139,420	0
EMERGENCY MANAGEMENT	10,769	8,643	12,413	12,601	188	1.5%	0.0%	9,963	(2,638)
ANIMAL CONTROL OFFICER	25,898	26,858	27,503	32,268	4,765	17.3%	0.5%		
HARBORMASTER	2,500	3,038	4,000	4,500	500	12.5%	0.1%	0	
<b>Education</b>									
EDUCATION	9,151,440	9,441,244	9,853,378	10,027,164	173,786	1.8%	20.1%	0	
<b>Department of Public Works</b>									
DPW	1,368,664	1,357,891	1,550,438	1,665,094	114,656	7.4%	13.2%	1,635,094	(30,000)
<b>Human Services</b>									
BOARD OF HEALTH	548,546	586,092	653,233	689,530	36,297	5.6%	4.2%	689,530	0
COUNCIL ON AGING	93,331	113,438	123,482	125,563	2,081	1.7%	0.2%	125,563	0
VETERANS	32,804	30,733	34,872	29,598	(5,274)	-15.1%	-0.6%	0	
LIBRARY	369,714	393,022	422,234	429,016	6,782	1.6%	0.8%	429,016	0
RECREATION	25,349	21,627	48,372	27,332	(21,040)	-43.5%	-2.4%	26,232	(1,100)
HISTORICAL COMMISSION	0	600	600	600	0	0.0%	0.0%	600	0
CULTURAL COUNCIL	0	0	100	100	0	0.0%	0.0%	0	(100)
<b>Debt Service</b>									
DEBT SERVICE	313,950	297,950	0	0	0	#DIV/0!	0.0%	0	0
<b>Benefits</b>									
ESSEX COUNTY RETIREMENT FUND	731,432	805,419	675,135	911,931	236,796	35.1%	27.3%		



**TOWN OF WEST NEWBURY**  
**PROPOSED FY25 OPERATING BUDGET**  
 Updated draft: March 23, 2024

UNEMPLOYMENT INSURANCE	439	0	1,200	1,200	0	0.0%	0.0%		
EMPLOYEES' HEALTH INSURANCE	406,997	427,955	527,865	547,440	19,575	3.7%	2.3%	527,440	(20,000)
MEDICARE INSURANCE (FICA)	52,412	51,842	61,421	63,878	2,457	4.0%	0.3%		
INSURANCE AND BONDS	187,002	191,127	219,643	212,538	(7,105)	-3.2%	-0.8%	212,538	0
TRANSFERS - STABILIZATION	500,000	500,000	400,000	400,000	0	0.0%	0.0%	0	
<b>EXPENSE BUDGET TOTAL</b>	<b>16,786,774</b>	<b>17,239,108</b>	<b>17,910,574</b>	<b>18,776,996</b>	<b>866,422</b>	<b>4.8%</b>			<b>(80,588)</b>

Revised est. year-to-year change (with FinCom changes): **4.4%**

**Summary**

	FY22 Actual	FY23 Approved	FY24 Amended	FY25 Proposed	Change from FY24	
					\$	%
Total Operating Budget:	16,786,774	17,239,108	17,910,574	18,776,996	866,422	4.8%
Non-Education budget:	7,635,334	7,797,864	8,057,196	8,749,832	692,636	8.6%



# TOWN OF WEST NEWBURY

## Proposed FY25 Operating Budget

Updated draft: March 23, 2024

	FY 2021	FY 2022	FY 2023	FY 2024	YTD thru 2/15/2024		FY 2025	Proposed Change		FY 2025
	Expended	Expended	Expended	Amended	\$	%	TM Proposed	\$	%	FinCom
	6/30/2021	6/30/2022	6/30/2023		Percent of yr: 62.6%		2/19/2024			
<b>GENERAL GOVERNMENT</b>										
Moderator's Salary	200	200	200	200	100	50.0%	200	-	0%	<u>2/26/2024</u> 200
Moderator's Expenses	-	30	-	60	-	0.0%	60	-	0%	60
<b>114 Total Moderator</b>	<b>200</b>	<b>230</b>	<b>200</b>	<b>260</b>	<b>100</b>	<b>38.5%</b>	<b>260</b>	<b>-</b>	<b>0%</b>	<b>260</b>
Select Board Appointed Salary & Wages	31,069	29,821	9,669	-	-		<u>3/11/2024</u> -	-		<u>2/26/2024</u> -
Professional and Technical Services	8,500	4,000	8,961	10,000	8,339	83.4%	20,000	10,000	100%	10,000
Operating Expenses	8,286	6,788	2,518	3,940	3,203	81.3%	7,060	3,120	79%	5,960
<b>122 Total Select Board</b>	<b>47,854</b>	<b>40,609</b>	<b>21,149</b>	<b>13,940</b>	<b>11,541</b>	<b>82.8%</b>	<b>27,060</b>	<b>13,120</b>	<b>94%</b>	<b>15,960</b>
Town Manager Salary	150,858	153,875	156,952	<u>10/23/2023</u> 160,091	97,527	60.9%	163,299	3,208	2%	<u>2/26/2024</u> 163,299
Town Manager Office Salaries & Wages	70,679	72,092	19,664	71,504	42,356	59.2%	140,463	68,959	96%	140,463
Technology Expenses	48,342	53,427	65,201	76,455	51,712	67.6%	82,645	6,190	8%	82,645
Town Manager Expenses	17,695	38,616	20,469	23,035	13,055	56.7%	33,179	10,144	44%	28,979
Vehicle Allowance	3,600	3,600	3,600	3,600	2,100	58.3%	3,600	-	0%	3,600
<b>123 Total Town Manager</b>	<b>291,174</b>	<b>321,610</b>	<b>265,886</b>	<b>334,685</b>	<b>206,749</b>	<b>61.8%</b>	<b>423,186</b>	<b>88,501</b>	<b>26%</b>	<b>418,986</b>
Finance Dept Salaries & Wages	195,647	193,218	233,091	259,141	156,800	60.5%	266,042	6,901	3%	<u>2/26/2024</u> 266,042
Annual Audit	20,500	20,500	20,500	22,000	22,000	100.0%	23,000	1,000	5%	23,000
Tax Title and Foreclosure	478	-	1,330	2,050	2,486	121.3%	4,746	2,696	132%	4,746
Postage Expense	14,847	14,437	15,551	16,200	17,017	105.0%	19,000	2,800	17%	19,000
Finance Dept Expenses	23,157	24,748	22,794	24,945	13,813	55.4%	47,164	22,219	89%	47,164
Travel	518	1,613	1,444	2,000	590	29.5%	4,500	2,500	125%	4,500
<b>135 Total Finance</b>	<b>255,148</b>	<b>254,515</b>	<b>294,709</b>	<b>326,336</b>	<b>212,707</b>	<b>65.2%</b>	<b>364,452</b>	<b>38,116</b>	<b>12%</b>	<b>364,452</b>
Finance Committee Expenses	751	1,312	919	2,000	398	19.9%	2,000	-	0%	<u>2/26/2024</u> 2,000
Reserve Fund	-	-	-	40,000	-	0.0%	50,000	10,000	25%	40,000
<b>131 Total Finance Committee</b>	<b>751</b>	<b>1,312</b>	<b>919</b>	<b>42,000</b>	<b>398</b>	<b>0.9%</b>	<b>52,000</b>	<b>10,000</b>	<b>24%</b>	<b>42,000</b>
Assessors Appt'd Pers Salaries	95,260	127,109	129,213	138,792	84,170	60.6%	142,001	3,209	2%	<u>2/26/2024</u> 142,001
Assessors Expenses	47,272	46,779	36,620	26,580	12,063	45.4%	26,580	-	0%	26,580
<b>141 Total Assessors</b>	<b>142,714</b>	<b>173,887</b>	<b>165,833</b>	<b>165,372</b>	<b>96,234</b>	<b>58.2%</b>	<b>168,581</b>	<b>3,209</b>	<b>2%</b>	<b>168,581</b>
General/Labor/Land Use Counsel	20,558	53,677	65,124	82,349	35,802	43.5%	82,127	(222)	0%	<u>2/26/2024</u> 82,127
Special Counsel										
<b>151 Total Legal Counsel</b>	<b>20,558</b>	<b>53,677</b>	<b>65,124</b>	<b>82,349</b>	<b>35,802</b>	<b>43.5%</b>	<b>82,127</b>	<b>(222)</b>	<b>0%</b>	<b>82,127</b>



# TOWN OF WEST NEWBURY

## Proposed FY25 Operating Budget

Updated draft: March 23, 2024

	FY 2021	FY 2022	FY 2023	FY 2024	YTD thru 2/15/2024		FY 2025	Proposed Change		FY 2025
	Expended	Expended	Expended	Amended	\$	%	TM Proposed	\$	%	FinCom
	6/30/2021	6/30/2022	6/30/2023		Percent of yr: 62.6%		2/19/2024			2/26/2024
Town Clerk Salary & Wages	118,757	112,969	127,811	141,749	81,602	57.6%	140,962	(787)	-1%	140,962
Operation of Fax/Photo Machine	4,604	5,507	6,370	6,620	3,799	57.4%	6,800	180	3%	6,800
Town Clerk's Expenses	3,482	6,824	6,985	8,225	2,906	35.3%	8,500	275	3%	8,500
<b>161 Total Town Clerk</b>	<b>126,843</b>	<b>125,300</b>	<b>141,166</b>	<b>156,594</b>	<b>88,307</b>	<b>56.4%</b>	<b>156,262</b>	<b>(332)</b>	<b>0%</b>	<b>156,262</b>
Town Clerk Compensation	200	200	200	200	-	0.0%	200	-	0%	200
Bd of Registrars Salary & Wages	7,889	2,965	9,900	8,400	1,995	23.8%	11,250	2,850	34%	11,250
Bd of Registrars Expenses	4,808	7,800	10,894	10,170	3,667	36.1%	10,500	330	3%	10,500
<b>162 Total Registrars</b>	<b>12,897</b>	<b>10,965</b>	<b>20,994</b>	<b>18,770</b>	<b>5,662</b>	<b>30.2%</b>	<b>21,950</b>	<b>3,180</b>	<b>17%</b>	<b>21,950</b>
Conservation Salary & Wages	24,529	25,713	34,892	69,280	42,400	61.2%	88,620	19,340	28%	88,620
Land Steward/Internship Wages	2,009	-	-	-	-	-	7,500	7,500	#DIV/0!	7,500
Conservation Com Expenses	5,911	6,181	6,280	7,226	3,478	48.1%	6,129	(1,097)	-15%	6,129
Con Com Vehicle Allowance	450	-	-	-	-	-	-	-	-	-
<b>171 Total Conservation</b>	<b>32,898</b>	<b>31,894</b>	<b>41,171</b>	<b>76,506</b>	<b>45,878</b>	<b>60.0%</b>	<b>102,249</b>	<b>25,743</b>	<b>34%</b>	<b>102,249</b>
Planning Bd Salary & Wages	54,921	59,319	61,893	73,071	41,866	57.3%	81,061	7,990	11%	81,061
Planning Bd Expenses	5,950	6,151	3,341	5,300	1,045	19.7%	5,100	(200)	-4%	5,100
MVPC Assessment	1,663	1,705	1,747	1,792	-	0.0%	1,760	(32)	-2%	1,760
<b>175 Total Planning</b>	<b>62,534</b>	<b>67,175</b>	<b>66,981</b>	<b>80,163</b>	<b>42,911</b>	<b>53.5%</b>	<b>87,921</b>	<b>7,758</b>	<b>10%</b>	<b>87,921</b>
ZBA Expenses	292	700	-	700	-	0.0%	1,400	700	100%	700
<b>176 Total Board of Appeals</b>	<b>292</b>	<b>700</b>	<b>-</b>	<b>700</b>	<b>-</b>	<b>0.0%</b>	<b>1,400</b>	<b>700</b>	<b>100%</b>	<b>700</b>
Open Space Expenses	-	69	-	750	-	0.0%	750	-	0%	-
<b>179 Total Open Space</b>	<b>-</b>	<b>69</b>	<b>-</b>	<b>750</b>	<b>-</b>	<b>0.0%</b>	<b>750</b>	<b>-</b>	<b>0%</b>	<b>-</b>
<b>TOTAL GENERAL GOVERNMENT:</b>	<b>993,861</b>	<b>1,081,944</b>	<b>1,084,132</b>	<b>1,298,425</b>	<b>746,288</b>	<b>57.5%</b>	<b>1,488,198</b>	<b>189,773</b>	<b>14.6%</b>	<b>1,461,448</b>



# TOWN OF WEST NEWBURY

## Proposed FY25 Operating Budget

Updated draft: March 23, 2024

	FY 2021	FY 2022	FY 2023	FY 2024	YTD thru 2/15/2024		FY 2025	Proposed Change		FY 2025
	Expended	Expended	Expended	Amended	\$	%	TM Proposed	\$	%	FinCom
	6/30/2021	6/30/2022	6/30/2023		Percent of yr: 62.6%		2/19/2024			
<b>PUBLIC SAFETY</b>										
School Resource Officer	67,495	68,845	29,972				<u>3/12/2024</u>			<u>3/13/2024</u>
Police Salaries & Wages	882,496	885,785	904,956	1,015,727	568,020	55.9%	1,068,258	52,531	5%	1,068,258
Police OT Wages	67,775	101,301	148,980	71,468	94,773	132.6%	120,000	48,532	68%	120,000
Police Expenses	67,473	99,984	95,316	108,560	58,843	54.2%	111,310	2,750	3%	111,310
Police Cruiser	38,903	40,000	40,000				-	-	#DIV/0!	
<b>210 Total Police</b>	<b>1,124,141</b>	<b>1,195,914</b>	<b>1,219,223</b>	<b>1,195,755</b>	<b>721,637</b>	<b>60.3%</b>	<b>1,299,568</b>	<b>103,813</b>	<b>9%</b>	<b>1,299,568</b>
Fire Alarm Wages	73,090	68,213	57,769	95,374	34,974	36.7%	<u>3/12/2024</u> 156,911	61,537	65%	<u>3/13/2024</u> 156,911
Fire Training/Drills	9,710	20,486	14,119	28,168	12,868	45.7%	-	(28,168)	-100%	-
Fire Dept Other Wages	26,166	18,405	21,857	26,792	10,911	40.7%	-	(26,792)	-100%	-
Fire Administration Wages	26,245	27,614	27,305	27,575	21,687	78.6%	21,420	(6,155)	-22%	21,420
Fire Dept. Medical Exam	972	2,400	-	3,000	1,600	53.3%	-	(3,000)	-100%	-
Hydrant/Fire Protection (to Water Dept)	77,207	77,207	77,207	81,510	81,510	100.0%	81,510	-	0%	81,510
Fire Alarm Communications	10,977	11,601	8,663	12,500	2,300	18.4%	-	(12,500)	-100%	-
Fire Expenses	45,039	56,941	44,800	46,000	34,177	74.3%	68,250	22,250	48%	68,250
<b>220 Total Fire</b>	<b>269,406</b>	<b>282,867</b>	<b>251,720</b>	<b>320,919</b>	<b>200,028</b>	<b>62.3%</b>	<b>328,091</b>	<b>7,172</b>	<b>2%</b>	<b>328,091</b>
Municipal Dispatch Salaries & Wages	222,564	219,917	230,765	270,778	154,981	57.2%	<u>3/12/2024</u> 275,776	4,998	2%	<u>3/13/2024</u> 275,776
Municipal Dispatch OT Wages	28,370	22,853	26,976	26,480	23,945	90.4%	35,000	8,520	32%	35,000
Municipal Dispatch Expenses	21,800	23,552	27,085	30,590	20,286	66.3%	30,590	-	0%	30,590
<b>230 Total Municipal Dispatch</b>	<b>272,734</b>	<b>266,322</b>	<b>284,827</b>	<b>327,848</b>	<b>199,211</b>	<b>60.8%</b>	<b>341,366</b>	<b>13,518</b>	<b>4%</b>	<b>341,366</b>
Inspectors Salaries & Wages	123,448	125,700	128,061	135,538	81,207	59.9%	<u>3/16/2024</u> 123,220	(12,318)	-9%	<u>3/20/2024</u> 123,220
Inspectors Expenses	13,307	7,019	7,908	9,000	4,766	53.0%	9,000	-	0%	9,000
Inspectors' Vehicle Allowances	5,880	5,760	5,760	7,200	4,200	58.3%	7,200	-	0%	7,200
<b>240 Total Inspectors</b>	<b>142,635</b>	<b>138,480</b>	<b>141,728</b>	<b>151,738</b>	<b>90,173</b>	<b>59.4%</b>	<b>139,420</b>	<b>(12,318)</b>	<b>-8%</b>	<b>139,420</b>
Emergency Mgmt Salary & Wages	7,913	7,770	6,093	9,413	6,963	74.0%	9,601	188	2%	<u>3/13/2024</u> 6,963
Emergency Mgmt Expenses	686	2,999	2,550	3,000	632	21.1%	3,000	-	0%	3,000
<b>291 Total Emergency Management</b>	<b>8,599</b>	<b>10,769</b>	<b>8,643</b>	<b>12,413</b>	<b>7,596</b>	<b>61.2%</b>	<b>12,601</b>	<b>188</b>	<b>2%</b>	<b>9,963</b>
Animal Control Expenses	26,246	25,898	26,858	27,503	-	0.0%	32,268	4,765	17%	<u>3/27/2024</u> -
<b>292 Total Animal Control</b>	<b>26,246</b>	<b>25,898</b>	<b>26,858</b>	<b>27,503</b>	<b>-</b>	<b>0.0%</b>	<b>32,268</b>	<b>4,765</b>	<b>17%</b>	<b>-</b>
Harbormaster Salary & Wages	2,000	-	-	<u>3/22/2023</u>	-					<u>3/25/2024</u>



# TOWN OF WEST NEWBURY

## Proposed FY25 Operating Budget

Updated draft: March 23, 2024

	FY 2021	FY 2022	FY 2023	FY 2024	YTD thru 2/15/2024		FY 2025	Proposed Change		FY 2025
	Expended	Expended	Expended	Amended	\$	%	TM Proposed	\$	%	FinCom
	6/30/2021	6/30/2022	6/30/2023		Percent of yr:		2/19/2024			
Harbormaster Exp (contracted services)	-	2,500	3,038	4,000	2,500	62.5%	4,500	500	13%	
<b>295 Total Harbormaster</b>	<b>2,000</b>	<b>2,500</b>	<b>3,038</b>	<b>4,000</b>	<b>2,500</b>	<b>62.5%</b>	<b>4,500</b>	<b>500</b>	<b>13%</b>	<b>-</b>

<b>TOTAL PUBLIC SAFETY:</b>	<b>1,845,760</b>	<b>1,922,751</b>	<b>1,936,037</b>	<b>2,040,176</b>	<b>1,221,145</b>	<b>59.9%</b>	<b>2,157,814</b>	<b>117,638</b>	<b>5.8%</b>	<b>2,118,408</b>
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<b>EDUCATION</b>												
Pentucket Regional Sch Assessment	7,387,515	7,242,985	7,408,673	<u>10/23/2023</u>	7,862,142	5,243,031	66.7%	<u>3/14/2024</u>	7,993,171	131,029	2%	<u>3/25/2024</u>
Pentucket Capital Assessment	710,567	1,196,556	1,232,822		1,154,371	764,364	66.2%		1,157,182	2,811	0%	
Pentucket Assessment Page Phase II	501,438	493,338	485,238		479,838	319,892	66.7%		474,438	(5,400)	-1%	
<b>304 Total Pentucket</b>	<b>8,599,520</b>	<b>8,932,879</b>	<b>9,126,733</b>		<b>9,496,351</b>	<b>6,327,287</b>	<b>66.6%</b>		<b>9,624,791</b>	<b>128,440</b>	<b>1%</b>	<b>-</b>
Whittier Minimum Contribution	146,262	136,998	219,455		217,901	185,215	85.0%	<u>3/14/2024</u>	257,694	39,793	18%	<u>3/25/2024</u>
Whittier Other Assessments	22,570	18,727	27,419		23,624	20,080	85.0%		25,403	1,779	8%	
Whittier Debt/Capital Assessment	21,781	21,602	23,860		21,392	18,183	85.0%		17,590	(3,802)	-18%	
<b>305 Total Whittier</b>	<b>190,613</b>	<b>177,327</b>	<b>270,734</b>		<b>262,917</b>	<b>223,479</b>	<b>85.0%</b>		<b>300,687</b>	<b>37,770</b>	<b>14%</b>	<b>-</b>
Essex North Shore Agricultural & Tech School	38,167	41,234	43,777	<u>10/23/2023</u>	94,110	48,589	51.6%		101,686	7,576	8%	<u>3/25/2024</u>
<b>310 Total Essex North Shore Agricultural</b>	<b>38,167</b>	<b>41,234</b>	<b>43,777</b>		<b>94,110</b>	<b>48,589</b>	<b>51.6%</b>		<b>101,686</b>	<b>7,576</b>	<b>8%</b>	<b>-</b>

<b>TOTAL EDUCATION:</b>	<b>8,828,300</b>	<b>9,151,440</b>	<b>9,441,244</b>	<b>9,853,378</b>	<b>6,599,355</b>	<b>67.0%</b>	<b>10,027,164</b>	<b>173,786</b>	<b>1.8%</b>	<b>-</b>
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<b>DEPARTMENT OF PUBLIC WORKS</b>												
DPW Salaries & Wages	471,302	483,533	555,561		635,593	349,717	55.0%	<u>2/19/2024</u>	658,552	22,959	3.6%	<u>2/20/2024</u>
DPW Overtime Wages	16,225	17,299	14,781		18,000	10,785	59.9%		24,000	6,000	33.3%	
Snow & Ice Removal	224,021	247,245	204,198		200,000	78,912	39.5%		200,000	-	0.0%	
Town Bldgs Operating Expenses	134,462	143,869	167,264		158,030	91,610	58.0%		158,030	-	0.0%	
Town Bldgs Improvements	45,075	41,438	34,510		51,000	26,117	51.2%		51,000	-	0.0%	
Street/Paving Repairs	16,534	59,693	25,341		55,000	508	0.9%		55,000	-	0.0%	
Highway, Sidewalk & Trees	142,398	203,126	146,288		219,580	151,653	69.1%		280,000	60,420	27.5%	
Stormwater management	14,265	10,226	14,361		15,500	2,750	17.7%		15,000	(500)	-3.2%	
DPW Expenses	12,469	12,080	30,673		16,485	10,687	64.8%		18,025	1,540	9.3%	
Parks Expense	16,637	14,884	14,080		28,790	-	0.0%		44,087	15,297	53.1%	
Electricity	70,000	80,886	70,366		84,000	28,714	34.2%		84,000	-	0.0%	



# TOWN OF WEST NEWBURY

## Proposed FY25 Operating Budget

Updated draft: March 23, 2024

	FY 2021	FY 2022	FY 2023	FY 2024	YTD thru 2/15/2024		FY 2025	Proposed Change		FY 2025
	Expended	Expended	Expended	Amended	\$	%	TM Proposed	\$	%	FinCom
	6/30/2021	6/30/2022	6/30/2023		Percent of yr: 62.6%		2/19/2024			
Road Machinery Operating Expen	40,456	41,442	64,235	54,060	40,260	74.5%	60,000	5,940	11.0%	60,000
DPW Travel/Training (pre-FY25 was Vehicle Allowance)	6,000	6,000	5,000	6,000	1,000	16.7%	6,000	-	0.0%	6,000
Public Street Lights	6,421	6,943	11,231	8,400	7,311	87.0%	11,400	3,000	35.7%	11,400
<b>420/424 Total Department of Public Works</b>	<b>1,216,265</b>	<b>1,368,664</b>	<b>1,357,891</b>	<b>1,550,438</b>	<b>800,023</b>	<b>51.6%</b>	<b>1,665,094</b>	<b>114,656</b>	<b>7.4%</b>	<b>1,635,094</b>
<b>TOTAL PUBLIC WORKS:</b>	<b>1,216,265</b>	<b>1,368,664</b>	<b>1,357,891</b>	<b>1,550,438</b>	<b>800,023</b>	<b>51.6%</b>	<b>1,665,094</b>	<b>114,656</b>	<b>7.4%</b>	<b>1,635,094</b>

<b>HUMAN SERVICES</b>										
Board of Health Salary & Wages	124,592	126,498	127,965	<u>10/23/2023</u> 134,918	81,675	60.5%	137,616	2,698	2%	<u>3/13/2024</u> 137,616
Public Health Nurse	7,775	5,700	3,200	6,000	2,800	46.7%	6,000	-	0%	6,000
Waste Collection & Disposal	375,680	375,998	393,362	421,400	243,525	57.8%	441,360	19,960	5%	441,360
Recycling	21,159	1,670	19,517	45,000	15,847	35.2%	43,000	(2,000)	-4%	43,000
Hazardous Waste Expense	1,899	1,798	1,989	2,000	1,502	75.1%	2,000	-	0%	2,000
Steele landfill monitoring	22,450	29,708	33,175	36,915	17,050	46.2%	52,554	15,639	42%	52,554
Bd of Health Expenses	5,583	7,174	6,884	7,000	2,549	36.4%	7,000	-	0%	7,000
<b>510 Total Board of Health</b>	<b>559,138</b>	<b>548,546</b>	<b>586,092</b>	<b>653,233</b>	<b>364,948</b>	<b>55.9%</b>	<b>689,530</b>	<b>36,297</b>	<b>6%</b>	<b>689,530</b>
Council on Aging Salary & Wages	55,905	71,524	93,947	103,982	60,795	58.5%	106,063	2,081	2%	<u>3/13/2024</u> 106,063
Council on Aging Expenses	16,097	21,808	19,490	19,500	10,849	55.6%	19,500	-	0%	19,500
<b>541 Total Council on Aging</b>	<b>72,002</b>	<b>93,331</b>	<b>113,438</b>	<b>123,482</b>	<b>71,644</b>	<b>58.0%</b>	<b>125,563</b>	<b>2,081</b>	<b>2%</b>	<b>125,563</b>
Soldiers Grave Expense	3,161	3,632	3,064	<u>3/29/2023</u> 3,592	-	0.0%	<u>3/22/2024</u> 4,700	1,108	31%	<u>3/25/2024</u>
Memorial Day Expenses	-	1,661	-	2,320	-	0.0%	1,600	(720)	-31%	
Veterans benefits & expenses	21,112	5,816	6,574	6,000	2,264	37.7%	5,000	(1,000)	-17%	
Eastern Essex Veterans Services	3,976	21,695	21,095	22,960	22,959	100.0%	18,298	(4,662)	-20%	
<b>543 Total Veterans</b>	<b>28,248</b>	<b>32,804</b>	<b>30,733</b>	<b>34,872</b>	<b>25,223</b>	<b>72.3%</b>	<b>29,598</b>	<b>(5,274)</b>	<b>-15%</b>	<b>-</b>
<b>TOTAL HUMAN SERVICES:</b>	<b>659,389</b>	<b>674,681</b>	<b>730,262</b>	<b>811,587</b>	<b>461,816</b>	<b>56.9%</b>	<b>844,691</b>	<b>33,104</b>	<b>4.1%</b>	<b>815,093</b>

<b>CULTURE &amp; RECREATION</b>										
Library Salaries & Wages	260,408	260,013	282,899	307,665	187,332	60.9%	314,016	6,351	2%	<u>3/20/2024</u> 314,016
Library Expenses	32,894	38,461	32,681	33,000	26,373	79.9%	33,000	-	0%	33,000
Library Books and Periodicals	67,144	71,241	77,442	81,569	50,225	61.6%	82,000	431	1%	82,000
<b>610 Total Library</b>	<b>360,446</b>	<b>369,714</b>	<b>393,022</b>	<b>422,234</b>	<b>263,929</b>	<b>62.5%</b>	<b>429,016</b>	<b>6,782</b>	<b>2%</b>	<b>429,016</b>





# TOWN OF WEST NEWBURY

## Proposed FY25 Operating Budget

Updated draft: March 23, 2024

	FY 2021	FY 2022	FY 2023	FY 2024	YTD thru 2/15/2024		FY 2025	Proposed Change		FY 2025
	Expended	Expended	Expended	Amended	\$	%	TM Proposed	\$	%	FinCom
	6/30/2021	6/30/2022	6/30/2023		Percent of yr: 62.6%		2/19/2024			3/20/2024
Recreation Wages	239	1,335	2,700	5,072	2,925	57.7%	6,332	1,260	25%	6,332
Recreation Expenses	16,415	16,000	10,348	33,200	17,849	53.8%	10,900	(22,300)	-67%	10,900
Action Cove Expenses	1,320	1,826	1,801		-		-			
<b>630/637 Total Recreation</b>	<b>17,974</b>	<b>19,161</b>	<b>14,849</b>	<b>38,272</b>	<b>20,774</b>	<b>54.3%</b>	<b>17,232</b>	<b>(21,040)</b>	<b>-55%</b>	<b>17,232</b>
Mill Pond Operating Expenses	-	188	868	2,100	412	19.6%	2,100	-	0%	1,000
<b>631 Total Mill Pond</b>	<b>-</b>	<b>188</b>	<b>868</b>	<b>2,100</b>	<b>412</b>	<b>19.6%</b>	<b>2,100</b>	<b>-</b>	<b>0%</b>	<b>1,000</b>
Bandstand Expense	-	6,000	5,910	8,000	5,594	69.9%	8,000	-	0%	8,000
<b>635 Total Bandstand</b>	<b>-</b>	<b>6,000</b>	<b>5,910</b>	<b>8,000</b>	<b>5,594</b>	<b>69.9%</b>	<b>8,000</b>	<b>-</b>	<b>0%</b>	<b>8,000</b>
Historical Commission Expenses	312	-	600	600	20	3.3%	600	-	0%	600
<b>691 Total Historical Commission</b>	<b>312</b>	<b>-</b>	<b>600</b>	<b>600</b>	<b>20</b>	<b>3.3%</b>	<b>600</b>	<b>-</b>	<b>0%</b>	<b>600</b>
Cultural Council Expense	-	-	-	100	-	0.0%	100	-	0%	-
<b>695 Total Cultural Council</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>100</b>	<b>-</b>	<b>0.0%</b>	<b>100</b>	<b>-</b>	<b>0%</b>	<b>-</b>

<b>TOTAL CULTURE &amp; RECREATION:</b>	<b>378,733</b>	<b>395,063</b>	<b>415,249</b>	<b>471,306</b>	<b>290,729</b>	<b>61.7%</b>	<b>457,048</b>	<b>(14,258)</b>	<b>-3.0%</b>	<b>455,848</b>
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<b>DEBT SERVICE</b>										
Debt Service (Principal)	340,500	305,000	295,000	-	-	#DIV/0!	-	-	#DIV/0!	2/20/2025
Debt Service (Interest)	15,400	8,950	2,950	-	-	#DIV/0!	-	-	#DIV/0!	-
<b>710/750 Total Debt Service</b>	<b>355,900</b>	<b>313,950</b>	<b>297,950</b>	<b>-</b>	<b>-</b>	<b>#DIV/0!</b>	<b>-</b>	<b>-</b>	<b>#DIV/0!</b>	<b>-</b>

<b>TOTAL DEBT SERVICE:</b>	<b>355,900</b>	<b>313,950</b>	<b>297,950</b>	<b>-</b>	<b>-</b>	<b>#DIV/0!</b>	<b>-</b>	<b>-</b>	<b>#DIV/0!</b>	<b>-</b>
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<b>BENEFITS</b>											
Essex Regional Retirement Assessment	687,493	731,432	805,419	2/15/2023	675,135	661,845	98.0%	911,931	236,796	35%	3/27/2024
<b>911 Total Essex Regional Retirement</b>	<b>687,493</b>	<b>731,432</b>	<b>805,419</b>	<b>675,135</b>	<b>661,845</b>	<b>98.0%</b>	<b>911,931</b>	<b>236,796</b>	<b>-</b>	<b>-</b>	



# TOWN OF WEST NEWBURY

## Proposed FY25 Operating Budget

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	FY 2021	FY 2022	FY 2023	FY 2024	YTD thru 2/15/2024		FY 2025	Proposed Change		FY 2025
	Expended	Expended	Expended	Amended	\$	%	TM Proposed	\$	%	FinCom
	6/30/2021	6/30/2022	6/30/2023		Percent of yr: 62.6%		2/19/2024			3/27/2024
Unemployment Insurance & Benefits	-	439	-	1,200	-	0.0%	1,200	-	0%	
<b>913 Total Unemployment Insurance</b>	-	439	-	1,200	-	0.0%	1,200	-		-
Group Insurance	394,029	406,997	427,955	527,865	258,446	49.0%	547,440	19,575	4%	527,440
<b>914 Total Group Insurance</b>	394,029	406,997	427,955	527,865	258,446	49.0%	547,440	19,575		527,440
FICA Insurance	46,737	52,412	51,842	61,421	34,524	56.2%	63,878	2,457	4%	
<b>916 Total FICA Insurance</b>	46,737	52,412	51,842	61,421	34,524	56.2%	63,878	2,457		-
Insurance and Bonds	174,508	187,002	191,127	219,643	201,027	91.5%	212,538	(7,105)	-3%	212,538
<b>945 Total Insurance and Bonds</b>	174,508	187,002	191,127	219,643	201,027	91.5%	212,538	(7,105)		212,538
<b>TOTAL BENEFITS:</b>	<b>1,302,767</b>	<b>1,378,282</b>	<b>1,476,342</b>	<b>1,485,264</b>	<b>1,155,842</b>	<b>77.8%</b>	<b>1,736,987</b>	<b>251,723</b>	<b>16.9%</b>	<b>739,978</b>
<b>TRANSFERS To/From - STABILIZATION</b>										
Transfers Out - to Capital Stabilization	500,000	500,000	500,000	600,000	600,000	100.0%	600,000	-	0%	3/25/2024
Transfers In - from School Stabilization				(200,000)	(200,000)	100.0%	(200,000)	-	0%	
<b>992 Total Transfers Out</b>	<b>500,000</b>	<b>500,000</b>	<b>500,000</b>	<b>400,000</b>	<b>400,000</b>	<b>100.0%</b>	<b>400,000</b>	<b>-</b>	<b>0.0%</b>	<b>-</b>
<b>TOTAL TRANSFERS OUT:</b>	<b>500,000</b>	<b>500,000</b>	<b>500,000</b>	<b>400,000</b>	<b>400,000</b>	<b>100.0%</b>	<b>400,000</b>	<b>-</b>	<b>0.0%</b>	<b>-</b>
<b>1000 Total General Fund</b>	<b>16,080,976</b>	<b>16,786,774</b>	<b>17,239,108</b>	<b>17,910,574</b>	<b>11,675,198</b>	<b>65.2%</b>	<b>18,776,996</b>	<b>866,422</b>	<b>4.8%</b>	<b>7,225,869</b>



## PENTUCKET REGIONAL SCHOOL DISTRICT

OFFICE OF THE SUPERINTENDENT  
22 MAIN STREET  
WEST NEWBURY, MASSACHUSETTS 01985-1897  
TEL: (978) 363-2280 / FAX: (978) 363-1165

**Justin Bartholomew, Ed.D.** *Superintendent of Schools*    **Brent Conway** *Assistant Superintendent*    **Catherine Page** *IT & Digital Learning Director*    **Suzanne Wallace** *Business Manager*    **Michael A. Jarvis, Ed.D.** *Director of Student Services*

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March 13, 2024

Mr. Angus Jennings, Town Manager  
West Newbury Town Hall  
381 Main Street  
West Newbury, MA 01985

Dear Mr. Jennings:

The Pentucket Regional School District's School Committee approved an operating budget for fiscal year 2025 at their meeting held on March 12, 2024. Based upon that approved budget, West Newbury's assessment for FY25 totals **\$9,624,791.00**. The attached calculation, which is in accordance with the Pentucket Regional School District Regional Agreement and Bylaws as well as Chapter 70, section 6 of the Massachusetts General Laws, provides the details for your assessment.

If you have any questions, please feel free to contact us at 978-363-2280, extension 132.

Sincerely,

Justin Bartholomew  
Superintendent of Schools

Rebekah Hayden  
Treasurer

cc: Board of Selectmen  
Finance Committee

enclosure: Assessment calculation

**FY25 Town Assessments**

**Pentucket Regional School District Operating and Capital Assessment Worksheet for FY25**

General Fund Budget	\$	51,247,871
Operating	\$	45,602,592
District Wide Capital	\$	4,647,625
Town Specific Capital	\$	997,654

<b>Town Assessment Calculations</b>	<b>Two Step Methodology</b>
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Operating Budget	\$	45,602,592
Revenue In	\$	15,447,290
Amount Assessed to Towns	\$	30,155,302

<b>Minimum Contributions- DOE</b>
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Groveland	8,159,178
Merrimac	7,456,791
West Newbury	5,800,631
<b>Total</b>	<b>21,416,600</b>

<b>Amount Above Minimum</b>
-----------------------------

Total Assessment To Towns	\$	30,155,302
Total Minimum Contributions	\$	21,416,600
Difference ( Assessment- Total Minimum)	\$	8,738,702

<b>Per Pupil Assessment</b>	<b>Actual ratio</b>
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	Difference	Enrollment	2 Town %	3 Town %	Total Above Minimum	
Groveland	\$ 8,738,702	X	0.5205	0.3899	=	\$ 3,407,220
Merrimac	\$ 8,738,702	X	0.4795	0.3592	=	\$ 3,138,942
West Newbury	\$ 8,738,702	X		0.2509	=	\$ 2,192,540
<b>Total</b>			<b>1.000000</b>	<b>1.000000</b>		<b>\$ 8,738,702</b>

<b>Minimum + Percentage Above Minimum = Local Assessment</b>
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Groveland	\$ 8,159,178	+	\$ 3,407,220	\$	11,566,398
Merrimac	\$ 7,456,791	+	\$ 3,138,942	\$	10,595,733
West Newbury	\$ 5,800,631	+	\$ 2,192,540	\$	7,993,171
<b>Total</b>	<b>\$ 21,416,600</b>		<b>\$ 8,738,702</b>	<b>\$</b>	<b>30,155,302</b>

<b>District Wide Capital Assessment</b>
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Three Town Debt Service	\$	4,612,125
Two Town Debt Service	\$	35,500
State Construction Aid	\$	-
Amount Assessed to Towns	\$	4,647,625

	FY 24 Total Capital Assessment	FY 25 Three Town Capital Assessment	FY 25 Two Town Capital Assessment	FY 25 Total Capital Assessment
Groveland	\$ 1,833,124	\$ 1,798,268	\$ 18,478	\$ 1,816,745
Merrimac	\$ 1,672,405	\$ 1,656,675	\$ 17,022	\$ 1,673,698
West Newbury	\$ 1,154,371	\$ 1,157,182		\$ 1,157,182
<b>Total</b>	<b>\$ 4,659,900</b> updated	<b>\$ 4,612,125</b>	<b>\$ 35,500</b>	<b>\$ 4,647,625</b>

**Town Specific Capital Assessment**

	FY25 QECB Debt Service	FY25 QECB Subsidy	FY25 G.O. Debt Service	FY25 Total Town Specific Capital Assessment
Groveland	\$ 89,806	\$ (10,434)	\$ 328,758	\$ 408,129
Merrimac	\$ 107,119	\$ (11,833)	\$ 19,800	\$ 115,087
West Newbury	\$ 127,303	\$ (14,750)	\$ 361,885	\$ 474,438
Total	\$ 324,229	\$ (37,017)	\$ 710,443	\$ 997,654

**FY 25 Total Town Assessment**

	FY 25 Operating Assessment	FY 25 DW Capital Assessment	FY 25 Town Specific Capital Assessment	FY 25 Total Assessment
Groveland	\$ 11,566,398	\$ 1,816,745	\$ 408,129	\$ 13,791,272
Merrimac	\$ 10,595,733	\$ 1,673,698	\$ 115,087	\$ 12,384,517
West Newbury	\$ 7,993,171	\$ 1,157,182	\$ 474,438	\$ 9,624,791
Total	\$ 30,155,302	\$ 4,647,625	\$ 997,654	\$ 35,800,581

**WHTTIER REGIONAL VOCATIONAL TECHNICAL HIGH SCHOOL  
COMPARISON OF ALL ASSESSMENTS FY 2024 VS FY 2025  
Recommended Budget**

	FY 2024				FY 2025				FY 2024				FY 2025			
	Required Net		Sch. Spending		Required Net		Sch. Spending		Other		Assessments		Capital		Assessments	
	Students	Students	Change	Pct	\$	\$	Variance	Pct	\$	\$	Variance	Pct	\$	\$	Variance	Pct
Gross					26,519,399	27,188,332	668,933	2.52%	1,690,633	1,800,035	109,402	6.47%	695,000	568,665	-126,335	
Less Revenues					13,387,607	13,432,714	45,107	0.34%	900,000	1,300,000	400,000	44.44%			0	
Assessments					13,131,792	13,755,618	623,826	4.75%	790,633	500,035	-290,598	-36.76%	695,000	568,665	-126,335	-18.18%
Amesbury	117	123	6	5.13%	1,777,424	1,899,737	122,313	6.88%	72,552	48,163	-24,389	-33.62%	68,555	54,918	-13,637	-19.89%
Georgetown	55	61	6	10.91%	867,039	1,029,996	162,957	18.79%	34,106	23,886	-10,220	-29.97%	44,316	41,627	-2,689	-6.07%
Groveland	35	37	2	5.71%	522,197	574,147	51,950	9.95%	21,704	14,488	-7,216	-33.25%	28,983	24,575	-4,408	-15.21%
Haverhill	867	853	-14	-1.61%	6,791,169	6,822,339	31,170	0.46%	537,631	334,010	-203,621	-37.87%	288,968	237,544	-51,424	-17.80%
Ipswich	30	27	-3	-10.00%	498,159	471,181	-26,978	-5.42%	18,603	10,572	-8,031	-43.17%	55,249	42,984	-12,265	-22.20%
Merrimac	40	40	0	0.00%	584,655	615,214	30,559	5.23%	24,804	15,663	-9,141	-36.85%	26,817	23,670	-3,147	-11.74%
Newbury	16	16	0	0.00%	253,173	281,700	28,527	11.27%	9,922	6,265	-3,657	-36.86%	24,891	18,890	-6,001	-24.11%
Newburyport	29	32	3	10.34%	478,802	562,904	84,102	17.57%	17,983	12,530	-5,453	-30.32%	82,719	62,865	-19,854	-24.00%
Rowley	23	20	-3	-13.04%	352,170	333,490	-18,680	-5.30%	14,262	7,831	-6,431	-45.09%	23,310	20,898	-2,412	-10.35%
Salisbury	50	53	3	6.00%	789,103	907,216	118,113	14.97%	31,005	20,753	-10,252	-33.07%	27,332	23,104	-4,228	-15.47%
West Newbury	13	15	2	15.38%	217,901	257,694	39,793	18.26%	8,061	5,874	-2,187	-27.13%	23,860	17,590	-6,270	-26.28%
<b>TOTALS</b>	<b>1275</b>	<b>1277</b>	<b>2</b>	<b>0.16%</b>	<b>13,131,792</b>	<b>13,755,618</b>	<b>623,826</b>	<b>4.75%</b>	<b>790,633</b>	<b>500,035</b>	<b>-290,598</b>	<b>-36.76%</b>	<b>695,000</b>	<b>568,665</b>	<b>-126,335</b>	<b>-18.18%</b>

	FY 2024				FY 2025				FY 2024				FY 2025				
	Debt		Assessments		Debt		Assessments		Other Ed		Assessments		Total		Assessments		
	\$	\$	Variance	Pct	\$	\$	Variance	Pct	\$	\$	Variance	Pct	\$	\$	Variance	Pct	
Gross						1,526,328	1,662,568	136,240	8.93%	30,431,360	31,219,600	788,240	2.59%	14,287,607	14,732,714	445,107	3.12%
Less Revenues																	
Assessments						1,526,328	1,662,568	136,240	8.93%	16,143,753	16,486,886	343,133	2.13%				
Amesbury	0	0	0		140,063	160,138	20,075	14.33%	2,058,594	2,162,956	104,362	5.07%					
Georgetown	0	0	0		65,842	79,417	13,575	20.62%	1,011,303	1,174,926	163,623	16.18%					
Groveland	0	0	0		41,899	48,172	6,273	14.97%	614,783	661,382	46,599	7.58%					
Haverhill	0	0	0		1,037,902	1,110,549	72,647	7.00%	8,655,670	8,504,442	-151,228	-1.75%					
Ipswich	0	0	0		35,914	35,152	-762	-2.12%	607,925	559,889	-48,036	-7.90%					
Merrimac	0	0	0		47,885	52,077	4,192	8.75%	684,161	706,624	22,463	3.28%					
Newbury	0	0	0		19,154	20,831	1,677	8.76%	307,140	327,686	20,546	6.69%					
Newburyport	0	0	0		34,716	41,662	6,946	20.01%	614,220	679,961	65,741	10.70%					
Rowley	0	0	0		27,534	26,039	-1,495	-5.43%	417,276	388,258	-29,018	-6.95%					
Salisbury	0	0	0		59,856	69,002	9,146	15.28%	907,296	1,020,075	112,779	12.43%					
West Newbury	0	0	0		15,563	19,529	3,966	25.48%	265,385	300,687	35,302	13.30%					
<b>TOTALS</b>	<b>0</b>	<b>0</b>	<b>0</b>		<b>1,526,328</b>	<b>1,662,568</b>	<b>136,240</b>	<b>8.93%</b>	<b>16,143,753</b>	<b>16,486,886</b>	<b>343,133</b>	<b>2.13%</b>					

Budgeting Workbook, Essex Ag & Tech

	<u>Students</u>	<u>Cost per</u>	<u>FY24 Invoiced</u>	<u>Projected cost per</u>	<u>FY25 Projected</u>
Transportation	4	1,750	7,000	1,750	7,000
Tuition	4	20,405	81,620	21,425	85,701
Ed Svcs	1	8,557	8,557	8,985	8,985
			<u>97,177</u>		<u>101,686</u>

Source: Angus Jennings, Town Manager

# AVOIDING THE FISCAL CLIFF

## Fixing the Inflation Calculation

The Chapter 70 aid amounts in the FY25 House 2 budget do not account for the actual costs of recent inflation because of a flaw in the way inflation adjustments are calculated in Chapter 70. Fixing that flaw would increase Chapter 70 by about \$217 million. Inflation has, of course, been very high in recent years.

The inflation rate for the time period that determined the FY24 Chapter 70 inflation adjustment was 8.01% and for FY23 it was 7.08%. But the law caps the annual inflation adjustment of the foundation budget at 4.5%. As a result, districts did not receive funds to cover a significant portion of inflation that they had to pay for in expenses.

The way the Chapter 70 formula originally worked, that would not be a long-term problem because the lost inflation would automatically be added back to the foundation budget in the following year. But a technical change made almost a decade after the law was passed inadvertently changed that. Now when the cap reduces aid below the level needed to keep pace with inflation, that reduction is locked in forever and reduces future aid.

A simple fix that maintains the 4.5% cap but makes sure that the formula makes up for lost inflation would solve the problem. That would increase Chapter 70 aid by \$217 million, with additional under-inflation “catch-ups” in future years. It is important to make a permanent change in the law so that all of the aid lost is eventually made up. That is necessary to allow the Commonwealth to meet the real-dollar targets in the Student Opportunity Act.

To implement the change, the legislature could use an updated version of the language in the original Education Reform Act along these lines: *The dollar amounts specified in this subsection, other than those for employee benefits and fixed charges, shall be adjusted for inflation by multiplying the amounts for fiscal year two thousand twenty-one and subsequent years by the ratio of the value of the implicit price deflator for state and local government consumption expenditures and gross investment in the second quarter of the prior fiscal year to the value of that same deflator in the third quarter of two thousand eighteen. The annual 4.5% cap would be preserved, as would the separate inflation adjustment for employee benefits and fixed charges.*

We can provide data on how these changes would affect specific districts.





**Essex-Georgetown-  
Ipswich-Newbury  
Newbury-West Newbury**

**Office Hours:  
Monday 8AM-7PM  
Tuesday-Thursday 8AM –4PM  
Friday 8AM – 12PM**

**EASTERN ESSEX DISTRICT  
DEPARTMENT OF VETERANS' SERVICES  
Town Hall 25 Green St. Ipswich, MA 01938  
Phone: 978-356-6699  
Fax Number: 978-356-6615**

**Steve Bohn**  
District Director

**Tony Ochoa**  
Administrative Assistant

Treasurer's Office  
Town Hall  
381 Main Street  
West Newbury, MA 01985

March 20, 2024

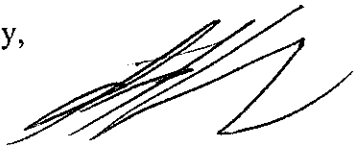
Dear Treasurer:

As approved at the meeting of the Board of Directors on February 29, 2024, please be advised that the financial cost of the Administrative Budget from 7/1/2024 to 6/30/2025 for the Eastern Essex District Department of Veterans Services, of which the Town of West Newbury is a member, is \$18,297.60. Enclosed is the Administrative Budget Approval.

This amount has been set in accordance with Chapter 115, Section II of the Massachusetts General Laws.

Please ensure the check is payable to the Eastern Essex District Department of Veterans' Services and forward it to this office by July 1, 2024, or as soon as possible.

Sincerely,



Steve Bohn  
District Director of Veterans' Services

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2024 MAR 22 AM 11:42


**ADMINISTRATIVE BUDGET APPROVAL**  
**FY2025**


This FY25 Administrative Budget for the Eastern Essex District Department of Veterans' Services has been reviewed in a posted, public meeting and agreed upon by the members of the Board of Directors' representatives of each community making up the Eastern Essex District. The signed budget document represents the approval of line-item expenditures as shown. The assessments for each Town are as Follows for FY25

ESSEX	8.255%	\$14,941.81
GEORGETOWN	19.028%	\$34,441.27
IPSWICH	33.677%	\$60,956.40
NEWBURY	15.060%	\$27,259.07
ROWLEY	13.871%	\$25,106.94
WEST NEWBURY	10.109%	\$18,297.60
<b>TOTAL</b>		<b>\$181,003.09</b>


Assessments to the six (6) member towns have been predicated on the conscientious and accurate forecasts of needed revenue to meet the anticipated expenditures for FY2025. (July 1, 2024 through June 30, 2025).

Approved and signed Thursday, 29th day of February 2024


  
Michael Flynn, Chairman, Board of Directors---Town of Essex

  
Shen David Selectman---Town of Rowley

  
Douglas Dawes Selectman---Town of Georgetown

  
Linda Alexson Selectwoman---Town of Ipswich

  
Dana Packer Selectman---Town of Newbury

  
Ron Ross Representative---Town of West Newbury

  
Acknowledged by Steve Bolin, District Director

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2024 MAR 22 AM 11:42

**Note re FY25 budgeting: Pump-out cost are 75% reimbursed pursuant to a Clean Vessel Act grant.**

**TOWN OF SALISBURY AND  
TOWN OF WEST NEWBURY  
INTERMUNICIPAL AGREEMENT FOR THE  
ADMINISTRATION OF SHARED SERVICES**

**Article 1. Purpose**

This Agreement is entered into, pursuant to Massachusetts General Laws Chapter 40, Section 4A, by and between the Town of Salisbury, as authorized by its Town Manager and approved by its Board of Selectmen, and the Town of West Newbury, as authorized by its Town Manager and approved by its Select Board.

WHEREAS, the Town of Salisbury and the Town of West Newbury are each desirous of providing pump out boat services for their respective resident boaters on the Merrimack River; and

WHEREAS, the Town of West Newbury is desirous of providing enforcement of harbor regulations for their resident boaters on the Merrimack River; and

WHEREAS, the Town of Salisbury and the Town of West Newbury have determined that their residents can more efficiently and effectively be served with such services through a joint undertaking between the communities; and,

WHEREAS, the Town of Salisbury and the Town of West Newbury have determined to join together to establish and administer a program of shared pump out and enforcement services.

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, the parties agree as follows:

**Article 2. Definitions**

Harbormaster: The duly appointed Harbormaster of the Town of Salisbury.

Participating Governmental Units: The Town of Salisbury and the Town of West Newbury.

Pump out Services: The operation and maintenance of a vessel designed to extract vessel sewage in accordance with the Clean Vessel Act.

West Newbury Harbor Regulations: Section XXVI of the West Newbury Town Bylaws, "General Harbor Regulations," adopted May 12, 1993 with amendments through June 13, 2005, as may be amended.

### Article 3. Term

This Agreement shall take effect upon its approval and execution by the ~~Boards of Selectmen~~ Select Boards of the respective Participating Governmental Units, and shall expire on June 30, ~~2024~~2027. Either Participating Governmental Unit shall give notice in writing to the other at least ninety (90) days prior to the expiration date whether or not it wishes to extend this Agreement. Termination of the agreement can be initiated by either Participating Governmental Unit at any time within the agreed upon term with written notice of at least ninety (90) days.

### Article 4. Lead Town

The Town of Salisbury shall act as the "lead town" for the Participating Governmental Units, by employing the necessary officers and providing the necessary equipment in connection with the services as set forth hereafter. Said officers shall be considered employees of the Town of Salisbury and be accorded all applicable benefits enjoyed by other Salisbury municipal employees as they are or shall be established. The office where such employees shall be primarily located will be in Salisbury.

### Article 5. Funding Contribution

During ~~Fiscal Year 2025~~the term of the Agreement, the Town of West Newbury shall pay the Town of Salisbury two separate amounts for services provided by the Town of Salisbury.

#### a. Pump-Out Services

- During Fiscal Year 2025, The-the Town of West Newbury shall pay the Town of Salisbury for pump out services a total sum of not greater than ~~\$6,000.00~~\$7,000 to be paid upon receipt of invoices for services rendered.
- During Fiscal Year 2026, the Town of West Newbury shall pay the Town of Salisbury for pump out services a total sum of not greater than \$8,000 to be paid upon receipt of invoices for services rendered.
- During Fiscal Year 2027, the Town of West Newbury shall pay the Town of Salisbury for pump out services a total sum of not greater than \$9,000 to be paid upon receipt of invoices for services rendered.

#### b. Harbormaster Visibility/Enforcement Services

In addition, upon presentation of invoices by the Town of Salisbury, the Town of West Newbury shall pay the Town of Salisbury for enforcement of Harbor Regulations a total sum of \$2,500 in two equal payments of \$1,250.00 on or before July 31 and November 30 of each fiscal year of the Agreement, to be paid as a fixed fee for services provided pursuant to Article 7 below. These payments shall include all applicable expenses incurred by the Town of Salisbury in providing services on behalf of the Participating Governmental Units, including, but not limited to, wages and any other applicable benefits. Nothing herein shall prevent the parties from mutually agreeing in writing to change the funding contribution during the term of this Agreement, subject to available appropriation.

## Article 6. Financial Safeguards

Under the provisions of M.G.L. Chapter 40, §4A, the Town of Salisbury Harbormaster shall provide to the Town of West Newbury periodic financial statements that shall include: accurate and comprehensive records of the services performed under this agreement; the costs incurred; and the reimbursements and contributions received. Such reports shall be compiled and distributed by the Harbormaster on a quarterly basis. In addition, all bills and payrolls submitted for work done under this regional Agreement shall be plainly marked to indicate that the work was done under the authority of this Agreement.

## Article 7. Hours of Services and Service Requirements

The Town of Salisbury shall provide pump out services under this Agreement, [for vessels physically located in West Newbury](#), on an as-needed basis in accordance with Attachment A to the Town of West Newbury's Clean Vessel Act (CVA) grant agreement with the Commonwealth of Massachusetts, Division of Marine Fisheries, which is attached hereto and incorporated herein. In addition, on weekend days (including weekday holidays) during the boating season (May 15 - October 15), the Town of Salisbury shall conduct periodic patrols of the portion of the Merrimack River abutting West Newbury in order to establish a visible presence of the Harbormaster and to conduct enforcement activities pursuant to the West Newbury Harbor Regulations; provided, however, that such patrols may be suspended, upon the reasonable judgment of the Harbormaster, on days with inclement weather.

[At the beginning of the boating season, and on a periodic basis thereafter, the West Newbury Town Manager's office will provide the Town of Salisbury \(via the Harbormaster\) a list of dock and mooring locations that have been permitted by the Town. The Town of Salisbury shall report unpermitted structures and moorings to the West Newbury Town Manager's office if identified within its patrols.](#)

## Article 8. Vehicle Usage

The Town of West Newbury shall provide a pump out boat. This vehicle shall be made available for the use of the Salisbury Harbormaster. Collision and liability insurance for this vehicle shall be paid by the Town of West Newbury. Upon presentation of receipts for expenses incurred, the Town of Salisbury shall be reimbursed for reasonable costs, not to exceed \$500.00 within a fiscal year, associated with the garaging, maintenance and upkeep of West Newbury's pump out boat during the term of this Agreement.

## Article 9. Fees and Fines

Any fees or fines collected during the provision of pump-out or enforcement services will be collected on behalf of and returned to the Participating Governmental Unit from within the municipal boundaries of which the service is performed. All citations or warnings issued by the Salisbury Harbormaster within the portion of the Merrimack River abutting West Newbury shall be sent to the West Newbury Harbor Committee, care of the Town Manager's office, not later than [seven-five \(75\)](#) calendar days after the date of issuance of the citation or warning.

**Article 10. Indemnification**

In the event that any claims, demands, suits, causes of action, costs, and expenses arise with respect to the services provided pursuant to this Agreement, and to the extent permitted by Massachusetts General Laws chapter 258 and other applicable law, a Participating Governmental Unit shall indemnify, defend and hold harmless the other Participating Government Unit from and against any such claims, demands, suits, causes of actions, costs and expends, including reasonable attorneys' fees and legal costs, but only to the extent that they arise from or relate to the negligent acts or omissions of the first Participating Governmental Unit, or its agents, servants, or employees. By entering into this Agreement, neither of the parties has waived any governmental immunity or limitation of liability or damages which may be extended to them by operation of law. This Agreement is by and between the municipalities which have executed it and each states that the Agreement is intended for their mutual benefit alone and is not intended to confer any express or implied benefits on any other entity or person. This Agreement is not intended to confer third party beneficiary status on any person.

**Article 11. Miscellaneous**

- a) This Agreement may only be amended in writing by vote of both of the Participating Governmental Units. Should additional municipalities seek to join this program of shared pump out services, the terms agreed to herein, including apportionment of expenses, for such additional municipalities shall be negotiated and approved by both of the Participating Governmental Units.
- b) This Agreement represents the entire understanding of the parties with respect to its subject matter.
- c) This Agreement shall be governed by the laws of the Commonwealth of Massachusetts.
- d) If any of the provisions of this Agreement is declared to be illegal, unenforceable, or void, then both parties shall be relieved of all obligations under such provision, provided, however, that the remainder of the Agreement shall be enforced.

Witness our hands and seals as of this \_\_\_\_ day of \_\_\_\_\_, 2024.

TOWN OF WEST NEWBURY  
By its Select Board

TOWN OF SALISBURY  
By its Board of Selectmen

\_\_\_\_\_  
  
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\_\_\_\_\_

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\_\_\_\_\_  
  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Dated: \_\_\_\_\_

DRAFT

Annual OR Special Warrant Articles - Spring 2024 Town Meeting				Recommendations					
# <u>(DRAFT)</u> Article	Amt (if \$) DRAFT	Sponsor	Date of initial FinCom review	Select Board	FinCom	Rationale	Sunset Date (if applicable)	Notes	
3	\$ 200,000	Town Manager	3/25/24				n/a		
5	\$ 200,000	Town Manager	3/25/24				n/a	placeholder amount; \$200k to offset proposed increase in transfer to stabilization (from \$600k to \$800k)	
43	TBD	Town Manager	3/25/24					amt to be proposed for 3/25	
48	TBD	Town Manager	3/25/24					amt to be proposed for 3/25	
55	n/a	FinCom	2/26/24; and 3/25/24				n/a		
62	\$ 100,000	Citizen Petition	3/25/24						
63	n/a	Citizen Petition	3/25/24				n/a		
67	\$ 40,000	Town Manager	3/25/24					new article added to warrant on 3/11/24	



TOWN OF WEST NEWBURY  
TOWN MEETING CITIZEN PETITION ARTICLE FORM

*While not required, this form is the preferred method for a citizen to insert an Article on the Warrant for Town Meeting*

2024 JAN 18 PM 3:30

RECEIVED  
TOWN CLERK  
WEST NEWBURY, MA

**IMPORTANT**

1. Petitioner should consult with someone knowledgeable in municipal government, such as a lawyer, the Town Manager, or the Town Moderator before drafting a proposed Article and gathering the signatures to insert an Article on the Warrant
2. Petitioner will be listed as the sponsor of the Article on the Warrant and should be the first-named voter to sign this petition.
3. Selectmen will print the proposed Article in the Warrant verbatim; petitioner and citizens signing are advised to review the language carefully.
4. A word copy of this form is available by email from [townclerk@wnewbury.org](mailto:townclerk@wnewbury.org)

Petitioner's Name: Richard Baker

Tel. #: 978-257-4101 E-mail: richard\_a\_baker\_jr@yahoo.com

Address: 288 Middle Street, West Newbury

Proposed Title of Warrant Article: Conversion of the Mullen Property to Affordable Housing

**Brief Summary: (purpose or reason for the proposed Article – not required but helpful)**  
In 2005, the Town purchased the Mullen property for affordable housing. The State is now  
pressuring towns via the MBTA initiative and other programs to increase housing stock in the  
Town. This motion intends to meet both the MBTA Housing initiative as well as needs for  
affordable housing in West Newbury with a single development on the Mullen property. Ideally,  
this program will significantly increase affordable housing in West Newbury under the 40R  
program and meet the MBTA Housing requirements.

**Please complete this form and return it to the Town Clerk's Office. Attach the original forms with the required number of signatures\* with the proposed Warrant Article at the top of each sheet. The signatures must be received no later than 3:30 PM the day the Board of Selectmen closes the Warrant.**

**Submit this document and the petition to the Town Clerk's Office**

**\*ATM – 10 Certified Signatures Required**  
**\*STM – 100 Certified Signatures Required**  
**(Use extra forms if number of signatures exceeds allotted lines)**

*Petition Articles will be printed in the Warrant verbatim; citizens should review the form and instructions carefully.*

**Petition by the Voters of the Town of West Newbury**

DATE and TIME this paper received by Registrars

WEST NEWBURY CLERK  
3/25/24

Warrant Article Submission for the 20 24 Annual Town Meeting:

**ARTICLE** \_\_\_\_\_

To see if the Town will vote to transfer and/or appropriate from available funds the sum of \$100,000 to fund the costs associated with the creation of a district under MGL c. 40R for Town of West Newbury-owned lots identified on Assessors Maps as R13-131 (the Mullen property), R13-130 (the driveway for the Mullen property), and/or R10-34 (the Soldiers and Sailors property) (the "Properties"); to prepare an Request for Proposals (the "RPP") for the disposal of all or any portion of the Properties, said work to satisfy the requirements of the MBTA Housing Requirements as described in Section 3A of MGL c. 40A and with the goal of maximizing the number of possible affordable housing units; and to authorize the Selectmen to dispose, by sale or lease, all or any portion of the Properties, subject to the RPP and other procurement requirements; or take any other action related thereto.

**SIGNERS STATEMENT** - We are qualified voters of the Commonwealth of Massachusetts and of the Town of West Newbury.

**INSTRUCTIONS TO SIGNERS:**

Your signature should be written as substantially as registered. If you are prevented, by physical disability, from writing you may authorize some person to write your name and residence in your presence.

	I	II	III	
	Check	Signatures to be made in person with name substantially as registered (except in case of physical disability as stated above)	Now Living At (Street and Number)	Printed Name
1	✓	<i>[Signature]</i>	288 Middle St	Richard Baker
2	✓	<i>[Signature]</i>	20 Bridge St.	William Studzinski
3	✓	<i>[Signature]</i>	20 Bridge	Dawn Studzinski
4	✓	<i>[Signature]</i>	288 Middle St.	Leisa Mingo
5	✓	<i>[Signature]</i>	125 Main St.	KORETA HARRISAL
6	✓	<i>[Signature]</i>	5 Archelous Hill Rd	Catherine Dwan
7	✓	<i>[Signature]</i>	5 Archelous Hill Rd.	David Baker
8	✓	<i>[Signature]</i>	16 Spring Hill Rd	CAROLYN GRIFONI
9	✓	<i>[Signature]</i>	16 Spring Hill Rd	Joseph Grifoni Jr
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				

**Instructions to Registrars:**

You must time-stamp or write in date and time these papers are received.

Check the name of qualified voter to be certified. For names not certified, use the codes opposite.

N- no such registered voter at that address. or address is illegible

S- unable to identify signature as that of voter because of form of signature, or signature is illegible

W- wrong community.

T- already signed this petition.

<p><b>CERTIFICATION OF SIGNATURES</b></p> <p>We certify that <u>(9) nine</u> <u>1/16/24</u> signatures checked are names of voters of the Town of West Newbury and are qualified to sign this petition.</p>	<p>(at least three registrars' names must be signed or stamped below)</p> <p><i>[Signature]</i>  <i>[Signature]</i>                  Cheryl A. Grant</p> <p>Board of Registrars of the Town of West Newbury</p>
---	---

**Petition by the Voters of the Town of West Newbury**

DATE and TIME this paper received by Registrars  
 RECEIVED  
 TOWN CLERK  
 WEST NEWBURY, MA  
 2024 JAN 18 PM 3:30

Warrant Article Submission for the 2024 Annual Town Meeting:

ARTICLE \_\_\_\_\_

To see if the Town will vote to transfer and/or appropriate from available funds the sum of \$400,000 for the costs associated with the creation of a district under MGL c. 40R for Town of West Newbury-owned lots identified on Assessors Maps as R13-131(the Mullen property), R13-130(the driveway for the Mullen property), and/or R10-34(the Soldiers and Sailors property) (the "Properties"); to prepare an Request for Proposals (the "RFP") for the disposal of all or any portion of the Properties, said work to satisfy the requirements of the MBTA Housing Requirements as described in Section 3A of MGL c. 40A and with the goal of maximizing the number of possible affordable housing units; and to authorize the Selectmen to dispose, by sale or lease, all or any portion of the Properties, subject to the RFP and other procurement requirements; or take any other action related thereto.

**SIGNERS STATEMENT** - We are qualified voters of the Commonwealth of Massachusetts and of the Town of West Newbury.

**INSTRUCTIONS TO SIGNERS:**

Your signature should be written as substantially as registered. If you are prevented, by physical disability, from writing you may authorize some person to write your name and residence in your presence.

	I	II	III
Check	Signatures to be made in person with name substantially as registered (except in case of physical disability as stated above)	Now Living At (Street and Number)	Printed Name
1	✓ <i>Mark K. Powers</i>	211 Crane Neck St.	Mark K. Powers
2	✓ <i>Deborah L. Powers</i>	211 Crane Neck St.	Deborah L. Powers
3			
4			
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**Instructions to Registrars:**

You must time-stamp or write in date and time these papers are received.  
 Check the name of qualified voter to be certified.  
 For names not certified, use the codes opposite.

N- no such registered voter at that address. or address is illegible  
 S- unable to identify signature as that of voter because of form of signature, or signature is illegible  
 W- wrong community.  
 T- already signed this petition.

**CERTIFICATION OF SIGNATURES**  
 We certify that (2) Two 1/25/24  
 signatures checked are names of voters of the Town of West Newbury and are qualified to sign this petition.

(at least three registrars names must be signed or stamped below)  
*Cheryl A. Grant*  
*Rosamund A. Keator*  
*Margaret St...*  
 Board of Registrars of the Town of West Newbury

# Petition by the Voters of the Town of West Newbury

DATE and TIME this paper received by Registrars

RECD W. NEWBURY TOWN OFFICE  
24 JAN 16 PM 2024

Warrant Article Submission for the 2024 Annual Town Meeting:

ARTICLE \_\_\_\_\_

To see if the Town will vote to transfer and/or appropriate from available funds the sum of \$100,000 to fund the costs associated with the creation of a district under MGL c. 40R for Town of West Newbury-owned lots identified on Assessors Maps as R13-131 (the Mullen property), R13-130 (the driveway for the Mullen property), and/or R10-34 (the Soldiers and Sailors property) (the "Properties"); to prepare an Request for Proposals (the "RFP") for the disposal of all or any portion of the Properties, said work to satisfy the requirements of the MBTA Housing Requirements as described in Section 3A of MGL c. 40A and with the goal of maximizing the number of possible affordable housing units; and to authorize the Selectmen to dispose, by sale or lease, all or any portion of the Properties, subject to the RFP and other procurement requirements; or take any other action related thereto.

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Your signature should be written as substantially as registered. If you are prevented, by physical disability, from writing you may authorize some person to write your name and residence in your presence.

I

II

III

Check	Signatures to be made in person with name substantially as registered (except in case of physical disability as stated above)	Now Living At (Street and Number)	Printed Name
1	<i>Christine M. Cluney</i>	<i>12 Daley Dr.</i>	<i>CHRISTINE M. CLUNEY</i>
2	<i>John H. Cluney</i>	<i>12 DALEY DR</i>	<i>JOHN H. CLUNEY</i>
3			
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19			
20			<i>Cheryl A. Grant</i>

*Walter Grant*

*Cheryl A. Grant*  
*12 Daley Dr. West Newbury*

# Article 62 - Conversion of the Mullen Property to Housing

In 2005, the Town of West Newbury purchased the Mullen property for affordable housing. The State is now pressuring towns via the MBTA initiative and other programs to increase housing stock in the Town. This motion intends to meet both the MBTA Housing initiative as well as the need for affordable housing in West Newbury with a single development on the Mullen property. This program will significantly increase affordable housing in West Newbury under the 40R program and meet the MBTA Housing requirements.

## GOALS

- Provide housing for West Newbury seniors, recent graduates, and town employees
- Initiate one project to address
  - the Commonwealth's MBTA Communities Multi-Family Overlay District (Section 3A of MGL c. 40A) and
  - provide 5% towards the 10% Affordable Housing requirements to avoid MGL c. 40B projects (20% must be actual affordable housing but 100% of the units count toward the 40B requirements)

## VISION

- 75-85 one-bedroom apartments in 7 buildings
- Classic Essex County architecture, such as three-story Federalist buildings
- No control over what is built, but can be managed through the RFP process

## LOGISTICS

- Traffic – good access through Church Street and Main Street. Church Street access has good visibility
- Water – good access from water mains on Church Street and Main Street
- Septic – a 2008 proposal for the Mullen property shows support for 90 bedrooms
- Topography – Thirty-four acres of sloping land with five to ten acres of buildable area
- Access – Walking distance to the West Newbury Senior Center, Town Hall, two churches, Post Office, the Food Mart, Barber Shop, Haverhill Bank, and West Newbury Pizza Factory

## FINANCIAL ESTIMATES

- 2024 cost of \$100,000 for consultants to prepare zoning regulations and the RFP
- 2025 revenue of about \$2.5 Million from the sale of the property (7 building sites at \$350,000 building lot price in West Newbury)
- 2025-6 cash payments from the Commonwealth to West Newbury
  - \$250,000 bonus payment for 40R projects
  - \$75,000 incentive payment for 40R projects
  - Additional funds from the Commonwealth to offset education costs for students living on the property
- Annual tax revenue of \$100,000 per year

**ARTICLE 18.** To see if the town will vote to appropriate \$1,200,000.00 for the purchase of the following described parcel of land for general municipal purposes:

a certain parcel of land owned by Dorothy A. Mullen on Church Street, West Newbury, Essex County, Massachusetts, containing 34.19 acres more or less and shown on the Town of West Newbury Assessors' Map R-13 as Parcel 131.

and that to meet this appropriation The Treasurer with the approval of the Board of Selectmen is authorized to borrow an amount to be determined by the town pursuant to the vote of the town passed under Article 10 of the warrant for the November 13, 2000 Special Town Meeting, and to appropriate the balance from Free Cash to fund this appropriation, or to take whatever action relative thereto; and that the Board of Selectmen is authorized to take any other action necessary to carry out this project pursuant to such vote. By request of the Board of Selectmen.

**Selectmen Recommendation:**  
**FinCom Recommendation:**

**Approve 3-0-0**  
**Approve 3-1-0**

**Rationale:** This parcel is one of the last remaining large sized lots adjacent to the center of Town. By acquiring this land, the Town also acquires the right to determine how it will be utilized. Possible uses by the Town for this property are: Affordable Housing, Over-55 Housing or Open Space. There also is the possibility for Town well-fields on the property. If purchased by a private developer there are three likely scenarios. The first is (5) single-family lots. The second is (12) two-bedroom units. These two options are by-right and are working within existing Town subdivision regulations. The third option is a 40B development with up to (33) two-bedroom units and (1) one-bedroom unit. There also is the possibility of additional 40B alternatives that would support an even greater number of units.

The Town could acquire this property through the use of the existing land bond, with a small balance coming from free cash. The agreed upon purchase price is in line with property appraisals.

**ARTICLE 19.** To see if the town will vote to appropriate a sum of \$250,000.00 from Free Cash to fund an assessment for the Pentucket Regional School District. By request of the Pentucket Regional School Committee.

**Selectmen Recommendation:**  
**FinCom Recommendation:**

**Approve 2-1-0**  
**Disapprove 3-2-0**

**Rationale:** The Finance Committee understands that the PRSD budget is under great stress for a variety of reasons: fiscal mismanagement over the past several years that have resulted in a series of budget deficits, a significant increase in health insurance

2/3ls vote

**ARTICLE 18.**

I move that the town vote to appropriate \$1,200,000.00 for the purchase of the following described parcel of land for general municipal purposes:

A certain parcel of land owned by Dorothy A. Mullen on Church Street, West Newbury, Essex County, Massachusetts, containing 34.19 acres more or less, and shown on the Town of West Newbury Assessors' Map R-13 as Parcel 131;

and that to meet this appropriation the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow \$1,005,000.00, pursuant to the vote of the Town passed under Article 10 of the warrant for the November 13, 2000 Special Town Meeting, and to appropriate the balance of \$195,000.00 from Free Cash to fund this appropriation, and that the Board of Selectmen is authorized to take any other action necessary to carry out this project pursuant to such vote.

(23)

Anna O'Sullivan

**Signed**

FINCOM → rec's approval  
purposes - over 55, affordable housing or open space  
alternatives 5-6 single family lots.  
or unfriendly 40 B - 33 2 BR units

Motion to amend ⇒ P. Reeser → ruled out of order  
→ vote main motion down + then make new motion.

Nays ⇒ 160 + 25 = 41

Ayes ⇒ 65 + 62 = 127

Motion passes.

*2/3/25 vote*

**ARTICLE 18.** To see if the town will vote to appropriate \$1,200,000.00 for the purchase of the following described parcel of land for general municipal purposes:

a certain parcel of land owned by Dorothy A. Mullen on Church Street, West Newbury, Essex County, Massachusetts, containing 34.19 acres more or less and shown on the Town of West Newbury Assessors' Map R-13 as Parcel 131.

and that to meet this appropriation The Treasurer with the approval of the Board of Selectmen is authorized to borrow an amount to be determined by the town pursuant to the vote of the town passed under Article 10 of the warrant for the November 13, 2000 Special Town Meeting, and to appropriate the balance from Free Cash to fund this appropriation, or to take whatever action relative thereto; and that the Board of Selectmen is authorized to take any other action necessary to carry out this project pursuant to such vote. By request of the Board of Selectmen.





# Commonwealth of Massachusetts EXECUTIVE OFFICE OF HOUSING & LIVABLE COMMUNITIES

Maura T. Healey, Governor ♦ Kimberley Driscoll, Lieutenant Governor ♦ Edward M. Augustus, Jr., Secretary

Issue Date: August 10, 2022

Revised: October 21, 2022

Revised: August 17, 2023

## **Compliance Guidelines for Multi-family Zoning Districts Under Section 3A of the Zoning Act**

### **1. Overview of Section 3A of the Zoning Act**

Section 3A of the Zoning Act provides: *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.*

The purpose of Section 3A is to encourage the production of multi-family housing by requiring MBTA communities to adopt zoning districts where multi-family housing is allowed as of right, and that meet other requirements set forth in the statute.

The Executive Office of Housing and Livable Communities (EOHLC), in consultation with Executive Office of Economic Development, the Massachusetts Bay Transportation Authority and the Massachusetts Department of Transportation, is required to promulgate guidelines to determine if an MBTA community is in compliance with Section 3A. EOHLC promulgated preliminary guidance on January 29, 2021. EOHLC updated that preliminary guidance on December 15, 2021, and on that same date issued draft guidelines for public comment. These final guidelines supersede all prior guidance and set forth how MBTA communities may achieve compliance with Section 3A.

### **2. Definitions**

“Adjacent community” means an MBTA community that (i) has within its boundaries less than 100 acres of developable station area, and (ii) is not an adjacent small town.

“Adjacent small town” means an MBTA community that (i) has within its boundaries less than 100 acres of developable station area, and (ii) either has a population density of less than 500 persons per square mile, or a population of not more than 7,000 year-round residents as determined in the most recently published United States Decennial Census of Population and Housing.

“Affordable unit” means a multi-family housing unit that is subject to a restriction in its chain of title limiting the sale price or rent, or limiting occupancy to an individual or household of a specified income, or both. Affordable units may be, but are not required to be, eligible for inclusion on EOHLC’s Subsidized Housing Inventory. Nothing in these Guidelines changes the Subsidized Housing Inventory eligibility criteria, and no affordable unit shall be counted on the Subsidized Housing Inventory unless it satisfies the requirements for inclusion under 760 CMR 56.03(2) or any other regulation or guidance issued by EOHLC.

“Age-restricted housing” means any housing unit encumbered by a title restriction requiring a minimum age for some or all occupants.

“As of right” means development that may proceed under a zoning ordinance or by-law without the need for a special permit, variance, zoning amendment, waiver, or other discretionary zoning approval.

“Bus station” means a location with a passenger platform and other fixed infrastructure serving as a point of embarkation for the MBTA Silver Line. Upon the request of an MBTA community, EOHLC, in consultation with the MBTA, may determine that other locations qualify as a bus station if (i) such location has a sheltered platform or other fixed infrastructure serving a point of embarkation for a high-capacity MBTA bus line, and (ii) the area around such fixed infrastructure is highly suitable for multi-family housing.

“Commuter rail community” means an MBTA community that (i) does not meet the criteria for a rapid transit community, and (ii) has within its borders at least 100 acres of developable station area associated with one or more commuter rail stations.

“Commuter rail station” means any MBTA commuter rail station with year-round, rather than intermittent, seasonal, or event-based, service, including stations under construction and scheduled to being service before the end of 2023, but not including existing stations at which service will be terminated, or reduced below regular year-round service, before the end of 2023.

“Compliance model” means the model created by EOHLC to determine compliance with Section 3A’s reasonable size, gross density, and location requirements. The compliance model is described in further detail in Appendix 2.

“Determination of compliance” means a determination made by EOHLC as to whether an MBTA community has a multi-family zoning district that complies with the requirements of Section 3A. A determination of compliance may be determination of interim compliance or a determination of district compliance, as described in section 9.

“Developable land” means land on which multi-family housing can be permitted and constructed. For purposes of these guidelines, developable land consists of: (i) all privately-owned land except lots or portions of lots that meet the definition of excluded land, and (ii) developable public land.

“Developable public land” means any publicly-owned land that (i) is used by a local housing authority; (ii) has been identified as a site for housing development in a housing production plan

approved by EOHLC; or (iii) has been designated by the public owner for disposition and redevelopment. Other publicly-owned land may qualify as developable public land if EOHLC determines, at the request of an MBTA community and after consultation with the public owner, that such land is the location of obsolete structures or uses, or otherwise is suitable for conversion to multi-family housing, and will be converted to or made available for multi-family housing within a reasonable period of time.

“Developable station area” means developable land that is within 0.5 miles of a transit station.

“EOHLC” means the Executive Office of Housing and Livable Communities.

“EOED” means the Executive Office of Economic Development.

“Excluded land” means land areas on which it is not possible or practical to construct multi-family housing. For purposes of these guidelines, excluded land is defined by reference to the ownership, use codes, use restrictions, and hydrological characteristics in MassGIS and consists of the following:

- (i) All publicly-owned land, except for lots or portions of lots determined to be developable public land.
- (ii) All rivers, streams, lakes, ponds and other surface waterbodies.
- (iii) All wetland resource areas, together with a buffer zone around wetlands and waterbodies equivalent to the minimum setback required by title 5 of the state environmental code.
- (iv) Protected open space and recreational land that is legally protected in perpetuity (for example, land owned by a local land trust or subject to a conservation restriction), or that is likely to remain undeveloped due to functional or traditional use (for example, cemeteries).
- (v) All public rights-of-way and private rights-of-way.
- (vi) Privately-owned land on which development is prohibited to protect private or public water supplies, including, but not limited to, Zone I wellhead protection areas and Zone A surface water supply protection areas.
- (vii) Privately-owned land used for educational or institutional uses such as a hospital, prison, electric, water, wastewater or other utility, museum, or private school, college or university.

“Ferry terminal” means the location where passengers embark and disembark from regular, year-round MBTA ferry service.

“Gross density” means a units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial, and other nonresidential uses.

“Housing suitable for families” means housing comprised of residential dwelling units that are not age-restricted housing, and for which there are no zoning restriction on the number of bedrooms, the size of bedrooms, or the number of occupants.

“Listed funding sources” means (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 2E of chapter 29; and (iii) the MassWorks infrastructure program established in section 63 of chapter 23A.

“Lot” means an area of land with definite boundaries that is used or available for use as the site of a building or buildings.

“MassGIS data” means the comprehensive, statewide database of geospatial information and mapping functions maintained by the Commonwealth's Bureau of Geographic Information, within the Executive Office of Technology Services and Security, including the lot boundaries and use codes provided by municipalities.

“MBTA” means the Massachusetts Bay Transportation Authority.

“MBTA community” means a city or town that is: (i) one of the 51 cities and towns as defined in section 1 of chapter 161A; (ii) one of the 14 cities and towns as defined in said section 1 of said chapter 161A; (iii) other served communities as defined in said section 1 of said chapter 161A; or (iv) a municipality that has been added to the Massachusetts Bay Transportation Authority under section 6 of chapter 161A or in accordance with any special law relative to the area constituting the authority.

“Mixed-use development” means development containing a mix of residential uses and non-residential uses, including, without limitation, commercial, institutional, industrial or other uses.

“Mixed-use development zoning district” means a zoning district where multiple residential units are allowed as of right if, but only if, combined with non-residential uses, including, without limitation, commercial, institutional, industrial or other uses.

“Multi-family housing” means 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.

“Multi-family unit capacity” means an estimate of the total number of multi-family housing units that can be developed as of right within a multi-family zoning district, made in accordance with the requirements of section 5.b below.

“Multi-family zoning district” means a zoning district, including a base district or an overlay district, in which multi-family housing is allowed as of right; provided that the district shall be in a fixed location or locations, and shown on a map that is part of the zoning ordinance or by-law.

“One Stop Application” means the single application portal for the Community One Stop for Growth through which (i) the Executive Office of Housing and Economic Development considers requests for funding from the MassWorks infrastructure program; (ii) EOHLC considers requests for funding from the Housing Choice Initiative, (iii) EOED, EOHLC and other state agencies consider requests for funding from other discretionary grant programs.

“Private rights-of-way” means land area within which private streets, roads and other ways have been laid out and maintained, to the extent such land areas can be reasonably identified by examination of available tax parcel data.

“Publicly-owned land” means (i) any land owned by the United States or a federal agency or authority; (ii) any land owned by the Commonwealth of Massachusetts or a state agency or authority; and (iii) any land owned by a municipality or municipal board or authority.

“Public rights-of-way” means land area within which public streets, roads and other ways have been laid out and maintained, to the extent such land areas can be reasonably identified by examination of available tax parcel data.

“Rapid transit community” means an MBTA community that has within its borders at least 100 acres of developable station area associated with one or more subway stations, or MBTA Silver Line bus rapid transit stations.

“Residential dwelling unit” means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

“Section 3A” means section 3A of the Zoning Act.

“Sensitive land” means developable land that, due to its soils, slope, hydrology, or other physical characteristics, has significant conservation values that could be impaired, or vulnerabilities that could be exacerbated, by the development of multi-family housing. It also includes locations where multi-family housing would be at increased risk of damage caused by flooding. Sensitive land includes, but is not limited to, wetland buffer zones extending beyond the title 5 setback area; land subject to flooding that is not a wetland resource area; priority habitat for rare or threatened species; DEP-approved wellhead protection areas in which development may be restricted, but is not prohibited (Zone II and interim wellhead protection areas); and land areas with prime agricultural soils that are in active agricultural use.

“Site plan review” means a process established by local ordinance or by-law by which a local board reviews, and potentially imposes conditions on, the appearance and layout of a specific project prior to the issuance of a building permit.

“Subway station” means any of the stops along the MBTA Red Line, Green Line, Orange Line, or Blue Line, including any extensions to such lines now under construction and scheduled to begin service before the end of 2023.

“Transit station” means an MBTA subway station, commuter rail station, ferry terminal or bus station.

“Transit station area” means the land area within 0.5 miles of a transit station.

“Zoning Act” means chapter 40A of the Massachusetts General Laws.

### 3. **General Principles of Compliance**

These compliance guidelines describe how an MBTA community can comply with the requirements of Section 3A. The guidelines specifically address:

- What it means to allow multi-family housing “as of right.”
- The metrics that determine if a multi-family zoning district is “of reasonable size.”
- How to determine if a multi-family zoning district has 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.
- The meaning of Section 3A’s mandate that “such multi-family housing shall be without age restrictions and shall be suitable for families with children.”
- The extent to which MBTA communities have flexibility to choose the location of a multi-family zoning district.

The following general principles have informed the more specific compliance criteria that follow:

- MBTA communities with subway stations, commuter rail stations and other transit stations benefit from having these assets located within their boundaries and should provide opportunity for multi-family housing development around these assets. MBTA communities with no transit stations within their boundaries benefit from proximity to transit stations in nearby communities.
- The multi-family zoning districts required by Section 3A should encourage the development of multi-family housing projects of a scale, density and aesthetic that are compatible with existing surrounding uses, and minimize impacts to sensitive land.
- “Reasonable size” is a relative rather than an absolute determination. Because of the diversity of MBTA communities, a multi-family zoning district that is “reasonable” in one city or town may not be reasonable in another city or town.
- When possible, multi-family zoning districts should be in areas that have safe, accessible, and convenient access to transit stations for pedestrians and bicyclists.

### 4. **Allowing Multi-Family Housing “As of Right”**

To comply with Section 3A, a multi-family zoning district must allow multi-family housing “as of right,” meaning that the construction and occupancy of multi-family housing is allowed in that district without the need for a special permit, variance, zoning amendment, waiver, or other discretionary approval. EOHLC will determine whether zoning provisions allow for multi-family housing as of right consistent with the following guidelines.

a. *Site plan review*

The Zoning Act does not establish nor recognize site plan review as an independent method of regulating land use. However, the Massachusetts courts have recognized site plan review as a permissible regulatory tool, including for uses that are permitted as of right. The court decisions establish that when site plan review is required for a use permitted as of right, site plan review involves the regulation of a use and not its outright prohibition. The scope of review is therefore limited to imposing reasonable terms and conditions on the proposed use, consistent with applicable case law.<sup>1</sup> These guidelines similarly recognize that site plan review may be required for multi-family housing projects that are allowed as of right, within the parameters established by the applicable case law. Site plan approval may regulate matters such as vehicular access and circulation on a site, architectural design of a building, and screening of adjacent properties. Site plan review should not unreasonably delay a project nor impose conditions that make it infeasible or impractical to proceed with a project that is allowed as of right and complies with applicable dimensional regulations.

b. *Affordability requirements*

Section 3A does not include any express requirement or authorization for an MBTA community to require affordable units in a multi-family housing project that is allowed as of right. It is a common practice in many cities and towns to require affordable units in a multi-family project that requires a special permit, or as a condition for building at greater densities than the zoning otherwise would allow. These inclusionary zoning requirements serve the policy goal of increasing affordable housing production. If affordability requirements are excessive, however, they can make it economically infeasible to construct new multi-family housing.

For purposes of making compliance determinations with Section 3A, EOHLC 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, EOHLC may, in its discretion, approve a greater percentage of affordable units, or deeper affordability for some or all of the affordable units, in either of the following circumstances:

- (i) The affordability requirements applicable in the multi-family zoning district are reviewed and approved by EOHLC as part of a smart growth district under chapter 40R, or under another zoning incentive program administered by EOHLC; or
- (ii) The affordability requirements applicable in the multi-family zoning district are supported by an economic feasibility analysis, prepared for the municipality by a qualified and independent third party acceptable to EOHLC, and using a methodology and format acceptable to EOHLC. The analysis must demonstrate that a reasonable

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<sup>1</sup> See, e.g., *Y.D. Dugout, Inc. v. Board of Appeals of Canton*, 357 Mass. 25 (1970); *Prudential Insurance Co. of America v. Board of Appeals of Westwood*, 23 Mass. App. Ct. 278 (1986); *Osberg v. Planning Bd. of Sturbridge*, 44 Mass. App. Ct. 56, 59 (1997) (Planning Board “may impose reasonable terms and conditions on the proposed use, but it does not have discretionary power to deny the use”).

variety of multi-family housing types can be feasibly developed at the proposed affordability levels, taking into account the densities allowed as of right in the district, the dimensional requirements applicable within the district, and the minimum number of parking spaces required.

In no case will EOHLC approve alternative affordability requirements that require more than 20 percent of the units in a project to be affordable units, except in a smart growth zoning district under chapter 40R with a 25 percent affordability requirement approved and adopted prior to the issuance of these guidelines, including any such existing district that is expanded or amended to comply with these guidelines.

c. *Other requirements that do not apply uniformly in the multi-family zoning district*

Zoning will not be deemed compliant with Section 3A’s requirement that multi-family housing be allowed as of right if the zoning imposes requirements on multi-family housing that are not generally applicable to other uses. The following are examples of requirements that would be deemed to be inconsistent with “as of right” use: (i) a requirement that multi-family housing meet higher energy efficiency standards than other uses; (ii) a requirement that a multi-family use achieve a third party certification that is not required for other uses in the district; and (iii) a requirement that multi-family use must be combined with commercial or other uses on the same lot or as part of a single project. Mixed use projects may be allowed as of right in a multi-family zoning district, as long as multi-family housing is separately allowed as of right.

**5. Determining “Reasonable Size”**

In making determinations of “reasonable size,” EOHLC will take into consideration both the land area of the multi-family zoning district, and the multi-family zoning district’s multi-family unit capacity.

a. *Minimum land area*

A zoning district is a specifically delineated land area with uniform regulations and requirements governing the use of land and the placement, spacing, and size of buildings. For purposes of compliance with Section 3A, a multi-family zoning district should be a neighborhood-scale district, not a single development site on which the municipality is willing to permit a particular multi-family project. EOHLC will certify compliance with Section 3A only if an MBTA community’s multi-family zoning district meets the minimum land area applicable to that MBTA community, if any, as set forth in Appendix 1. The minimum land area for each MBTA community has been determined as follows:

- (i) In rapid transit communities, commuter rail communities, and adjacent communities, the minimum land area of the multi-family zoning district is 50 acres, or 1.5% of the developable land in an MBTA community, whichever is *less*. In certain cases, noted in Appendix 1, a smaller minimum land area applies.
- (ii) In adjacent small towns, there is no minimum land area. In these communities, the multi-family zoning district may comprise as many or as few acres as the community



determines is appropriate, as long as the district meets the applicable minimum multi-family unit capacity and the minimum gross density requirements.

In all cases, at least half of the multi-family zoning district land areas must comprise contiguous lots of land. No portion of the district that is less than 5 contiguous acres land will count toward the minimum size requirement. If the multi-family unit capacity and gross density requirements can be achieved in a district of fewer than 5 acres, then the district must consist entirely of contiguous lots.

b. *Minimum multi-family unit capacity*

A reasonably sized multi-family zoning district must also be able to accommodate a reasonable number of multi-family housing units as of right. For purposes of determinations of compliance with Section 3A, EOHLIC will consider a reasonable multi-family unit capacity for each MBTA community to be a specified percentage of the total number of housing units within the community, with the applicable percentage based on the type of transit service in the community, as shown on Table 1:

Table 1.

<b><u>Category</u></b>	<b><u>Percentage of total housing units</u></b>
Rapid transit community	25%
Commuter rail community	15%
Adjacent community	10%
Adjacent small town	5%

To be deemed in compliance with Section 3A, each MBTA community must have a multi-family zoning district with a multi-family unit capacity equal to or greater than the minimum unit capacity shown for it in Appendix 1. The minimum multi-family unit capacity for each MBTA community has been determined as follows:

- (i) First, by multiplying the number of housing units in that community by 0.25, 0.15, 0.10, or .05 depending on the MBTA community category. For example, a rapid transit community with 7,500 housing units is required to have a multi-family zoning district with a multi-family unit capacity of  $7,500 \times 0.25 = 1,875$  multi-family units. For purposes of these guidelines, the number of total housing units in each MBTA community has been established by reference to the most recently published United States Decennial Census of Population and Housing.
- (ii) Second, when there is a minimum land area applicable to an MBTA community, by multiplying that minimum land area (up to 50 acres) by Section 3A’s minimum gross density requirement of 15 units per acre. The product of that multiplication creates a floor on multi-family unit capacity. For example, an MBTA community with a minimum land area of 40 acres must have a district with a multi-family unit capacity of at least 600 (40 x 15) units.
- (iii) The minimum unit capacity applicable to each MBTA community is *the greater of* the numbers resulting from steps (i) and (ii) above, but subject to the following limitation: In no case does the minimum multi-family unit capacity exceed 25% of the total housing

units in that MBTA community.

*Example: The minimum multi-family unit capacity for an adjacent community with 1,000 housing units and a minimum land area of 50 acres is determined as follows: (i) first, by multiplying  $1,000 \times .1 = 100$  units; (ii) second, by multiplying  $50 \times 15 = 750$  units; (iii) by taking the larger number, but adjusting that number down, if necessary, so that unit capacity is no more than 25% of 1,000 = 250 units. In this case, the adjustment in step (iii) results in a minimum unit capacity of 250 units.*

*c. Reasonable Size – Consideration Given to Unit Capacity in Mixed-Use Development Districts*

In making determinations of whether an MBTA Community has a multi-family zoning district of “reasonable size” under this section, EOHLC shall also take into consideration the existence and impact of mixed-use development zoning districts, subject to the requirements below.

EOHLC shall take these mixed-use development districts into consideration as reducing the unit capacity needed for a multi-family zoning district to be “reasonable” (as listed in Appendix I) where:

- (i) the mixed-use development zoning district is in an eligible location where existing village-style or downtown development is essential to preserve pedestrian access to amenities;
- (ii) there are no age restrictions or limits on unit size, number of bedrooms, bedroom size or number of occupants and the residential units permitted are suitable for families with children;
- (iii) mixed-used development in the district is allowed “as of right” as that phrase has been interpreted by EOHLC (for example, in section 4(c) with respect to affordability requirements);
- (iv) the requirement for non-residential uses is limited to the ground floor of buildings, and in no case represents a requirement that more than thirty-three percent of the floor area of a building, lot, or project must be for non-residential uses;
- (v) the requirement for non-residential uses does not preclude a minimum of three residential dwelling units per lot;
- (vi) the requirement for non-residential uses allows a broad mix of non-residential uses as-of-right in keeping with the nature of the area; and
- (vii) there are no minimum parking requirements associated with the non-residential uses allowed as of right.

An MBTA community asking to reduce the unit capacity requirement for its multi-family zoning district(s) based on the unit capacity for one or more mixed-use development districts shall submit to EOHLC, on a form to be provided by EOHLC, a request for a determination that the mixed-use development district is in an eligible location meeting the requirements of subparagraph (i). This request must be submitted at least 90 days prior to the vote of the MBTA community’s legislative body.

An MBTA community also may submit a broader inquiry as to Section 3A compliance in accordance with section 9(b). EOHLC shall respond prior to the vote of the MBTA community’s legislative body if the request is timely submitted.

In any community with both a multi-family zoning district and a mixed-use development district that meets these considerations, the unit capacity requirement for the multi-family zoning district listed in Appendix I shall be reduced by the lesser of

- (i) the unit capacity of residential dwelling units in the mixed-use development district or subdistrict (as calculated by EOHLC using a methodology similar to that in section 5(d) which takes into account the impact of non-residential uses), or
- (ii) twenty five percent of the unit capacity requirement listed in Appendix I. This consideration shall not affect the minimum land area acreage or contiguity requirements for a multi-family zoning district otherwise required by these Guidelines.

d. *Methodology for determining a multi-family zoning district’s multi-family unit capacity*

MBTA communities seeking a determination of compliance must use the EOHLC compliance model to provide an estimate of the number of multi-family housing units that can be developed as of right within the multi-family zoning district. The multi-family unit capacity of an existing or proposed district shall be calculated using the unit capacity worksheet described in Appendix 2. This worksheet produces an estimate of a district’s multi-family unit capacity using inputs such as the amount of developable land in the district, the dimensional requirements applicable to lots and buildings (including, for example, height limitations, lot coverage limitations, and maximum floor area ratio), and the parking space requirements applicable to multi-family uses.

Minimum unit capacity is a measure of whether a multi-family zoning district is of a reasonable size, not a requirement to produce housing units. Nothing in Section 3A or these guidelines should be interpreted as a mandate to construct a specified number of housing units, nor as a housing production target. Demonstrating compliance with the minimum multi-family unit capacity requires only that an MBTA community show that the zoning allows multi-family housing as of right and that a sufficient number of multi-family housing units could be added to or replace existing uses and structures over time—even though such additions or replacements may be unlikely to occur soon.

If an MBTA community has two or more zoning districts in which multi-family housing is allowed as of right, then two or more districts may be considered cumulatively to meet the minimum land area and minimum multi-family unit capacity requirements, as long as each district independently complies with Section 3A’s other requirements.

e. *Water and wastewater infrastructure within the multi-family zoning district*

MBTA communities are encouraged to consider the availability of water and wastewater infrastructure when selecting the location of a new multi-family zoning district. But compliance with Section 3A does not require a municipality to install new water or wastewater infrastructure, or add to the capacity of existing infrastructure, to accommodate future multi-family housing production within

the multi-family zoning district. In most cases, multi-family housing can be created using private septic and wastewater treatment systems that meet state environmental standards. Where public systems currently exist, but capacity is limited, private developers may be able to support the cost of necessary water and sewer extensions. While the zoning must allow for gross average density of at least 15 units per acre, there may be other legal or practical limitations, including lack of infrastructure or infrastructure capacity, that result in actual housing production at lower density than the zoning allows.

The multi-family unit capacity analysis does not need to take into consideration limitations on development resulting from existing water or wastewater infrastructure within the multi-family zoning district, or, in areas not served by public sewer, any applicable limitations under title 5 of the state environmental code. For purposes of the unit capacity analysis, it is assumed that housing developers will design projects that work within existing water and wastewater constraints, and that developers, the municipality, or the Commonwealth will provide funding for infrastructure upgrades as needed for individual projects.

## **6. Minimum Gross Density**

Section 3A expressly requires that a multi-family zoning district—not just the individual lots of land within the district—must 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. The Zoning Act defines “gross density” as “a units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial and other nonresidential uses.”

### *a. District-wide gross density*

To meet the district-wide gross density requirement, the dimensional restrictions and parking requirements for the multi-family zoning district must allow for a gross density of 15 units per acre of land within the district. By way of example, to meet that requirement for a 40-acre multi-family zoning district, the zoning must allow for at least 15 multi-family units per acre, or a total of at least 600 multi-family units.

For purposes of determining compliance with Section 3A’s gross density requirement, the EOHLIC compliance model will not count in the denominator any excluded land located within the multi-family zoning district, except public rights-of-way, private rights-of-way, and publicly-owned land used for recreational, civic, commercial, and other nonresidential uses. This method of calculating minimum gross density respects the Zoning Act’s definition of gross density—“a units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial and other nonresidential uses”—while making it unnecessary to draw patchwork multi-family zoning districts that carve out wetlands and other types of excluded land that are not developed or developable.

### *b. Achieving district-wide gross density by sub-districts*

Zoning ordinances and by-laws typically limit the unit density on individual lots. To comply with Section 3A’s gross density requirement, an MBTA community may establish reasonable sub-

districts within a multi-family zoning district, with different density limits for each sub-district, provided that the gross density for the district as a whole meets the statutory requirement of not less than 15 multi-family units per acre. EOHLC will review sub-districts to ensure that the density allowed as of right in each sub-district is reasonable and not intended to frustrate the purpose of Section 3A by allowing projects of a such high density that they are not likely to be constructed.

c. *Wetland and septic considerations relating to density*

Section 3A provides that a district of reasonable size shall 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.” This directive means that even though the zoning district must permit 15 units per acre as of right, any multi-family housing produced within the district is subject to, and must comply with, the state wetlands protection act and title 5 of the state environmental code—even if such compliance means a proposed project will be less dense than 15 units per acre.

7. **Determining Suitability for Families with Children**

Section 3A states that a compliant multi-family zoning district must allow multi-family housing as of right, and that “such multi-family housing shall be without age restrictions and shall be suitable for families with children.” EOHLC will deem a multi-family zoning district to comply with these requirements as long as the zoning does not require multi-family uses to include units with age restrictions, and does not limit or restrict the size of the units, cap the number of bedrooms, the size of bedrooms, or the number of occupants, or impose a minimum age of occupants. Limits, if any, on the size of units or number of bedrooms established by state law or regulation are not relevant to Section 3A or to determinations of compliance made pursuant to these guidelines.

8. **Location of Districts**

a. *General rule for determining the applicability of Section 3A’s location requirement*

Section 3A states that a compliant multi-family zoning district shall “be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.” When an MBTA community has only a small amount of transit station area within its boundaries, it may not be possible or practical to locate all of the multi-family zoning district within 0.5 miles of a transit station. Transit station area may not be a practical location for a multi-family zoning district if it does not include developable land where multi-family housing can actually be constructed. Therefore, for purposes of determining compliance with Section 3A, EOHLC will consider the statute’s location requirement to be “applicable” to a particular MBTA community only if that community has within its borders at least 100 acres of developable station area. EOHLC will require more or less of the multi-family zoning district to be located within transit station areas depending on how much total developable station area is in that community, as shown on Table 2:

Table 2.

<u>Total developable station area within the MBTA community (acres)</u>	<u>Portion of the multi-family zoning district that must be within a transit station area</u>
0-100	0%
101-250	20%
251-400	40%
401-600	50%
601-800	75%
801+	90%

The percentages specified in this table apply to both the minimum land area and the minimum multi-family unit capacity. For example, in an MBTA community that has a total of 500 acres of transit station area within its boundaries, a multi-family zoning district will comply with Section 3A’s location requirement if at least 50 percent of the district’s minimum land area is located within the transit station area, *and* at least 50 percent of the district’s minimum multi-family unit capacity is located within the transit station area.

A community with transit station areas associated with more than one transit station may locate the multi-family zoning district in any of the transit station areas. For example, a rapid transit community with transit station area around a subway station in one part of town, and transit station area around a commuter rail station in another part of town, may locate its multi-family zoning district in either or both transit station areas.

*b. MBTA communities with limited or no transit station area*

When an MBTA community has less than 100 acres of developable station area within its boundaries, the MBTA community may locate the multi-family zoning district anywhere within its boundaries. To encourage transit-oriented multi-family housing consistent with the general intent of Section 3A, MBTA communities are encouraged to consider locating the multi-family zoning district in an area with reasonable access to a transit station based on existing street patterns, pedestrian connections, and bicycle lanes, or in an area that qualifies as an “eligible location” as defined in Chapter 40A—for example, near an existing downtown or village center, near a regional transit authority bus stop or line, or in a location with existing under-utilized facilities that can be redeveloped into new multi-family housing.

*c. General guidance on district location applicable to all MBTA communities*

When choosing the location of a new multi-family zoning district, every MBTA community should consider how much of a proposed district is sensitive land on which permitting requirements and other considerations could make it challenging or inadvisable to construct multi-family housing. For example, an MBTA community may want to avoid including in a multi-family zoning district areas that are subject to flooding, or are known habitat for rare or threatened species, or have prime agricultural soils in active agricultural use.

**9. Determinations of Compliance**

Section 3A provides that any MBTA community that fails to comply with Section 3A’s requirements will be ineligible for funding from any of the listed funding sources. EOHLC will make determinations of compliance with Section 3A in accordance with these guidelines to inform state agency decisions on which MBTA communities are eligible to receive funding from the listed funding sources. The following discretionary grant programs will take compliance with Section 3A into consideration when making grant award recommendations:

- i. Community Planning Grants, EOHLC,
- ii. Massachusetts Downtown Initiative, EOED,
- iii. Urban Agenda, EOED,
- iv. Rural and Small Town Development Fund, EOED,
- v. Brownfields Redevelopment Fund, MassDevelopment,
- vi. Site Readiness Program, MassDevelopment,
- vii. Underutilized Properties Program, MassDevelopment,
- viii. Collaborative Workspace Program, MassDevelopment,
- ix. Real Estate Services Technical Assistance, MassDevelopment,
- x. Commonwealth Places Programs, MassDevelopment,
- xi. Land Use Planning Grants, EOEEA,
- xii. Local Acquisitions for Natural Diversity (LAND) Grants, EOEEA, and
- xiii. Municipal Vulnerability Preparedness (MVP) Planning and Project Grants, EOEEA

Determinations of compliance also may inform other funding decisions by EOED, EOHLC, the MBTA and other state agencies which consider local housing policies when evaluating applications for discretionary grant programs or making other discretionary funding decisions.

EOHLC interprets Section 3A as allowing every MBTA community a reasonable opportunity to enact zoning amendments as needed to come into compliance. Accordingly, EOHLC will recognize both *interim* compliance, which means an MBTA community is taking active steps to enact a multi-family zoning district that complies with Section 3A, and *district* compliance, which is achieved when EOHLC determines that an MBTA community has a multi-family zoning district that complies with Section 3A. The requirements for interim and district compliance are described in more detail below.

Table 3.

<b>Transit Category (# of municipalities)</b>	<b>Deadline to Submit Action Plan</b>	<b>Deadline to Submit District Compliance Application</b>
Rapid transit community (12)	January 31, 2023	December 31, 2023
Commuter rail community (71)	January 31, 2023	December 31, 2024
Adjacent community (58)	January 31, 2023	December 31, 2024
Adjacent small town (34)	January 31, 2023	December 31, 2025

- a. *Process to achieve interim compliance*

Many MBTA communities do not currently have a multi-family zoning district of reasonable size that complies with the requirements of Section 3A. Prior to achieving district compliance (but no later than the deadlines set forth in Table 3), these MBTA communities can achieve interim compliance by taking the following affirmative steps towards the creation of a compliant multi-family zoning district.

- i. *Creation and submission of an action plan.* An MBTA community seeking to achieve interim compliance must first submit an action plan on a form to be provided by EOHLC. An MBTA community action plan must provide information about current zoning, past planning for multi-family housing, if any, and potential locations for a multi-family zoning district. The action plan also will require the MBTA community to establish a timeline for various actions needed to create a compliant multi-family zoning district.
  - ii. *EOHLC approval of an action plan.* EOHLC will review each submitted action plan for consistency with these guidelines, including but not limited to the timelines in Table 3. If EOHLC determines that the MBTA community's action plan is reasonable and will lead to district compliance in a timely manner, EOHLC will issue a determination of interim compliance. EOHLC may require modifications to a proposed action plan prior to approval.
  - iii. *Implementation of the action plan.* After EOHLC approves an action plan and issues a determination of interim compliance, an MBTA community must diligently implement the action plan. EOHLC may revoke a determination of interim compliance if an MBTA community has not made sufficient progress in implementing an approved action plan. EOHLC and EOED will review an MBTA community's progress in implementing its action plan prior to making an award of funds under the Housing Choice Initiative and Massworks infrastructure program.
  - iv. *Deadlines for submitting action plans.* To achieve interim compliance for grants made through the 2023 One Stop Application, action plans must be submitted by no later than January 31, 2023. An MBTA community that does not submit an action plan by that date may not receive a EOHLC determination of interim compliance in time to receive an award of funds from the listed funding sources in 2023. An MBTA community that does not achieve interim compliance in time for the 2023 One Stop Application may submit an action plan to become eligible for a subsequent round of the One Stop Application, provided that an action plan must be submitted by no later than January 31 of the year in which the MBTA community seeks to establish grant eligibility; and provided further that no action plan may be submitted or approved after the applicable district compliance application deadline set forth in Table 3.
- b. *Assistance for communities implementing an action plan.*

MBTA communities are encouraged to communicate as needed with EOHLC staff throughout the process of implementing an action plan, and may inquire about whether a proposed multi-family zoning district complies with Section 3A prior to a vote by the municipal legislative body to create or



modify such a district. Such requests shall be made on a form to be provided by EOHLIC. If a request is submitted at least 90 days prior to the vote of the legislative body, EOHLIC shall respond prior to the vote.

*c. Requests for determination of district compliance*

When an MBTA community believes it has a multi-family zoning district that complies with Section 3A, it may request a determination of district compliance from EOHLIC. Such a request may be made for a multi-family zoning district that was in existence on the date that Section 3A became law, or for a multi-family zoning district that was created or amended after the enactment of Section 3A. In either case, such request shall be made on an application form required by EOHLIC and shall include, at a minimum, the following information. Municipalities will need to submit:

- (i) A certified copy of the municipal zoning ordinance or by-law and zoning map, including all provisions that relate to uses and structures in the multi-family zoning district.
- (ii) An estimate of multi-family unit capacity using the compliance model.
- (iii) GIS shapefile for the multi-family zoning district.
- (iv) In the case of a by-law enacted by a town, evidence that the clerk has submitted a copy of the adopted multi-family zoning district to the office of the Attorney General for approval as required by state law, or evidence of the Attorney General's approval.

After receipt of a request for determination of district compliance, EOHLIC will notify the requesting MBTA community within 30 days if additional information is required to process the request. Upon reviewing a complete application, EOHLIC will provide the MBTA community a written determination either stating that the existing multi-family zoning district complies with Section 3A, or identifying the reasons why the multi-family zoning district fails to comply with Section 3A and the steps that must be taken to achieve compliance. An MBTA community that has achieved interim compliance prior to requesting a determination of district compliance shall remain in interim compliance for the period during which a request for determination of district compliance, with all required information, is pending at EOHLIC.

**10. Ongoing Obligations; Rescission of a Determination of Compliance**

After receiving a determination of compliance, an MBTA community must notify EOHLIC in writing of any zoning amendment or proposed zoning amendment that affects the compliant multi-family zoning district, or any other by-law, ordinance, rule or regulation that limits the development of multi-family housing in the multi-family zoning district. EOHLIC may rescind a determination of district compliance, or require changes to a multi-family zoning district to remain in compliance, if EOHLIC determines that:

- (i) The MBTA community submitted inaccurate information in its application for a determination of compliance;
- (ii) The MBTA community failed to notify EOHLIC of a zoning amendment that affects the multi-family zoning district;

- (iii) The MBTA community enacts or amends any by-law or ordinance, or other rule or regulation, that materially alters the minimum land area and/or the multi-family unit capacity in the multi-family zoning district;
- (iv) A board, authority or official in the MBTA community does not issue permits, or otherwise acts or fails to act, to allow construction of a multi-family housing project that is allowed as of right in the multi-family zoning district (or any mixed-use zoning development district taken into account in determining the required multi-family unit capacity in the multi-family zoning district);
- (v) The MBTA community takes other action that causes the multi-family zoning district to no longer comply with Section 3A; or
- (vi) An MBTA community with an approved multi-family zoning district has changed transit category as a result of a newly opened or decommissioned transit station, or the establishment of permanent, regular service at a transit station where there was formerly intermittent or event-based service.

## **11. Changes to MBTA Service**

Section 3A applies to the 177 MBTA communities identified in section 1A of the Zoning Act and section 1 of chapter 161A of the General Laws. When MBTA service changes, the list of MBTA communities and/or the transit category assignments of those MBTA communities in Appendix 1 may change as well.

The transit category assignments identified in Appendix 1 of these guidelines reflect certain MBTA service changes that will result from new infrastructure now under construction in connection with the South Coast Rail and Green Line Extension projects. These service changes include the opening of new Green Line stations and commuter rail stations, as well as the elimination of regular commuter rail service at the Lakeville station. These changes are scheduled to take effect in all cases a year or more before any municipal district compliance deadline. Affected MBTA communities are noted in Appendix 1.

Municipalities that are not now identified as MBTA communities and may be identified as such in the future are not addressed in these guidelines or included in Appendix 1. New MBTA communities will be addressed with revisions to Appendix 1, and separate compliance timelines, in the future.

Future changes to Silver Line routes or stations may change district location requirements when expanded high-capacity service combined with new facilities creates a bus station where there was not one before. Changes to other bus routes, including the addition or elimination of bus stops or reductions or expansions of bus service levels, do not affect the transit categories assigned to MBTA communities and will not affect location requirements for multi-family zoning districts. Any future changes to MBTA transit service, transit routes and transit service levels are determined by the MBTA Board of Directors consistent with the MBTA's Service Delivery Policy.

### **List of Appendices:**

Appendix 1: MBTA Community Categories and Requirements

Appendix 2: Compliance Methodology/Model

# The Use of Chapter 40R in Massachusetts

## 2018 UPDATE



PREPARED BY

CITIZENS' HOUSING AND PLANNING  
ASSOCIATION, INC.

MAY 2018



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# Executive Summary

Since 2004, when the state law Chapter 40R was passed authorizing incentives to encourage municipalities to zone for dense developments in smart growth locations, over 15,000 units have been zoned and 3,500 homes have been built in 40R districts.

Chapter 40R is unlike any other state housing program. Communities are directly paid for zoning for and permitting smart growth development. Municipalities receive a zoning incentive payment of \$10,000-\$600,000 when they create a 40R overlay followed by a bonus unit payment of \$3,000 per unit when developments receive building permits. To date, zoning incentive and bonus unit payments have totaled \$20.2 million. A companion law, Chapter 40S, provides state reimbursement for school costs not covered by taxes generated by 40R projects; reimbursements to date have totaled \$2 million.

Chapter 40R provides strong incentives to address local resistance to compact development and affordable housing. While there is much to celebrate, the law is not fully achieving its potential. Chapter 40R has proven to be a helpful tool to communities that complements other housing production tools, such as the state's affordable housing law, Chapter 40B. This report demonstrates that incentives alone will not produce the number of homes necessary to meet demand and grow the Massachusetts economy. Together, with requirements such as Chapter 40B, the Commonwealth will get closer to achieving the state's housing needs. More tools, such as additional requirements for multifamily zoning in communities and other incentives such as the new Housing Choice Initiative launched by Governor Charlie Baker in 2017, will be needed to provide the support for communities to plan for the number of homes needed to meet the needs of residents and grow the Massachusetts economy.

## Key Findings

- 37 of the state's 351 municipalities have created 42 districts, authorizing over 15,000 "future zoned units."
- Of the 38 districts created by 2015, nine are fully built out, sixteen have had some construction, four have approved projects and nine have had no construction.
- A total of 3,500 homes have been built or are under construction. During the same period (2007-2017), over 20,000 homes were produced in over 100 municipalities using Chapter 40B permitting, including 4,400 units in municipalities with 40R districts.
- Many of the largest 40R sites are in older cities and other locations that need remediation funds, housing subsidies, and historic tax credits, all of which lengthen the time required to get to production.
- While almost one-half of the units produced to date have been affordable, the range of opportunities created has been uneven. Most units have been for small households with only 4% having three or more bedrooms.
- Many of the early 40R districts were areas where development plans were already in place, under discussion, or even approved. In fact, approximately one-half of these units would likely have been built without Chapter 40R.
- While 40R has accomplished denser development, many projects do not appear to provide a variety of transportation choices, with 50% of units



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to date in car-dependent locations, in part due to the early definition of “otherwise highly suitable location.”

- At least 40 additional municipalities considered creating or adding districts, but did not due to a variety of reasons ranging from locations not being eligible, votes falling short of the two-thirds majority required, fear of losing local control, or inadequate infrastructure.
- The biggest challenge to adopting a 40R district appears to be getting public support for 40R zoning. Officials and/or residents state opposition to creating 40R districts for a variety of reasons, including resistance to development generally, fear of school costs, resistance to compact development or to affordable housing or a desire to use a lower affordability requirement.
- While the predictable decision-making process goal generally appears to have been met, especially when developers were involved in crafting the zoning text, a few developers have experienced a protracted approval process as they needed to request waivers to address parking requirements or density caps or to satisfy neighborhood design change requests not covered by the approved design standards.
- In some cases where waivers were needed by developers, parking requirements appeared excessive in light of likely car ownership. In others, meeting the requirement required structured parking and thus greater project density than permitted by as-of-right development.

A 2006 review of affordable smart growth developments in Massachusetts concluded the three elements typically required for such development to occur: (1) someone must have an idea about wanting such development in a specific place and how it might be done; (2) there must be a way to make the numbers work financially; and (3) there must be significant community support (often a long-term task requiring significant outreach), perhaps making affordable smart growth “the new mainstream.”<sup>1</sup>

This review of Chapter 40R appears to confirm this formulation. Production cannot occur without committed owners, housing demand, access to subsidies in weaker markets, and community support. Outreach and education are often required to succeed with rezoning, and rezoning is often more easily achieved when there is a specific development proposal on the table. Leadership and support by local elected officials is critical to moving district creation forward. Incentives must be adequately funded if they are to be persuasive.

## CHALLENGES TO PRODUCING HOMES THROUGH 40R:

- Unpredictable state funding for incentives and underfunding of 40S reimbursements;
- Municipal reluctance to zone proactively for affordable housing, especially multifamily and family housing. Only 5% of 40R future zoned units are within the Greater Boston benchmark region expected to house over one-half of state population growth between 2010 and 2035;
- Unpredictable funding for planning and outreach to change norms about appropriate development for communities and build support;
- Obtaining two-thirds approval of the local legislative body;
- Municipal fear of the as-of-right project approval requirement;
- Parking requirements and other challenges that reduce the as-of-right powers;
- Financing for affordability.

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# Introduction

In June 2004, Massachusetts enacted the Smart Growth Zoning and Housing Production Act (“Chapter 40R”)<sup>2</sup>, authorizing financial and other incentives for municipalities that create zoning overlay districts that encourage housing production with certain “smart growth characteristics,” including as-of-right densities of at least 8-20 units per acre, certain locational characteristics, and an affordable component that could provide an alternative to the state’s primary law for permitting affordable housing, Chapter 40B.

The incentives are intended to address the reluctance of many municipalities to zone for compact development, multifamily and affordable housing. To qualify, municipalities must create “as-of-right” overlay zoning that meets minimum density and affordability standards for land in “eligible locations,”<sup>3</sup> and can include detailed design standards.

Municipalities with qualifying districts receive a:

- One-time Zoning Incentive Payment (ZIP) of \$10,000-\$600,000 for adopting the overlay, depending on the net increase in as-of-right units allowed (the State may request repayment if construction does not start within 3 years of drawdown, but so far has not);
- A \$3,000 per unit payment when building permits are issued;
- “School impact” reimbursement under a companion law (Chapter 40S);
- Higher state match for new school buildings;<sup>4</sup>
- More favorable consideration when applying for discretionary grants from certain State agencies, including Environmental Affairs, Transportation, Housing agencies and Administration and Finance;<sup>5</sup>
- Consideration of their 40R zoning if they oppose a project application under Chapter 40B.

To create a district, municipalities must submit a preliminary application with proposed zoning text and district boundaries to the State.

To address potential neighborhood concerns, municipalities must hold a public hearing before submitting the preliminary application and can include design standards.

After preliminary State approval, at least two-thirds of the city council or town meeting must vote to approve the zoning. It must then receive final approval by the State.

## Legislative History

The Smart Growth Zoning and Housing Production Act<sup>6</sup> (“Chapter 40R”) was enacted in June 2004 through the efforts of the Commonwealth Housing Task Force (CHTF), a group of foundations, members of the business community, academics, non-profit and for-profit developers and others.<sup>7</sup> A 2003 CHTF policy paper reviewed numerous studies and found growth in minimum lot sizes and the elimination of as-of-right multifamily zoning encouraged sprawl by pushing development to locations far from employment centers.<sup>8</sup>

The paper concluded that “addressing the lack of housing production requires

### DISTRICT REQUIREMENTS:

- **ELIGIBLE LOCATION:** Must be within ½ mile of a transit station, near commercial centers, in areas with existing infrastructure, or otherwise deemed highly suitable;
- **ADEQUATE INFRASTRUCTURE:** Local officials must certify that infrastructure (e.g., water, sewer, transportation) is adequate to serve the projected growth or will be within five years;
- **MINIMUM DENSITY:** The overlay must allow housing to be built as-of-right at densities of at least 8 to 20 units per acre depending on the type of housing (small towns can request a waiver). Allowed uses, design, and density can vary within the district by creating sub-districts;
- **MINIMUM AFFORDABILITY:** The text must require that at least 20% of the units developed district-wide and per project using the overlay must be affordable at 80% of AMI or less for at least 30 years;
- **DISTRICT SIZE:** Municipalities can create more than one district, as long as none exceed 15% of their land area and the total doesn’t exceed 25%;
- **AS-OF-RIGHT APPROVAL:** The local plan approval authority has a maximum of 120 days to review an application and can only deny it if the proposal does not comply with the bylaw and design standards or has serious adverse impacts that cannot be mitigated. Parties appealing an approval must post a bond to cover the potential costs of delay to the developer.



producing an adequate supply of land zoned for housing” and that this required “changing the underlying fiscal constraints facing local communities.”<sup>9</sup> The authors recommended the State reward localities that zone for development in locations that encourage transit use and discourage “greenfield” development (development of land not previously used for residential, industrial or commercial purposes). The authors estimated such a program would create districts allowing 50,000 new units, with 33,000 units likely to be constructed over 10 years; 19,000 that would not otherwise be built; and 14,000 that would have been built in other locations.<sup>10</sup>

Most of the CHTF proposal was enacted as Chapter 40R in 2004. Four pieces were not:

- A simple majority approval of 40R districts by local government, instead of the 2/3 currently required in statute;
- Funds for infrastructure improvements, including parking structures and parks, needed to make the district developable. The statute instead gives localities with 40R districts or inclusionary or other zoning that promotes affordable housing a preference for discretionary State grants;<sup>11</sup>
- \$1 million in funding for outreach to municipalities and \$4 million in matching grants for planning costs. Instead, the state’s housing finance agency provided a one-time \$1 million allocation for this purpose and the state has continued to offer planning grants through other programs;
- Funding for 100% of K-12 education costs.<sup>12</sup> The Legislature ordered a study on this recommendation due to concerns about the potential costs.<sup>13</sup>

## Chapter 40S

After the passage of Chapter 40R, CHTF commissioned a study to estimate the potential cost to the state of reimbursing districts.<sup>14</sup> The study recommended pared down school cost incentives and led to the enactment of Chapter 40S<sup>15</sup> in November 2005.

Chapter 40S provides “school impact insurance,” subject to appropriation. It requires the state to reimburse localities for school costs related to children who live in new developments in the 40R districts and attend the public schools to the extent that those costs:

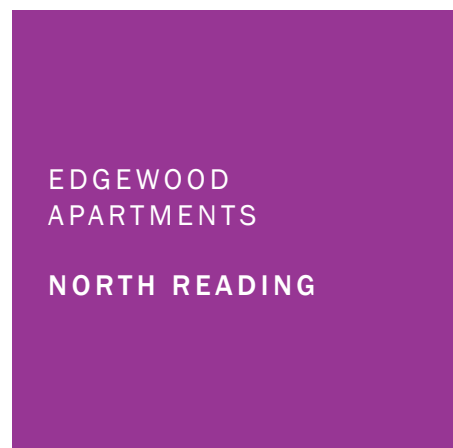
1. Exceed the share of property tax revenues and excise taxes received from new growth properties in the 40R district that goes to school costs;
2. Are not covered by state funding.

The share of new taxes that go to school costs is based on the statewide average (approximately 56%).<sup>16</sup> The 40S formula is generous in basing payments on district average per student costs rather than the marginal cost of adding students. CHTF estimated that in most communities, 40S payments were unlikely to be triggered except for single family homes.<sup>17</sup> 40S went into effect in FY2008 and the first year that any districts qualified to receive payments was in FY2010.

## Starter Home Zoning Districts

In 2016, the Legislature amended Chapter 40R to add “starter home zoning districts.” These districts are subject to most of the same requirements as smart growth zoning districts, but have a minimum size of three acres, a lower minimum density requirement of four units/acre, and use a higher income limit of 100% AMI for the required 20% of affordable units. Regulations were finalized on December 29, 2017. This report does not discuss Starter Home districts.

INCENTIVE UNITS	ZONING INCENTIVE PAYMENT
Up to 20	\$10,000
21-100	\$75,000
101-200	\$200,000
201-500	\$350,000
501+	\$600,000



## 40R Regulations

The first program regulations and guidance were issued in March 2005. The regulations were revised in 2013 to tighten the definition of a “highly suitable location” and clarify infrastructure requirements. Regulations were revised again at the end of 2017 for the starter home districts authorized by 2016 legislation and to define allowed capital expenditures, reflecting the change in funding source for incentive payments to state capital budget funds. Changes are discussed in more detail in the balance of the report.

# Interaction with Chapter 40B

Understanding the use of Chapter 40R requires understanding a pre-existing state law familiarly referred to as “Chapter 40B.” Chapter 40B was enacted in 1969 to address the difficulty developers of subsidized housing faced when trying to build multi-family housing in many municipalities, especially outside cities, due to zoning restrictions and multi-board approval processes. It operates by allowing the local zoning board of appeals (ZBA) to authorize waivers to existing land use regulations, rather than affirmative adoption of zoning, if less than 10% of the municipality’s housing stock is affordable.

While initially enacted to enable the development of housing financed with conventional federal or state subsidies, Chapter 40B today is often used to develop multifamily and small lot single-family housing more generally. Few municipalities have undeveloped land zoned for multifamily housing development as-of-right. In 2004, 127 of the 186 municipalities in eastern Massachusetts had no land zoned for multifamily as-of-right, though some had lots zoned multifamily by special permit;<sup>18</sup> 10 did not permit any multifamily development and nine more limited it to age-restricted housing.<sup>19</sup> Even when allowed, it was often impossible due to minimum lot area or other requirements.<sup>20</sup> This is particularly true outside larger cities.

The existence of Chapter 40B helped create support for enacting Chapter 40R as applications for development under 40B are sometimes contentious. It has also shaped local 40R zoning language.

Chapter 40B motivates municipalities to proactively find ways to produce affordable units to become appeal-proof<sup>21</sup> and to continue to add units to maintain that status and avoid a decline in their percentage when the count of year-round units is updated after each decennial census or when currently subsidized units are lost as use restrictions expire.

Having a 40R district may protect a municipality from an unwanted Chapter 40B application. Developers wishing to use 40B must first obtain a project eligibility letter (PEL) from a subsidizing agency. In the eligibility review, the subsidizing agency must solicit comments from the municipality. If the municipality objects to the site, the subsidizing agency will consider “municipal actions previously taken” to meet affordable housing needs, such as inclusionary zoning and 40R overlay districts.<sup>22</sup> To date, PELs have been denied in at least two towns (Easton and Reading), based in part on this provision.

However, Chapter 40B is not the only reason municipalities have adopted 40R



READING WOODS

READING

districts. Boston and Gateway Cities interested in revitalizing neighborhoods and downtowns, expanding their housing supply, or finding new uses for vacant properties account for 42% of future zoned units under Chapter 40R. While municipalities with at least 10% of their housing stock considered affordable are exempt from Chapter 40B, many of the municipalities that enacted 40R districts were at or near the 10% threshold. Of the 37 municipalities with 40R districts, nine were at or above 10% before creating districts, one was at 9.96%, and five more reached 10% by September 2017.<sup>23</sup> One more reached 10%, but then fell back after its year-round housing unit count was updated based on the 2010 census (see Table 3).

## 40R Advantages Relative to 40B

Chapter 40R can be an attractive alternative to 40B for municipalities because it allows them to select locations, set density limits and design guidelines and receive state incentive payments and other benefits. This has led some municipalities to ask developers with 40B proposals to consider using 40R instead, and some developers offer to help create 40R districts.

Chapter 40R has five features that can make it more attractive to developers:

- **No profit limitation:** Developers using 40B are subject to profit limits and a cost certification process at completion; Chapter 40R requires neither (although 40R developers using conventional subsidy programs are still subject to the requirements of those programs);
- **Lower affordability requirement:** The 40R affordability requirement of 20% is lower than the 25% affordability requirement of Chapter 40B. However, 22 of the 42 districts require at least 25% affordability for 40R rental developments to maximize the count on the Subsidized Housing Inventory. Using 25% also helps ensure that districts will meet the statutory district-wide affordability requirement of 20% if they choose to exempt small projects less than 13 units from affordability requirements;<sup>24</sup>
- **“As-of-right” approval process:** Applications for project approval must be approved within 120 days unless both parties agree to an extension and the grounds for denial are limited. Some developers have also reported needing longer 40R approval processes to negotiate waivers. (By contrast, the approval timeline under 40B was open-ended until regulations in 2008 limited it to 250 days from filing to decision);
- **Can be used in municipalities that are appeal-proof under Chapter 40B:** Municipalities may be more willing to consider 40R zoning because of their greater control over project location and, because 40R mandates as-of-right project approval, sites remain developable even if a municipality below 10% at district creation later goes over 10%;
- **Bond requirement for abutter appeals:** 40R potentially makes it more costly for abutters to legally challenge 40R decisions than other local zoning decisions.<sup>25</sup> It requires plaintiffs to post a bond in an amount equal to twice the sum of the owner’s projected carrying costs and legal fees for the period the appeal is expected to delay the start of construction. No such requirement applies to other zoning appeals. If the plaintiff does not prevail in the appeal, the bond must be forfeited in an amount sufficient to cover the actual carrying and legal costs. *This provision has not yet been tested.* A 2009 appeal of a 40R project approval filed in Land Court included a challenge to the constitutionality of that provision but the Court concluded the appeal could not be said to be delaying construction because the project



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BROCKTON

at that point still lacked a necessary approval from the Massachusetts Department of Environmental Protection.<sup>26</sup>

## District Creation

This section of the report provides more detail about the use of Chapter 40R to date, including district approval/disapprovals, how districts have been initiated, municipalities' reasons for deciding whether or not to use 40R and regional distribution of districts. It also describes the number of housing units produced and their financial and other characteristics, and incentive expenditures to date.

Chapter 40R program regulations went into effect in late March 2005, just before the housing market collapse began in Massachusetts.<sup>27</sup> In the 12 years since, 37 municipalities have received final DHCD approval for 42 districts ranging from 0.33 acres to over 1,000 acres, collectively allowing the production of almost 15,400 "future zoned units" if fully developed using 40R (Tables 1 and 2).

Most of the 42 districts were created by 2010:

- Thirty-three districts with over 13,000 future zoned units were created in 2006-2010, including at least 16 where project planning was underway before a 40R district was considered (Table 6); eleven were in Boston and Gateway Cities;
- No new districts were approved in 2011-2013; one city expanded its district;
- Nine new districts were approved in 2014-2017, along with three district expansions;
- Five new districts and one expansion were awaiting local approval or final DHCD approval as of December 31, 2017, with over 3,600 future zoned units, including almost 2,900 in Brockton (Table 3).

Observers attribute recent increase in district creation to several factors, including:

- Municipal experience: three of the 37 municipalities with districts created second districts, four expanded districts and four more are exploring new districts or expansions;
- An improved housing market in some locations and rising numbers of 40B applications;
- New MBTA transit-oriented development opportunities;
- New interest in using 40R for downtown revitalization;
- New development opportunities related to underutilized retail areas.

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### FUTURE ZONED UNITS (FZUS):

The maximum number of units that could be developed as-of-right using the 40R zoning on developable and underutilized land through new development, substantial rehabilitation (or adaptive reuse), including the number developable under the as-of-right underlying zoning.

**NOTE:** This report uses DHCD's "FZU/Incentive Unit" counts when referring to FZU. DHCD notes its counts are sometimes inexact, as early DHCD data did not consistently capture the number of possible units associated with "Substantially Developed Land" as they are not counted when calculating the Zoning Incentive Payment.

**TABLE 1: NUMBER OF DISTRICTS APPROVED BY YEAR**

Chapter 40R districts must be in an “eligible location,” meaning they include either an “area of concentrated development (ACD),” an area within a half mile of a public transit terminal (Transit), or an “otherwise highly suitable location (HSL).”

FINAL APPROVAL YEAR	NUMBER OF DISTRICTS	IN GATEWAY CITY	DISTRICT ACRES	FUTURE ZONED UNITS	TRANSIT	ACD	HSL
2006	6	1	110.22	1304	2	1	3
2007	8	2	598.79	4401	4	1	3
2008	12	5	499.25	4356	2	2	8
2009	1	-	11.55	167	-	-	1
2010	6	2	251.17	2773	1	4	1
<b>SUBTOTAL</b>	<b>33</b>	<b>10</b>	<b>1,471</b>	<b>13,001</b>	<b>9</b>	<b>8</b>	<b>16</b>
2011	-	-	-	-	-	-	-
2012	-	-	-	-	-	-	-
2013	-	-	-	-	-	-	-
2014	2	-	187.37	394	1	1	-
2015	3	-	99.94	991	1	2	-
2016	-	-	-	-	-	-	-
2017	4	-	109.71	1005	1	2	1
<b>SUBTOTAL</b>	<b>9</b>	<b>-</b>	<b>397</b>	<b>2,390</b>	<b>3</b>	<b>5</b>	<b>1</b>
<b>TOTAL</b>	<b>42</b>	<b>10</b>	<b>1,868</b>	<b>15,391</b>	<b>12</b>	<b>13</b>	<b>17</b>

**TABLE 2: FULLY APPROVED DISTRICTS AS OF DECEMBER 31, 2017 (42)**

YEAR DISTRICT FINAL APPROVAL	YEAR DISTRICT AMENDED	MUNICIPALITY	DISTRICT	DISTRICT TYPE	DISTRICT SIZE (ACRES)	INCENTIVE/FUTURE ZONED UNITS (FZU)	UNITS BUILT/BLDG. PERMITS ISSUED USING 40R	ZIP PAID
<b>GATEWAY CITIES/BOSTON DISTRICTS (11)</b>								
2006		Chelsea	Gerrish Ave	Transit	2.82	125	120	75,000
2007		Brockton	Downtown	Transit	60.00	1,096	140	600,000
2007	2016	Haverhill	Downtown	Transit	58.00	701	362	600,000
2008		Boston	Olmsted Green	HSL	42.00	578	200	350,000
2008		Holyoke	SGOD	ACD	152.00	296	59	350,000
2008		Lawrence	Arlington Mills	HSL	34.10	1,031	137	600,000
2008	2012	Lowell	SGOD	Transit	2.50	250	122	350,000
2008		Pittsfield	SGOD	ACD	10.72	296	112	350,000
2008		Westfield	Southwick Road	HSL	22.20	244	-	200,000
2010		Chicopee	Chicopee Center SGOD	ACD	25.62	1,092	41	600,000
2010		Fitchburg	SGOD	HSL	33.20	676	186	600,000
<b>TOTAL BOSTON/GATEWAY CITIES</b>					<b>443</b>	<b>6,385</b>	<b>1,479</b>	<b>4,675,000</b>
<b>TOWNS AND SMALLER CITY DISTRICTS (31)</b>								
2006		Dartmouth	Lincoln Park	HSL	40.65	319	84	350,000
2006		Lakeville	Kensington Court	Transit	11.00	207	204	350,000
2006		Lunenburg	Tri-Town	HSL	8.97	204	131	350,000
2006		N. Reading	Berry Center Residential	HSL	46.00	434	406	350,000
2006		Norwood	St. George Ave	ACD	0.78	15	15	10,000
2007		Amesbury	Gateway Village	HSL	52.00	249	240	350,000
2007		Grafton	Fisherville Mill	HSL	13.74	240	-	350,000
2007		Kingston	1021 Kingston's Place	Transit	109.00	730	-	600,000
2007		Lynnfield	Meadow Walk	HSL	80.25	180	180	200,000
2007		N. Andover	Osgood	ACD	169.00	530	-	600,000
2007		Plymouth	Cordage Park	Transit	56.80	675	-	600,000
2008		Belmont	Oakley Neighborhood	HSL	1.51	18	17	10,000
2008		Bridgewater	Waterford Village	HSL	128.00	594	-	600,000
2008		Easton	Queset Commons	HSL	60.66	280	110	350,000
2008		Natick	SGOD	Transit	5.00	138	138	200,000
2008	2017	Northampton	Hospital Hill	HSL	30.56	429	123	200,000
2008		Reading	Gateway	HSL	10.00	202	200	350,000
2009		Sharon	Sharon Commons	HSL	11.55	167	-	-
2010		Easthampton	SGOD	ACD	149.00	482	50	350,000
2010		Marblehead	Pleasant Street	ACD	0.33	17	-	-
2010		Marblehead	Vinnin Square	ACD	1.56	47	-	-
2010	2017	Reading	Downtown	Transit	41.46	459	53	350,000
2014		Ludlow	SGOD	ACD	186.80	350	75	350,000
2014		Norwood	Guild St / Regal Press	Transit	0.57	44	-	75,000
<b>SUBTOTAL TOWNS/SMALLER CITIES (PRE-2015)</b>					<b>1,215</b>	<b>7,010</b>	<b>2,026</b>	<b>6,945,000</b>
2015		Newburyport	SGOD	Transit	49.40	540	-	-
2015		South Hadley	S. Hadley Falls SGD	ACD	48.27	383	-	350,000
2015		Swampscott	Vinnin Square	ACD	2.27	68	-	75,000
2017		Gr. Barrington	North SGOD	ACD	36.74	304	-	-
2017		Gr. Barrington	South SGOD	HSL	39.17	190	-	-
2017		Rockland	Downtown Rockland	ACD	33.80	480	-	-
2017		Northampton	Urban Residential SGOD	Transit	0.50	31	-	-
<b>TOTAL TOWNS/SMALLER CITIES</b>					<b>1,425</b>	<b>9,006</b>	<b>2,026</b>	<b>7,370,000</b>
<b>GRAND TOTAL</b>					<b>1,869</b>	<b>15,391</b>	<b>3,505</b>	<b>12,045,000</b>

Table Notes:

- District size (source: DHCD): includes total district land area, not just developable land.
- Incentive/FZU count (source: DHCD): may include newly zoned units on “Substantially Developed” land.
- Units built/building permits issued using 40R (source: DHCD): may include a limited number of units for which permitting pursuant to 40R has yet to be verified or for which density bonus payments have not or might not be made for technical reasons though they are included in the production count.
- Estimated Available FZU: CHAPA estimate, calculated as the difference between FZU and units known to be built, in construction or approved. Set at zero for parcels fully built out at less than FZU. Kingston estimate has NOT been adjusted to reflect reduction in FZU due to wind farm.

**TABLE 3: DISTRICTS WITH PRELIMINARY APPROVAL - DECEMBER 31, 2017**

GATEWAY CITY?	MUNICIPALITY	DISTRICT NAME	TRANSIT	ACD	HSL	DISTRICT SIZE (ACRES)	FUTURE ZONED UNITS (FZU)
<b>NEW DISTRICTS</b>							
-	Beverly	SGOD Sohier Road		1		5.1	101
1	Brockton	Thatcher St. HOD			1	15.7	175
-	Danvers	MSTND-SGOD		1		16.8	211
-	Lee	SGOD (Eagle Mill)		1		9.9	119
1	Methuen	Methuen Center SGOD		1		54.4	350
<b>SUBTOTAL</b>			-	4	1	101.9	956
<b>DISTRICT AMENDMENT</b>							
1	Brockton	Downtown (amendment)	1			67.0	2,716
<b>TOTAL</b>			1	4	1	168.9	3,672

**TABLE 4: WHO INITIATED DISTRICTS**

DHCD FINAL APPROVAL YEAR	NUMBER OF DISTRICTS	DEVELOPER INITIATED OR TOWN REQUEST	PRE-EXISTING PLAN/LAND DISPOSITION AGREEMENT	MUNICIPALITY
2006	6	5	-	1
2007	8	5	1	2
2008	12	7	1	4
2009	1	1	-	-
2010	6	2	-	5
<b>SUBTOTAL</b>	<b>33</b>	<b>20</b>	<b>2</b>	<b>12</b>
2014	2	1	-	1
2015	3	1	-	2
2017	4	1	-	3
<b>SUBTOTAL</b>	<b>9</b>	<b>3</b>	<b>-</b>	<b>6</b>
<b>TOTAL</b>	<b>42</b>	<b>23</b>	<b>2</b>	<b>18</b>

## How Districts are Initiated

Proposals to create a 40R district have varied in origin. Some have been initiated by developers, while others have been initiated by a municipal planner or regional planning agency or as an outgrowth of another planning process, such as a housing production plan, downtown revitalization, or economic development.

Some municipalities created districts in the hope of attracting development to languishing areas or on sites where 40R density and affordability requirements align with local goals. Others created districts for a specific affordable housing proposal, even if it could have been permitted using other processes. In some cases, the developer and municipality compared proceeding under Chapter 40R vs. 40B to determine the best strategy given municipal efforts to reach 10% under Chapter 40B.

Based on case studies and other documents, it appears just over one-half of 40R districts have been initiated by developers on their own or at the request of a municipality when discussing a proposal (Table 4). Many of the early districts were project-driven, and involved projects already approved or under discussion. A review of case studies and other materials suggests that at least 16 of the 33 early districts had active development proposals (with or seeking approvals under 40B, special permits, or land disposition agreements) prior to initiating the 40R district. Those projects represent over one-half of the units built/in construction to date (see Appendix 3).

More recent districts appear more likely to be municipally-initiated, sometimes to encourage smart growth development on an opportunity site. Some planners feel that it is easier to create a district when there is a clear development concept and have deliberately started small, believing that expansion in the future would be easier once residents saw a finished product.

The five municipalities with districts in the pipeline (preliminary approval received in 2017) reflect the mix of initiation types:

- Beverly (108 Sohier Road) – awaiting final DHCD approval – nonprofit developer (Harborlight) plans 75-unit affordable family rental project;
- Brockton (Thatcher St) – local approval 12/31/2017 – nonprofit developer (POUA) plans 175-unit development;
- Danvers (Maple Street Traditional Neighborhood Development) – awaiting final DHCD approval in November 2017; Town Meeting voted to approve 12/4/2017;
- Methuen – received DHCD preliminary approval for Methuen Center district 10/17/2017; City Council approved 11/20/2017;
- Lee – received DHCD preliminary approval 12/6/2017 for Eagle Mill site; active development team in place.

Woburn is also exploring a proposal to create a 40R district in the Woburn Mall area, which is about one mile from the Anderson Regional Transportation Center.

## Planning Process and the Role of Planning Grants

**Role of planning funds:** The planning tasks required to create a 40R vary tremendously, depending on developer involvement, the extent to which 40R aligns with current municipal plans and goals, municipal capacity to draft text and maps, and the extent to which public outreach is needed to build support for the concept of 40R. In 2017, a planner from a regional planning agency that provides technical assistance to municipalities estimated the cost to create a district, from origination to final approval, at \$25,000 - \$40,000 for midsize districts. A 2007 study found costs ranged up to \$125,000 (including legal fees) for large districts.<sup>28</sup>

Planning grants and technical assistance can facilitate the creation of 40R districts and at least 23 of the first 42 districts were created with grant funds. Most of the remaining districts were developer-driven or in cities with fulltime planning staff. However, such assistance does not guarantee a district will be created. At least 14 municipalities that received planning grants (some 40R specific, some to promote smart growth generally) did not adopt 40R districts. Reasons varied for failing to adopt 40R districts: two were ineligible locations; in one case, the local vote fell short; and in another, the town adopted alternative zoning with 15% affordability.

*Regional planners report that building support through public outreach is key to successful adoption of 40R zoning.* Some municipalities report it can take up to two years to create a district, starting with building support for the concept of a 40R district, then working out the zoning text and district boundaries, and finally gaining local approval.

While it takes time and money to create a 40R district, at least one planner stated once a district is established, it is fairly simple to expand it or add districts if there is local support. Northampton, for example, expanded one 40R district and added a second district without needing to use outside consultants. Others believe the cost of planning a district is lower today than in the early years as the program has become more well-established. It can be difficult for smaller communities to fund district creation without state grants or developer funding, but the process has been made easier with DHCD's



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published guidance, first issued in 2007, on creating a bylaw (including a sample bylaw) and a guidebook on creating design standards.<sup>29</sup>

#### Reasons for using 40R varied:

- Many indicated the potential of projects to help them reach 10% or interim certification under a 40B Housing Production Plan and “protect against future 40Bs.” This consideration was usually prominent in materials provided to town meeting members before the 40R vote, along with the risk, in some cases, that a proposed site could become a 40B development if a 40R district was not approved;
- Several indicated the 40R location and density standards fit with their city’s long-term goals for redevelopment of their downtown or specific neighborhoods;
- At least one municipality created a district to improve their access to funding for infrastructure improvements needed to help a mill redeveloper move forward;
- Among planners from municipalities that were early creators of 40R districts, several indicated the creation was strongly driven strictly by the financial incentives, while others said concern that funding for the zoning incentive payments would not be available reduced the role of the incentives in the decision-making process;
- The financial incentives also played a role in creating districts for projects that planners expected would be built anyway because they would put the community over the 10% threshold, had previously been approved using other zoning, or were affordable projects that had municipal support;
- One community reported they used 40R because of the provisions regarding abutter appeals, as the developer was very concerned about that risk.

#### Program Feedback from Municipalities with Adopted Districts

Interviews with planners in municipalities that have a 40R district indicate high levels of satisfaction with the program, with many citing the concept of “local control;” 11 of the 37 municipalities have expanded or are exploring expanding their districts. At the same time, 40R remains just one approach they use to encourage development:

- One city planner felt designating an area as a 40R district signals that the city would welcome development, even if development has been limited to date;
- Several observed a developer’s interest and ability to complete projects is critical to district activity, especially in districts dominated by a single owner;
- A planner in a suburb with very little public sewer noted that the 40R infrastructure requirements are helping them to build municipal wastewater capacity by asking 40R and 40B developers to overbuild treatment capacity so that others can tie in eventually;
- A planner in one city attributed the lack of construction in their district to a post-crash weak housing market with limited demand for new housing, including conventional subdivisions.

As the program has evolved, the advantages to using 40R most often cited by planners has changed. In 2009, planners in cities were more likely to cite



CHESTNUT PARK  
APARTMENTS  
HOLYOKE



the ability of 40R to simplify the approval process as districts tended to be in locations they had already identified as desirable for development. In 2009, planners in suburbs were more likely to cite its advantages as an alternative to 40B with some also citing smart growth goals. All felt incentive payments were helpful. In 2017, several planners noted they use 40R zoning selectively, applying it to receive incentive payments when they know a project will include affordable units and using other approaches to encourage market rate projects, such as a different overlay or the Housing Development Incentive Program (HDIP). Several cited its ability to signal receptiveness to development. One felt creating a district would help them access state infrastructure funds so that they can advance a long-desired mill redevelopment. A few expressed a desire for more flexibility around minor program items (e.g. live/work space).

## Why Some Municipalities Decided Not to Create 40R Districts

Despite positive feedback from municipalities with 40R districts, at least 40 municipalities over the years have given various levels of consideration to creating districts, but have chosen not to proceed, including 10 (Andover, Newbury, Randolph, Gardner, Weymouth, South Weymouth Naval Air Station/Tri-Town Corporation<sup>30</sup>, Georgetown, Scituate, Hingham and Foxborough) that filed applications for preliminary eligibility determinations from DHCD or engaged in extensive discussions or planning.

Interviews with DHCD staff, municipal and regional planners and for- and non-profit developers, reveal quite varied reasons for districts failing to move forward:

- **Antipathy to development:** Many explorations failed at the public hearing stage due to strong resident opposition to development generally based on density, traffic, affordable housing, school enrollment impacts, building heights, or impact on neighborhood character. In Norwood, when organized opposition to a second district resulted in an approval vote below two-thirds, the developer eventually obtained approval under Chapter 40B;
- **Antipathy to affordable housing** or a desire for a lower affordability requirement or a preference for all market-rate housing;
- **Fear of the as-of-right project approval process resulting in loss of control:** In some cases, municipalities decided to use Chapter 40B or other mechanisms instead that they felt would give them flexibility to negotiate project elements, including mitigation measures;
- **Approval votes that fell short of the two-thirds needed:** At least five municipalities fell short of two-thirds approval, with four communities receiving a majority vote;<sup>31</sup>
- **Concern about the “clawback” provision** (see page 24);
- **Desire to limit households with children/school costs:** Early in the program, two municipalities decided not to create districts because of a requirement that 40R developments include three-bedroom units. Though that requirement was dropped and Chapter 40S was created to reimburse communities for additional school costs related to 40R developments, concern about school costs continue;<sup>32</sup>
- **Lack of municipal support for developer-proposed districts:** In some cases, developers initiated 40R proposals and local officials concluded the proposal did not align with local plans;



COTTAGE SQUARE  
APARTMENTS  
EASTHAMPTON

- **Infrastructure:** A few of the proposed districts did not meet the district infrastructure requirements, lacking necessary water, sewer, or pedestrian infrastructure. When DHCD offered conditional approval of a district, postponing zoning incentive payments until infrastructure commitments could be made, some municipalities lost interest or decided to undertake further planning before proceeding;
- **Town reached 10% during the 40R planning process.**

It is unclear whether any one incentive program can satisfy resistance to density and affordable housing. The state tried to address municipal concerns about 40R density and affordability requirements by creating the Compact Neighborhoods program (“40R Lite”) in late 2012, which did not offer financial payments, but did offer a preference for certain state grants. It had lower minimum density requirements of four units/acre for single family homes and eight units/acre for buildings with two or more units, and required 10% affordability. To date, not a single municipality has created such a district.

## Where Districts Have Been Created

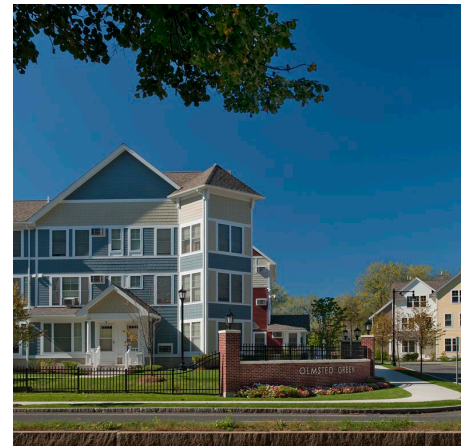
As the map on the following page shows, 40R districts are not evenly distributed across the state. While 40R districts are present in seven of the eight regions into which the state is divided for economic development planning (MassBenchmark regions<sup>33</sup>), their distribution does not align with projected rates of population growth (Table 5) and are notably absent from the Greater Boston benchmark region. Only 5% of the 15,391 future zoned units (FZUs) are in the 36 municipalities defined by MassBenchmark as comprising Greater Boston, where 58% of the state’s population growth is expected to occur between 2010 and 2035. However, two-thirds (9,855 or 65%) of the FZUs are in 164 municipalities that make up the Metropolitan Area Planning Council growth projection area.

**Urban and suburban districts:** Chapter 40R has been used more than Chapter 40B to provide zoning approval for affordable housing in larger, older cities, in part because these cities tend to be appeal-proof and 40B is not applicable to Boston. 40B is more frequently used in suburban or rural locations.

- Eleven of the 42 districts and 43% of the housing built or in construction are in Boston, Brockton, Chelsea, Chicopee, Fitchburg, Haverhill, Holyoke, Lawrence, Lowell, Pittsfield, and Westfield (although, Westfield has had no 40R development to date). These 11 districts allow twice as much residential development on average as the districts in towns and smaller cities (580 FZUs per district vs. 291). They authorize 41% (6,385 units) of the 15,391 FZUs and contain 42% of affordable units built to date.
- The other 31 districts are in 26 municipalities. They collectively allow 9,006 FZUs (291 per district and 346 per municipality on average). Sixteen of the 31 districts have not yet had construction, including four just approved in 2017 and one with a project delayed by litigation.

## District Scale and Development Concepts

The 42 approved districts vary considerably in scale and development concept, and in some cases, the development concepts have changed since adoption. For some municipalities, especially larger cities, the 40R district is just one component in a larger redevelopment planning effort that covers more land and includes creating urban renewal districts and multi-year infrastructure and transportation planning.



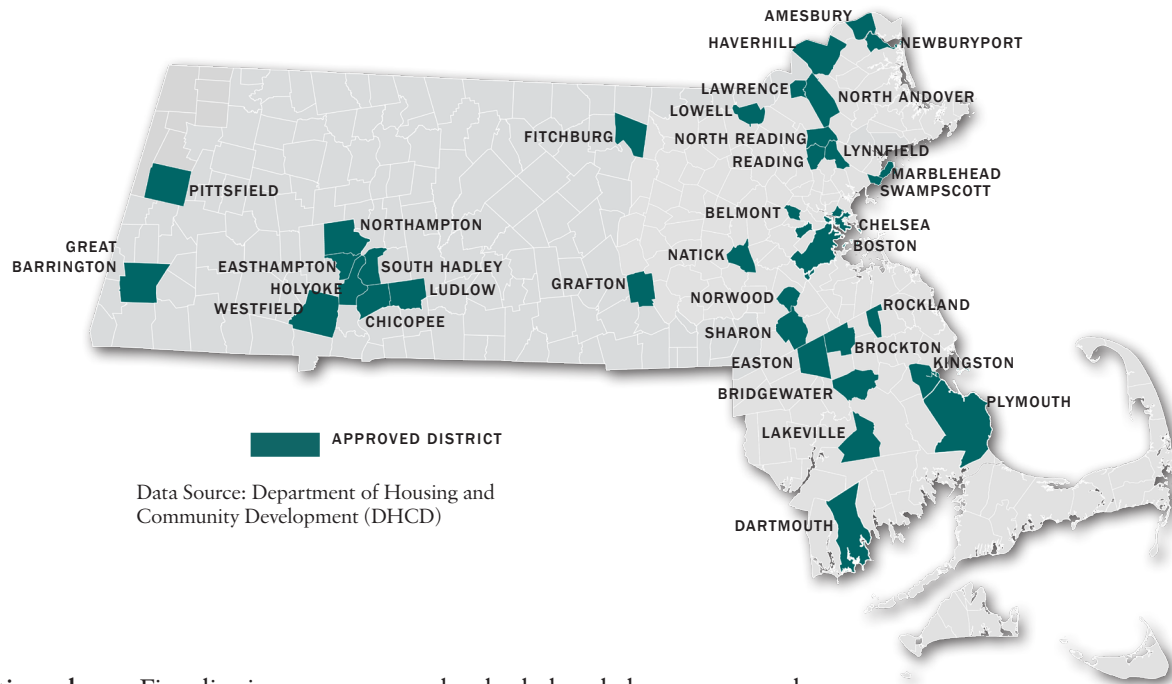
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PHASE III

BOSTON

**TABLE 5: DISTRIBUTION OF 40R FUTURE ZONED UNITS (FZU) BY MASS BENCHMARK REGION**

REGION	CITIES & TOWNS	CENSUS 2010 POPULATION	2010 TO 2020 CHANGE	2010 TO 2035 CHANGE	REGIONAL GROWTH RATE 2010 TO 2035	REGIONAL GROWTH SHARE 2010 TO 2035	SHARE OF FZU	FZU
Greater Boston	36	1,975,155	213,744	443,595	22%	57.5%	4.7%	721
Northeast	46	1,031,733	62,447	86,534	8%	11.2%	30.6%	4,708
MetroWest	45	655,126	44,403	79,761	12%	10.3%	2.4%	364
Southeast	50	1,108,845	41,488	76,505	7%	9.9%	28.5%	4,381
Central	46	693,813	33,031	66,695	10%	8.6%	7.3%	1,120
Lower Pioneer Valley	29	604,304	17,660	40,676	7%	5.3%	21.5%	3,307
Berkshire and Franklin	76	236,058	(533)	2,538	1%	0.3%	5.1%	790
Cape and Islands	23	242,595	(9,201)	(24,464)	-10%	-3.2%	0.0%	-
<b>TOTAL</b>	<b>351</b>	<b>6,547,629</b>	<b>403,039</b>	<b>771,840</b>	<b>12%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>15,391</b>

**APPROVED SMART GROWTH DISTRICTS (AS OF DECEMBER 31, 2017)**



**Pre-existing plans:** Five districts cover areas that had already been approved for development. Of these, three districts in Boston, Northampton, and North Reading were state hospital/state school sites where redevelopment under land disposition agreements had been approved as early as 2002, including two where overlay zoning had already been approved. One district in Chelsea covered projects already approved by special permit and one district in Haverhill covered a downtown area already rezoned for residential redevelopment.<sup>34</sup>

**Approved 40B projects or friendly 40B applications:** Five districts in North Reading, Amesbury, Lakeville, Sharon, and Dartmouth were created in collaboration with developers who had filed comprehensive permit applications. A sixth municipality, at the request of abutters, created a 40R district after a local nonprofit proposed redevelopment of a church site using 40B or 40R. The 40R districts largely follow the concept originally proposed under 40B and in one case, the district was expanded to cover another potentially developable site.

**Developer-initiated:** Fifteen districts were created in response to specific development proposals.

**Municipally-initiated:** Seventeen districts were initiated by municipalities responding to development opportunities and/or with specific development goals, such as downtown revitalization and redevelopment of vacant sites either with or without a developer for just part of the district.

**Most districts allow both residential and non-residential uses (although all construction to date has been entirely residential):** Of the 42 districts, 10 allow residential development only, including Great Barrington, which allows for live/work and home occupations. Thirty-one also permit mixed-use commercial or other non-residential uses, such as community facilities and galleries in the case of Boston. Restrictions on mixed-use projects vary considerably among the districts. In some, commercial uses cannot be in the same building as residential while in others, they must be part of a residential project. Some districts limit commercial uses to the first floor and/or limit the percentage of the project that can be non-residential. One district limits commercial uses to neighborhood businesses and only by special permit.

## District Size and Buildout Activity

Chapter 40R was intended to attract development to districts by creating pre-approved sites. Studies indicate that 40R can also make it easier for some projects or municipal plans to move forward by providing incentives for the municipality, developer, and neighbors.<sup>35</sup> However, the lack of development in some districts approved in 2014 or earlier shows the limits of rezoning to attract development. Of the 38 districts approved in 2016 or earlier (Table 6):

- Nine are largely built out;
- Sixteen have had some construction;
- Four more have approved projects;
- Nine have had no development yet.

In some districts, developers withdrew after the housing crash and have not returned. In others, owners of key parcels appear to have no urgency to develop, or believe the market will not support the cost of new construction yet, or chose to develop sites for non-residential purposes. Others were delayed by the need for public infrastructure improvements.

Several factors appear to influence whether district development occurs and how much (Table 7), including:

- Size of both acreage and future zoned units;
- Number of property owners and their level of interest;
- Developer size, interest and market conditions. In some cases, developers have chosen to develop in phases, preferring to complete one phase before taking on debt for the next;
- Start and completion of infrastructure improvements or site remediation, which can take years to fund and complete, even with the preference for state infrastructure grants such as MassWorks. This is particularly true of mill sites in weaker housing markets.<sup>36</sup>

The nine districts that have largely been built out were generally smaller, allowing 174 future zoned units on average compared to a program wide average of 366. These districts were created for a single-project or single set of projects with a developer lined up, largely in suburbs in the eastern part of the state.

The 16 districts with some construction activity include nine in older larger cities and two that have recently expanded in size. The urban districts tend to be larger, involve multiple sites and multiple owners and rely on subsidy.



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LAWRENCE

**TABLE 6: BUILT OUT STATUS - FULLY APPROVED DISTRICTS AS OF DECEMBER 31, 2017 (42)**

YR DISTRICT FINAL APPROVAL/ YR AMEND	# DISTRICTS	MUNICIPALITY	DISTRICT	DISTRICT SIZE (ACRES)	INCENTIVE/ FUTURE ZONED UNITS (FZU)	UNITS BUILT/ BLDG. PERMITS ISSUED USING 40R	PERCENT OF FZU BUILT (OR UC) TO DATE USING 40R	TOTAL 40R+NON-40R UNITS PRODUCED (OR APPROVED) % OF FZU	ESTIMATED AVAIL FZU
<b>LARGELY BUILT OUT</b>									
2006	1	Norwood	St. George Ave	0.78	15	15	100.0%	100.0%	-
2008	1	Belmont	Oakley Neighborhood	1.51	18	17	94.4%	94.4%	-
2006	1	Chelsea	Gerrish Ave	2.82	125	120	96.0%	96.0%	-
2008	1	Natick	SGOD	5.00	138	138	100.0%	100.0%	-
2007	1	Lynnfield	Meadow Walk	80.25	180	180	100.0%	100.0%	-
2008	1	Reading	Gateway (Addison Wesley)	10.00	202	200	99.0%	99.0%	-
2006	1	Lakeville	Kensington Court	11.00	207	204	98.6%	98.6%	-
2007	1	Amesbury	Gateway Village	52.00	249	240	96.4%	96.4%	9
2006	1	N. Reading	Berry Center / Edgewood Apts.	46.00	434	406	93.5%	93.5%	-
<b>SUBTOTAL</b>	<b>9</b>			<b>209</b>	<b>1,568</b>	<b>1,520</b>	<b>96.9%</b>	<b>96.9%</b>	<b>9</b>
<b>DISTRICTS WITH SOME DEVELOPMENT</b>									
2008	1	Boston	Olmsted Green	42.00	578	200	34.6%	34.6%	378
2007	1	Brockton	Downtown	60.00	1,096	140	12.8%	34.1%	722
2010	1	Chicopee	Chicopee Center SGOD	25.62	1,092	41	3.8%	3.8%	1,051
2006	1	Dartmouth	Lincoln Park	40.65	319	84	26.3%	41.4%	130
2010	1	Easthampton	Smart Growth Overlay District	149.00	482	50	10.4%	14.1%	414
2008	1	Easton	Queset Commons	60.66	280	110	39.3%	39.3%	170
2010	1	Fitchburg	Smart Growth Overlay District	33.20	676	186	27.5%	27.5%	394
2007/2016	1	Haverhill	Downtown	58.00	701	362	51.6%	73.9%	85
2008	1	Holyoke	Smart Growth Overlay District	152.00	296	59	19.9%	19.9%	237
2008	1	Lawrence	Arlington Mills	34.10	1,031	137	13.3%	13.3%	894
2008/2012	1	Lowell	Smart Growth Overlay District	2.50	250	122	48.8%	76.8%	(17)
2014	1	Ludlow	Smart Growth Overlay District	186.80	350	75	21.4%	21.4%	275
2006	1	Lunenburg	Tri-Town	8.97	204	131	64.2%	64.2%	73
2008/2017	1	Northampton	Sustainable Growth / Hospital Hill	30.56	429	123	28.7%	49.2%	218
2008	1	Pittsfield	Smart Growth Overlay District	10.72	296	112	37.8%	37.8%	155
2010/2017	1	Reading	Downtown	41.46	459	53	11.5%	22.4%	356
<b>SUBTOTAL</b>	<b>16</b>			<b>936</b>	<b>8,539</b>	<b>1,985</b>	<b>23.2%</b>	<b>30.8%</b>	<b>5,191</b>
<b>NO CONSTRUCTION YET BUT ACTIVE APPROVED PROJECTS</b>									
2014	1	Norwood	Guild Street / Regal Press	0.57	44	-	-	90.9%	4
2009	1	Sharon	Sharon Commons	11.55	167	-	-	115.0%	(25)
2015	1	Newburyport	SGOD	49.40	540	-	-	14.8%	460
2007	1	Plymouth	Cordage Park	56.80	675	-	-	30.2%	471
<b>SUBTOTAL</b>	<b>4</b>			<b>118</b>	<b>1,426</b>	<b>-</b>	<b>0.0%</b>	<b>36.2%</b>	<b>935</b>
<b>NO PROJECTS CURRENTLY APPROVED</b>									
2007	1	Grafton	Fisherville Mill	13.74	240	-	-	0.0%	240
2007	1	Kingston	1021 Kingston's Place	109.00	730	-	-	0.0%	730
2007	1	N. Andover	Osgood	169.00	530	-	-	0.0%	530
2008	1	Bridgewater	Waterford Village	128.00	594	-	-	0.0%	594
2008	1	Westfield	Southwick Road	22.20	244	-	-	0.0%	244
2010	1	Marblehead	Pleasant Street	0.33	17	-	-	0.0%	-
2010	1	Marblehead	Vinnin Square	1.56	47	-	-	0.0%	47
2015	1	South Hadley	S. Hadley Falls SGD	48.27	383	-	-	0.0%	383
2015	1	Swampscott	Vinnin Square	2.27	68	-	-	0.0%	68
<b>SUBTOTAL</b>	<b>9</b>			<b>494</b>	<b>2,853</b>	<b>-</b>	<b>0.0%</b>	<b>0.0%</b>	<b>2,836</b>
<b>RECENTLY APPROVED DISTRICTS</b>									
2017	1	Gr. Barrington	North SGOD	36.74	304	-	-	0.0%	304
2017	1	Gr. Barrington	South SGOD	39.17	190	-	-	0.0%	190
2017	1	Rockland	Downtown Rockland Revitalization Overlay	33.80	480	-	-	0.0%	480
2017	1	Northampton2	Urban Residential SGOD	0.50	31	-	-	100.0%	31
<b>SUBTOTAL</b>	<b>4</b>			<b>110</b>	<b>1,005</b>	<b>-</b>	<b>0.0%</b>	<b>3.1%</b>	<b>974</b>
<b>TOTAL</b>	<b>42</b>			<b>1,869</b>	<b>15,391</b>	<b>3,505</b>	<b>22.8%</b>	<b>30.5%</b>	<b>9,945</b>

UC = Under Construction

Note: For definitions, see Table 2 notes (page 11). The estimated available future zoned units number is sometimes negative because DHCD's data summaries sometime list the "incentive unit" figure.

**TABLE 7: CHARACTERISTICS OF BUILT-OUT, PARTIALLY-DEVELOPED AND UNDEVELOPED DISTRICTS**

YR DISTRICT FINAL APPROVAL/YR AMEND	# OF DISTRICTS	MUNICIPALITY	DISTRICT	DISTRICT SIZE (ACRES)	INCENTIVE/FUTURE ZONED UNITS (FZU)	TOTAL 40R+NON-40R UNITS PRODUCED (OR APPROVED) % OF FZU	ESTIMATED AVAIL FZU	MAINLY ONE PROJECT	MAINLY ONE OWNER
<b>LARGELY BUILT OUT</b>									
2006	1	Norwood	St. George Ave	0.78	15	100.0%	-	1	1
2008	1	Belmont	Oakley Neighborhood	1.51	18	94.4%	-	1	1
2006	1	Chelsea	Gerrish Ave	2.82	125	96.0%	-	1	1
2008	1	Natick	SGOD	5	138	100.0%	-	1	1
2007	1	Lynnfield	Meadow Walk	80.25	180	100.0%	-	1	1
2008	1	Reading	Gateway	10	202	99.0%	-	1	1
2006	1	Lakeville	Kensington Court	11	207	98.6%	-	1	1
2007	1	Amesbury	Gateway Village	52	249	96.4%	9	1	1
2006	1	N. Reading	Berry Center	46	434	93.5%	-	1	1
<b>SUBTOTAL</b>	<b>9</b>			<b>209</b>	<b>1,568</b>	<b>96.9%</b>	<b>9</b>	<b>9</b>	<b>9</b>
<b>DISTRICTS WITH SOME DEVELOPMENT</b>									
2008	1	Boston	Olmsted Green	42	578	34.6%	378		1
2007	1	Brockton	Downtown	60	1,096	34.1%	722		
2010	1	Chicopee	Chicopee Center SGOD	25.62	1,092	3.8%	1,051		
2006	1	Dartmouth	Lincoln Park	40.65	319	41.4%	130		1
2010	1	Easthampton	SGOD	149	482	14.1%	414		
2008	1	Easton	Queset Commons	60.66	280	39.3%	170		1
2010	1	Fitchburg	SGOD	33.2	676	27.5%	394		
2007/2016	1	Haverhill	Downtown	58	701	73.9%	85		
2008	1	Holyoke	SGOD	152	296	19.9%	237		
2008	1	Lawrence	Arlington Mills	34.1	1,031	13.3%	894		
2008/2012	1	Lowell	SGOD	2.5	250	76.8%	(17)		
2014	1	Ludlow	SGOD	186.8	350	21.4%	275		
2006	1	Lunenburg	Tri-Town	8.97	204	64.2%	73	1	1
2008/2017	1	Northampton	Sustainable Growth/ Hospital Hill	30.56	429	49.2%	218	1	1
2008	1	Pittsfield	SGOD	10.72	296	37.8%	155		
2010/2017	1	Reading	Downtown	41.46	459	22.4%	356		
<b>SUBTOTAL</b>	<b>16</b>			<b>936</b>	<b>8,539</b>	<b>30.8%</b>	<b>5,191</b>	<b>2</b>	<b>5</b>
<b>NO CONSTRUCTION YET BUT ACTIVE APPROVED PROJECTS</b>									
2014	1	Norwood	Guild Street / Regal Press	0.57	44	90.9%	4	1	
2009	1	Sharon	Sharon Commons	11.55	167	115.0%	(25)	1	
2015	1	Newburyport	SGOD	49.4	540	14.8%	460		
2007	1	Plymouth	Cordage Park	56.8	675	30.2%	471		
<b>SUBTOTAL</b>	<b>4</b>			<b>118</b>	<b>1,426</b>	<b>36.2%</b>	<b>935</b>	<b>2</b>	<b>-</b>
<b>NO PROJECTS CURRENTLY APPROVED</b>									
2007	1	Grafton	Fisherville Mill	13.74	240	0.0%	240	1	1
2007	1	Kingston	1021 Kingston's Place	109	730	0.0%	730	-	1
2007	1	N. Andover	Osgood	169	530	0.0%	530	-	1
2008	1	Bridgewater	Waterford Village	128	594	0.0%	594	-	1
2008	1	Westfield	Southwick Road	22.2	244	0.0%	244	-	-
2010	1	Marblehead	Pleasant Street	0.33	17	0.0%	-	-	1
2010	1	Marblehead	Vinnin Square	1.56	47	0.0%	47	-	1
2015	1	South Hadley	S. Hadley Falls SGD	48.27	383	0.0%	383	-	-
2015	1	Swampscott	Vinnin Square	2.27	68	0.0%	68	1	1
<b>SUBTOTAL</b>	<b>9</b>			<b>494</b>	<b>2,853</b>	<b>0.0%</b>	<b>2,836</b>	<b>2</b>	<b>7</b>
<b>RECENTLY APPROVED DISTRICTS</b>									
2017	1	Gr. Barrington	North SGOD	36.74	304	0.0%	304		1
2017	1	Gr. Barrington	South SGOD	39.17	190	0.0%	190		
2017	1	Rockland	Downtown Rockland Revitalization Overlay	33.8	480	0.0%	480		
2017	1	Northampton2	Urban Residential SGOD	0.5	31	100.0%	31	1	1
<b>SUBTOTAL</b>	<b>4</b>			<b>110</b>	<b>1,005</b>	<b>3.1%</b>	<b>974</b>	<b>-</b>	<b>1</b>
<b>TOTAL</b>	<b>42</b>			<b>1,869</b>	<b>15,391</b>	<b>30.5%</b>	<b>9,945</b>	<b>15</b>	<b>22</b>

# Housing Production

To date, the 42 approved districts would allow development of 15,391 housing units if all developable parcels were fully developed using 40R. A few sites have been developed for non-housing uses, such as a parking lot, wind farm or as less dense housing using other zoning tools.<sup>37</sup>

Some 3,505 units have been built or are in construction, with almost one-half (49% or 1,704) affordable and almost one-half (48% or 1,676) in projects that had already received or applied for special permits or comprehensive permits or in districts that had approved re-use plans. This is far less than the 20,000+ units completed in over 120 municipalities statewide using Chapter 40B between late 2007 (two years after 40R regulations were issued) and late 2017, including 4,401 in the 36 municipalities with 40R districts excluding Boston (see Appendix 2).

Some of the difference between 40R and 40B production levels is due to limits on where 40R districts can potentially be established and the further need for a municipality to proactively rezone for affordable housing. Some argue that 40R represents an effort to change development norms and its effectiveness should be measured over a longer period.

The slow recovery of demand in many parts of the state after the 2005 housing crash also played a role, as some developers chose not to proceed with 40R plans or to delay them. In addition, some of the 40B units that came online from 2007 forward had received approval years earlier. Another difference is that a higher share of 40R projects are in locations where subsidy is needed, and the wait for funding can slow development.

## Affordable Production and Term

**Statutory minimum affordability requirement:** The statute requires at least 20% of units produced district wide and by project be affordable at or below 80% of area median income (AMI), with 25% for age-restricted or elderly projects. It allows municipalities to require a higher affordability percentage districtwide with DHCD approval, although none have. Municipalities can exempt projects with 12 or fewer units from the affordability requirement. To date, only four have provided this exemption.

To date, 1,704 out of 3,505 (49%) of units completed or in construction are affordable, primarily due to the number of projects developed with state and federal subsidies. While nearly one-half of the homes produced are affordable, it should be noted that 55% of affordable homes built under Chapter 40R are in census tracts with 2010 poverty rates above 20%, while 27% of affordable homes built under 40R are in census tracts with poverty rates below 10%.

**Length of affordability restriction:** Chapter 40R zoning must require affordability for “at least 30 years”<sup>38</sup> but can impose a longer minimum term. Chapter 40B, by contrast, creates an affordability restriction in perpetuity unless the locality opts out.<sup>39</sup> Of the 42 approved districts:

- Sixteen simply require a minimum of 30 years, including 6 of the 10 Gateway City districts;
- Five set a minimum of 30 years but allow the plan approval agency to require longer terms;
- One requires 50 years;

## PROJECT COUNTS FOR THIS REPORT:

Some of the housing built using 40R did not require plan approval because they were small projects and some are also exempt from affordability restrictions.

In some early districts, projects built in phases were treated as a single project even if the affordability and occupancy restrictions varied by phase. The addition of the requirement to evenly disperse affordability in 2013 addressed this.

For simplicity, we are treating phased projects as single projects if the tenure and populations served do not differ by phase (Lakeville, Lawrence, Lunenburg and Pittsfield). In districts where there are such differences (Boston, Chelsea, Dartmouth and Northampton), we treat each phase as a project.

See Table 8 for a complete list of projects. This report generally uses DHCD counts of units built in a district that count toward compliance with the zoning incentive, which may include projects not approved under 40R but that comply with 40R density, affordability, and other requirements. Exceptions are noted where applicable.

- Twenty require a term of “99 years minimum” or in perpetuity or “the longest period allowed by law.”

**Project funding:** Twenty-seven of the forty projects<sup>40</sup> built or in construction have been developed with state and federal subsidy funds or tax credits. Nineteen of the twenty-two projects in older, larger cities required deep subsidy, as did eight of the eighteen projects in other locations (Table 8). As one developer noted, zoning alone does not create affordability in most locations and subsidy is often required to offset remediation or historic preservation costs as well.

**Unit sizes (bedrooms):** About 46% of the units developed are zero- or one-bedroom units, about 50% are two-bedroom units and just over 4% have been three-bedroom units (see Appendix 4). Unlike Chapter 40B developments, Chapter 40R developments are not subject to the state’s “three-bedroom policy” adopted in 2014.<sup>41</sup>

**Population served:** 93% of units built to date are for general occupancy. A few provide supportive housing, with some set-aside units for persons with disabilities or at risk of homelessness, as a condition of subsidy financing. Five of the 40 developments have occupancy restrictions: one is artist live/work and four are age-restricted (two 55+, two elderly). All five were subsidized. They make up a higher share of the subsidized 40R developments in suburbs/small cities (three of eight) than in Boston and the Gateway Cities (two of eighteen).

**Family housing:** To date, eight of the forty projects representing 12% of total 40R units meet or come close to meeting DHCD’s definition of family housing in its Qualified Allocation Plan: that is, that a least 10% of the units have three or more bedrooms, and at least 65% overall have two or more bedrooms. They include a five-unit unsubsidized infill development in Holyoke, two ownership developments (one subsidized), and five subsidized rental developments (see Appendix 4).

## Housing Development in 40R Districts Using Other Zoning

Because 40R zoning is an overlay, developers have a choice as to whether to use it and municipalities can choose whether to encourage its use. Some cities encourage 40R use when they know a development will be affordable while encouraging market rate development through other zoning if feasible.

At least six new residential developments (326 units total, 41 affordable) have been approved in four districts (Dartmouth, Fitchburg, Haverhill and Lowell) using zoning other than 40R, including other special overlays such as mill conversion or downtown redevelopment. One municipality (Dartmouth) changed the underlying zoning in part of the district to allow the alternative development.

- One is a subsidized development that meets all 40R requirements (Fitchburg Yarn).
- The other five are 97-100% market rate, including at least three approved for a state tax credit and local tax abatement under the state Housing Development Incentive Program (HDIP).<sup>42</sup>

Additional non-40R development is also anticipated in several other districts. Pittsfield is in the process of approving an all-market rate HDIP project in its district (29 units) and at least two more municipalities (Chicopee, South Hadley) anticipate receiving non-40R applications for projects in their districts, all 100% market rate. In the case of South Hadley, the developer chose to proceed at a density below the 40R minimums.



COUNTING HOUSE  
LOFTS

LOWELL



TABLE 8: SUBSIDY USE IN 40R PROJECTS BY LOCATION TYPE

#P	MUNI	PROJECT NAME	TENURE	62+ OR 55+ ONLY?	TOTAL UNITS	AFFORDABLE UNITS (< 80% AMI)	% AFF	DEEP SUBSIDY?	% EXTREMELY LOW INCOME UNITS (<30% AMI)	TAX CREDIT UNITS
<b>PROJECTS IN BOSTON/GATEWAY CITIES</b>										
1	Boston	Olmsted Green -Rental Phase II	Rental	-	50	50	100%	1	22%	50
1	Boston	Olmsted Green -Rental Phase III	Rental	-	50	50	100%	1	36%	50
1	Boston	Hearth at Olmsted Green	Rental	1	59	59	100%	1	100%	59
1	Boston	Olmsted Green Condos II	Ownership	-	41	11	27%	1	0%	-
1	Brockton	Station Loft Apts	Rental	-	25	14	56%	1	12%	14
1	Brockton	Centre 50 (Centre & Main IA)	Rental	-	71	29	41%	1	11%	29
1	Brockton	Enso Flats (Centre & Main IB)	Rental	-	42	42	100%	1	12%	42
1	Chelsea	Janus Highland Apartments	Rental	-	41	41	100%	1	10%	41
1	Chelsea	Box Works Homes	Ownership	-	26	14	54%	1	0%	-
1	Chicopee	Kendall apartments	Rental	-	41	41	100%	1	20%	41
1	Haverhill	Hamel Mill Lofts	Rental	-	305	63	21%	1	10%	63
1	Haverhill	Hayes Building Phase I+II	Rental	-	57	52	91%	1	7%	33
1	Holyoke	Chestnut Park Apts	Rental	-	54	54	100%	1	15%	54
1	Lawrence	Loft 550 I+II	Rental	-	137	134	98%	1	11%	135
1	Lowell	Counting House Lofts I	Rental	-	52	26	50%	1	12%	26
1	Lowell	Mass Mills III - Picker Building	Rental	-	70	57	81%	1	10%	57
1	Pittsfield	New Amsterdam	Rental	-	67	67	100%	1	10%	67
1	Pittsfield	Silk Mill Apartments	Rental	-	45	43	96%	1	11%	43
1	Brockton	Green Street 102	Rental	-	2	2	100%	1	0%	-
<b>19</b>	<b>SUBTOTAL-DEEP SUBSIDY</b>		<b>RENTAL</b>	<b>1</b>	<b>1,235</b>	<b>849</b>	<b>69%</b>	<b>19</b>	<b>16%</b>	<b>804</b>
1	Fitchburg	Riverside Commons Phase I, II	Rental	-	186	38	20%	0	0%	-
1	Holyoke	Infill (one single family, two two-unit)	Mix	-	5	-	0%	0	0%	-
1	Chelsea	Atlas Lofts	Rental	-	53	6	11%	0	0%	-
<b>22</b>	<b>TOTAL URBAN</b>			<b>1</b>	<b>1,479</b>	<b>893</b>	<b>60%</b>	<b>19</b>	<b>13%</b>	<b>804</b>
<b>PROJECTS IN SUBURBAN TOWNS/SMALL CITIES</b>										
1	Dartmouth	Residences (Village) at Lincoln Park-Phase I	Rental	-	36	36	100%	1	11%	36
1	Dartmouth	Village at Lincoln Park II - Senior (Bldg G)	Rental	1	48	48	100%	1	21%	48
1	Easthampton	Cottage Square (aka Dye Works)	Rental	-	50	50	100%	1	24%	50
1	Lakeville	Kensington Ct Phase I+II	Rental	-	204	100	49%	1	5%	100
1	Ludlow	Ludlow Mill (Residences at Mill 10) (55+)	Rental	1	75	66	88%	1	20%	66
1	Lunenburg	Tri-Town Landing Phase I,II,III	Rental	-	131	125	95%	1	18%	125
1	Northampton	Christopher Heights	Rental	1	83	43	52%	1	20%	43
1	Northampton	Hillside Apts (Village Hill II)	Rental	-	40	32	80%	1	10%	32
<b>8</b>	<b>SUBTOTAL-DEEP SUBSIDY</b>		<b>RENTAL</b>	<b>3</b>	<b>667</b>	<b>500</b>	<b>75%</b>	<b>8</b>	<b>14%</b>	<b>500</b>
1	Amesbury	The Heights at Amesbury	Rental	-	240	60	25%	0	0%	-
1	Belmont	Oakley Village	Ownership	-	17	3	18%	0	0%	-
1	Easton	Queset Commons-Apartments Phase IA	Rental	-	50	13	26%	0	0%	-
1	Easton	Queset Commons-MF Condominium	Ownership	-	60	3	5%	0	0%	-
1	Lynnfield	Market Street Apts	Rental	-	180	45	25%	0	0%	-
1	Natick	Modera Natick Center	Rental	-	138	28	20%	0	0%	-
1	North Reading	Edgewood Apts	Rental	-	406	102	25%	0	0%	-
1	Norwood	Courtyard at St. George	Ownership	-	15	3	20%	0	0%	-
1	Reading	Haven 30	Rental	-	53	11	21%	0	0%	-
1	Reading	Reading Woods	Ownership	-	200	43	22%	0	0%	-
	<b>SUBTOTAL - NO/MINIMAL SUBSIDY</b>			<b>-</b>	<b>1,359</b>	<b>311</b>	<b>23%</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>18</b>	<b>TOTAL SUBURBAN/SMALL CITY</b>			<b>3</b>	<b>2,026</b>	<b>811</b>	<b>40%</b>	<b>8</b>	<b>5%</b>	<b>500</b>
<b>40</b>	<b>GRAND TOTAL</b>			<b>4</b>	<b>3,505</b>	<b>1,704</b>	<b>49%</b>	<b>27</b>	<b>8%</b>	<b>1,304</b>

# 40R and 40S Funding and Payments

The State has paid \$20.352 million in 40R zoning incentive and density bonus payments (see Appendix 5). It has also paid \$2.2 million in Chapter 40S school cost reimbursements.

Both funding for the 40R payments and the 40S appropriation have run short at times<sup>43</sup> and indeed, the FY2018 40R capital allocation of \$1.5 million is expected to run short before June 30, 2018, with only \$11,000 remaining as of December 31, 2017. This has created skepticism among some localities considering district creation about the reliability of payment. Legislators continue to explore more predictable funding mechanisms.<sup>44</sup>

Until FY2018, the zoning incentive and density bonus payments were generally paid out of the Smart Growth Housing Trust Fund.<sup>45</sup> In FY2018, the funding source was changed to the state capital budget,<sup>46</sup> necessarily imposing restrictions on how the funds can be used (prior sources allowed unrestricted uses). Incentive payments made with capital budget funds can only be used for capital eligible purposes as detailed in the December 2017 revised regulation.<sup>47</sup>

The future demand for 40R incentive payments is hard to predict, as it depends on the extent to which the current 40R districts are developed using 40R and new district creation. If all 15,391 future zoned units in the 42 approved districts were developed using 40R, the state would be required to make an additional \$37.9 million in density bonus payments alone.

## Clawback

Under the statute,<sup>48</sup> DHCD may require repayment of the zoning incentive payment (ZIP) if no construction has started in a district within three years of the payment. Start of construction is defined in the statute to include site remediation and planned infrastructure upgrades.

Five current districts (Kingston, North Andover, Grafton, Bridgewater and Westfield) might be considered at risk because they received a total of \$2.35 million in ZIP payments three or more years ago and have no active 40R approved project (in Kingston, the developer withdrew during the housing crash). The inaction is attributed primarily to current owner assessments of market demand. These five municipalities added about 1,100 housing units using Chapter 40B from 2007-2017 (see Appendix 2).

While some see the clawback risk as possibly chilling municipal interest in pursuing 40R district creation, DHCD's policy has been not to request a return of funds in the absence of bad faith and no municipalities have been required to return funds yet.

To reduce municipal risk, DHCD has been using conditional, rather than final, approval letters for more recent districts if infrastructure work is still needed to meet the statutory standard. ZIP payments cannot be drawn down until the conditions in the letter are met. Some municipalities have also deferred requesting or spending the ZIP until they have a project close to construction.



TRITOWN LANDING

LUNENBURG

## Chapter 40S Payments

Chapter 40S allows municipalities to seek reimbursement of the cost of schooling children in 40R developments to the extent that a share of the additional property and excise taxes generated by the development and state funding (Chapter 70) do not cover those costs (see page 7). It is up to municipalities to apply for reimbursement. The reimbursements are subject to annual appropriation and have been underfunded the past three years (budget line 1233-2401). To date, \$2.2 million has been paid.

The payment is based on the number of enrolled public school students who live in developments built using 40R as of the start of the school year (October 1st) and made the following fiscal year (e.g. payments based on the October 2017 student count are made in November 2018).

To date, only five municipalities have ever applied, and only three have ever qualified, for reimbursements (Chelsea, Lakeville and Lunenburg). Only two (Lakeville and Lunenburg) have applied in the last three years. Even so, appropriations have been less than needed to fully reimburse eligible districts since FY2016, averaging 53% in the past three years.

The relatively low spending reflects project and site characteristics. Many sites were under-utilized prior to development and some were tax-exempt (e.g. former state properties, churches, vacant mills). Some also include commercial uses which generated new taxes. Most are multifamily developments and very few include three-bedroom units.

Some also think it is possible that some municipalities that might qualify have not applied. Others not receiving 40S reimbursements due to changes in their Chapter 70 funding or the profile of current projects might become eligible if they develop new 40R projects or their Chapter 70 funding changes.

Some believe the lack of reliable funding for 40S payments may contribute to the unwillingness of municipalities to pursue 40R districts or allow housing types or projects with larger bedroom sizes.

The 40S amounts due per-student have varied considerably from year to year, depending on changes in Chapter 70 funding, ranging from under \$1,000 to over \$9,000.

Lakeville and Lunenburg have 335 apartments (204 and 131 respectively) in their 40R districts and reported 91 students in their 40R districts (45 and 46 respectively) in FY2016, or approximately 0.27 students per unit (0.35 per unit if one assumes that the one-bedroom units had no students).



KENSINGTON COURT  
LAKEVILLE

**TABLE 9: 40R INCENTIVE PAYMENTS AS OF SEPTEMBER 30, 2017**

FY PAID	TOTAL PAYMENTS	ZONING INCENTIVE PAYMENT	BONUS UNIT PAYMENTS	BONUS UNITS
2007	2,010,000	2,010,000	-	-
2008	5,376,000	4,125,000	1,251,000	417
2009	3,225,000	2,310,000	915,000	305
2010	2,299,000	1,300,000	999,000	333
2011	950,000	950,000	-	-
2012	465,000	-	465,000	155
2013	525,000	150,000	375,000	125
2014	1,203,000	-	1,203,000	401
2015	1,364,000	425,000	939,000	313
2016	859,000	350,000	509,000	170
2017	2,076,000	425,000	1,651,000	550
<b>TOTAL</b>	<b>20,352,000</b>	<b>12,045,000</b>	<b>8,307,000</b>	<b>2,769</b>

**TABLE 10: 40S INCENTIVE PAYMENTS AS OF SEPTEMBER 30, 2017**

SCHOOL YEAR	MUNICIPALITIES ELIGIBLE FOR 40S \$	ELIGIBLE AMOUNTS	AMOUNT PAID	% PAID	FY PAID/ DUE
FY2010	2	363,699	363,699	100.0%	FY2012
FY2011	2	242,941	242,941	100.0%	FY2013
FY2012	2	182,309	182,309	100.0%	FY2013
FY2013	1	131,271	131,271	100.0%	FY2014
FY2014	2	436,743	436,743	100.0%	FY2015
FY2015	2	614,686	350,000	56.9%	FY2016
FY2016	2	614,686	250,000	40.7%	FY2017
FY2017	2	412,694	250,000	60.6%	FY2018
<b>TOTAL</b>		<b>2,999,029</b>	<b>2,206,963</b>		

**TABLE 11: STUDENTS IN 40S PROJECTS IN MUNICIPALITIES APPLYING FOR 40S PAYMENTS**

SCHOOL YEAR	STUDENTS ELIGIBLE FOR 40S REIMBURSEMENT	40S STUDENTS			40S REIMBURSEMENT DUE/STUDENT/YEAR		
		CHELSEA	LAKEVILLE	LUNENBURG	CHELSEA	LAKEVILLE	LUNENBURG
FY2010	44	30	14	-	9,210	6,242	-
FY2011	62	40	22	-	1,911	7,568	-
FY2012	68	44	24	-	-	7,596	-
FY2013	19	-	19	-	-	6,909	-
FY2014	63	-	36	27	-	7,031	6,801
FY2015	67	-	35	32	-	9,185	9,163
FY2016	67	-	35	32	-	9,185	9,163
FY2017	91	-	45	46	-	8,522	635
<b>TOTAL</b>	<b>481</b>						

## Smart Growth Characteristics and Goals

As many have noted, smart growth is a land development concept, not characterized by detailed definitions. This study has not tried to assess the extent to which 40R developments to date possess all nine smart growth characteristics listed in Chapter 40R. It does attempt to assess some of the more easily measured elements, such as affordability, walkability, and access to transit.

The review is based primarily on the characteristics of the projects built to date rather than district characteristics. It does not examine the potential smart growth characteristics of undeveloped sites within districts, given the many unknowns.

### Provide a Variety of Transportation Choices

Among the three types of eligible locations (see page 11), many early districts qualified as “otherwise highly suitable” locations (HSL). To date, of the 42 approved districts:

- Seventeen are in HSL locations, including 38% of future zoned units;
- Thirteen are in areas of concentrated development (ACD), including 33% of future zoned units;
- Twelve are in transit districts, including 29% of the future zoned units.<sup>49</sup>

District type alone may not indicate how much transit access and walkability 40R districts offer. A comparison of Walk Score™ scores of the housing developed to date using 40R<sup>50</sup> indicates that the district categorizations generally aligned with the Walk Score™ scores (Table 12).

The Walk Score™ profile of 3,505 units produced to date (see Appendix 8) indicate that:

- 41% of units are in “car-dependent” or “largely car-dependent” locations with low walkability and not near transit as defined by 40R, though some

### SMART GROWTH IS A PRINCIPLE OF LAND DEVELOPMENT THAT:

- Emphasizes mixing land uses;
- Increases the availability of affordable housing by creating a range of housing opportunities in neighborhoods;
- Takes advantage of compact design;
- Fosters distinctive and attractive communities;
- Preserves open space, farmland, natural beauty and critical environmental areas;
- Strengthens existing communities;
- Provides a variety of transportation choices;
- Makes development decisions predictable, fair and cost effective;
- Encourages community and stakeholder collaboration in development decisions.

M.G.L. c.40R

are close to bus lines;

- 10% have access to the commuter rail, but have generally low walkability and are car-dependent or largely car-dependent;
- 17% are in somewhat walkable locations but are not near transit as defined by 40R;
- 23% are in areas that are both near transit and are very or highly walkable;
- 9% are in areas not meeting the transit threshold but are very or highly walkable.

This mix may change in the future, given revisions to standards for infrastructure and eligible locations in 2013 and again for “highly suitable locations” in late 2017, as well as external events, such as an MBTA decision to close a commuter rail stop. However, the high share of units in car-dependent locations raises the question of how effectively 40R has promoted smart growth goals. A local planning website listing 28 examples of smart growth development includes only two developed using 40R.<sup>51</sup>

A 2014 study of 40R<sup>52</sup> suggested that one way to make it a more effective smart growth tool would be to revise the incentive payment structure, tying it to the extent to which projects fulfill specified priority 40R standards, such as transit access, walkability and site remediation. It also recommended encouraging smart growth parking practices. Others believe such changes would be administratively complex and discourage municipal participation.

The 2014 40R study, along with two more, also noted that smart growth, as currently defined, does not directly address climate change goals, including reductions in greenhouse gas emissions in part by reducing vehicle miles traveled (VMT), although it encourages development practices that correlate with environmental goals (concentrated developed, walkability, transit access, open space preservation).

A 2009 study also suggested offering calibrated state incentives to reward municipalities for zoning actions (using 40R or other laws) that address specific housing, transit, brownfield remediation and open space preservation or greenhouse gas emission reduction goals and green building practices.<sup>53</sup> This would require location criteria that ensure the additional density also reduces VMT based on distance to transit and transit frequency and destinations served, diversity of nearby land uses and access to jobs, in comparison to VMT for development more generally. Again, some have noted that these more complex standards are likely to be hard to administer and police in practice.

A third study in 2017<sup>54</sup> of compact development policies (though not 40R specifically), found compact development offers limited potential on its own to affect or reduce CO2 emissions in older slow-growing metropolitan areas absent specific locational strategies. The authors modeled the potential impact of compact growth policies and policies to promote residential energy conservation, based on metropolitan area housing, commuting and other characteristics. They found a 25% reduction in the construction of single-family detached homes, compared to 2010, and a corresponding increase in single-family attached and multifamily units would have no impact on relatively slow-growing metro areas such as Boston, while requiring new and existing homes to meet energy conservation standards could significantly reduce CO2 emissions.

To increase the impact of compact growth policies, the study recommends



30 HAVEN STREET  
READING

pairing them simultaneously with modal diversion programs that encourage residents to drive less and walk, bike and use public transportation. Two ways to achieve this pairing are to focus compact growth policies and incentives along transportation corridors and in the metropolitan area core, defined as census tracts that are less than one-half the average distance of all tracts from the metropolitan central business district.

### Predictable Development Decisions

Chapter 40R emphasizes this goal through its required as-of-right project approval process and limited grounds for denial. However, the goal has not always been achieved, in part because the statute leaves both maximum density and parking requirements to municipalities. Some municipalities have set the maximum multifamily density at the statutory minimum (20 units/acre), knowing developers will need to request a waiver for feasibility, undermining the as-of-right nature of the process and adding time and uncertainty to the approval process. Parking requirements also have varied considerably, sometimes exceeding likely car ownership rates, raising project costs and creating spaces that go unused and generating waiver requests.<sup>55</sup> In at least one district, the parking requirement realistically can only be met through structured parking, forcing developers to seek a density waiver to cover the cost.<sup>56</sup> One developer had to change the placement of garages to satisfy abutters, even though the project complied with the district design standards.<sup>57</sup>

**TABLE 12: WALK- AND TRANSIT-SCORES OF 40R DEVELOPMENTS<sup>59</sup>**

MUNICIPALITY	PROJECT NAME(S)	DISTRICT TYPE	WALK SCORE	TRANSIT SCORE	TRANSIT ACCESS	TOTAL U	AFF U
Amesbury	Amesbury Hts 40B	HSL	19	18	nearest bus 0.7 mi	240	60
Boston	Olmsted Green Rental - Phase II	HSL	31-35	65-67	7 bus lines 0-.4 mi; 5 rail and T stops 0.8-1.4 mi	50	50
Boston	Olmsted Green Rental - Phase III	HSL	24-47	60-65	7 bus lines 0-.2 mi; 2 T and commuter rail stops 0.8-1.2 mi	50	50
Boston	Hearth at Olmsted	HSL	47	65-67	7 bus lines 0-.4 mi; 5 rail and T stops 0.8-1.4 mi	59	59
Boston	Olmsted Green Condos II	HSL	64	58	5 buslines 0.2-0.5 mi; 2 commuter rail lines .7 mi, 2 1.3 mi	41	11
Dartmouth	Village at Lincoln Park	HSL	19		no info	36	36
Easton	Queset Commons - Phase IA-Bldg A	HSL	6		no info	50	13
Easton	Queset Commons - Phase I-Bldg D/E	HSL	4		no info	60	3
Fitchburg	Riverside Commons Phase I+II	HSL	44	20	1.3 mi fr commuter rail	186	38
Lunenburg	Tri-Town Landing Phases I,II,III	HSL	29-40		1.4 mi fr commuter rail	131	125
Lynnfield	Market St Apts (fka Arborpoint)	HSL	52		no score	180	45
North Reading	Edgewood Apts	HSL	16		2.5 mi fr commuter rail	406	102
Northampton	Christopher Heights; Hillside Place	HSL	16		closest bus 0.7 mi	83	43
Reading	Reading Woods	HSL	varies		0.7 to 1.2 mi from commuter rail	200	43
<b>SUBTOTAL LARGELY CAR DEPENDENT (16)</b>						<b>1,860</b>	<b>758</b>
Belmont	Oakley Neighborhood	HSL	71-75	45	1 bus line 0.0 mi away, commuter rail stops 1.3 mi away	17	3
Lawrence	Loft 550 - Phases I, II	HSL	81 or 78	33	2 bus lines 0.2, 0.3 mi	137	134
Chicopee	Kendall Apts (rehab)	ACD	69		2 bus stop 0.1 mi	41	41
Easthampton	Cottage Square (aka Dye Works)	ACD	74		0.1m fr bus	50	50
Holyoke	Infill units	ACD	82-87		no score but 4-7 bus lines within 0.2 mi	5	0
Holyoke	Chestnut Park Apts	ACD	87		no score but 7 bus lines within 0.2 mi	54	54
Ludlow	Ludlow Mills Phase I	ACD	65		no score - 0.1 and 0.5 mi to bus	75	66
Norwood	Courtyard at St. George	ACD	72		0.8 mi fr commuter rail	15	3
Pittsfield	Silk Mill Apts	ACD	58	31	4 bus stops all .4 mi away	45	43
Pittsfield	New Amsterdam Apts Phases I,II	ACD	84-86	37	10 bus stops all 0.2 mi away	67	67
<b>SUBTOTAL WALKABLE (10)</b>						<b>506</b>	<b>461</b>
Brockton	Station Loft. Enso Flats, Centre 50	Transit	87	49	0.2 mi fr commuter rail	25	14
Brockton	Green Street 102	Transit	87	48	0.3 mi fr commuter rail	2	2
Chelsea	Atlas Lofts,Box District, Janus-Highland	Transit	83-87	54	0.4 mi fr commuter rail	53	6
Haverhill	Hamel Mills	Transit	86	40	0.3 mi fr commuter rail	305	63
Haverhill	Hayes Village	Transit	86	40	0.1 mi fr commuter rail, 9 bus lines within 0.1 mi	57	52
Lakeville	Sterling Place/Kensington Court	Transit	24	53	0.3 mi fr commuter rail	104	0
Lowell	Counting House Lofts	Transit	95	53	0.5 mi fr commuter rail	52	26
Lowell	Mass Mills III - Picker Building	Transit	94	48	0.9 mi to commuter rail, 10 bus lines within 0.2 mi	70	57
Natick	Modera Natick Center	Transit	44		0.4 mi fr commuter rail, 2 buses 0.2 mi, 1 0.4 mi	138	28
Reading2	30 Haven	Transit	83		0.1 mi from commuter rail	53	11
<b>SUBTOTAL NEAR TRANSIT (14)</b>						<b>1,139</b>	<b>485</b>
<b>TOTAL</b>						<b>3,505</b>	<b>1,704</b>

Note: The Walk Score varied for some lower-scale projects with units at varying distances from various destinations.

# CHAPA Recommendations

Improvements should be made to 40R to help more communities increase smart growth housing production.<sup>58</sup> Although 40R housing production has lagged, 40R provides a model for what is considered smart growth in Massachusetts and a tool that helps the Commonwealth to meet its production and affordability needs. Improving 40R will require the Commonwealth to decide how important locational, affordability and fair housing goals are in its efforts to add 135,000 housing units by 2025, such as deciding if municipalities should receive extra encouragement to develop housing that meets 40R standards.

1. **Lower the margin for approval of 40R districts by local government to a simple majority**, from the 2/3 currently required in statute, as recommended in Governor Baker’s Housing Choice legislation (H.4075), CHAPA’s Housing Production bill (H.3845), and the Massachusetts Smart Growth Alliance Great Neighborhoods Bill (H.2420).
2. **Adequately fund 40R incentive payments and 40S payments** and create a reliable funding mechanism through the capital and operating budgets to instill confidence in the program for municipalities.
3. **Review school cost reimbursement amounts and process**, including the 40S funding formula, application process, and timing, which are set by statute, to see if changes would better address school cost impacts on municipal budgets. Start by surveying 40R municipalities to understand their use or non-use of 40S. Explore with school officials whether there is a simpler way to address school impacts and reward municipalities for creating family units.
4. **Promote fair housing** by extending the State Interagency Agreement Regarding Housing Opportunities for Families (the “three-bedroom” policy) to 40R projects, and consider other options to encourage use of 40R in low-poverty municipalities, perhaps targeting them for technical assistance under the Housing Choice Initiative.
5. **Reward outcomes:**
  - a. Consider either amending the statute, which sets the incentive payments, or adopting a policy that allows DHCD to use greater discretion in calculating the zoning incentive payment, placing more emphasis, for example, on likely market demand and on other local conditions, such as parking requirements, in calculating the likely future zoned units and thus the payment.



CENTRE 50 & ENSO  
FLATS

BROCKTON

- b. Once 40R and 40S are adequately funded, consider rewarding communities for achieving 40R density and affordability outcomes in locations that qualify as areas of substantial transit access or concentrated development under 40R, even if they have not gone through the 40R process. Units in 40R districts developed using 40B already qualify for the \$3,000 per unit bonus payment if the project received a project eligibility letter after district creation started. An initial step would be to study the potential cost of expanding 40S reimbursements to multifamily developments in smart growth locations where communities have allowed multifamily zoning by right.
6. **Consider targeting** Housing Choice planning and technical assistance to encourage development that meets 40R goals regionally to align with state growth projections, transit corridors and core metros, and to support MBTA development opportunities.
7. **Increase planning funds and tools, education and outreach** by increasing funding for the District Local Technical Assistance Program (DLTA) and widely promoting its use, planning grants from the Executive Office of Energy and Environmental Affairs, and other related state-funded planning grants. Promote 40R adoption through these grants when appropriate, as well as community compacts and all planning and development training and technical assistance the Commonwealth and quasi-governmental agencies provide to communities.
8. **Encourage adoption of parking requirements consistent with smart growth principles**, particularly maximum parking ratios, in 40R districts by issuing guidance for communities.
9. **Consider amending the “clawback” provision** in the Chapter 40R statute to either repeal it or create a “good faith effort” safe harbor, to address concerns of municipalities considering district creation while ensuring good faith efforts on behalf of communities to encourage housing production in 40R smart growth districts.
10. **Amend the statute or issue guidance setting minimum standards for walkability** and public transportation access in the definition of “otherwise highly suitable” locations.



THE VILLAGES AT  
HOSPITAL HILL  
NORTHAMPTON



# Conclusion

The Commonwealth needs several tools to meet the housing needs of residents and to grow the Massachusetts economy. Chapter 40R is one of the tools communities can use as part of a housing toolbox. Chapter 40R has provided a starting framework for housing production in smart growth locations with compact development and an affordable component. However, it has produced far less housing than Chapter 40B over the past 10 years. This demonstrates that a mix of requirements and incentives are needed to help communities increase overall housing production and affordable housing production as well as to increase housing in smart growth locations and preserve open space. Communities will need to zone for development in locations that will meet the state's housing needs across income levels, grow the state's economy, and contribute to the state's climate change goals.

Chapter 40R has spurred development in some suburban communities, often substituting for 40B, and has proven to be a useful tool for Gateway Cities. Chapter 40R has not yet been utilized much in Greater Boston, where 58% of state population growth is expected to occur between 2010 and 2035. Only 5% of 40R future zoned units are in the 36 "Greater Boston" municipalities. Chapter 40R is a tool that needs sharpening. Ultimately, Chapter 40R needs to be used along with other tools to significantly change development patterns in Massachusetts so that we can meet the Commonwealth's housing needs.



QUESET COMMONS  
EASTON

HAYES VILLAGE  
HAVERHILL



# Endnotes

- 1 Herr, P.B. (2006). Smart and Affordable: How Communities Have Achieved Affordable Housing in “Smart” Locations, Massachusetts Housing Partnership, Boston MA, pages 1 and 7. <http://archives.lib.state.ma.us/bitstream/handle/2452/265192/ocn911187694.pdf?sequence=1&isAllowed=y>
- 2 M.G.L. c.40r, (Chapter 149 of the Acts of 2004)
- 3 Existing zoning districts that meet the statutory requirements for a 40R district can also qualify for density bonus payments (but not zoning incentive payments), but this provision has not been used to date.
- 4 963 CMR 2.18 and Massachusetts School Building Authority Reimbursement Rate Calculation Policy (downloaded 9/25/2017) state that municipalities with a 40R district can receive a 1-2 percentage point increase in the reimbursement rate for school building projects [http://www.massschoolbuildings.org/sites/default/files/edit-contentfiles/Documents/Guidelines\\_Policies/Reimbursement-Rate-Calculation-UPDATE.pdf](http://www.massschoolbuildings.org/sites/default/files/edit-contentfiles/Documents/Guidelines_Policies/Reimbursement-Rate-Calculation-UPDATE.pdf)
- 5 M.G.L. c.40R, §9(c) requires an award method that favors municipalities with approved 40R districts or other approved zoning policies or initiatives that encourage increased affordable housing production. MassWorks guidelines (2017) do not directly refer to c.40R but the annual investment goals align with it (at least 67% of awards to support transit-oriented development, 100% to support housing at a density of at least 4u/acre, and 80% to support re-use of previously developed sites). <http://www.mass.gov/hed/economic/eohed/pro/infrastructure/massworks/guidance-documents/2017-massworks-program-guidelines-final.pdf>
- 6 M.G.L. c. 40R, added by Chapter 149 of the Acts of 2004
- 7 Edward C. Carman, Barry Bluestone and Eleanor White, “Building on Our Heritage: A Housing Strategy for Smart Growth and Economic Development: Report and Recommendations for the Commonwealth Housing Task Force,” October 30, 2003, page 2. Members include “housing organizations, the business community, organized labor, the Urban Land Institute, The Boston Foundation, Citizens’ Housing and Planning Association (“CHAPA”), elected and appointed officials and many others.”
- 8 Carman, Bluestone and White (2003), page 2
- 9 Carman, Bluestone and White (2003), page 3
- 10 Ibid, page 4
- 11 M.G.L. 40R, §9(c)
- 12 CHTF recommended the school cost payments to address the fact that “the cost of educating the students living in new single-family homes often substantially exceeds the amount of property taxes and other revenues allocable to education that are collected for the housing,” noting that net costs related to multifamily housing, by contrast, are relatively small. See Commonwealth Housing Task Force, Quarterly Report – December 31, 2005, page 2.
- 13 Language was inserted in an outside section of the FY2005 budget requiring that three state agencies issue a study by July 1, 2006 on the number of children residing in units built under 40R, the impact on local school costs and a recommended formula to measure the net cost of schooling these children.
- 14 Ted Carman, Barry Bluestone and Eleanor White, “Chapter 40R School Cost Analysis and Proposed Smart Growth School Cost Insurance Supplement – Report and Recommendations for the Commonwealth Housing Task Force,” Boston, MA, May 14, 2005.
- 15 Chapter 141 of the Acts of 2005 (Nov. 22, 2005, enacted Chapter 40S “Smart Growth School Cost Reimbursement”
- 16 The share, called the “education percentage,” is set at the statewide average ratio of municipal education spending to total municipal spending

- 17 Carman, Bluestone and White (2005), page 3, found while a typical mixed income multifamily development would trigger no payments in 57% of communities and only \$320 a unit in the remaining 43% of communities, it would trigger an average payment of \$5,000 in a non-foundation aid community for a home assessed at \$250,000.
- 18 Jenny Schuetz, *Guarding the Town Walls: Mechanisms and Motives for Restricting Multifamily Housing in Massachusetts*, July 2006 W06-3, Joint Center for Housing Studies. The author found that as of 2004, 127 of 186 municipalities in eastern Massachusetts had no available lots zoned for multifamily as-of-right, though 125 had at least some lots where multifamily housing was allowed by special permit. However, minimum lot sizes and other requirements often presented additional barriers. See pp.14-15 and Table 3. [http://140.247.195.238/sites/jchs.harvard.edu/files/w06-3\\_schuetz.pdf](http://140.247.195.238/sites/jchs.harvard.edu/files/w06-3_schuetz.pdf)
- 19 Amy Dain, *Residential Land-Use Regulation in Eastern Massachusetts: A Study of 187 Communities* December 2005 - A Joint Project of Pioneer Institute and Rappaport Institute, p.4 [http://www.masshousingregulations.com/pdf/land\\_use\\_regulation.pdf](http://www.masshousingregulations.com/pdf/land_use_regulation.pdf)
- 20 <https://commonwealthmagazine.org/opinion/in-newtonville-smart-growth-is-taking-hold/>
- 21 In municipalities below 10%, developers cannot appeal to the HAC if:
- The project is very large (equal to at least 2% of the community’s year-round stock or 300 units, with lower thresholds for smaller communities); or
  - Its subsidized housing sites exceed 1.5% of the municipality’s total land area or
  - It has a State-approved “housing production plan” and has been certified as increasing its subsidized housing count by at least 0.5%-1% of its year-round housing stock within the past 12-24 months; or
  - It has increased its subsidized housing count by a number > 2% of its year-round housing in the prior year (decisions on 40B applications filed during the year that follows that attainment can’t be appealed).
- 22 See regulation 760 CMR 56.04(4) <http://www.mass.gov/hed/economic/eohed/dhcd/legal/regs/760-cmr-56.html> and 40B guidelines <https://www.mass.gov/files/documents/2017/10/10/guidecomprehensivepermit.pdf>
- 23 See Chapter 40B Comprehensive Guidelines (December 2014) for details, including counting rules (Section II-6) <https://www.mass.gov/files/documents/2017/10/10/guidecomprehensivepermit.pdf> As of September 2017, 67 of the 351 cities and towns in Massachusetts are at or above 10% (up from 47 in May 2007) and four more are appeal-proof for 1-2 years as a result of making progress under Housing Production Plans.
- 24 760 CMR 56.00 requires zoning boards to open the hearing no later than 30 days after an application is filed, complete the public hearing within 180 days and render a decision no more than 40 days later.
- 25 M.G.L. c.40R Section 11 (h)
- 26 *The Mills at Natick Corporation v. The Town of Natick, et al.* [https://www.masscourts.org/eservices/search.page.3?x=2c7Gwqda9krc7glL-qhP5TYTau\\*viJJ-JlCq3-uafxfXcDQMSTBoysD6um0q9QA0lQSiCsyoJBckuehSxQbhA](https://www.masscourts.org/eservices/search.page.3?x=2c7Gwqda9krc7glL-qhP5TYTau*viJJ-JlCq3-uafxfXcDQMSTBoysD6um0q9QA0lQSiCsyoJBckuehSxQbhA)
- 27 The housing market recovery begun in 2012, especially in Greater Boston, and demand to pre-recession levels is returning in many parts of Massachusetts since, though some planners report local prices cannot support new development. See Michael Goodman, Robert Nakosteen, *The Massachusetts Economy in a Time of Transition*, Mass Benchmarks, 2014, Vol. 16, Issue 2, p. 7 [http://www.massbenchmarks.org/publications/issues/vol16i2/bmv16v2\\_2014.pdf](http://www.massbenchmarks.org/publications/issues/vol16i2/bmv16v2_2014.pdf)
- 28 Erin Heacock, Kristin Hoffman, Alexandra Kleyman and Amy Kuykendall, “Chapter 40R: An Initial Report for the Town of Ipswich,” prepared for the Town of Ipswich, MA, May 2007, page 18.
- 29 “Chapter 40R Local Zoning Bylaw Guidance Document” and “Guidebook: Creating Design Standards for 40R Districts”, both published in March 2008 and available online at [http://www.mass.gov/?pageID=ehedterminal&L=3&L0=Home&L1=Community+Development&L2=Community+Planning&sid=Ehed&b=terminalcontent&f=dhcd\\_cd\\_ch40r\\_ch40r&csid=Ehed](http://www.mass.gov/?pageID=ehedterminal&L=3&L0=Home&L1=Community+Development&L2=Community+Planning&sid=Ehed&b=terminalcontent&f=dhcd_cd_ch40r_ch40r&csid=Ehed)

- 30 The South Weymouth Naval Air Station district spanned two municipalities (Weymouth and Rockland). Also called Southfield (and now, Union Point), the eligibility of the redevelopment area was established by special legislation in 2007 (Chapter 303 of the Acts of 2008 – Section 37). DHCD entered discussions with the developer to determine how many units would qualify as incentive units, as Southfield reuse affordability requirements differed somewhat from 40R. New state legislation in 2014 included new zoning.
- 31 The four majority approval votes occurred in the towns of Georgetown (2009), Hingham (2008), Newbury (2008), and Norwood (2014 for Plimpton Press). In Weymouth (2010), the Town Council vote was 10-0 against.
- 32 <http://www.enterpriseneews.com/news/20171122/technicality-breathes-new-life-into-opposition-to-brockton-project>
- 33 The 8 regions, devised by the State Office of Business Development, the University of Massachusetts Donahue Institute, and the Federal Reserve Bank of Boston, are based on commuting patterns and economic ties. See “*Long-term Population Projections for Massachusetts Regions and Municipalities Prepared for the Office of the Secretary of the Commonwealth of Massachusetts*” Henry Renski, University of Massachusetts and Susan Strate Population Estimates Program Manager, UMass Donahue Institute (March 2015) [http://pep.donahue-institute.org/downloads/2015/new/UMDI\\_LongTermPopulationProjectionsReport\\_2015%2004%20\\_29.pdf](http://pep.donahue-institute.org/downloads/2015/new/UMDI_LongTermPopulationProjectionsReport_2015%2004%20_29.pdf)
- 34 While technically as-of-right, Haverhill’s residential zoning was found to have economically infeasible parking requirements. This was true in at least one other urban district as well.
- 35 Yuqi Wang, “State Zoning Legislation and Local Adaptation: An Evaluation of the Implementation of Massachusetts Chapter 40-R Smart Growth Legislation, June 2014, p. 78.
- 36 See Angelica Carey, Madison Burke, Alexandra Smialek and Margaret Palmer, “Mastering Mills: Recommendations for Planning Massachusetts Mill Communities,” 2016, University of Massachusetts, Amherst on challenges inherent in mill redevelopment. [http://scholarworks.umass.edu/cgi/viewcontent.cgi?article=1167&context=ced\\_techrpts](http://scholarworks.umass.edu/cgi/viewcontent.cgi?article=1167&context=ced_techrpts)
- 37 Non-40R development does not necessarily trigger a zoning incentive payment (ZIP) repayment request. The non-40R site may have been only a small part of the district or the municipality may not have drawn down the ZIP.
- 38 Chapter 40R allows individual projects in an eligible district to have higher or lower percentages of affordable units but all projects of 13 or more units must be at least 20% affordable.
- 39 While projects only need to have a use restriction of 15-30 years to use a comprehensive permit, state courts have ruled that comprehensive permits must meet this standard in perpetuity unless the local Board of Appeals specifies a shorter term. Most localities as a general practice require affordability “in perpetuity or the longest period allowed by law” as a comprehensive permit condition. Prior to 2001, DHCD required a use restriction of at least 15 years for new construction projects and five years for rehabilitation projects, either to use a comprehensive permit or count toward the 10% goal.
- 40 For purposes of this analysis, we are defining four projects built in phases as single projects (Kensington Court in Lakeville, Tri-Town Landing in Lunenburg, the Hayes Building in Haverhill and Loft 550 in Lawrence).
- 41 DHCD initially required that 40R districts include some three-bedroom units to meet the statutory requirement that 40R districts allow “a mix of housing such as for families” but stopped in 2006 after some towns/developers argued that the mix should be market driven. In January 2014, it adopted an inter-agency agreement with other state housing agencies, requiring that least 10% of the units in affordable developments funded, assisted, or approved by a state housing agency have three or more bedrooms except where inappropriate (elderly housing, SROs) or where it would render a development infeasible. This policy applies to projects developed under Chapter 40B, but it does not apply to 40R developments unless they are subsidized by a conventional state subsidy. <https://www.massdevelopment.com/assets/who-we-help/pdfs/familyhousinginteragencyagreement.pdf> (Interestingly, Newburyport stands out as a municipality that includes a requirement in its 40R zoning text that at least 10% of affordable units have three bedrooms.)
- 42 M.G.L c.40V, enacted in 2010, amended in 2014 and 2016. See “Housing Development Incentive Program (HDIP) Implementation Guidelines,” April 7, 2017 <http://www.mass.gov/hed/docs/dhcd/cd/hdip/hdic-implementationguide.pdf>

- 43 <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter10/Section35AA>
- 44 <https://malegislature.gov/Bills/190/S80>
- 45 Chapter 188 of the Acts of 2004, July 19, 2004, established the Trust and allocated a share of future State property sale proceeds to the Trust (the first \$25 million to the General Fund, the next \$25 million to the Trust). M.G.L. c.10, §35AA
- 46 A 2016 economic development bill authorized \$15 million in capital funds for the Trust (as a practical matter, the first \$1.5 million was not transferred to the SGHTF and payments were made from a separate account). The State included \$1.5 million as part of its capital plan for the first time in FY2018.
- 47 By law, capital funds are required must be used for capital expenditures including, without limitation, for acquisition, rehabilitation, and construction of real and personal property, including items such as environmental remediation, park improvements, drainage and irrigation projects, and deferred maintenance projects.
- 48 M.G.L. c.40R, §14
- 49 DHCD 40R Districts/Activity Table, December 11, 2017
- 50 Walk Score™ is proprietary software, originally developed with foundation support, to measure the walkability of locations, using an algorithm that assigns points based on walking distances to nine types of destinations. Destinations within a 5-minute walk (1/4 mile) receive the most points and destinations more than a half mile away receive no points. Weaknesses include a failure to consider the quality of some destinations (e.g. a food store might not be a full-service grocery), the presence of sidewalks and other pedestrian amenities, traffic and safety. See <https://www.walkscore.com/methodology.shtml> and <https://www.sciencedirect.com/science/article/pii/S2211335516301164>
- 51 <https://ma-smartgrowth.org/resources/smart-growth-profiles/> (accessed February 4, 2018)
- 52 Yuqi Wang, “State Zoning Legislation and Local Adaptation: An Evaluation of the Implementation of Massachusetts Chapter 40-R Smart Growth Legislation, June 2014, pp. 80-82. <https://dspace.mit.edu/handle/1721.1/90113>
- 53 Phillip Schaffner and Jake Waxman, “Green Zoning: Creating Sustainable Communities through Incentive Zoning”, May 2009, pp. 40-41 Harvard Kennedy School [https://www.hks.harvard.edu/sites/default/files/centers/rappaport/files/schaffner\\_waxman.pdf](https://www.hks.harvard.edu/sites/default/files/centers/rappaport/files/schaffner_waxman.pdf)
- 54 John D. Landis, David Hsu, and Erick Guerra, *Intersecting Residential and Transportation CO2 Emissions: Metropolitan Climate Change Programs in the Age of Trump*, Journal of Planning Education and Research, 1-21, September 27, 2017. <http://journals.sagepub.com/doi/abs/10.1177/0739456X17729438>
- 55 Wang, p.30
- 56 Wang, p.42
- 57 Wang, pp.52-53.
- 58 Recommendations are CHAPA’s and do not necessarily reflect the views or opinions of the Advisory Group who helped with the report.
- 59 Walk Score categories: 90–100: Daily errands do not require a car; 70–89: Very walkable - most errands can be accomplished on foot; 50–69: Somewhat Walkable - some errands can be accomplished on foot; 25–49: Car-Dependent - most errands require a car; 0–24: Car-Dependent - almost all errands require a car.  
Transit score categories (listed for fewer locations): 90–100: Rider’s Paradise - world-class public transportation; 70–89:Excellent Transit - Transit is convenient for most trips; 50–69: Good Transit - Many nearby public transportation options; 25–49: Some Transit - A few nearby public transportation options; 0–24: Minimal Transit - It is possible to get on a bus.

# Appendices

## Appendix 1: Impact of 40R on Municipal Subsidized Housing Inventory (SHI) Status

Nine municipalities were above 10% when they created their districts and a tenth was at 9.96%. Five more reached 10% by September 2017, two (Amesbury, Lynnfield) did so due entirely to 40R development, one (Sharon) due entirely to a 40R project approval, and two (Natick, Haverhill) because of both 40R and other types of development. North Reading also reached 10% as a result of its 40R development, but fell back after its year-round housing count was updated based on the 2020 Census.

	40R DISTRICT FINAL APPROVAL YR	YEAR ROUND HOUSING UNITS 2000	YEAR ROUND HOUSING UNITS 2010	SHI % 2007	SHI % 2009	SHI % 2017	AT OR OVER 10% PRE-40R	REACHED 100% POST-40R
<b>DISTRICTS WITH 40R CONSTRUCTION</b>								
Holyoke	2008	16,180	16,320	21.30%	21.70%	19.93%	1	-
Chelsea	2006	12,317	12,592	17.20%	17.80%	19.33%	1	-
Boston	2008	250,367	269,482	19.90%	19.40%	19.03%	1	-
Lawrence	2008	25,540	27,092	14.50%	14.80%	14.97%	1	-
Brockton	2007	34,794	35,514	12.80%	12.90%	13.01%	1	-
Lowell	2008	39,381	41,308	13.30%	13.20%	12.54%	1	-
Northampton	2008	12,282	12,604	11.80%	11.80%	10.76%	1	-
Chicopee	2010	24,337	25,074	10.40%	10.50%	10.37%	1	-
Fitchburg	2010	15,963	17,058	10.40%	10.40%	8.71%	1	-
Lynnfield	2007	4,249	4,319	2.80%	7.20%	11.46%	-	1
Amesbury	2007	6,570	7,041	7.40%	7.50%	10.48%	-	1
Natick	2008	13,337	14,052	6.80%	10.10%	10.38%	-	1
Haverhill	2007	23,675	25,557	9.10%	8.80%	10.00%	-	1
North Reading	2006	4,839	5,597	2.80%	11.10%	9.65%	-	1
Easton	2008	7,596	8,105	3.10%	3.30%	9.71%	-	-
Pittsfield	2008	21,000	21,031	9.40%	9.60%	9.21%	-	-
Reading	2008	8,811	9,584	8.40%	7.80%	8.67%	-	-
Norwood	2006	11,911	12,441	6.00%	6.00%	8.32%	-	-
Dartmouth	2006	10,839	11,775	8.30%	8.60%	8.25%	-	-
Lakeville	2006	3,385	3,852	8.50%	4.40%	7.11%	-	-
Easthampton	2010	7,058	7,567	6.70%	6.70%	6.90%	-	-
Lunenburg	2006	3,605	4,037	1.90%	1.80%	4.83%	-	-
Belmont	2008	9,936	10,117	3.20%	3.30%	3.61%	-	-
Ludlow	2014	7,815	8,337	2.40%	2.30%	3.51%	-	-
<b>DISTRICTS WITH NO 40R CONSTRUCTION YET</b>								
Sharon	2009	6,006	6,413	6.30%	6.30%	10.65%	-	1
Great Barrington	2017	3,116	3,072	7.90%	7.00%	9.96%	-	-
North Andover	2007	9,896	10,902	5.90%	7.00%	8.54%	-	-
Newburyport	2015	7,717	8,015	8.40%	8.30%	7.47%	-	-
Westfield	2008	15,362	16,001	7.00%	7.00%	7.24%	-	-
Bridgewater	2008	7,639	8,288	3.20%	2.80%	6.59%	-	-
Rockland	2017	6,632	7,030	6.40%	6.20%	6.40%	-	-
South Hadley	2015	6,757	7,091	5.20%	5.60%	5.98%	-	-
Grafton	2007	5,820	7,160	5.30%	5.30%	5.10%	-	-
Kingston	2007	4,370	4,881	3.90%	3.90%	4.18%	-	-
Marblehead	2010	8,746	8,528	3.80%	3.80%	3.90%	-	-
Swampscott	2015	5,804	5,795	3.60%	3.60%	3.66%	-	-
Plymouth	2007	19,008	22,285	4.40%	4.50%	3.24%	-	-
<b>TOTAL</b>							<b>9</b>	<b>6</b>

## Appendix 2: Subsidized Housing Production in Municipalities with 40R Districts

The table below shows the estimated number of housing units in developments eligible for the Subsidized Housing Inventory (SHI) that came on line between 2007 and 2017 in the 36 municipalities with 40R districts (excluding Boston), and the zoning tools used (40R, 40B, inclusionary zoning, or other).

These estimates differ from the official SHI counts in three ways: they include only units built (as opposed to permitted), and in the case of ownership developments, units sold. They also exclude two types of SHI-eligible housing (DDS/DMH group home beds and units that received homeowner rehab loans).

The additions (“adds”) are broken out by zoning tool used (40R, 40B, inclusionary zoning and “other”). The “other” category includes units that did not require a zoning change (e.g. created by home buy-down programs) as well as development on sites rezoned for specific projects or approved using other overlays and. The table shows production by municipal type (Gateway City, not Gateway City) and within the latter, by form of government.

NOTE: The number of units added exceeds the increase in estimated total development units and affordable units in some municipalities, as some municipalities also had losses due to expiring use restrictions or refinancings that reduced the number of affordable units in individual developments.

MUNICIPALITY BY GOVERNANCE TYPE	ESTIMATED TDU ADDED 2007-2017	ESTIMATED AFF. U ADDED 2007-2017	40R TDU ADDS	40B TDU ADDS	IZ TDU ADDS	OTHER TDU ADDS	40R AFF ADDS	40B AFF ADDS	IZ AFF ADDS	OTHER AFF ADDS	40R SHARE TDU ADDS	40R SHARE AFF UNIT ADDS	40B SHARE TDU ADDS	40B SHARE AFF UNIT ADDS
Brockton	240	187	140	-	-	100	87	-	-	100	58%	47%	-	-
Chelsea	346	268	120	-	-	226	61	-	-	207	35%	23%	-	-
Chicopee	86	75	-	-	-	86	-	-	-	75	0%	0%	-	-
Fitchburg	442	195	186	-	-	256	38	-	-	157	42%	19%	-	-
Haverhill	664	361	362	183	-	119	115	151	-	107	55%	32%	28%	42%
Holyoke	136	135	54	-	-	82	54	-	-	81	40%	40%	-	-
Lawrence	452	719	137	-	-	315	134	-	-	585	30%	19%	-	-
Lowell	770	499	122	-	-	648	83	-	-	416	16%	17%	-	-
Pittsfield	151	150	112	-	-	39	110	-	-	40	74%	73%	-	-
Westfield	77	76	-	57	-	20	-	57	-	19	-	-	74%	75%
<b>GATEWAY SUBTOTAL</b>	<b>3,364</b>	<b>2,665</b>	<b>1,233</b>	<b>240</b>	<b>-</b>	<b>1,891</b>	<b>682</b>	<b>208</b>	<b>-</b>	<b>1,787</b>	<b>37%</b>	<b>26%</b>	<b>7%</b>	<b>8%</b>
Amesbury	308	93	240	-	44	24	60	-	9	24	78%	65%	-	-
Easthampton	124	99	50	74	-	-	50	49	-	-	40%	51%	60%	49%
Newburyport	36	15	-	-	23	13	-	-	2	13	-	-	-	-
Northampton	225	179	123	74	-	28	75	74	-	30	55%	42%	33%	41%
Bridgewater	380	96	-	380	-	-	-	96	-	-	-	-	100%	100%
<b>OTHER CITY/TOWN COUNCIL SUBTOTAL</b>	<b>1,073</b>	<b>482</b>	<b>413</b>	<b>528</b>	<b>67</b>	<b>65</b>	<b>185</b>	<b>219</b>	<b>11</b>	<b>67</b>	<b>38%</b>	<b>38%</b>	<b>49%</b>	<b>45%</b>
Belmont	355	103	17	298	-	40	3	60	-	40	5%	3%	84%	58%
Dartmouth	107	62	36	71	-	-	36	26	-	-	34%	58%	66%	42%
Easton	605	158	50	549	-	6	13	139	-	6	8%	8%	91%	88%
Grafton	179	42	-	160	19	-	-	38	4	-	-	-	89%	90%
Great Barrington	16	10	-	16	-	-	-	10	-	-	-	-	100%	100%
Kingston	222	42	-	127	95	-	-	33	9	-	-	-	57%	79%
Lakeville	223	164	100	123	-	-	100	64	-	-	45%	61%	55%	39%
Ludlow	103	94	75	28	-	-	66	28	-	-	73%	70%	27%	30%
Lunenburg	131	125	131	-	-	-	125	-	-	-	100%	100%	-	-
Lynnfield	410	102	180	230	-	-	45	57	-	-	44%	44%	56%	56%
Marblehead	30	11	-	30	-	-	-	11	-	-	-	-	100%	100%
Natick	1,380	313	138	882	360	-	28	221	64	-	10%	9%	64%	71%
North Andover	406	157	-	406	-	-	-	157	-	-	-	-	100%	100%
North Reading	489	116	406	54	-	29	102	13	-	1	83%	88%	11%	11%
Norwood	283	75	15	262	-	6	3	66	-	6	5%	4%	93%	88%
Plymouth	135	51	-	8	82	45	-	2	8	41	-	-	6%	4%
Reading	356	71	253	-	103	-	54	-	16	1	71%	76%	-	-
Rockland	168	44	-	168	-	-	-	44	-	-	-	-	100%	100%
Sharon	232	55	-	231	-	1	-	54	-	1	-	-	100%	98%
South Hadley	44	44	-	-	-	44	-	-	-	44	-	-	-	-
Swampscott	-	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>TOWN MEETING SUBTOTAL</b>	<b>5,874</b>	<b>1,839</b>	<b>1,401</b>	<b>3,643</b>	<b>659</b>	<b>171</b>	<b>575</b>	<b>1,023</b>	<b>101</b>	<b>140</b>	<b>24%</b>	<b>31%</b>	<b>62%</b>	<b>56%</b>
<b>TOTAL</b>	<b>10,311</b>	<b>4,986</b>	<b>3,047</b>	<b>4,411</b>	<b>726</b>	<b>2,127</b>	<b>1,442</b>	<b>1,450</b>	<b>112</b>	<b>1,994</b>	<b>30%</b>	<b>29%</b>	<b>43%</b>	<b>29%</b>

## Appendix 3: Projects in Planning Before 40R District Created

YR DISTRICT DHCD FINAL APPROVAL	# DISTRICTS	MUNI	PROJECT NAME(S)	TOTAL U	AFF U	PRE-PLANNING COMMENT	CP U PROPOSED OR APPROVED	GOT SP	GOT CP
2007	1	Amesbury	Amesbury Hts 40B	240	60	40B filed, approved 4/1/2007	240		1
2008	1	Boston	Hearth at Olmsted Green	59	59	State hospital LDA, overlay			
			Olmsted Green Rental - Phase III	50	50				
			Olmsted Green Rental - Phase II	50	50				
		*	Olmsted Green Condos II	41	11				
2006	1	Chelsea	Atlas Lofts	53	6	SP amended 6/6/2006		1	
			Box District	26	14	SPR approval 8/9/2005		1	
			Janus-Highland Apts	41	41	SPR approval 8/9/2005		1	
2006	1	Dartmouth	Village at Lincoln Park - Bldg I	36	36	40B LIP SA rec'd 7/14/2005; proposes 40R 2/2006	252		
		*	Village at Lincoln Park Sr Hsg -Bldg G	48	48				
2010	1	Fitchburg	Riverside Commons Phase I+II	186	38	Mill overlay sp2009 (176u)		1	
2006	1	Lakeville	Kensington Court at Lakeville Station I+II	204	100	CP approved 8/2005	192		1
2008	1	Lowell	* Mass Mills III - Picker Building	70	57	added 2012-multiple approvals 1989 fwd Hospital reuse plan; CP application ~1/2006, then town proposes 40R	406		1
2006	1	N. Reading	Edgewood Apts	406	102		406		?
2008	1	Northampton	Christopher Heights Assisted Living	83	43	Hospital LDA, overlay			
			Hillside Place (Village at Hospital Hill II)	40	32				
2008	1	Pittsfield	New Amsterdam Apts Phase I	43	43	SP approved for 43u 6/2007		1	
2010	1	Reading	30 Haven	53	11	Downtown mixed use overlay adopted 2005; next owner discussed options, including 40B LIP, decided to create 40R			
	<b>11</b>	<b>SUBTOTAL-STRONGEST PREPLANNING</b>		<b>1,729</b>	<b>801</b>		<b>1,090</b>	<b>5</b>	<b>3</b>
2008	1	Lawrence	Loft 550 (Malden Mills I)	75	72	MassHousing announced financing Jan 2006 for Phase I 86u - 40R district applic filed 2007-city started working on redev with Winn in 2004			
			Loft 550 Phase II (Malden Mills I)	62	62				
2008	1	Natick	Modera Natick Center	138	28	Dev. proposed HOOP I (15% aff), town then suggested 40R			
2008	1	Belmont	Oakley Neighborhood	17	3	40R planning started in response to Housing Trust 40B proposal			
2010	1	Easthampton	Cottage Square	50	50	Mixed use mill industrial overlay created 2003			
	<b>4</b>	<b>SUBTOTAL -SOME PREPLANNING</b>		<b>342</b>	<b>215</b>		<b>0</b>	<b>0</b>	<b>0</b>
	<b>15</b>	<b>TOTAL UNITS BUILT/IN CONSTRUCTION</b>		<b>2,071</b>	<b>1,016</b>		<b>1,090</b>	<b>5</b>	<b>3</b>
<b>APPROVED - CONSTRUCTION NOT YET STARTED</b>									
2009	1	Sharon	135 Old Post Road	192	48	Town MOU 2006 permitted 168U LIP	168		
<b>TOTAL</b>	<b>16</b>			<b>2,263</b>	<b>1,064</b>		<b>1,258</b>	<b>5</b>	<b>3</b>

\*Under construction

SP=special permit, CP=comprehensive permit under Chapter 40B



## Appendix 4: Share of Two- and Three-Bedroom Units by Project

# PROJECTS	MUNI	USED SUBSIDY FUNDS? 1=YES	PROJECT NAME(S)	TENURE	POPULATION	TOTAL U	AFF U	%2BR+	%3BR
<b>PROJECTS IN BOSTON/GATEWAY CITIES</b>									
1	Belmont	-	Oakley Neighborhood	HO	Unr	17	3	100%	100.0%
1	Boston	1	Olmsted Green Rental - Phase III	Rental	Unr*	50	50	84%	16.0%
1	Boston	1	Olmsted Green Rental - Phase II	Rental	Unr*	50	50	84%	16.0%
1	Chelsea	1	Box District	HO	Unr	26	14	100%	53.8%
1	Chelsea	1	Janus-Highland Apts	Rental	Unr	41	41	88%	17.1%
1	Dartmouth	1	Village at Lincoln Park - Bldg I	Rental	Unr	36	36	78%	11.1%
1	Easthampton	1	Cottage Square (aka Dye Works)	Rental	Unr	50	50	78%	18.0%
1	Holyoke	-	Infill units	Mix	Unr	5	0	40%	80.0%
<b>8</b>	<b>SUBTOTAL</b>	<b>6</b>				<b>275</b>	<b>244</b>	<b>84%</b>	<b>25.1%</b>
1	Lunenburg	1	Tri-Town Landing Phase I,II,III	Rental	Unr	131	125	82%	9.9%
<b>1</b>	<b>SUBTOTAL</b>	<b>1</b>				<b>131</b>	<b>125</b>	<b>82%</b>	<b>9.9%</b>
<b>9</b>	<b>TOTAL FAMILY PROJECTS</b>	<b>7</b>				<b>406</b>	<b>369</b>	<b>84%</b>	<b>20.2%</b>
1	Boston	1	Olmsted Green Condos II	HO	Unr	41	11	100%	7.3%
1	Brockton	1	Green Street 102	Rental	Unr	2	2	100%	0.0%
1	Pittsfield	1	New Amsterdam Apts Phase I,II	Rental	Unr	67	67	75%	0.0%
1	Fitchburg	-	Riverside Commons Phase I+II	Rental	Unr	186	38	82%	9.1%
1	Haverhill	1	Hayes Village	Rental	Unr	57	52	81%	0.0%
1	Lowell	1	Mass Mills III - Picker Building	Rental	Unr	70	57	76%	5.7%
1	Lakeville	1	Kensington Ct, Sterling Place	Rental	Unr	204	100	73%	0.0%
1	Lawrence	1	Loft 550 (Malden Mills I)	Rental	Unr	137	134	67%	4.4%
1	Brockton	1	Station Loft Apts	Rental	Unr	25	14	64%	0.0%
1	Brockton	1	Centre 50 (Phase IA)	Rental	Unr	71	29	62%	7.0%
1	Easton	-	Queset Commons - Phase I-Bldg D/E	HO	Unr	60	3	62%	28.3%
1	Amesbury	-	Amesbury Hts 40B	Rental	Unr	240	60	59%	2.1%
1	Pittsfield	1	Silk Mill Apts	Rental	Unr	45	43	58%	15.6%
1	Reading2	-	30 Haven	Rental	Unr	53	11	57%	0.0%
1	Reading	-	Reading Woods	HO	Unr	200	43	54%	0.0%
1	Natick	-	Modera Natick Center	Rental	Unr	138	28	53%	0.0%
1	Northampton	1	Hillside Place (Village at Hospital Hill II)	Rental	Unr*	40	32	53%	5.0%
1	Holyoke	1	Chestnut Park Apts	Rental	Unr	54	54	44%	0.0%
1	North Reading	-	Edgewood Apts	Rental	Unr	406	102	41%	0.0%
1	Lynnfield	-	Market St Apts (fka Arborpoint)	Rental	Unr	180	45	40%	0.0%
1	Dartmouth	-	Village at Lincoln Park Sr Hsg -Bldg G	Rental	55+	48	48	38%	0.0%
1	Haverhill	1	Hamel Mills	Rental	Unr	305	63	37%	0.0%
1	Norwood	-	Courtyard at St. George	HO	Unr	15	3	33%	20.0%
1	Lowell	1	Counting House Lofts (fka 165 Jackson St - Phase I)	Rental	Unr	52	26	33%	0.0%
1	Easton	-	Queset Commons - Bldg A	Rental	Unr	50	13	28%	0.0%
1	Ludlow	1	Ludlow Mills Phase I	Rental	55+	75	66	16%	0.0%
1	Brockton	1	Enso Flats (Phase IB)	Rental	Artist live/wk	42	42	14%	0.0%
1	Boston	1	Hearth at Olmsted Green	Rental	Elderly*	59	59	0%	0.0%
1	Chelsea	1	Atlas Lofts	Rental	Unr	53	6	0%	0.0%
1	Chicopee	-	Kendall Apts (rehab)	Rental	Unr	41	41	0%	0.0%
1	Northampton	1	Christopher Heights Assist'd Livg	Rental	Elderly	83	43	0%	0.0%
<b>31</b>	<b>TOTAL ALL OTHER</b>	<b>19</b>				<b>3,099</b>	<b>1,335</b>	<b>45%</b>	<b>2.0%</b>
<b>40</b>	<b>GRAND TOTAL</b>	<b>26</b>				<b>3,505</b>	<b>1,704</b>	<b>50%</b>	<b>4.1%</b>

“Unr” indicates no specific population restrictions

“Unr\*” indicates project includes some set-aside units for special populations or homeless

## Appendix 5: 40R Incentive Payments by District to Date

DHCD FINAL APPROVAL YEAR	MUNICIPALITY	# DISTRICTS	DISTRICT NAME	FUTURE ZONED UNITS DHCD	BONUS UNITS PAID	ZIP PAID	BONUS PAID	TTL PD
2006	North Reading	1	Berry Center	434	406	350,000	1,218,000	1,568,000
2006	Chelsea	1	Gerrish Ave	125	85	75,000	255,000	330,000
2006	Lakeville	1	Residences@Lakeville Sta.	207	204	350,000	612,000	962,000
2006	Lunenburg	1	Tri-Town	204	131	350,000	393,000	743,000
2006	Dartmouth	1	Lincoln Park	319	-	350,000	-	350,000
2006	Norwood	1	St. George Ave	15	11	10,000	33,000	43,000
<b>2006 TOTAL</b>		<b>6</b>		<b>1,304</b>	<b>837</b>	<b>1,485,000</b>	<b>2,511,000</b>	<b>3,996,000</b>
2007	Grafton	1	Fisherville Mill	240	-	350,000	-	350,000
2007	Haverhill	1	(Haverhill) Downtown	701	362	600,000	1,086,000	1,686,000
2007	Kingston	1	1021 Kingston's Place	730	-	600,000	-	600,000
2007	Lynnfield	1	Planned Village Development	180	174	200,000	522,000	722,000
2007	North Andover	1	Osgood	530	-	600,000	-	600,000
2007	Plymouth	1	Cordage Park	675	-	600,000	-	600,000
2007	Amesbury	1	Gateway Village	249	240	350,000	720,000	1,070,000
2007	Brockton	1	Downtown	1,096	138	600,000	414,000	1,014,000
<b>2007 TOTAL</b>		<b>8</b>		<b>4,401</b>	<b>914</b>	<b>3,900,000</b>	<b>2,742,000</b>	<b>6,642,000</b>
2008	Easton	1	Queset SGOD	280	46	350,000	138,000	488,000
2008	Holyoke	1	SGOD	296	31	350,000	93,000	443,000
2008	Bridgewater	1	Waterford Village SGOD	594	-	600,000	-	600,000
2008	Boston	1	Olmsted Green	578	72	350,000	216,000	566,000
2008	Lawrence	1	Arlington Mills	1,031	137	600,000	411,000	1,011,000
2008	Lowell	1	SGOD	250	122	350,000	366,000	716,000
2008	Northampton	1	Village Hill SGOD	156	40	200,000	120,000	320,000
2008	Belmont	1	Oakley Neighborhood	18	12	10,000	36,000	46,000
2008	Natick	1	Smart Growth Overlay	138	138	200,000	414,000	614,000
2008	Pittsfield	1	SGOD	296	42	350,000	126,000	476,000
2008	Westfield	1	Southwick Road	244	-	200,000	-	200,000
2008	Reading	1	Gateway (Addison Wesley)	202	200	350,000	600,000	950,000
<b>2008 TOTAL</b>		<b>12</b>		<b>4,083</b>	<b>840</b>	<b>3,910,000</b>	<b>2,520,000</b>	<b>6,430,000</b>
2009	Sharon	1	Sharon Commons	167	-	-	-	-
<b>2009 TOTAL</b>		<b>1</b>		<b>167</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
2010	Marblehead2	1	Pleasant Street	17	-	-	-	-
2010	Reading2	1	Downtown/Depot	459	53	350,000	159,000	509,000
2010	Easthampton	1	SGOD	482	50	350,000	150,000	500,000
2010	Fitchburg	1	SGOD	676	-	600,000	-	600,000
2010	Chicopee	1	Chicopee Center 40R SGOD	1,092	-	600,000	-	600,000
2010	Marblehead	1	Vinnin Square	47	-	-	-	-
<b>2010 TOTAL</b>		<b>6</b>		<b>2,773</b>	<b>103</b>	<b>1,900,000</b>	<b>309,000</b>	<b>2,209,000</b>
2014	Norwood2	1	Guild Street (Regal Press) SGOD	44	-	75,000	-	75,000
2014	Ludlow	1	SGOD (3 subdistricts)	350	75	350,000	225,000	575,000
<b>2014 TOTAL</b>		<b>2</b>		<b>394</b>	<b>75</b>	<b>425,000</b>	<b>225,000</b>	<b>650,000</b>
2015	Newburyport	1	Newburyport SGD	540	-	-	-	-
2015	South Hadley	1	South Hadley Falls SG District	383	-	350,000	-	350,000
2015	Swampscott	1	Vinnin Square	68	-	75,000	-	75,000
<b>2015 TOTAL</b>		<b>3</b>		<b>991</b>	<b>-</b>	<b>425,000</b>	<b>-</b>	<b>425,000</b>
2017	Great Barrington2	1	South	190	-	-	-	-
2017	Great Barrington	1	North	304	-	-	-	-
2017	Rockland	1	Downtown Revitalization OD	480	-	-	-	-
<b>2017 TOTAL</b>		<b>3</b>		<b>974</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>GRAND TOTAL</b>		<b>41</b>		<b>15,087</b>	<b>2,769</b>	<b>12,045,000</b>	<b>8,307,000</b>	<b>20,352,000</b>

## Appendix 6: District Expansions/Additions Completed and Considered

### Completed Expansions/Additions

- Norwood, which created its first district in 2006, added a second district in 2014. (A proposed third project-specific district - Plimpton Press - failed to receive 2/3 approval at Town Meeting in 2014 (93 voted yes, 70 no). Avalon Norwood received a comprehensive permit for the site in 2017.
- Northampton, in 2017, expanded its 2008 40R district on the former state hospital campus to add a site previously designated as market rate housing after the designated developer ran into financial difficulties. A new developer was designated, and a 65-unit affordable rental project approved.
- Northampton also created a second district covering the site of an existing affordable 15-unit single room occupancy (SRO) residence (Hampshire Inn), allowing a 16-unit expansion/renovation to create 31 enhanced SRO units.
- Haverhill (2016) expanded its district to add a mill conversion project and gave plan approval for the project in 2017 (82 units/17 affordable).
- Lowell (2012) expanded its district to add the site of a mill conversion project (Picker Building - Mass Mills III), long planned and previously approved using other processes.
- Reading (2017) expanded its 2010 Downtown district adding 15.7 acres and 203 future zoned units and approved a 50-unit condominium (10 affordable).

### Pipeline Expansions/Additions

- Brockton (2017) received preliminary approval to revise and expand its Downtown district, adding 2,716 future zoned units, and dropping 2 sub-districts.
- Brockton (2017) also approved a new district (Thatcher St.) in late December on a former convent site where a nonprofit proposes to develop 175 units. (Neighborhood residents are threatening litigation.)
- Grafton is working on a second district (North Grafton Transit Village).
- Kingston has explored modifying its 40R district (no development to date) to include an MBTA parking site for which a redeveloper has been selected, but it is unclear whether a district amendment could proceed quickly enough to meet MBTA/developer requirements and goals.
- Lawrence is exploring creating a second district for part of its downtown.
- Lakeville has been exploring expansion to spur development on nearby vacant state hospital land due to weak commercial interest.
- South Hadley is exploring creating a second 40R district to revitalize a commercial area that includes the now vacant site of a former supermarket.

## Appendix 7: Walkability and Transit Access of 40R Developments

PROJECT	TOTAL UNITS	AFFORDABLE UNITS	DISTRICT TYPE	WALK SCORE	WALK SCORE CATEGORY	TRANSIT SCORE/ ACCESS
<b>CAR DEPENDENT/LARGELY CAR DEPENDENT</b>						
Queset Commons - Bldgs A, D, E	110	16	HSL	4-6	Car dependent	no info
Edgewood Apts	406	102	HSL	16	Car dependent	2.5 mi fr commuter rail
Christopher Heights; Hillside Place	123	75	HSL	16	Car dependent	closest bus 0.7 mi
Amesbury Hts 40B	240	60	HSL	19	Car dependent	closest bus 0.7 mi
Village at Lincoln Park	84	84	HSL	19	Car dependent	one bus 0.1 mi
Riverside Commons Phase I+II	186	38	HSL	44	Largely Car dependent	20 - 1.3 mi fr commuter rail
Olmsted Green Rental - Phase III	50	50	HSL	24-47	Largely Car dependent	60-65: 7 bus lines 0.1-0.4 mi; 2 T/commuter rail stops 0.8-1.2 mi
Olmsted Green Rental - Phase II	50	50	HSL	31-35	Largely Car dependent	65-67: 7 bus lines 0-.4 mi; 5 rail and T stops 0.8-1.4 mi
Hearth at Olmsted Green	59	59	HSL	47	Largely Car dependent	" " "
Tri-Town Landing Phase I,II,III	131	125	HSL	29-40	Largely Car dependent	1.4 mi fr commuter rail
<b>SUBTOTAL</b>	<b>1,439</b>	<b>659</b>				
<b>TRANSIT ACCESS/LOW WALKABILITY</b>						
Sterling Place/Kensington Ct	204	100	Transit	24	Car dependent	0.3 mi fr commuter rail
Modera Natick Center	138	28	Transit	44	Largely Car dependent	0.4 mi fr commuter rail
<b>SUBTOTAL</b>	<b>342</b>	<b>128</b>				
<b>SOMEWHAT WALKABLE</b>						
Market St Apts (fka Arborpoint)	180	45	HSL	52	Somewhat walkable	no score
Silk Mill Apts	45	43	ACD	58	Somewhat walkable	31 - 4 bus stops .4 mi away
Olmsted Green Condos II	41	11	HSL	64	Somewhat walkable	58: 5 buslines 0.2-0.5 mi; 2 rail lines .7 mi, and two at 1.3 mi
Ludlow Mills Phase I	75	66	ACD	65	Somewhat walkable	no score - 0.1 and 0.5 mi to bus
Kendall Apts (rehab)	41	41	ACD	69	Somewhat walkable	2 bus stop 0.1 mi
Reading Woods	200	43	HSL	39-73	Somewhat walkable	0.7 to 1.2 mi from commuter rail
<b>SUBTOTAL</b>	<b>582</b>	<b>249</b>				
<b>TRANSIT ACCESS/ VERY WALKABLE</b>						
Oakley Neighborhood	17	3	HSL	71-75	Very walkable	45 - 1 bus line 0.0 mi, rail 1.3 mi
Station Loft/Enso Flats/Centre 50	138	85	Transit	87-88	Very walkable	49 - 0.2 mi fr commuter rail
Green Street 102	2	2	Transit	87	Very walkable	48 - 0.3 mi fr commuter rail
Box District; Janus Highlands; Atlas	120	61	Transit	83-85	Very walkable	54 - 0.4 mi fr commuter rail
Cottage Square	50	50	ACD	74	Very walkable	0.1m fr bus - hard to tell
Hamel Mills	305	63	Transit	86	Very walkable	40 - 0.3 mi fr commuter rail
Hayes Village	57	52	Transit	86	Very walkable	40 - 0.1 mi commuter rail, 9 bus lines within 0.1 mi
Infill units	5	0	ACD	82-87	Very walkable	no score; 7 bus lines in 0.2 mi
Chestnut Park Apts	54	54	ACD	87	Very walkable	no score; 7 bus lines in 0.2 mi
Loft 550 (Malden Mills I, II)	137	134	HSL	78-81	Very walkable	33 - 2 bus lines 0.2, 0.3 mi
Mass Mills III - Picker Building	70	57	Transit	94	Walkers paradise	48 - 0.9 mi to commuter rail, 10 bus lines within 0.2 mi
Counting House Lofts	52	26	Transit	95	Walkers paradise	53 - 0.5 mi fr commuter rail
Courtyard at St. George	15	3	ACD	72	Very walkable	0.8 mi fr commuter rail
New Amsterdam Apts Phase I+II	67	67	ACD	84-86	Very walkable	36 - 9 bus lines within 0.2 mi
30 Haven	53	11	Transit	83	Very walkable	0.1 mi from commuter rail
<b>SUBTOTAL</b>	<b>1,142</b>	<b>668</b>				
<b>TOTAL</b>	<b>3,505</b>	<b>1,704</b>				

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TOWN OF WEST NEWBURY  
TOWN MEETING CITIZEN PETITION ARTICLE FORM

*While not required, this form is the preferred method for a citizen to insert an Article on the Warrant for Town Meeting*

**IMPORTANT**

1. Petitioner should consult with someone knowledgeable in municipal government, such as a lawyer, the Town Manager, or the Town Moderator before drafting a proposed Article and gathering the signatures to insert an Article on the Warrant
2. Petitioner will be listed as the sponsor of the Article on the Warrant and should be the first-named voter to sign this petition.
3. Selectmen will print the proposed Article in the Warrant verbatim; petitioner and citizens signing are advised to review the language carefully.
4. A word copy of this form is available by email from [townclerk@wnewbury.org](mailto:townclerk@wnewbury.org)

Petitioner's Name: David Seaton

Tel. #: 978-363-8885 E-mail: david.jay.seaton@gmail.com

Address: 112 Crane Neck St. West Newbury Massachusetts

Proposed Title of Warrant Article: The West Newbury Empower Act

**Brief Summary: (purpose or reason for the proposed Article – not required but helpful)**

The West Newbury Empower Act is foremost, a measure to increase civic participation in town elections through increasing local election turnout, as a greater number of residents would be eligible to vote. By increasing the number of people participating in town elections, town elected officials will be able to be held accountable for the decisions that they make by young residents who will have to live for decades with the results of those town decisions. Finally, lowering the voting age in West Newbury would allow for 16 and 17 year olds to participate in our political system, just as they are given the right to participate in our transportation system through acquiring a driver's license, our economic system through working without restrictions on hours, our educational system by making the choice as to whether or not to drop out of school, and our governmental system through serving as an elections officer.

Please complete this form and return it to the Town Clerk's Office. Attach the original forms with the required number of signatures\* with the proposed Warrant Article at the top of each sheet. The signatures must be received no later than 3:30 PM the day the Board of Selectmen closes the Warrant.

Petition by the Voters of the Town of West Newbury

DATE and TIME this paper received by Registrars

2024 JAN 30 PM 4: 17

RECEIVED TOWN CLERK WEST NEWBURY, MA

Warrant Article Submission for the 2024 \_\_\_\_ Town Meeting:

ARTICLE \_

To see if the Town will recommend to the Select Board that they file a home rule petition with the General Court substantially as follows, viz:

Notwithstanding Section 1 of Chapter 51 of the General Laws or any other general or special law to the contrary, any citizen who:

1. is 16 years of age or older, and
2. meets the qualifications to be registered as a voter pursuant to Section 1 of Chapter 51 of the General Laws, except that of age, and
3. is a resident of the town of West Newbury at the time he, she, or they registers or pre-registers to vote pursuant to said Chapter 51,

may vote therein in all town elections, participate and vote in all town meetings, participate and vote in town caucuses and sign all nominating, warrant, and other petitions authorized by town bylaws.

A person shall be a pre-registered or registered voter of at least sixteen (16) years of age to be eligible to serve in appointed town boards, committees, commissions, or other official positions.

**SIGNERS STATEMENT** - We are qualified voters of the Commonwealth of Massachusetts and of the Town of West Newbury.

**INSTRUCTIONS TO SIGNERS:**

Your signature should be written as substantially as registered. If you are prevented, by physical disability, from writing you may authorize some person to write your name and residence in your presence



	I	II	III	
	C h e c k	Signatures to be made in person with name substantially as registered (except in case of physical disability as stated above)	Now Living At (Street and Number)	Printed Name
1	✓	Dianna Fogel	4 Upland Lane	Dianna Fogel
2	✓	James P. Sperelakis	380 Middle St.	JAMES P. SPERELAKIS
3	✓	Richard Parker	153 Crane Neck St	Richard Parker
4	✓	Debra C Green	1 Sullivan's Ct	Debra C Green
5	✓	Barry Fogel	4 Upland Lane	BARRY FOGEL
6	✓	Jerusha Ryan	23 Chestnut St	JERUSHA RYAN
7	✓	Paul F. McCarthy	23 CHESTNUT ST.	PAUL F. MCCARTHY
8	✓	Deborah B. Crinivell	628 Main West Newbury	DEBORAH B. CRINIVELL
9				
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**Instructions to Registrars:**

You must time-stamp or write in date and time these papers are received.

Check the name of qualified voter to be certified. For names not certified, use the codes opposite.

- N- no such registered voter at that address. or address is illegible
- S- unable to identify signature as that of voter because of form of signature, or signature is illegible
- W- wrong community.
- T- already signed this petition.

RECEIVED  
 TOWN CLERK  
 WEST NEWBURY, MA  
 2024 JAN 30 PM 11:11

<p><b>CERTIFICATION OF SIGNATURES</b></p> <p>We certify that <u>18</u> eight _____ )  <u>1/30/24</u>  _____ signatures checked are names of voters of the Town of West Newbury and are qualified to sign this petition.</p>	<p>(at least three registrars names must be signed or stamped below)</p> <p><i>Cheryl A. Grant</i>  <i>Rosemond B. Veator</i>  <i>Margaret Stoen</i></p> <p>Board of Registrars of the Town of West Newbury</p>
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	I	II	III	
	C h e c k	Signatures to be made in person with name substantially as registered (except in case of physical disability as stated above)	Now Living At (Street and Number)	Printed Name
1	✓	<i>David J. Seaton</i>	112 Crane Neck St.	David J. Seaton
2	✓	<i>Erin E. Seaton</i>	112 Crane Neck street	Erin E. Seaton
3	✓	<i>Stephen C Lorenz</i>	112 Crane Neck St	Stephen C Lorenz
4	✓	<i>David Belsky</i>	2 Barbory Ln	David Belsky
5	✓	<i>Paula Breger</i>	2 Barbory Ln	Paula Breger
6	✓	<i>Thomas L. Ellis</i>	74 Maple Street	Thomas L. Ellis
7	✓	<i>Patrick Bowe</i>	74 Maple Street	Patrick Bowe
8	✓	<i>Patricia Skibbe</i>	396 Middle St.	PATRICIA SKIBBE
9	✓	<i>Lisa M. Forbush-Umlauf</i>	150 Middle St.	Lisa M. Forbush-Umlauf
10	✓	<i>Kurt Umlauf</i>	150 Middle St	Kurt Umlauf
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20				

**Instructions to Registrars:**

You must time-stamp or write in date and time these papers are received.

Check the name of qualified voter to be certified. For names not certified, use the codes opposite.

- N- no such registered voter at that address. or address is illegible
- S- unable to identify signature as that of voter because of form of signature, or signature is illegible
- W- wrong community.
- T- already signed this petition.

RECEIVED  
 TOWN CLERK  
 WEST NEWBURY, MA  
 2024 JAN 30 PM 4:17

<p><b>CERTIFICATION OF SIGNATURES</b></p> <p>We certify that ( 10 ten )          _____ ) 1/30/24          _____ signatures checked are names of voters of the Town of West Newbury and are qualified to sign this petition</p>	<p>(at least three registrars names must be signed or stamped below)</p> <p><i>Cheryl A. Grant</i>  <i>Rosemond B. Keator</i>  <i>Margaret [Signature]</i></p> <p>Board of Registrars of the Town of West Newbury</p>
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## ARTICLE REQUEST FORM

**ARTICLE:** To see if the Town will vote to appropriate the sum of \$200,000 from the special purpose municipal stabilization fund established pursuant to Massachusetts General Laws c. 40 §5B in order to offset West Newbury’s FY25 capital assessment from the Pentucket Regional School District for the Middle/High School building project.

**AMOUNT REQUESTED:** \$200,000.00

**CONTACT PERSON:** Angus Jennings, Town Manager

**PHONE NUMBER:** 978-363-1100 ext. 115

**Why should the Town make this purchase? What needs will be met? Who will benefit?**

The purpose of the Special Purpose Education Stabilization Fund is to offset the debt resulting from the new PRSD Middle/High School to minimize the impact on tax rates. Note: proposed amount is a placeholder only, and will rely on review/recommendation from Select Board as proposed article sponsor.

NOTE: If the Whittier School Committee budget proposes significant capital expenditures in FY25, and/or forecasts major capital expenses in FY26+, this information will need to be taken into account in determining whether and in what amount to propose to transfer from School Stabilization. Depending on the scale of proposed/anticipated capital costs at Whittier Tech, it may warrant considering a transfer of funds into School Stabilization in FY25.

**What factors affect the timing of this purchase?**

If approved by voters at Town Meeting, the amount authorized from School Stabilization would be reduced from the proposed FY25 operating budget for Pentucket capital assessments.

**When should this Article be sunsetted - how long will the project take?**

FY25

**What ancillary costs do you anticipate? (Maintenance, Insurance, Training, etc.)**

none

**Does this Article involve improvement, preservation or creation of tangible Town-owned assets and projects which 1) have useful life of at least five years; 2) cost over \$20,000 and or 3) for which the Town is authorized to borrow funds? If so, please confirm that this item is on the Capital Improvements Committee Schedule for future capital investments.**

n/a

**Please attach additional pages or other supporting documentation.**

## ARTICLE REQUEST FORM

**ARTICLE:** To see if the Town will transfer Free Cash to offset the FY25 tax rate

**AMOUNT REQUESTED:** TBD

**CONTACT PERSON:** Town Manager

**PHONE NUMBER:** 978-363-1100 x115

**Why should the Town make this purchase? What needs will be met? Who will benefit?**

Over the past several years, other than in the current FY24, the Town has approved a funding transfer at the Fall STM in order to offset the year's tax rate. (In 6 of those years, the source was Free Cash; in FY21, the Town instead approved an allocation of Overlay Surplus). Over the course of the FY25 budgeting process, the Finance Department will work to prepare an estimate of the FY25 tax rate, taking into account the proposed Town budget (once the SB/FinCom review process is complete), projections of FY25 Assessed Values, projections of potential FY25 New Growth, and projections of FY25 non-property tax revenues (i.e. excise, fees, etc.). It is recommended that the Select Board include a placeholder article on the ATM warrant in order to preserve the Board's option - if it wishes to do so - to transfer Free Cash in order to offset next year's tax rate.

**What factors affect the timing of this purchase?**

If an article is not taken up at the Annual Town Meeting, and the Board wishes to see such transfer take place, a Fall STM would be needed in order to affect the FY25 tax rate.

**When should this Article be sunsetted - how long will the project take?**

FY25

**What ancillary costs do you anticipate? (Maintenance, Insurance, Training, etc.)**

N/A

**Does this Article involve improvement, preservation or creation of tangible Town-owned assets and projects which 1) have useful life of at least five years; 2) cost over \$20,000 and or 3) for which the Town is authorized to borrow funds? If so, please confirm that this item is on the Capital Improvements Committee Schedule for future capital investments.**

No

**Please attach additional pages or other supporting documentation.**



# Town of West Newbury

381 Main Street

West Newbury, Massachusetts 01985

Angus Jennings, Town Manager

978-363-1100, Ext. 111 Fax 978-363-1826

[townmanager@wnewbury.org](mailto:townmanager@wnewbury.org)

TO: Select Board  
FROM: Angus Jennings, Town Manager  
DATE: September 25, 2023  
RE: Estimated FY24 tax rate and potential Free Cash transfer

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Taking into account preliminary estimates of FY24 Assessed Values, New Growth and projected non-tax revenues, the approved FY24 operating budget and all approved (spring 2023) and proposed (fall 2023) Town Meeting articles would result in an estimated FY24 tax rate of \$10.95, a decrease from the current year tax rate of \$11.03.<sup>1</sup>

Taking into account an estimated average increase in assessed values of 5.0% from FY23 to FY24, this would result in an estimated property tax increase of \$352.21 (4.24%) for a property valued at \$753,400 (the 50<sup>th</sup> percentile) in FY23. (Estimated tax bill changes, for properties at different values, are attached).

In recent years, Town Meeting voters have appropriated Free Cash at the fall STM to reduce the tax rate, with an average transfer of \$221,186 from FY17-23.<sup>2</sup>

If the Board were to propose – and Town Meeting were to approve – a fall STM Free Cash transfer of \$250,000, this would result in an estimated annual tax increase, for a home valued at \$753,400 in FY23, of \$225.64 (2.72%).

At Wednesday night's meeting, the Board can review various scenarios to inform your consideration of whether to propose a STM transfer from Free Cash, and if so in what amount, to arrive at an updated estimated FY24 tax rate.

It should be understood that all estimates are preliminary, and will change as new information becomes available, including regarding New Growth, Assessed Values, and non-tax revenues.

cc: *Finance Committee*  
*Town Accountant*  
*Chief Assessor*

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<sup>1</sup> This estimate was prepared using the MassDOR Tax Rate Recap Model and rests (as these estimates always do) on reasonable projections of unknowable inputs such as New Growth, Assessed Values and non-tax revenues. (Methodology for both projections are consistent with prior years' methodologies).

<sup>2</sup> This includes the Fall 2020 transfer of Overlay Surplus balance, in the amount of \$220,000, in order to reduce that year's (FY21) tax rate. If this transfer is omitted, the average amount of Free Cash transfer over this period of time would be \$189,757.

SINGLE-FAMILY PROPERTY TAX BILL COMPARISON TOOL									
PROPERTY DECILES (BASED ON FY23 VALUES)	2023 PROPERTY VALUE	FY 2023 CERTIFIED TAX RATE	EST FY 2023 TAX BILL	2024 ESTIMATED PROPERTY VALUE	FY 2024 ESTIMATED TAX RATE	EST FY 2024 TAX BILL	EST \$ INCREASE IN BILL	EST % INCREASE IN BILL	
10TH PERCENTILE	543,200	11.03	5,991.50	570,360	10.95	6,245.44	253.95	4.24%	
20TH PERCENTILE	597,100	11.03	6,586.01	626,955	10.95	6,865.16	279.14	4.24%	
30TH PERCENTILE	646,300	11.03	7,128.69	678,615	10.95	7,430.83	302.15	4.24%	
40TH PERCENTILE	698,400	11.03	7,703.35	733,320	10.95	8,029.85	326.50	4.24%	
50TH PERCENTILE	753,400	11.03	8,310.00	791,070	10.95	8,662.22	352.21	4.24%	
60TH PERCENTILE	810,000	11.03	8,934.30	850,500	10.95	9,312.98	378.68	4.24%	
70TH PERCENTILE	888,900	11.03	9,804.57	933,345	10.95	10,220.13	415.56	4.24%	
80TH PERCENTILE	984,400	11.03	10,857.93	1,033,620	10.95	11,318.14	460.21	4.24%	
90TH PERCENTILE	1,144,900	11.03	12,628.25	1,202,145	10.95	13,163.49	535.24	4.24%	
<b>EST. TYPICAL INCREASE:</b>							<b>4.24%</b>		
\$500k house	500,000	11.03	5,515.00	525,000	10.95	5,748.75	233.75	4.24%	

Source: Angus Jennings, Town Manager, 9/25/23

SINGLE-FAMILY PROPERTY TAX BILL COMPARISON TOOL - WITH FREE CASH TRANSFER IN AMOUNT OF \$250,000								
PROPERTY DECILES (BASED ON FY23 VALUES)	2023 PROPERTY VALUE	FY 2023 CERTIFIED TAX RATE	EST FY 2023 TAX BILL	2024 ESTIMATED PROPERTY VALUE	FY 2024 ESTIMATED TAX RATE	EST FY 2024 TAX BILL	EST \$ INCREASE IN BILL	EST % INCREASE IN BILL
10TH PERCENTILE	543,200	11.03	5,991.50	570,360	10.79	6,154.18	162.69	2.72%
20TH PERCENTILE	597,100	11.03	6,586.01	626,955	10.79	6,764.84	178.83	2.72%
30TH PERCENTILE	646,300	11.03	7,128.69	678,615	10.79	7,322.26	193.57	2.72%
40TH PERCENTILE	698,400	11.03	7,703.35	733,320	10.79	7,912.52	209.17	2.72%
50TH PERCENTILE	753,400	11.03	8,310.00	791,070	10.79	8,535.65	225.64	2.72%
60TH PERCENTILE	810,000	11.03	8,934.30	850,500	10.79	9,176.90	242.60	2.72%
70TH PERCENTILE	888,900	11.03	9,804.57	933,345	10.79	10,070.79	266.23	2.72%
80TH PERCENTILE	984,400	11.03	10,857.93	1,033,620	10.79	11,152.76	294.83	2.72%
90TH PERCENTILE	1,144,900	11.03	12,628.25	1,202,145	10.79	12,971.14	342.90	2.72%
<b>EST. TYPICAL INCREASE:</b>							<b>2.72%</b>	
\$500k house	500,000	11.03	5,515.00	525,000	10.79	5,664.75	149.75	2.72%

Source: Angus Jennings, Town Manager, 9/25/23



# Town of West Newbury

381 Main Street

West Newbury, Massachusetts 01985

Angus Jennings, Town Manager

978-363-1100, Ext. 111 Fax 978-363-1826

[townmanager@wnewbury.org](mailto:townmanager@wnewbury.org)

TO: Select Board  
 FROM: Angus Jennings, Town Manager  
 DATE: September 30, 2023  
 RE: Recommendation to retain Tax Relief article on STM Warrant

This is to document my and the Town Accountant’s recommendation regarding the potential transfer of Free Cash to offset the FY24 tax rate. In conversations with individual Board members since the meeting on Wednesday, I have become aware that my recommendation regarding the draft article may not have come through clearly at the meeting; my memo of Sept. 25 (“RE: Estimated FY24 tax rate and potential Free Cash transfer”) provided context but not a clear recommendation.

This memo is to clarify that the Finance Department and my office recommend inclusion of an article on the Fall STM warrant to transfer free cash to offset the FY24 tax rate.

The following includes new information, not available at the Sept. 27 meeting, and also summarizes the basis of our recommendation to retain an article on the STM warrant:

- The operating budget increased 3.2% in FY24 (relative to FY23). Ideally, the average tax bill would not exceed by a greater percentage than the increase in operating budget.
- If all draft STM articles are combined, the aggregate cost to Free Cash will be approx. \$240,844.

(This number may decrease or increase somewhat depending on the final form of warrant, incl. resolving a couple of draft amounts re water study/testing and Police equipment). This amount is considerably lower than I had verbally estimated at Wednesday’s meeting; I had been looking quickly at a working file Excel workbook, and this workbook has since been proofed/updated.

- Although not codified in written policy, Free Cash transfers have been a consistent practice dating back to FY2017, in an average annual amount of \$221k. (See Table to right). We believe that taxpayers should be given the opportunity to decide whether to continue this practice or not.

Free Cash Trends, FY16-FY23

Fiscal Year	Year-End Certified Free Cash <sup>1</sup>	Free Cash transfer to reduce Tax Rate <sup>2</sup>
FY24	TBD	\$ -
FY23	\$ 2,386,317	\$ 250,000
FY22	\$ 2,128,806	\$ 200,000
FY21	\$ 1,749,980	\$ -
FY20	\$ 1,954,878	\$ 400,000
FY19	\$ 2,102,586	\$ 220,000
FY18	\$ 1,718,985	\$ 114,000
FY17	\$ 1,824,005	\$ 144,300
FY16	\$ 1,892,315	\$ -

Avg (FY17-23)	\$ 189,757
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<sup>1</sup> Source: MA DOR Form B-1, FY15-FY23

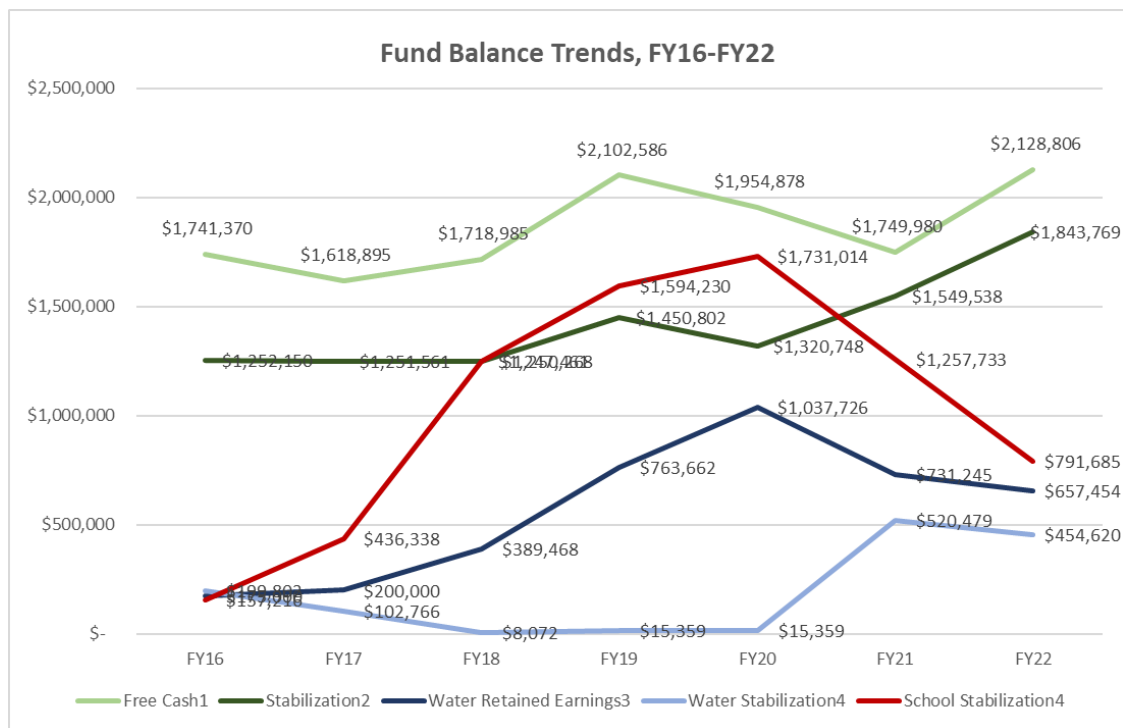
<sup>2</sup> Source: MA DOR Tax Rate Recaps, Item IIIId, FY16-FY23

\* Note: In FY21 the Town did allocate \$220,000 of Overlay Surplus in order to reduce the FY21 Tax Rate. If that amount were to be included in the table above, the FY17-23 average would be \$221,186.

Source: Angus Jennings, Town Manager



- As we have discussed with the Board and Finance Committee on many occasions, the Finance Department’s annual projections of non-tax revenues – a key ingredient in the Tax Rate Recap – include significant conservatism. This is mandated by MassDOR policy and guidelines. Over the past four fiscal years, actual non-tax revenues have exceeded projected revenues by an average of \$194k/year. (See attached table, Local Receipts FY20-23). A similar overage is reasonable to project for FY24.
- Due to a combination of conservative budgeting and underspending, the operating budget has turned back an average aggregate amount of \$498k over the past four fiscal years. (See attached table, Omnibus Budget FY20-23). Although trending downward, the Town can reasonably project substantial turnbacks for FY24.
- The following trend lines – prepared and circulated to the Board, Finance Committee and Capital Improvements Committee, among others, during the FY24 budget cycle – show healthy and improving balances in Free Cash and Stabilization accounts:



Although not yet updated to reflect FY23 year-end closeout (which will coincide with closeout of FY23 Audit), the FY23 Free Cash certification illustrates one area of known, further improvement since the data shown here. Notwithstanding that there are still – as always – some “moving parts” with regard to future capital project costs (incl. the potential for significant changes to Town capital liabilities, depending on the outcome of future policy decisions regarding, especially, water and school), the Town is in excellent financial condition.

Through Town Meeting, taxpayers are entitled and required to approve, amend and approve, or may reject, the Town budget and sections thereof. The impact of this decision on taxpayers’ wallets – measured purely in dollars – is analogous to a budgetary line item of comparable amount to prior years’ average transfers. Just as taxpayers approve the allocation of the budget, it seems appropriate that they would also have a role in such a consequential decision regarding the use of Free Cash.

cc: Town Accountant, Finance Committee

<b>Local Receipts: FY20-FY23</b>								
	<u>6/30/2020</u>		<u>6/30/2021</u>		<u>6/30/2022</u>		<u>6/30/2023</u>	
	<u>Estimated</u>	<u>Actual</u>	<u>Estimated</u>	<u>Actual</u>	<u>Estimated</u>	<u>Actual</u>	<u>Estimated</u>	<u>Actual</u>
Motor Vehicle	\$ 810,000	\$ 784,124	\$ 743,580	\$ 814,348	\$ 775,000	\$ 858,791	\$ 870,000	\$ 839,490
Other Excise	\$ 1,600	\$ 1,750	\$ 1,600	\$ 1,617	\$ 1,600	\$ 2,076	\$ 1,800	\$ 881
Pen & Int Taxes & Excise	\$ 39,185	\$ 55,885	\$ 45,000	\$ 59,004	\$ 45,000	\$ 70,988	\$ 55,000	\$ 43,730
PILOT	\$ 14,000	\$ 19,494	\$ 15,000	\$ 53,368	\$ 42,443	\$ 89,829	\$ 20,000	\$ 52,497
Rentals	\$ 145,000	\$ 122,144	\$ 122,309	\$ 138,273	\$ 160,625	\$ 161,014	\$ 161,014	\$ 168,185
Other Dept Rev	\$ 17,000	\$ 17,585	\$ 17,000	\$ 24,977	\$ 20,000	\$ 25,231	\$ 27,000	\$ 18,210
Lic & Permits	\$ 220,000	\$ 267,024	\$ 249,859	\$ 227,541	\$ 200,000	\$ 192,043	\$ 197,162	\$ 257,161
Fines & Forfeits	\$ 15,000	\$ 12,096	\$ 12,000	\$ 9,070	\$ 10,000	\$ 13,604	\$ 12,000	\$ 9,738
Invest Income	\$ 70,000	\$ 60,478	\$ 34,430	\$ 21,373	\$ 20,000	\$ 7,765	\$ 14,000	\$ 112,495
Misc Recurring	\$ 26,000	\$ 26,000	\$ 30,000	\$ 30,000	\$ 30,750	\$ 30,750	\$ 31,518	\$ 38,606
Misc Non-recurring		\$ 1,072		\$ 72,948		\$ 48,717		\$ 53,154
<b>Total</b>	<b>\$ 1,357,785</b>	<b>\$ 1,367,652</b>	<b>\$ 1,270,778</b>	<b>\$ 1,452,519</b>	<b>\$ 1,305,418</b>	<b>\$ 1,500,809</b>	<b>\$ 1,389,494</b>	<b>\$ 1,594,147</b>
	<b>\$9,867</b>		<b>\$181,741</b>		<b>\$195,390</b>		<b>\$204,654</b>	

**\$193,928**  
Average

<b>Omnibus Budget: FY20-FY23</b>								
	<u>6/30/2020</u>		<u>6/30/2021</u>		<u>6/30/2022</u>		<u>6/30/2023</u>	
	<u>Budget</u>	<u>Actual</u>	<u>Budget</u>	<u>Actual</u>	<u>Budget</u>	<u>Actual</u>	<u>Budget</u>	<u>Actual</u>
<b>Total</b>	<b>\$ 16,587,263</b>	<b>\$ 16,012,637</b>	<b>\$ 17,318,830</b>	<b>\$ 16,736,939</b>	<b>\$ 18,262,839</b>	<b>\$ 17,805,088</b>	<b>\$ 18,276,431</b>	<b>\$ 17,822,917</b>
	<b>\$574,626</b>		<b>\$581,891</b>		<b>\$457,750</b>		<b>\$453,514</b>	

**\$497,718**  
Average

Source: Jennifer Walsh, Town Accountant

## ARTICLE REQUEST FORM

**ARTICLE:** To see if the Town will vote to transfer from available funds a sum to fund unbudgeted personnel costs

**AMOUNT REQUESTED:** TBD

**CONTACT PERSON:** Angus Jennings, Town Manager

**PHONE NUMBER:** 978-363-1100 x115

**Why should the Town make this purchase? What needs will be met? Who will benefit?**

The FY24 operating budget expense line for Police Overtime is overspent, and the Dispatch Overtime budget is on track to be overspent. The combined amount by which these expense lines are expected to be overspent by the end of FY24 is projected to exceed the amount that could be covered by a Reserve Fund transfer.

Therefore, an Article to fund these costs is proposed for the Spring 2024 Town Meeting, to ensure that these expense lines do not end FY24 in deficit.

Also, at the time the FY25 operating budget was proposed, FY25 union contracts for Police and Dispatch had not yet been settled. The proposed budget carries amounts estimated to be sufficient to cover FY25 costs. However, this article is put forth in good faith, in case circumstances arise where the Police or Dispatch Salary & Wages line items are under budgeted based on yet-to-be-agreed contract terms. Further, with Select Board approval, these funds may potentially be used to cover other unbudgeted costs as may result.

**What factors affect the timing of this purchase?**

These funds would be used in part to offset or absorb FY24 personnel costs above budgeted levels.

**When should this Article be sunsetted - how long will the project take?**

FY25

**What ancillary costs do you anticipate? (Maintenance, Insurance, Training, etc.)**

N/A

**Does this Article involve improvement, preservation or creation of tangible Town-owned assets and projects which 1) have useful life of at least five years; 2) cost over \$20,000 and or 3) for which the Town is authorized to borrow funds? If so, please confirm that this item is on the Capital Improvements Committee Schedule for future capital investments.**

No

**Please attach additional pages or other supporting documentation.**

# ARTICLE REQUEST FORM

**ARTICLE:** Supplemental funding for MBTA Communities zoning/planning consulting

**AMOUNT REQUESTED:** TBD

**CONTACT PERSON:** Angus Jennings, Town Manager

**PHONE NUMBER:** 978-363-1100 ext. 115

**Why should the Town make this purchase? What needs will be met? Who will benefit?**

On January 3, 2024, the Town submitted its draft MBTA Communities Multi-family Housing Overlay District Bylaw and Map to the State (Exec. Office of Housing and Livable Communities, or EOHLC) for review as required under the MBTA Communities Act (M.G.L. Ch.e 40A, Sec. 3A). Work on the draft zoning bylaw and map, and the underlying planning efforts that took place, involved nearly a year of work, and was supported by significant funding secured from a State "One Stop" grant awarded in 2023, and matched by a 10% local funding match approved at the Spring 2023 Town Meeting.

The planning work to date has anticipated - and continues to anticipate - a Spring 2024 Town Meeting to consider the proposed zoning amendments. However, as of this writing (Feb. 7th), the Town has not yet received comments/edits back from EOHLC regarding the draft zoning. If EOHLC requires significant/substantive changes, this COULD lead to the Planning Board recommending a delay on bringing the proposed bylaw to Town Meeting. Alternatively, the bylaw could stay on track for a vote in April, 2024, but in the event the bylaw is proposed, and is not adopted by voters, the Town (Planning Board and Select Board) could opt to extend its planning work on the MBTA Communities initiative into FY25.

If, for whatever reason, this planning efforts extends past the April 2024 Town Meeting, it is likely that the Town's current contact with its consultant will run out of funds, since the workplan was based on an anticipated project timeline. In that case, the Town would find itself without consulting support to carry forward the work. This proposed placeholder article is brought forward in order to preserve the option for the Town to appropriate funds to support continuing consulting support on the MBTA Communities zoning initiative. If funded, and if necessary or helpful to the Town's efforts, continuing support could be provided by the current consultant, MVPA, or another consultant, based on what the Planning Board deems is in the Town's best interests. Whether this funding will be needed, and if so in what amount, will become clearer later in the cycle, with new information provided at that time.

**What factors affect the timing of this purchase?**

The Town is required by law to comply with the MBTA Communities Act by Dec. 31, 2025. If the Town, via Town Meeting and State approval, has not met compliance by the end of the current FY24, it will be beneficial to have the option to engage consulting support as needed to continue a robust public planning process.

**When should this Article be sunsetted - how long will the project take?**

June 30, 2026

**What ancillary costs do you anticipate? (Maintenance, Insurance, Training, etc.)**

None

**Does this Article involve improvement, preservation or creation of tangible Town-owned assets and projects which 1) have useful life of at least five years; 2) cost over \$20,000 and or 3) for which the Town is authorized to borrow funds? If so, please confirm that this item is on the Capital Improvements Committee Schedule for future capital investments.**

No.

**Please attach additional pages or other supporting documentation.**

Additional information regarding this initiative can be found at:

<https://www.wnewbury.org/home/town-projects/pages/mbta-communities-housing-opportunities-initiative>

## Angus Jennings

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**From:** Dillon Sussman <dillon@dodsonflinker.com>  
**Sent:** Wednesday, March 13, 2024 4:41 PM  
**To:** Angus Jennings  
**Cc:** Peter Flinker; Town Planner; Brian Murphey  
**Subject:** Re: Proposed supplemental funding for work on MBTA Communities bylaw

Hi Angus,

Thanks for reaching out. We sincerely hope that additional funding isn't needed, but thanks for preparing in case it is. As you mentioned it is difficult to estimate the number of hours since we don't know what will be needed. For example, if EOHLIC doesn't provide feedback in time to make revisions for the upcoming town meeting, but the necessary revisions are minor, then it shouldn't take much effort to get the bylaw ready for the next town meeting. On the other hand, if the bylaw is brought to the upcoming town meeting but is not adopted, I would guess a more significant effort would be required. In this scenario, we might need to find a new location for a zone, draw new concept plans, go through an extensive public engagement process again, and/or deal with the complexities of the Mullen site.

Over the past year, we worked an average of 60 hours per month on the project. I would take that as the high end.

Over the past month, we worked about 30 hours. That seems like a reasonable baseline for the upcoming period to me. That covered working with EOHLIC to try to get them to reinterpret their guidelines, revising the draft bylaw, meeting with the planning board, and preparing for the public hearing.

Our hourly rates are: \$150 for Principal, \$125 for Senior Associates, \$100 for Associates. We can use an average rate of \$125/hour this purpose.

For the baseline, I would estimate:  
\$125x30hours=\$3,750/month  
if we work 6 months, that would be \$22,500  
if we work 12 months, that would be \$45,000

The high end prediction would be \$75,000-\$90,000 for a year (50-60 hours/month for 12 months). That would cover the cost if we had to essentially start over or even take on a more ambitious scope than the first round (more outreach, more detailed design for a complex site, etc).

Let me know if this email is sufficient for your needs. I'm also happy to talk this through with you. I'm at 413-628-4496 x 102.

Thanks,

Dillon

On Wed, Mar 13, 2024 at 12:34 PM Angus Jennings <[townmanager@wnewbury.org](mailto:townmanager@wnewbury.org)> wrote:

Peter, Dillon,

Please let me know if you'll be able to provide a response on this this week. We will plan accordingly, either way.

Thanks,

Angus

Angus Jennings, Town Manager

Town of West Newbury

Town Office Building

381 Main Street

West Newbury, MA 01985

(978) 363-1100 x111

[townmanager@wnewbury.org](mailto:townmanager@wnewbury.org)

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**From:** Angus Jennings

**Sent:** Saturday, March 9, 2024 12:31 PM

**To:** Peter Flinker <[peter@dodsonflinker.com](mailto:peter@dodsonflinker.com)>; Dillon Sussman <[dillon@dodsonflinker.com](mailto:dillon@dodsonflinker.com)>

**Cc:** Town Planner <[townplanner@wnewbury.org](mailto:townplanner@wnewbury.org)>; Brian Murphey <[brmurphey@comcast.net](mailto:brmurphey@comcast.net)>

**Subject:** Proposed supplemental funding for work on MBTA Communities bylaw

Hi Peter, Dillon,

Hope this finds you well.

Prior to the closing of the Annual Town Meeting warrant a month or so ago, I put in the attached placeholder warrant article for supplemental consultant funding in the event that either the proposed bylaw isn't taken up at the April 29<sup>th</sup> Town Meeting (i.e. if EOHLC review wasn't timely, or something); or in the event the bylaw as proposed fails. In either scenario, I would support continuing our work on this initiative toward a future Town Meeting vote.

I'm not asking for a specific scope – since this is entirely hypothetical – but if you could provide me an estimated overall budget number, that would give me a basis for whatever amount ends up being proposed at Town Meeting. If you've got a per-month avg. cost, we could make some assumptions based on a similar level of effort whether it continued for 6 months (for an Oct 2024 Town Meeting) or 12 (April 2025). A Town Meeting zoning vote within this timeframe would preserve our compliance with the MBTA Communities Act.

The Select Board and Finance Committee will be reviewing the proposed zoning warrant article at their meeting on March 20<sup>th</sup> (just after the prior night's PB public hearing). I'd like them to take up the attached article on that date as

well. If you could get me a budget number (for both the 6-month and 12-month extension scenarios) by the end of day Friday, that'd be terrific.

Thanks for your continuing excellent efforts on this initiative.

Angus

Angus Jennings, Town Manager

Town of West Newbury

Town Office Building

381 Main Street

West Newbury, MA 01985

(978) 363-1100 x111

[townmanager@wnewbury.org](mailto:townmanager@wnewbury.org)

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Dillon Sussman

Dodson & Flinker

40 Main Street, Suite 101

Florence, MA 01062

413-628-4496 x 102

**Updated Draft Proposal**  
**Changes to Town Bylaws regarding the Finance Committee**  
**For Annual Town Meeting April 2024**

Current West Newbury Town Bylaws regarding Finance Committee, January 25, 2023  
 Pages 5 & 6 with markup

In compliance with the provisions of law relating thereto, there shall be a Finance Committee consisting of six (6) qualified voters who shall not hold any other Town Office or position, except that one member of the Finance Committee shall be a member of the advisory Capital Improvements Committee and a member of the Finance Committee shall be a member of the Investment Policy Committee, and who shall be appointed by the ~~Select Board~~Selectmen, two (2) each year for a term of three (3) years, any vacancy arising may be filled by the Select Board~~Selectmen~~ at any time. It shall be the duty of the Finance Committee to consider all municipal questions affecting the revenue, indebtedness or expenditures of the funds of the Town, and for this purpose the committee shall have access to all books and records of the Town.

Pages 21 & 22

The Finance Committee shall annually elect a ~~chairman~~ and ~~vice-chair~~secretary from its membership. The ~~chairman~~ may call meetings whenever they thinks advisable, but shall call meetings at the request of a majority~~four members~~ of the committee then serving. A quorum for any meeting shall be a majority of those then serving~~four members~~.

They shall meet at least ten days prior to the Annual Meeting each year and at least five days prior to any Special Town Meeting to prepare recommendations regarding all articles in the warrant, especially those involving the appropriation of money.

The committee shall confer with and advise the Select Board~~Board of Selectmen~~ whenever so requested by the latter. Prior to the Annual Meeting the Town Manager~~Selectmen~~ shall submit to this committee the proposed budget for the next ensuing year.



## ARTICLE REQUEST FORM

**ARTICLE:** River Road Planning Services

**AMOUNT REQUESTED:** \$40,000

**CONTACT PERSON:** Angus Jennings, Town Manager

**PHONE NUMBER:** 978-363-1100 x115

**Why should the Town make this purchase? What needs will be met? Who will benefit?**

This River Road Planning Project will be the continuation of the River Road Assessment currently underway. The current assessment, funded by a Municipal Vulnerability Preparedness (MVP) grant with a match from the Town, will be completed June 30, 2024, and will include existing conditions data, vulnerability assessment, and a suite of options for short-term and long-term mitigation.

The intent of this next Planning Phase is to hire one or more consultants to provide expertise to guide the Town through more specific next steps for River Road. The project will begin in July with the goal of developing a short-term preparedness plan, determining which projects and funding sources the Town should pursue in the Fall, and map out potential longer-term actions. Some of the tasks included in this phase may include:

- Regular working group meetings with Town staff, officials, and CCRC representatives
- Assessment of state and federal permitting requirements, timelines, and potential constraints for various types of mitigation projects or emergency repairs
- Assessment of potential need and feasibility of River Road traffic restrictions
- Identification and prioritization of short-, medium-, and long-term projects such as slope stabilization, drainage and culvert upgrades, or road improvements
- Conceptual plans for selected priority projects
- Preliminary project cost estimates and identification of grants and funding sources
- Additional on-site evaluations such as field survey, geotechnical assessments, or pavement testing
- Master plan or schedule of recommended future action items for the Town and stakeholders

**What factors affect the timing of this purchase?**

The current grant ends on 6/30/24. If the Town is to build on the ongoing work (supported by a \$50,000 Town Meeting appropriation, and a \$150,000 Municipal Vulnerability Preparedness grant), and be in a position to pursue additional State and/or Federal grant funding in FY25, it will be important to retain technical/engineering support.

**When should this Article be sunsetted - how long will the project take?**

6/30/2025

**What ancillary costs do you anticipate? (Maintenance, Insurance, Training, etc.)**

None.

**Does this Article involve improvement, preservation or creation of tangible Town-owned assets and projects which 1) have useful life of at least five years; 2) cost over \$20,000 and or 3) for which the Town is authorized to borrow funds? If so, please confirm that this item is on the Capital Improvements Committee Schedule for future capital investments.**

No.

**Please attach additional pages or other supporting documentation.**



## Town of West Newbury Finance Committee FY25 Budget Meeting Schedule – Updated **DRAFT** 3/16/24

*All meetings **except as noted below** will be in the 1910 Building  
381 Main Street, West Newbury, MA  
Hearing Room 1*

<u>Date/Time</u>	<u>Departments/Topics To Be Reviewed</u>	
Tuesday, Feb. 13 <sup>th</sup> 6:30pm	Whittier School Committee public hearing re FY25 School Budget <b>Location: Whittier Tech High School</b>	
Thursday, Feb. 15 <sup>th</sup> Joint FinCom/SB mtg 6pm	Presentation of proposed FY25 budget Review of proposed Town Meeting warrant articles	
Tuesday, Feb. 20 <sup>th</sup> 6:30pm Joint FinCom/SB mtg	DPW	
Monday, Feb 26 <sup>th</sup> Joint SB/FinCom mtg 7pm	Moderator Select Board Town Manager Finance Department Town Clerk Debt Service	Board of Registrars/Elections Board of Assessors Legal Counsel Health Insurance Insurance and Bonds Unemployment Compensation
Tuesday, Feb. 27 <sup>th</sup> 6pm	Pentucket School Committee public hearing re FY25 School Budget <b>Location: Pentucket Middle/High School</b>	
Tuesday, March 12 <sup>th</sup>	Pentucket School Committee vote on proposed FY25 School Budget	
Wednesday, March 13 <sup>th</sup>	Whittier Tech School Committee, Budget Workshop	
Wednesday, March 13 <sup>th</sup> Joint FinCom/SB mtg 6pm	Police Department Fire Department Dispatch Animal Control	Board of Health Council on Aging Emergency Management Agency Historical Commission
Tuesday, March 19 <sup>th</sup> 7pm	Planning Board public hearing re proposed MBTA Communities zoning	
Wednesday, March 20 <sup>th</sup> Joint SB/FinCom mtg 6pm	Library Conservation Commission Planning Board Inspectional Services Board of Appeals	Parks & Rec Commission Open Space Committee Mill Pond Committee Bandstand Cultural Council
Monday, March 25 <sup>th</sup> Joint SB/FinCom mtg 7pm	Education Water Veterans' Services	Harbormaster Community Preservation Comm
Wednesday, March 27 <sup>th</sup> Joint FinCom/SB mtg 6pm	Finance Committee COLA/non-COLA adjustments Transfers to/from Stabilization	Essex County Retirement Medicare (FICA)

**Please note:** *The order that topics are listed are not necessarily the order they will be reviewed. The Finance Committee Chairperson reserves the right to take up items out of order. The Committee will consider proposed Town Meeting warrant articles at the time that the article sponsor(s) appear before the Committee for review of proposed operating budgets, supplemental review at subsequent meetings if/as needed.*

*Posted Schedule on 3/18/2024 at the Town Offices and the Town's Official Website [www.wnewbury.org](http://www.wnewbury.org)*

Annual OR Special Warrant Articles - Spring 2024 Town Meeting					Recommendations				
# <u>(DRAFT)</u> Article		<u>Amt (if \$)</u> <u>DRAFT</u>	<u>Sponsor</u>	<u>Date of initial</u> <u>FinCom review</u>	<u>Select Board</u>	<u>FinCom</u>	<u>Rationale</u>	<u>Sunset Date (if</u> <u>applicable)</u>	<u>Notes</u>
4	FY25 Town Operating Budget	TBD	FinCom	3/27/24				n/a	
7	FY25 Water operating budget	TBD	BOWC	3/27/24				n/a	
31	Supplemental funding for telecom upgrades at Town Offices, Public Safety Complex and Library	TBD	Town Manager	2/20/24; and 3/27/24					procurement process ongoing
32	Town Offices Electronic Keying System	\$ 28,000	DPW/Facilities	2/20/24; and 3/27/24					project re-scoped to limit focus to exterior doors and server room
35	Replace Water Pump at Wellfield	\$ 44,000	BOWC	3/27/24					
20	Appropriation and/or Debt Authorization for Middle Street Bridge	TBD	Town Manager	3/27/24					SB to review on 3/25; FinCom on 3/27
30	Add'l Accessories for DPW Trackless Vehicle	\$ 41,540	DPW/Highway	2/20/24; and 3/27/24					Added back to warrant by 3-0 SB vote on 3/11/24
39	Page School: engineering/design re internal site circulation	\$ 68,500	Town Manager	3/20/24					amount updated 3/22/24
46	Funds for site testing for potential water source(s)	\$ 50,000	Town Manager	3/27/24					