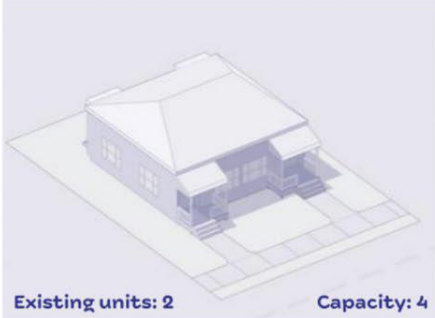
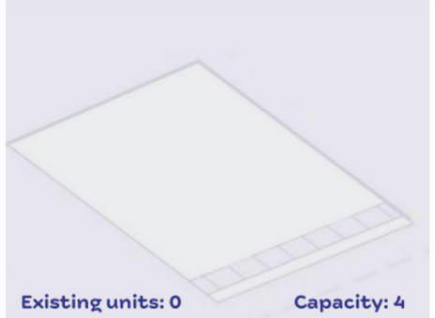





MBTA Communities Zoning FAQ's

Revised August 23, 2023

This is a living document and will be updated as new questions come up or if more information is available.

COMMENT/QUESTION	RESPONSE
WHO	
<p>What is a MBTA Community?</p>	<ul style="list-style-type: none"> • A MBTA Community is one of the 65 cities and towns in Massachusetts that hosts MBTA service, such as Concord’s commuter rail line, or, • One of the approximately 120 other communities that abut a city or town with MBTA service or were added by other legislative acts.
WHAT	
<p>What are the requirements of the MBTA Communities Act for the Town of Concord?</p>	<ul style="list-style-type: none"> • Zoning shall be created that designates a “reasonable sized” district in which multi-family housing is permitted as of right, and, <ul style="list-style-type: none"> ○ The zoning shall have no age restrictions for housing, and, ○ The zoning shall allow for housing that is suitable for families with children. • At least 50% of that district is to be located not more than one-half mile from a commuter rail station, and, • That zoning district allows for a minimum of 15 units per acre, known as the Density Requirement, and create capacity for 1,094 multi-family dwelling units, known as the Capacity Requirement. • That district contains a minimum of 50 acres in area. This represents 0.3% of Concord’s 16,518 total acreage (25.8 square miles). • Any area outside of the ½ mile radius must be comprised of a minimum of 5 acres.
<p><i>Question:</i> What is capacity and how many units do we need to make/be able to prove we have?</p> <p><i>Response:</i> Creating capacity only means having the zoning to allow for multi-family by right, it does not change what is currently allowed on a specific property or provide a mandate to build. An example is that all we need is the cookie tray that allows us to have cookies here in Concord, no need to bake any cookies or any specific type or number of cookies! See the graphic below to help illustrate this concept</p> <div style="display: flex; justify-content: space-around; align-items: flex-end;"> <div data-bbox="121 1669 553 1984" style="text-align: center;">  <p>Existing units: 2 Capacity: 4</p> </div> <div data-bbox="581 1669 1013 1984" style="text-align: center;">  <p>Existing units: 0 Capacity: 4</p> </div> <div data-bbox="1040 1669 1472 1984" style="text-align: center;">  <p>Existing units: 4 Capacity: 4</p> </div> </div>	

Community Category	2020 Housing Units	Minimum Multi-family Unit Capacity*	Minimum Land Area (acres)**	Developable Station Area (acres)***	% of District to be Located in Station Area
Commuter Rail	7,295	1,094	50	519	50%

*Housing Units x 15% (applicable percentage for community type)

**Minimum for all commuter rail communities

***Derived by taking the area of a half-mile around an MBTA commuter rail station and removing any areas comprised of excluded land

Would Accessory Dwelling Units (ADUs) or two-family houses count towards compliance?

No. Multi-family is defined as “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.” A variety of building types, including townhomes, triple-deckers, single-family cluster developments and townhouses could all meet this definition. These are often referred to as the “missing middle” or “workforce” housing types. An example of what different forms of “missing middle” housing can look like is below.



WHY

How does creating zoning for multi-family housing help resolve the housing crisis?

The lack of zoning for multi-family housing is a barrier for developing new housing, particularly “the missing middle” or “workforce” housing.

- Massachusetts has among the highest, and fastest growing, home prices and rents of any state in the nation.
- Rising costs have dramatically increased financial pressures on low- and middle-income families, young families, single-income households, and our aging population, often forcing sacrifice of other priorities to pay for housing costs.
- Lack of available housing and high housing costs are a primary driver of homelessness.
- This may put our economy and businesses at a disadvantage as we compete economically against peer states. The risk of future job growth moving outside Massachusetts is rising due to the high living costs.

What other benefits could result from this zoning?

- By allowing multi-family housing near transit, we create new housing in walkable neighborhoods. More housing would be closer to the places that we go every day, such as local shops, jobs, schools, restaurants, and parks, thus increasing mobility. It’s good health policy, too.

	<ul style="list-style-type: none"> • Better access to work, services, and other destinations via the rail network increases utilization of public transit. It's good transportation policy, too. • Reduced reliance on single occupancy vehicles helps in our larger effort to confront the climate crisis. More dense development and reduced areas of parking and heat islands is energy efficient. It's good climate policy, too.
WHEN	
How long will this planning process take?	<ul style="list-style-type: none"> • The total planning process will take 1 year from June 2023 to Town Meeting 2024 where the zoning amendment will be considered. If the process extends beyond this, a special Town Meeting would be considered. • Massachusetts has mandated adoption of compliant new zoning regulations by December 31, 2024. • There is no mandate that housing units be built, or that development occur. Only that multi-family zoning be created.
What will be included in the process?	<ul style="list-style-type: none"> • A number of community meetings will specifically address the MBTA Communities Multi-family Overlay District(s). In addition, the Select Board, Planning Board, and other Boards will have meetings to discuss various aspects of the District(s). Information will be available on the dedicated MBTA Communities website www.concordma.gov/MBTACommunities
WHERE	
Where will the new zoning overlay district(s) go?	<ul style="list-style-type: none"> • The location of a new overlay district(s) will be determined based on a robust public outreach program which will be detailed throughout the summer and fall of 2023. • The overlay district(s) will be transit oriented and the Commonwealth has mandated that at least 50% of dwelling unit Capacity Requirement be located within one half mile of the commuter rail stations.
HOW AND HOW MUCH	
How many new housing units will be built in Concord as a result of this Law?	<ul style="list-style-type: none"> • There is no mandate to build any new housing. Concord is only required to adopt a multi-family zoning district that would allow the development of multi-family units by right. • The zoning must allow 15 units per acre average throughout the entire district and the district(s) area must accommodate for 1,094 multi-family units. Once again, there is no mandate to build even a single unit. • The Town's consultant will conduct the Capacity Requirement analysis to determine if the proposed district can accommodate 1,094 units by-right.
What will this cost Concord?	<ul style="list-style-type: none"> • If projects are created under this zoning, they will be constructed and financed by developers and property owners. • The Law does not require a municipality to install new water or wastewater infrastructure or add to capacity of existing infrastructure to accommodate future multi-family housing within the district.

<p>What does “as of right” development mean?</p>	<ul style="list-style-type: none"> • “As of right” means a proposed project may proceed under a zoning bylaw without the need for a special permit, variance, zoning amendment, or other discretionary zoning approval. • Currently, Concord has no zoning allowing “as of right” multi-family housing. • “As of right” development does allow for a Site Plan review process. • Projects are still required to abide by wetlands, historic district, and other local and state regulations – this does not void any other process and only effects the zoning.
<p>If I want to turn my home into a multi-family, does it have to be 15 units/acre if it is within the new zoning?</p>	<ul style="list-style-type: none"> • No, the zoning allows for by right multi-family (3 or more units) up to 15 units per acre average across the MBTA zoning. It would not force you to put 8 units on a half acre if you did not choose to, however it would allow you to more easily add multi-family units on your property.
<p>Are developers forced to build 15 units per acre? Could there be higher or lower density?</p>	<ul style="list-style-type: none"> • Some parcels may be developed with higher density and some with lower density, so long as we allow for 15 units per acre to be allowed to be built by right, that is what the law requires. This means that an 8 unit building could be built on a parcel next to one with 20 units. • There can also be areas in our zoning, called subdistricts, where the zoning allows for 10 units per acre by right and other subdistricts that allow for 20 units per acre by right so long as the average is 15 units per acre throughout our zoning overlay district
<p>What if the Town wants to see affordable housing or age restricted housing built, will we be forcing these sorts of developments out?</p>	<ul style="list-style-type: none"> • No, the law only requires that the zoning overlay we create allows for all types of multi-family housing to be built. A developer could still build affordable housing, age restricted housing for seniors, a building with all studios, etc. The Town’s zoning bylaw cannot be written in a way that dictates what type of multi-family is allowed. For example, the Town’s zoning overlay could not only allow for multi-family senior housing to be built by-right.

COMPLIANCE AND THE LAW VS. OPT OUT

<p>What if we don’t comply?</p>	<p>A MBTA community that does not comply is not eligible for funding from three Massachusetts programs:</p> <ul style="list-style-type: none"> • The Housing Choice Initiative—Concord is not a Housing Choice Community as of April 2023, • The Local Capital Projects Fund—The Concord Housing Authority receives funding each year from this funding program, • The MassWorks Infrastructure Program—12 programs focused on housing and economic development, infrastructure, and community. This program funds many things including water and sewer work, sidewalk and road improvement, housing, and much more. • The State has indicated compliance with the Law will be taken into account for many other discretionary grants from the Commonwealth. <p>The following discretionary grant programs will take compliance with Section 3A into consideration when making grant award recommendations:</p>
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	<ul style="list-style-type: none"> • Community Planning Grants, EOHLIC, • Massachusetts Downtown Initiative, EOED, • Urban Agenda, EOED, • Rural and Small Town Development Fund, EOED, • Brownfields Redevelopment Fund, MassDevelopment, • Site Readiness Program, MassDevelopment, • Underutilized Properties Program, MassDevelopment, • Collaborative Workspace Program, MassDevelopment, • Real Estate Services Technical Assistance, MassDevelopment, • Commonwealth Places Programs, MassDevelopment, • Land Use Planning Grants, EOEEA, • Local Acquisitions for Natural Diversity (LAND) Grants, EOEEA, and • Municipal Vulnerability Preparedness (MVP) Planning and Project Grants, EOEEA
<p>How much funding has Concord received from those programs in the past 5 years? Is anticipated in the next 5 years?</p>	<p>The Town is still in the process of compiling this information and determining what grant funding for future projects may be in jeopardy, such as the expansion of the Town’s wastewater treatment facility which would be eligible for MassWorks funding. Surrounding Towns have received hundreds-of-thousands to millions of dollars from MassWorks in the past 5 years, this is funding that Concord would not be eligible to apply for or receive.</p>
<p>Are there other legal consequences?</p>	<p>The State’s Attorney General issued an advisory dated 3-15-23 indicating that:</p> <ul style="list-style-type: none"> • All MBTA Communities must comply with the Law. • Non-compliant communities may be subject to civil enforcement action and risk liability under federal and state fair housing Laws and antidiscrimination Laws.
<h2 style="background-color: #d9ead3; padding: 5px;">ZONING AND ZONING OVERLAY DISTRICT</h2>	
<p>What is a Zoning Overlay District?</p>	<ul style="list-style-type: none"> • An overlay zoning district is a type of land use district that “lies” on top of the existing zoning. It identifies special provisions in addition to those in the underlying base zoning. The overlay district can share common boundaries with the base zoning district or cut across multiple base zoning boundaries. Regulations or incentives are attached to the overlay district to protect a specific resource or guide development within a special area. • Zoning overlays are considered effective ways of tailoring zoning regulations to a specific neighborhood and encouraging a pattern of development (such as transit orientation, combined business/residence, conservation, historical or cultural resources, within a community).
<p>Will Site Plan Review be allowed?</p>	<p>Site Plan Review of proposed multi-family projects is allowed but cannot be used to limits the size of units, the number of bedrooms or occupants, or as a way to prohibit a project. Site Plan review by the Planning Board during a Public Hearing process helps to identify issues and concerns and provides the Town and developer an opportunity to revise the design in a way to address those issues. Additionally, the Board may impose</p>

	<p>reasonable conditions in their decision to further mitigate impacts of a project, such as:</p> <ul style="list-style-type: none"> • Vehicular access and circulation on the site • Architectural design of a building • Screening of adjacent properties • Requiring dark-sky compliant exterior lighting <p>The Board cannot impose conditions that significantly add costs that could delay a project or make it infeasible or impractical to proceed.</p>
Will incentives be allowed as part of the zoning?	<p>Yes, incentives are allowed as long as multi-family housing is separately allowed as of right. The community could allow incentives such as:</p> <ul style="list-style-type: none"> • A taller building if the first floor is commercial. • Relief from parking if carsharing or Zipcar is provided. • Greater residential density if a public playground is provided. <p>These incentives would be written into the zoning overlay language for a subdistrict.</p>
Doesn't "as-of-right" mean developers can build whatever they want?	<ul style="list-style-type: none"> • The Law allows flexibility in terms of the size of the district, where it will be located, and the dimensional requirements (setbacks, height, lot coverage) so long as a density of 15 units per acre is allowed • At least 50% of the district must be located within ½ mile • Uses that are permitted by-right are still subject to other applicable sections of the Zoning Bylaw, state and federal regulations, such as Site Plan Review, Floodplain Conservancy District, and the Town's Wetland Bylaw.

TOWN CHARACTER AND HISTORIC VALUES

How will this Law change Concord's character and built environment?	<p>One of the general principles of the Law is to "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."</p>
Will multi-family housing mean high density apartment buildings?	<p>Concord has several multi-family housing developments that comply with the 15 units per acre density. Multi-family is defined as "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." A variety of building types, including townhomes, triple-deckers, single-family cluster developments and townhouses could all meet this definition. These are often referred to as the "missing middle" or "workforce" housing types.</p>
Will new developments be able to skirt past the rules of the Historic Districts Commission or Historical Commission if they are allowed by-right?	<p>No, proposed demolition of any building over 50 years in age will still need to be reviewed by the Historical Commission under the Demolition Review Bylaw and go before the commission for a hearing. In addition, properties in historic districts will also have to go through the HDC process and receive approval to do work to properties as they do now.</p>

OPEN SPACE, ENVIRONMENT AND SUSTAINABILITY

How will this effect open space, recreation, wetlands, educational or other protected lands?	<p>One of the general principles of the Law is to "minimize impacts to sensitive land".</p> <p>Many categories of land where it is not possible or practical to construct multi-family housing are specifically "excluded" from</p>
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	<p>consideration under the MBTA Communities Requirement. These include:</p> <ul style="list-style-type: none"> • All publicly owned land, except for lots or portions of lots determined to be developable public land, • All rivers, streams, lakes, ponds and other surface waterbodies, • All wetland resources areas, together with a buffer zone around wetlands and waterbodies equivalent to the minimum setback required by Title 5 of the state environmental code, • 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), • Land likely to remain undeveloped due to functional or traditional use (for example, cemeteries), • All public rights-of-way and private rights-of-way, • 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, and, • Privately owned land used for educational or institutional uses, such as a hospital, prison, electric, water, wastewater or other utility, museum, or private school.
<p>Will Concord’s Energy Code requirements be maintained in the overlay district?</p>	<p>Yes, the current code and, when approved, the Specialized Stretch Energy Code approved at the 2023 Town Meeting, will be required in the overlay district.</p>

COMMERCIAL, INDUSTRIAL AND BUSINESS VITALITY

What are the pros and cons for our Concord businesses?	<ul style="list-style-type: none"> • PRO-Greater density in our town centers should support existing town businesses and service providers and create opportunities for new and diverse businesses in underutilized areas. • PRO-Opportunities for buildings with mixed-use of retail and residential create growth potential for businesses. • CON-If the location of the overlay district(s) relies extensively on our current limited commercial or industrial spaces, our business districts could be reduced/replaced, losing ground to residential properties.
Can we zone for mixed use in our village centers to make sure we maintain our village center character?	<ul style="list-style-type: none"> • The State EOHL has recently come out with revisions to the 3A MBTA Communities guidelines that do allow for a mixed use district to be created in existing village centers/downtown areas who wish to retain the mixed use development. • This district can host up to 25% of the required capacity for units for the municipality but the land zoned in this smaller district is excluded from the overall 50 acre requirement for MBTA zoning. Think of it like a donut, the donut portion counts toward our total needed acreage, but the hole in the donut would be cut out and excluded from the total needed acreage count. • This district cannot have requirements for minimum parking for non-residential uses, there is a percentage cap on floor area for non-residential uses and is only allowed on the ground floor only, the districts must be pre-approved by the State.

AFFORDABLE HOUSING

Will the MBTA Communities Requirement result in the creation of affordable housing?	The inclusion of affordable housing provisions in the zoning district is not required. However, Concord may incorporate minimum affordability requirements if they are financially feasible and do not unduly impede the construction of multi-family housing in the overlay district.
What percent of and how many units will be affordable housing?	<ul style="list-style-type: none"> • There are no express requirements for affordable housing. • However, a maximum of 10% of the dwellings can be required to be affordable. The cap on income of families or individuals who are eligible to occupy the affordable units cannot be less than 80% of area median income. • A greater percentage (between 10% and 15%) of affordable housing and deeper affordability for some or all of the units can be approved if supported by an independent economic feasibility analysis.
Will these units be counted on the Town's Subsidized Housing Inventory (SHI)?	<ul style="list-style-type: none"> • Not necessarily. Communities may opt to require a percentage of "missing middle" or "workforce housing" units occupied by households earning more than 80% of area median income which would then not qualify for the SHI.

DIVERSITY, EQUITY AND INCLUSION

Will MBTA Communities promote Diversity, Equity, and Inclusion (DEI)?	<ul style="list-style-type: none"> • While the Law and the Requirement does not include specific requirements to promote DEI goals, it does support building greater housing choice: "missing middle" housing, "workforce housing" and affordable housing which should indirectly further DEI goals. • All other housing related legislation, such as Fair Housing and Anti-discrimination Laws will continue in force.
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INFRASTRUCTURE: STREETS AND TRAFFIC

<p>Could the MBTA multi-family overlay district increase traffic?</p>	<ul style="list-style-type: none"> • Site Plan Review of a specific multi-family project proposal will look at vehicular access and circulation on the site and allow for the incorporation of conditions to help mitigate impacts.
<p>INFRASTRUCTURE: SCHOOLS</p>	
<p>Will the MBTA multi-family overlay district lead to increases in enrollment at Concord Schools?</p>	<ul style="list-style-type: none"> • Concord-Carlisle Regional School District K-12 enrollment declined by 4% between 2012 and 2022, from 3,945 to 3,789 students according to the New England School Development Council (NESDEC). • NESDEC projects that the total student population will increase by 0.9% between 2022 and 2032, from 3,789 to 3,852 with Concord's share declining from 76% to 75%.

INFRASTRUCTURE: WATER AND SEWER

Will Concord need to invest in increased water and sewer infrastructure?

- Communities are encouraged to consider the availability of water and wastewater infrastructure when selecting the location of the district(s) included in new multi-family zoning.
- Compliance 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(s).
- 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.
- 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.

ECONOMIC IMPACT

Will the new zoning lower home values?

- Many factors affect the value of residential property, and it is too early to determine if these requirements will actually create new housing, much less have a minor or significant influence on valuations.
- However, there is research finding that similar properties located in walkable neighborhoods or close to amenities, particularly transit hubs, have higher values than similar properties located at a distance.

Doesn't this support a "growth strategy" and why do we need it?

- A diverse population with housing options has economic benefits, including a greater tax base, more support for local businesses and a larger employment base for local employers.
- Current Concord residents are comprised of a vibrant mix of ages, backgrounds, and incomes. But lack of housing options means it can be more challenging to remain in Concord over their life cycle:
 - if they begin or add to their family,
 - if they wish to downsize in retirement,
 - if their economic situation changes, or,
 - if their children or grandchildren are looking for a starter apartment or home, they have to move further away or even out of state.

How might this zoning affect my home's assessed value? Will this raise my taxes?

- A property's value, or assessment, is determined by Massachusetts General Law and says that a city or town may only assess a property "*for what currently exists on a property*, not for what potentially could be developed, commonly referred to as, "highest and best use."
- If a property in Town currently has a single-family home existing on it, it would be assessed accordingly. For example, if an apartment building would be approved to be constructed on the same property it would not be assessed until it is completed. In that same example, if a property owner removed a single-family home and it was just developable land as of January 1, 2023, for FY2024 would be adjusted accordingly.

PROPERTY RIGHTS

Does this reduce my property rights?

- A property owner will continue to have of the rights they currently have since the base zoning will remain.

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| | <ul style="list-style-type: none">• If the MBTA Community zoning is adopted, individual property owners will have the option to decide if they want to redevelop their property under the new zoning. No one is required to change their property or develop new housing. |
|--|---|