

Article 5 Zoning Bylaws Amendment: MBTA Communities Multi-family Overlay District and amend the Zoning Map (Planning Board)

RECOMMENDED that the Town vote to approve Article 5 as printed in the warrant with the following revisions:

(1) Amend Section G(5) as follows:

5. **Table of Dimensional Standards.** Notwithstanding anything to the contrary in this Zoning, the dimensional requirements applicable in the ~~Eliot Street Corridor~~ Blue Hills Parkway Corridor Subdistrict are as follows:

(2) Amend Section H(5) by striking the Maximum Floor Area (FAR) as follows:

Maximum Floor Area Ratio (FAR)	
Lots 10,000 to 14,999 square feet	0.40
Lots 15,000 square feet or more	0.27
<u>Lots 6,000 to 7,900 square feet</u>	<u>0.50</u>
<u>Lots 8,000 to 9,999 square feet</u>	<u>0.38</u>
<u>Lots 10,000 to 11,999 square feet</u>	<u>0.30</u>
<u>Lots 12,000 to 13,999 square feet</u>	<u>0.25</u>
<u>Lots 14,000 square feet or more</u>	<u>0.21</u>

(3) Amend Section I(5) as follows:

5. **Table of Dimensional Standards.** Notwithstanding anything to the contrary in this Zoning, the dimensional requirements applicable in the ~~Eliot Street Corridor~~ 711 Randolph Ave Subdistrict are as follows:

COMMENT: The above article was proposed and brought forward by the Planning Board pursuant to M.G.L. Chapter 40A, § 3A or also known as the Massachusetts Bay Transportation Authority (MBTA) Communities Act (ACT). The purpose of this article is to amend Chapter 275 of the Town of Milton's General Bylaws by adding an MBTA Communities Multi-family Overlay District. This Act was signed into law in January 2021 and requires municipalities serviced by the MBTA to increase multi-family housing through transit-oriented developments near public transportation. The purpose of this type of transit development emphasizes walkable, mixed-use communities near public transit. The Commonwealth's goal is to produce sustainable growth by reducing reliance on cars and encouraging active neighborhoods. The Executive Office of Housing

Article 5 Zoning Bylaws Amendment: MBTA Communities Multi-family Overlay District and amend the Zoning Map (Planning Board)

and Livable Communities (EOHLC) has promulgated guidelines pursuant to its authority and identified the categories of housing units required by each city/town.

The statute's most significant section is Section 3A(a)(1), which states that: 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.

An MBTA community is defined in M.G.L. c. 161A, § 1: (1) one of the "14 cities and towns" that initially hosted MBTA service; (2) one of the "51 cities and towns" that also host MBTA service but joined later; (3) other "served communities" that abut a city or town that hosts MBTA service; or (4) a municipality that has been added to the MBTA under G.L. c. 161A, sec. 6 or in accordance with any special law related to the area constituting the authority. In all, one hundred and seventy-seven (177) MBTA communities are subject to the requirements of Section 3A of the Zoning Act. Our neighbor to the north, the City of Boston, is exempt from these requirements.

The EOHLC categorized MBTA communities based on their access to MBTA service and proximity to transit stations into four (4) categories: Rapid Transit; Adjacent Rapid Transit; Commuter Rail; and Adjacent Small Town. The law requires all MBTA communities to zone for multi-family housing near these transit stations. They are defined as follows:

- Rapid Transit communities are characterized by having at least one subway or Silver Line bus rapid transit station within their boundaries or within one half-mile of their borders;*
- Adjacent Rapid Transit communities are characterized as having a rapid transit (subway or Silver Line bus rapid transit) station within its borders or within one half-mile of its boundary;*
- Commuter Rail communities are required to create a zoning district where multi-family housing is permitted as of right. This district must be located one half mile from a commuter rail station; and*
- Adjacent Small Town communities are municipalities that have less than 100 acres of developable station area within its borders and either: (1) a population density of less than five hundred (500) persons per square mile or (2) a population of not more than seven thousand (7,000) year-round residents.*

EOHLC guidelines require that MBTA communities, including Rapid Transit and Adjacent Rapid Transit communities, establish a zoning district of reasonable size where multi-family housing is permitted as of right. This district must be located within one half mile of a transit station, if applicable, and meet other criteria like density and suitability for families. Milton is identified as

Article 5 Zoning Bylaws Amendment: MBTA Communities Multi-family Overlay District and amend the Zoning Map (Planning Board)

a “Rapid Transit Community” due to its proximity to the Mattapan Trolley line, which was designated as a rapid transit line.

The MBTA Communities Act utilizes percentages from the 2020 census housing stock to determine the minimum number of multifamily housing units a municipality needs to zone for within their transit designation. As indicated above, the percentages are based on the community's type of transit service: Rapid Transit Communities, 25% of their total housing units; Commuter Rail Communities, 15% of their total housing units; Adjacent Communities, 10% of their total housing units; and Adjacent Small Towns, 5% of their total housing units.

Also important to note are the statutory penalties for a municipalities failure to comply with the MBTA Communities Act. Specifically, any designated MBTA community that fails to comply with this section shall not be eligible for funds from the following:

(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 2EEEE of chapter 29; (iii) the MassWorks infrastructure program established in section 63 of chapter 23A, or (iv) the HousingWorks infrastructure program established in section 27½ of chapter 23B.

The Warrant Committee, like many members of the Town, spent considerable time and effort examining and dissecting the ACT. Over the course of the past two years, we have observed sharp disagreement among citizens concerning a wide variety of topics as they relate to the new law. The Town has responded to legal action initiated by the Attorney General’s Office in response to voters overturning the Town’s previously approved zoning plan related to the ACT in a special election on February 14, 2024. Town Meeting had originally approved of the plan in December 2023. The referendum vote, which saw approximately 9,500 voters cast ballots, resulted in a 54% to 46% vote against the plan. Upon rejection of the plan, the Attorney General initiated legal action against the Town. In that decision, the Supreme Judicial Court (SJC) upheld the ACT, finding it constitutional and that the Attorney General had the authority to enforce the law. However, the Court invalidated the specific compliance guidelines issued by the EOHLC because they were not properly promulgated under the Administrative Procedure Act (APA). The court ruled the guidelines were “legally ineffective” and needed to be re-promulgated through the proper procedures. As a result of this ruling by the SJC, the Governor’s office took an extraordinary step and issued Emergency Guidelines, thus forcing compliance without engaging in the process illustrated by the SJC in the APA. The purpose of the APA is to create a consistent and fair process for state agencies to draft and implement regulations. It ensures that all state agencies provide enough notice to the public and allow for public comment on proposed regulations. There was no small business assessment done by EOHLC and in addition, no economic assessment as required by the APA.

This plan creates six (6) zoning districts which have the potential capacity to construct one thousand forty-six units (1,046). This plan has kept new structures small and most within eight (8) units per development. In addition, this proposed zoning is also improved as it spreads the MBTA zoning throughout the Town, with an appropriate focus on Zoning near our transit area (Mattapan

Article 5 Zoning Bylaws Amendment: MBTA Communities Multi-family Overlay District and amend the Zoning Map (Planning Board)

Trolley). The 10 % plan, according to the Planning Board, allows compliance with the 10 % Adjacent Community Designation. Article 5, specifically:

- Proposes a zoning bylaw amendment to establish a new MBTA Communities Multi-family Overlay District (MCMOD) covering approximately 71 acres;*
- Includes six subdistricts: Granite Ave North, Paper Mill Site, Blue Hill Ave Station, Blue Hills Parkway Corridor, Eliot Street Corridor, and 711 Randolph Ave;*
- Designed to comply with the MBTA Communities Act (Section 3A of MGL Chapter 40A), allowing multi-family housing as-of-right;*
- Emphasizes smart growth near the Mattapan Trolley area;*
- Sets dimensional standards, parking requirements, and affordability mandates (15% affordable units for developments with 8+ units); and*
- Includes design guidelines and site plan review processes to ensure compatibility with existing neighborhoods.*

The Planning Board has set forth this 10 % MBTA Communities Plan with the intention that our Town, Citizen's and State Representatives will continue to engage both the Judiciary and the Executive Branch of our state government in an attempt to reduce the amount of housing required under the ACT, from our current designation as a "Rapid Transit Community" to an "Adjacent Community" and thus require approximately fifteen hundred (1500) less units throughout the Town. As indicated above, the EOHLC has designated us a rapid transit community based upon the Mattapan High Speed Trolley that offers service to the Town. Milton also has bus routes, only one that runs hourly and throughout the day. The Town, as it did in its "Action Plan" submitted by the Selectboard on May 23, 2025, which raised concern about the state of the Mattapan Trolley and the specific need for future investment in the line given the potential population burden Milton is asked to be taken on as a "MBTA Community". This may prove difficult for the MBTA given its current \$700 million dollar budget shortfall this year and billions of dollars in past due maintenance for the system. The Town of Milton can only hope that the state and the MBTA address this glaring need for Milton before the end of this decade.

The Warrant Committee, in addition to reviewing the myriad of financial analyses performed by state consultants, independent citizens, and individual members of the Committee itself, have no clear answers to what a potential large expanse in our population will have on Town resources. Many members of the Warrant Committee believe that a significant increase in the population of the Town will cause the need to increase property taxes at a significant rate to maintain level services in our schools, not to mention stress on police, fire, DPW, traffic, water-sewer, environmental services, and our hospital. The Warrant Committee highlighted the need for a \$9.5 million dollar override for level services in Fiscal Year 2026 and a potential for another Proposition 2.5% override in the next few years given the rise in costs of insurance, salaries and general overall expenses. Additionally, the passage of the new Accessory Dwelling Unit (ADU)

Article 5 Zoning Bylaws Amendment: MBTA Communities Multi-family Overlay District and amend the Zoning Map (Planning Board)

bylaw, a total of seven (7) new M.G.L. 40B projects that have approved, some now being built; potential thirty (30) year debt exclusion for a new school; current tax exemption litigation concerning some of the largest taxpayers in the Town; and future of the Governor Stoughton Property were also mentioned in our discussion. All the above, including the previously mentioned Town Wide Referendum on the MBTA Communities Act looms large in our decision to approve this article. The financial uncertainty of the situation described above for Milton is the greatest concern for the Warrant Committee in its recommendation to this Body.

The Warrant Committee was not unanimous in its decision. Several members illustrated the need to comply with the MBTA Communities statute under the “Rapid Transit” designation because it is a law and has already gone to the highest court in Massachusetts. Also cited was that the Town not to spend additional time and resources with litigation. Also mentioned was the loss of grant money and our responsibility as citizens to address the lack of housing in the state and Town.

In closing, the Warrant Committee acknowledges the division that the Town is facing over this matter and its discussions and decision was by no means easy for many members. The information concerning this bylaw was immense, constantly changing and out of our control. The Warrant Committee received information at the end of last week concerning both Article 5 & 6 in this Warrant which was not available at the time of our discussions. The Warrant Committee supports the 10 % plan as endorsed by the Planning Board.

The Warrant Committee believes that the 10 % plan best serves the Town, given our size and financial challenges. We trust that there is still opportunity to potentially renew litigation with a volunteer who offered their pro bono legal services to pursue a “Commuter Rail Community” designation from the state, as applied for in the statute. Also, mentioned was the lawsuit filed by the sixteen (16) Citizens of Milton, which is now pending in Plymouth Superior Court. Central to that court action is the argument concerning our “Rapid Transit” designation. Lastly, we have assured by our elected officials to the General Court, that they have made attempts and are continuing to work with the EOHLC to address our MBTA Communities status.

The potential financial ramifications to the Town are unknown and there has been nothing that assures the Warrant Committee that MBTA Communities will be zero cost growth, in fact we believe the opposite. The Warrant Committee respectfully wishes that our Town Officials will again consider one further attempt, alongside the 16 citizens, to continue to challenge the MBTA designation of the Town and allow the Courts of the Commonwealth to rule with finality on this matter, as the Warrant Committee suggested last year in its comment. There is still time to accomplish this, and therefore the Warrant Committee suggests that this Body supports Article 5 as submitted by the Planning Board. An affirmative vote on this Article would suggest to our officials that we should continue to challenge the “Rapid Transit” designation. The MBTA Communities law is constitutional and enforceable, we know. The Town of Milton by its geographic location and limited MBTA service, needs to comply with this Act in some form and this plan is a good start.