

Amendments to M.G.L. c.40A

January 21st, 2021



BRPC
Berkshire Regional Planning Commission

Background

- Massachusetts Legislature (192nd General Court) approved the conference report to advance a comprehensive economic development, housing assistance, and pandemic relief bill to the Governor's desk on January 6th, 2021.
- Signed by the Governor on January 15th and became effective immediately.
- Bill H.5250 (www.malegislature.gov)
- Summary of zoning amendments (<https://berkshireplanning.org/wp-content/uploads/2021/01/40A-Changes-Economic-Development-Bill-12.31.20.pdf>)

Background cont.

Selected highlights of Bill H.5250:

- Housing Choices legislation which allows municipalities to adopt pro-smart growth zoning changes by a simple majority.
- Zoning for multifamily housing will be required in all MBTA Communities.
- Appeals Reforms (abutter appeals)
- \$20 Million Expansion of State LIHTC
- Tenant Board Members at local housing authorities
- Eviction Record Sealing
- Tenant Opportunity Purchase Legislation.

Chapter 40A (Zoning) Section 1A

Inserted Definitions:

- Accessory dwelling unit
- As of right
- Eligible locations
- Gross density
- Lot
- MBTA community
- Mixed-use development
- Multi-family housing
- Natural resource protection zoning
- Open space residential development

Chapter 40A (Zoning) Section 1A cont.

Amended Definitions:

Transfer of development rights – the ~~process by which~~ regulatory procedure whereby the owner of a parcel may convey development rights, extinguishing those rights on the first parcel, and where the owner of another parcel may obtain and exercise those rights in addition to the development rights already existing on that second parcel.

Chapter 40A (Zoning) Section 3A

MBTA Communities (Massachusetts Bay Transportation Authority)

*No MBTA communities in Berkshire County.

Chapter 40A (Zoning) Section 5

Allowed as of right:

- a) Multi-family housing or mixed-use development in an eligible location;
- b) accessory dwelling units, whether within the principal dwelling or a detached structure on the same lot; or
- c) open space residential development;

Chapter 40A (Zoning) Section 5 cont.

Allowed by Special Permit:

- a) multi-family housing or mixed-use development in an eligible location;
- b) an increase in the permissible density of population or intensity of a particular use in a proposed multi-family or mixed use development pursuant to Section 9;
- c) accessory dwelling units in a detached structure on the same lot; or
- d) a diminution in the amount of parking required for residential or mixed-use development pursuant to Section 9

Chapter 40A (Zoning) Section 5 cont.

Additional provisions:

- a) TDR (transfer of development rights) zoning;
- b) Modifying regulations (e.g. setbacks, building coverage, etc.) to allow for additional housing units beyond what is currently allowed;
- c) Adoption of a Smart Growth Zoning District or Starter Home Zoning District in accordance with Section 3 of Chapter 40R.

Chapter 40A (Zoning) Section 9

Amendments to Special Permit Regulations

- a) Language changes
- b) Open space residential developments (formerly cluster developments)
- c) Parking

Chapter 40A (Zoning) Section 9 cont.

Special Permit granting authority shall require a simple majority vote for any of the following:

- a) Multi-family housing (with additional provisions listed in new amendments)
- b) Mixed-use development (with additional provisions listed in new amendments)
- c) Reduced parking (with additional provisions listed in new amendments)

Chapter 40A (Zoning) Section 17

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

Questions?

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