



# Chapter 40B

## What is Chapter 40B?

Chapter 40B provides a means of producing affordable housing through a streamlined permitting process. Created in 1969 in response to the need for more affordable housing in Massachusetts, 40B remains the primary method of affordable housing production statewide.

Local barriers, including zoning that limits development to only low-density residential, hinder the production of more affordable, higher density or multifamily dwellings. This results in communities that serve only a small portion of the Commonwealth's residents.

While most 40B development is entirely affordable housing units, The goal of the law is to ensure that a range of housing opportunities are available in all cities and towns of the state.

In a 40B development, at least 25% of the units must be affordable for households who earn no more than 80% of the area median income. Optionally, for rental housing, 20% of the units must be affordable to households below 50% of median income. The law requires that at least 20-25% of the units have long-term affordability restrictions. Chapter 40B communities include market rate and affordable housing units.

Through 40B, the local zoning board of appeals has the authority to approve affordable housing development under more flexible rules than the local zoning allows. The ZBA approval is known as a comprehensive permit because other local board permitting and approvals do not need to be acquired individually. Although local permitting is treated comprehensively, all state and federal housing, environmental, and transportation regulations remain in place.

After reviewing the comprehensive permit application from the developer and holding a public hearing, the zoning board of appeals may choose to approve the comprehensive permit, approve the permit with conditions, or deny the comprehensive permit. However, if denied in those communities that have fallen below the ten percent subsidized housing inventory benchmarks, the developer can appeal to the state level Housing Appeals Committee for approval. Those cities and towns that maintain a minimum housing affordability threshold of ten percent can deny the comprehensive permit and face no appeal.

## Considerations

MGL Chapter 40B can be a challenging topic among residents, officials, and advocates. While there are no easy housing solutions that will satisfy all sides, Chapter 40B provides much needed housing.

Additionally, 40B provides an incentive to cities and towns to plan for how a range of housing types can be accommodated in the community.

Through a master plan or housing production plan, a community can begin to address its inadequacy of housing options. If implemented, local autonomy of land use decision making returns, following the ten percent benchmark of affordability.

Alternatively, if approved annual housing growth targets are met in communities under the ten percent threshold, land use decision making can remain at the local level.

## BRPC PROGRAM

Community Planning Program  
[berkshireplanning.org/programs](http://berkshireplanning.org/programs)

## Benefits of Chapter 40B

Chapter 40B is the primary method of affordable housing construction in most Massachusetts communities. New housing has been constructed for families, senior citizens, and people needing accessible homes. Vacant buildings have been converted to multi-family housing, and new neighborhoods of single and attached dwellings have been created. Units have included multi-family rental housing, townhouses, and condominiums.

The law has enabled the creation of workforce housing, providing homes for local educators, municipal staff, and service sector employees. Those working in the school department, town hall, healthcare, construction trades, and local businesses can remain active in the local economy through income-qualified housing.

## Chapter 40B in Practice

### Pittsfield

The city of Pittsfield worked with Soldier On through Chapter 40B to develop the award-winning Gordon Mansfield Veterans Community and the Katie Doherty Veterans Village for low-income veterans.



The Gordon Mansfield Veterans Community features 39 housing units featuring a full kitchen, living area, and bedroom. Katie Doherty Veterans Village features 14 fully furnished apartments for women veterans. Soldier On offers its residents case management, educational opportunities, transportation, and other services to those living in the community.

### Williamstown



Williamstown utilized the 40B process to enable a development to repurpose a vacant 1890 church into eight affordable housing units. The underlying zoning did not allow multi-family housing in the neighborhood and the Chapter 40B Comprehensive Permit

offered a simpler, quicker permitting process than a zoning change. Today, there are six units in the church building and two units in the former rectory.

## Definitions

### Subsidized Housing Inventory

The official measure of the low to moderate income housing found within a community for the purposes of generating the percentage affordable per MGL Chapter 40B.

### Ten Percent Affordable

The threshold under which a denied comprehensive permit can be appealed to the state Housing Appeals Committee.

### Housing Production Plan

A community's proactive plan for creating affordable housing that meets the overall goals of Chapter 40B. When the plan is found to be consistent with local needs, the Housing Appeals Committee recognizes the local zoning board of appeals decision.

## Resources

Citizen's Housing and Planning Association

[www.chapa.org/housing-policy/chapter-40b](http://www.chapa.org/housing-policy/chapter-40b)

Massachusetts Housing Partnership

[www.mhp.net/resources](http://www.mhp.net/resources)