

## Section 3A FAQs

### 1. What are the general requirements of the new law (Section 3A)?

The new law (Section 3A) requires that an MBTA community shall have at least one zoning district of reasonable size in which multi-family housing is permitted as of right.

The district must be without age restrictions, suitable for families with children, at a minimum gross density of 15 units per acre within ½ mile of transit.

### 2. Is Wilmington an MBTA Community?

Yes.

Wilmington is one of the 177 MBTA Communities in Massachusetts, specifically a commuter rail community with two stations.

### 3. What does “as-of-right” or “by right” mean?

“As-of-right” or “by right” means development is allowed by zoning without the need for a special permit or other discretionary zoning approval.

### 4. What does “multi-family housing” mean?

“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.

### 5. Why was Section 3A enacted?

To combat the increasingly high costs of housing. According to the Executive Office of Housing and Livable Communities (HLC):

- 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, forcing them to sacrifice other priorities in order to pay housing costs. High housing costs are a primary driver of homelessness.
- These high costs are a disadvantage as we compete economically against peer states. The risk of future job growth moving outside Massachusetts is rising due to the high costs of living.

6. What are the Section 3A requirements for Wilmington?

Wilmington is required to create an as-of-right multi-family housing zoning district of at least 50 acres in size that has the capacity for at least 1,248 units. Half of the zoning district must be within ½ mile of a commuter rail station.

7. Does Wilmington have any existing zoning districts that would meet the Section 3A requirements?

No.

Multi-family housing is currently allowed in certain districts by special permit through the Planning Board. There are currently no zoning districts that allow multi-family housing as-of-right.

Existing multi-family housing developments do not count toward the Town's unit requirement (1,248 units). Section 3A requires zoning that allows for multi-family housing at a minimum density for future development, not a count of what currently exists within the district.

8. Why is this zoning required when Wilmington is already above the State's requirement of 10% affordable housing?

The Section 3A requirement is in addition to the 10% affordable housing requirement for communities.

9. What if the land is already built on? What happens to the existing buildings and existing businesses?

Zoning imagines a future when parcels are redeveloped. The existing uses and structures may remain as they are.

10. If a compliant zoning district is adopted, do housing units need to be built to count toward the requirement?

No.

The requirement is for zoning that would allow future development of housing over time. The actual construction of multi-family housing in the district may or may not happen.

If the zoning is an overlay district, multi-family housing could be built, but is not required. Other uses that are allowed in the zoning district could be built.

**11. What is an overlay district?**

An overlay district is in addition to the existing zoning district. The existing zoning remains, but the overlay zoning adds another option.

**12. Can there be a requirement for commercial uses on the ground floor of new development in the zoning district?**

No.

Multi-family must be allowed on all floors. However, the Town could consider incentives for ground floor retail use, such as allowing additional building height and density.

**13. Is there a requirement for affordable housing units in Section 3A?**

No.

Section 3A does not discuss affordable housing. HLC's guidelines allow for communities to include a 10% affordable housing requirement in their Section 3A zoning districts. Any affordable requirement above 10% must undergo an independent economic feasibility study.

**14. What is the deadline for adopting a compliant zoning district?**

December 31, 2024.

**15. Will the zoning need to go to Town Meeting for a vote?**

Yes, the zoning will need a majority vote at Town Meeting for approval.

**16. What if the zoning is not approved at Town Meeting?**

If compliant zoning is not approved by the end of 2024, the Town will not be eligible for MassWorks and Housing Choice grants, Wilmington Housing Authority funding will be decreased, and the Town may face civil enforcement action.

In March 2023, the State Attorney General, Andrea Joy Campbell, issued an advisory that Section 3A “was enacted to address the Commonwealth’s acute need for housing by facilitating the development of transit-oriented, multifamily housing. By any measure, Massachusetts is in a housing crisis that is inflicting unacceptable economic, social, and environmental harms across our state – particularly on working families and people of color. The Law directly responds to this crisis by implementing zoning reforms that require MBTA Communities to permit reasonable levels of multifamily housing development near transit stations.” The advisory goes on to state that all MBTA Communities must comply with Section 3A as there is no ability to opt out. Communities that fail to comply may be subject to civil enforcement action and also risk liability under federal and state fair housing laws.

#### 17. What areas are being considered for compliance?

Existing commercial and multi-family areas are being evaluated for consideration. Areas around the Commuter Rail stations will need to be considered for at least 50% of the district.

The Groundwater Protection District will need to be avoided since it requires a special permit for development of over 15% impervious area.

Currently the Wilmington Zoning Bylaw requires that new multi-family developments of six (6) or more housing units must provide 15% of the units as affordable unit to count on the Town’s Subsidized Housing Inventory (SHI).

#### 18. How will HLC evaluate the Town’s zoning district for compliance?

Housing and Livable Communities (HLC) developed a GIS mapping system with a detailed spreadsheet for Town’s to test compliance with district boundaries and zoning parameters (height, setback, parking, etc.). HLC will use the compliance spreadsheet to evaluate whether a district complies.