



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney Heath
Director

MEMORANDUM

DATE: October 5, 2024

TO: Councilor Marc Laredo, President, City Council
Members of the City Council

FROM: Barney Heath, Director, Department of Planning and Development
Jennifer Caira, Deputy Director, Department of Planning and Development
Zachery LeMel, Chief of Long-Range Planning
Nora Masler, Planning Associate

RE: **MBTA Communities Compliance Update**

CC: Jonathan Yeo, Chief Operating Officer
Alissa O. Giuliani, City Solicitor
Planning Board

Newton deemed “conditionally compliant” with MBTA Communities law

Governor Healey (along with Lieutenant Governor Driscoll, Attorney General Campbell, and Secretary of Housing and Livable Communities Augustus) announced on October 1st that they have approved zoning for 33 communities, with an additional three being considered conditionally compliant. 75 communities so far have passed zoning in response to the MBTA Communities law. Read the announcement [here](#). Newton, along with Malden and Everett, has been deemed conditionally compliant as the state Executive Office of Housing and Livable Communities (EOHLC) works with staff to identify aspects of the village center overlay district (VCOD) zoning that may require interpretation or amendment.

As a follow up to the Governor’s announcement this week, Planning staff had a productive meeting with staff from EOHLC to discuss their review of Newton’s zoning. EOHLC praised the zoning adopted by the City Council last December while identifying areas where they still had questions or where amendments will be necessary to fully comply. Once they have finalized their review, EOHLC will send a formal letter identifying areas where the City Council will need to take action to amend the zoning.

EOHLC has flagged the following items as requiring amendment while they continue finalizing their review:

- Special permit required for all retaining walls over 4': EOHLC staff have stated that this will need to be amended to achieve compliance as many multifamily or mixed-use buildings provide underground parking, which requires retaining walls along the driveway leading down to the garage. Planning staff had already identified this as a potential issue and this item is scheduled to be discussed at the upcoming Zoning and Planning Committee meeting on October 10th.
- Section 9.1.1.A.2 – Ability of nonconforming buildings to opt into VCOD: the language in this section is intended to allow for adaptive reuse of existing buildings by allowing buildings that have nonconforming elements (except for nonpermitted uses) to opt into the VCOD and redevelop. The language however could be interpreted as making all existing buildings opting in nonconforming and requiring a special permit for any alterations. Planning staff will send our interpretation to EOHLC and will docket an item to clean up this section.

EOHLC staff expressed a strong desire to work with Newton to achieve full compliance. At the moment, only two minor zoning amendments are necessary, one of which is underway. Planning staff will work with the chair of the Zoning and Planning Committee to docket an item for discussion and amendment of the additional item as well as any others that arise as EOHLC finalizes their review. Planning staff will also share the formal letter from the state with the City Council once it is issued.