

Eileen J, Marum
Planning Board
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RE Report on CPTC Webinar: Drafting Zoning Amendments

The Citizens Planning Training Collaborative (CPTC) sponsored a webinar hosted by Katherine Lacey, AICP, Senior Planner at the Massachusetts Housing Partnership on July 21, 2021. The purpose was to present a zoning overview regarding different forms of zoning amendments, drafting rules or guidelines, understanding the statutory framework within which a zoning amendment is proposed, advanced and voted. Ms. Lacey tangentially mentioned changes to M.G.L. 40A from Governor Baker's Housing Choice bill which are mentioned below. The mechanics of drafting zoning amendments such as who can initiate zoning changes, process for amending zoning maps, the organization and structuring of amendments and if an amendment qualifies can be accessed in the handout.

The Massachusetts Legislature considers bills to change General Laws Chapter 40A, the Massachusetts Zoning Act. Many prior changes were fairly minor, but on January 14, 2021, Governor Charlie Baker signed an act making some major changes to the Zoning Act. Several of the changes were taken from Governor Baker's Housing Choice bill.

Some of the broadest changes are in the definitions section of the Zoning Act. For example, the term "as of right" is now a defined term identifying activity that does not need discretionary zoning approval. These changes are helpful both to avoid litigation about what terms such as "multi-family housing" and "accessory dwelling unit" mean, and because municipalities often adopt defined terms and other language from the Zoning Act into their zoning codes to assure compliance with the law. Such common language can be helpful to businesses operating in multiple municipalities.

Another notable change is the lower threshold for approving zoning code or bylaw amendments. Under the new legislation, certain zoning amendments now require only a simple majority vote by a town council, city council, or town meeting.

These include:

- Allowing multifamily housing or mixed-use development as of right or by special permit in "eligible locations;"
- Allowing accessory dwelling units on the same lot as of right or by special permit;

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- Allowing open space residential development as of right (homes concentrated in one area to create open space);
- Increasing “permissible density of population or intensity of a particular use in a proposed multi-family or mixed-use development” by special permit;
- Allowing reduced parking requirements for residential or mixed-use development by special permit;
- Modification of regulations concerning the “bulk and height of structures, yard sizes, lot area, setbacks, open space, parking and building coverage requirements to allow for additional housing units beyond what would otherwise be permitted.”

The term “eligible locations” is newly defined. The definition includes development near public transit stations and town centers, and in commercial districts and rural village districts. Notably, development allowed “as of right” can still be subject to site plan approval.

There are also changes to Section 9 of the Zoning Act that governs special permits. Some of the changes reflect new definitions. For example, there is a new standard for granting a special permit to reduce parking requirements, which is, “the public good would be served and [. . .] the area in which the development is located would not suffer a substantial adverse effect from such diminution in parking.” Finally, the threshold for approval of a special permit in Section 9 is reduced from 2/3 of the permit granting authority to a simple majority for:

- Multifamily housing “located within 1/2 mile of a commuter rail station, subway station, ferry terminal or bus station” if 10 percent of the housing is affordable;
- Mixed-use development “in centers of commercial activity within a municipality, including town and city centers, other commercial districts in cities and towns and rural village districts” if 10 percent of the housing is affordable.

Respectfully submitted,

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