

# Building Momentum:

## *New Housing Policies to Unlock the Commonwealth's Potential*

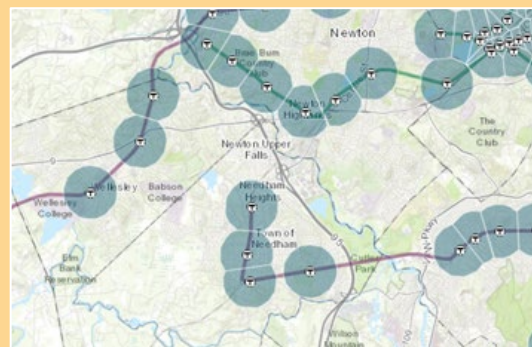
A report by the Massachusetts Housing Partnership



It is a crucial time to fight for more housing in the Commonwealth. The past few years have brought enormous challenges including an ongoing pandemic, rapidly changing economic conditions, worsening inequality and growing sociopolitical rifts. But the past few years have also brought innovation and a renewed focus on the role of housing and community in our lives. There is a growing awareness of how housing intersects with many other issues we care about, including racial equity, economic justice, transportation policy and climate change. The Commonwealth's future depends on our ability to ensure housing opportunity for all our residents.



We have been at a similar juncture before. In November 2014, the Massachusetts Housing Partnership submitted a report to the legislature titled "[Unlocking the Commonwealth](#)." It reported that the chronic lack of housing production threatened the state's economy by suppressing potential job growth and encouraging the out-migration of talent to other states with lower housing costs.



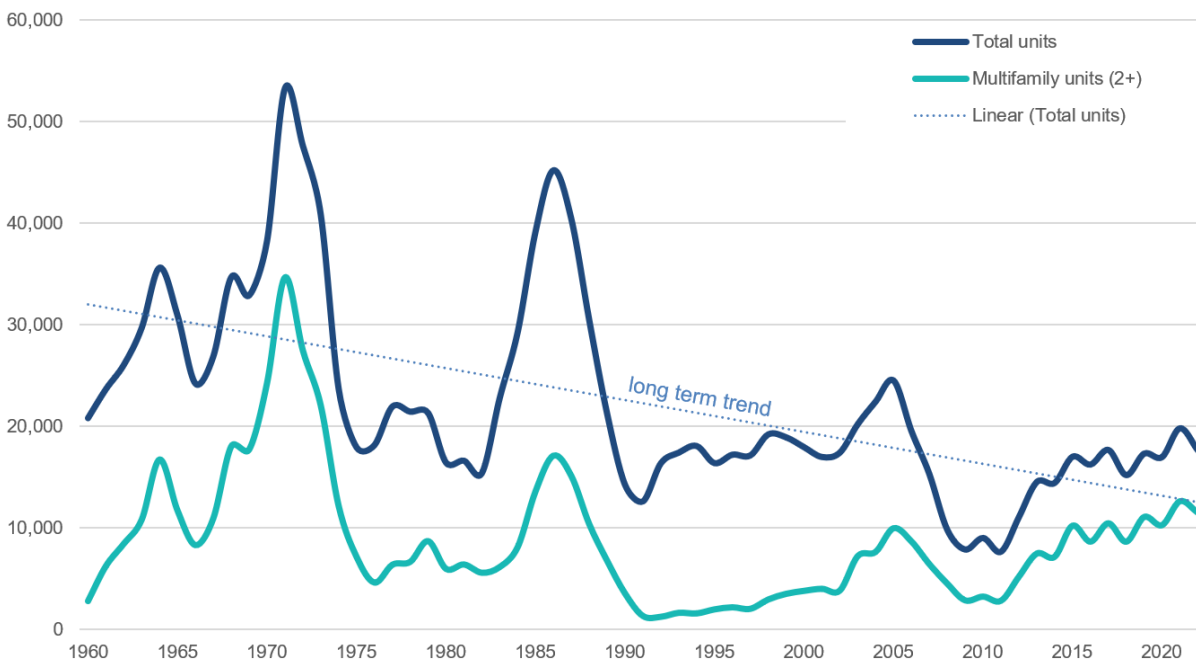
MHP's 2014 report included eight policy recommendations, many of which were introduced as legislation. Three of those MHP recommendations became law in some form: a multifamily zoning mandate, a new judicial mechanism to discourage frivolous land use appeals and authorization for cities and towns to negotiate cross-border development agreements without state legislative approval.

Taking stock nearly a decade after publication of MHP's "Unlock" report, the state has made some significant gains but many – if not most – of our core housing challenges remain.



**Massachusetts just experienced 10 years of growth in housing production, but it still remains far below historic levels. Over the last year, production has once again slowed significantly.**

New Housing Units Permitted Annually in Massachusetts, 1960 to present



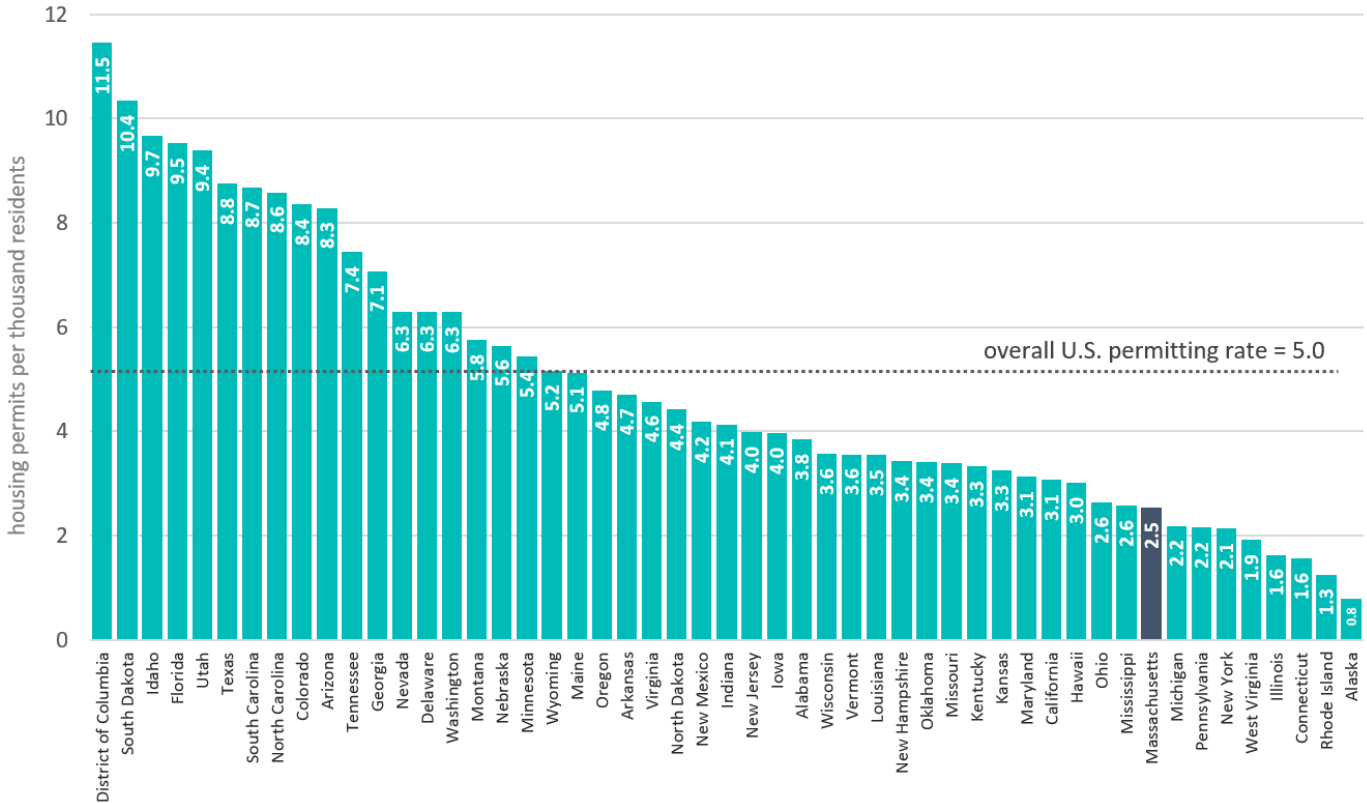
Sources: U.S. Census Bureau Annual Building Permit Survey

A [2021 report by McKinsey & Company](#) estimated that Massachusetts needs to produce at least 20,000 homes per year throughout this decade to catch up with housing demand – **a pace that we have achieved only three times in the last 30 years**. After 10 years of steady increases in housing production since 2012, the market has cooled dramatically in response to rising interest rates, increased construction costs and fears of a market downturn. Housing starts in Massachusetts through the first half of 2023 were 30 percent below the same period last year, according to the [U.S. Census Bureau’s Building Permit Survey](#). That’s an annual pace of only 12,400 housing units statewide.



**Most states build substantially more housing per capita than Massachusetts. As a result, our home prices and rents remain among the highest in the U.S.**

Per capita housing production by state, 2022

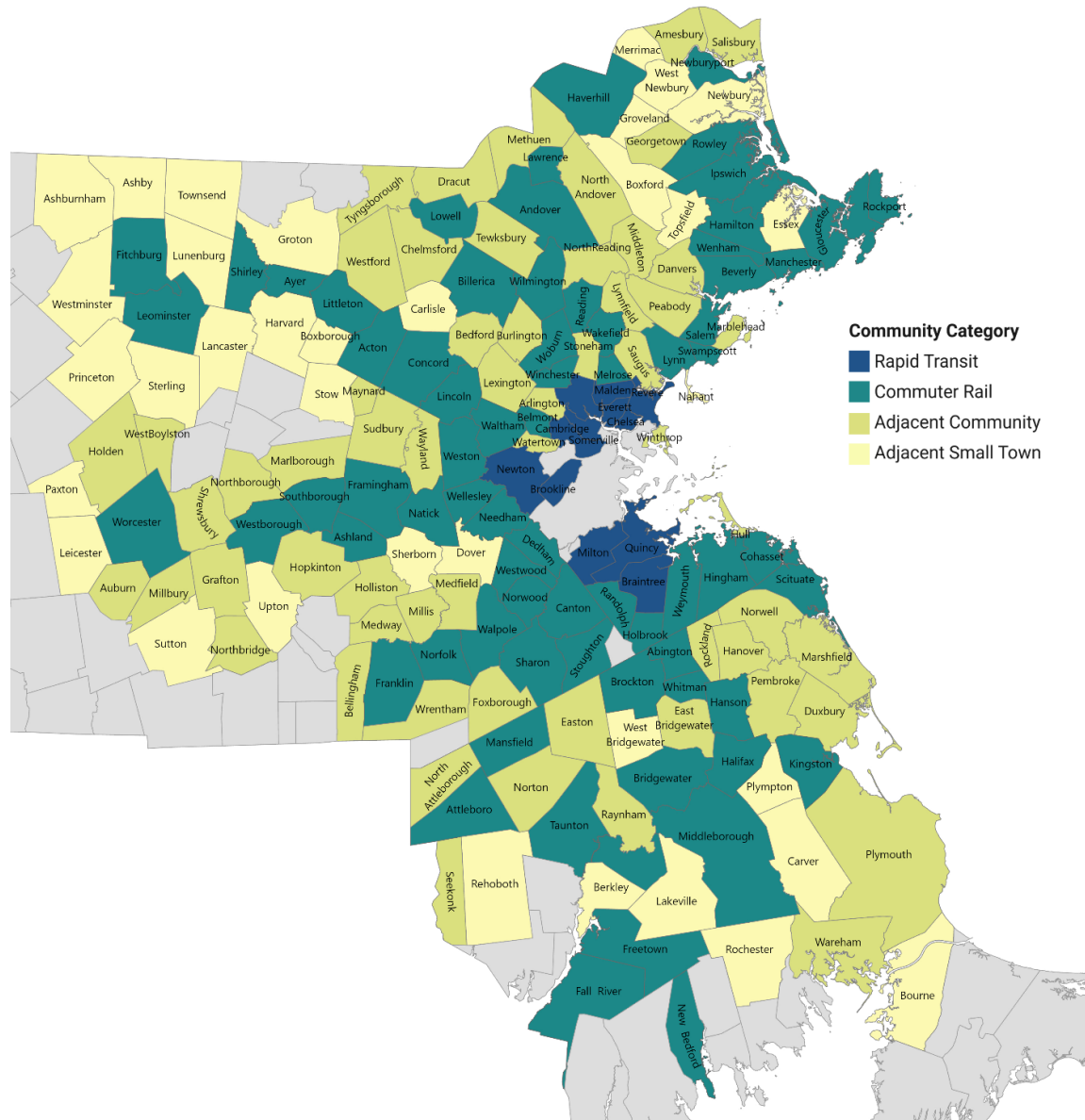


Sources: U.S. Census Bureau Annual Building Permit Survey & U.S. Census Bureau Annual Estimates of the Resident Population for the United States, Regions, States, District of Columbia, and Puerto Rico

Although housing production in Massachusetts has steadily increased for most of the last decade, it remains 40 to 50 percent below the per capita national average. As a result, Massachusetts consistently ranks among the five most expensive states in the country to buy a home or rent an apartment. The new housing we have built in recent years may have kept things from getting even worse, but it has not closed the existing gap between housing supply and demand. This is impacting our ability to keep our existing population and attract our next generation of families. According to a [Massachusetts Taxpayers Foundation report](#), more than 46,000 people left the state between 2020 and 2021, often for states with a lower cost of living.



**The MBTA zoning act is a major step forward, but it is not a complete solution, and its impact will not be felt for several years. The Commonwealth needs to break down other major barriers to the development of new housing.**



There will be zoning in place for more than 300,000 multifamily housing units once all 177 affected cities and towns comply with the 2021 MBTA communities zoning law. That's great news, but it is hardly a complete solution to our housing supply needs. The law will not be fully implemented until the end of 2025 and there is no guarantee that multifamily housing will be proposed or be feasible in all those new zoning districts in the near term. Zoning proposed through the MBTA communities law is only one piece of the puzzle to unlocking production. We also need to pursue many other environmentally sound avenues to expand housing supply including allowing accessory dwelling units on existing lots and clustered single and multifamily housing at higher density than currently allowed in most cities and towns.

## **Much of the housing crisis in Massachusetts is of our own making, but there is a lot we can do to turn things around.**

To remain competitive and retain our high quality of life, Massachusetts must get its housing costs under control or risk losing our most valuable asset: our people. However, building new housing in Massachusetts is difficult. We have some of the most fragmented local land use regulations and some of the largest minimum lot sizes in the country. Very little multifamily housing is currently allowed as of right, and even when zoning allows for production, our housing construction costs are also well above the national average. In addition to these long-neglected problems, we face the new challenge of prioritizing most of our new housing development in walkable and transit-oriented locations in order to address climate change and meet our state's carbon reduction goals. And we must continue to think about how we provide housing in an equitable way, reaching those who have historically been denied that opportunity.

Money alone won't solve those problems. There are not nearly enough public resources to close the gap between current incomes and housing costs or to build enough housing that low- and moderate-income households can afford.



There is a way forward. The housing challenge is enormous, yet when given the opportunity and resources our Commonwealth can meet the moment as we have done at critical moments in the past. Housing is the smartest investment we can make to create a foundation for growth, economic vitality, quality of life and stability for all our residents. In that spirit, MHP offers the following policy proposals to reexamine state policies, eliminate local barriers to housing, rethink the state's approach to transit and infrastructure investment, wrestle down housing construction costs, reduce legal barriers to new housing and provide more equitable access to affordable rental housing.

Make no mistake: Massachusetts is at a critical crossroads. If we stay the course, we risk losing what makes us special: our people and their ability to stay in the communities they love. With some bold changes in state policy, we can chart a course to a future where people can afford to stay here and make Massachusetts their home.



## Policy Recommendations

**1**

### **Eliminate persistent local barriers to new housing.**

#### **Action steps:**

- Allow modest-sized accessory dwelling units (ADUs) to be constructed as-of-right in accordance with basic dimensional standards
- Prohibit off-street parking requirements for new housing in areas adjacent to transit nodes and limit them in all other locations
- Require state approval for all local septic regulations that exceed statewide septic system standards (Title 5)
- Require the Attorney General's review of zoning changes to address potential violations of fair housing and anti-discrimination laws and expand existing AG review to include zoning in all cities and towns
- Make state aid for public education (M.G.L. Chapter 70) "growth friendly" and eliminate the current hold-harmless provision that effectively rewards cities and towns for declining school enrollment

#### **Why are these actions needed?**

Some local policies limit or prohibit housing development in ways that are unrelated to the protection of public health, safety and welfare. That results in lower overall housing density, excessive consumption of open space for new housing, and higher carbon emissions resulting from auto-dependence and less energy-efficient housing. Those exclusionary local practices also drive up housing costs by preventing the market from responding to demand.

*ADUs:* Accessory dwelling units are an effective way to increase housing supply in single-family neighborhoods without wholesale redevelopment of existing properties. An MHP survey for the [2019 Greater Boston Housing Report Card](#) found that ADUs are allowed in some form in 108 Greater Boston cities and towns, but in practice these bylaws and ordinances have resulted in relatively little housing production. That often reflects the cost and difficulty of obtaining a special permit, which invites neighborhood opposition or burdensome requirements that ADUs must be occupied by a family member and kitchens removed if those occupancy requirements are not met.



Off-street parking: [The Metropolitan Area Planning Council \(MAPC\) conducted overnight surveys](#) of nearly 200 multifamily housing developments throughout Greater Boston and found that 30 percent of the off-street parking spaces are unused during peak periods. A follow-up survey in Boston's western suburbs found 39 percent of spaces unused. Those extra parking spaces, typically required as a condition of local zoning approval, drive up costs and reduce the amount of housing that can be built. Even with a prohibition of local parking mandates developers would still be able to propose whatever off-street parking they consider necessary.

Local septic regulations: Title 5 of the Massachusetts Environmental Code establishes standards for the siting, construction, inspection, upgrade and expansion of on-site sewage treatment and disposal systems. A [survey by the Rappaport Institute and Pioneer Institute](#) found that 109 cities and towns in eastern Massachusetts have adopted local septic regulations that exceed state standards, including most communities in the region that are not fully sewered or part of the Massachusetts Water Resources Authority. There is no requirement that such regulations be based on sound environmental science, and in some cases they are thinly disguised efforts to obstruct or stop housing growth. Some towns, for example, only allow soil tests for new construction during a few months of the year, even though state regulations permit those tests to occur at any time. If there are systemic weaknesses in the state's environmental protection laws, they should be addressed at the state level so that the same rules apply in all 351 cities and towns.

AG Review: Exclusionary local zoning policies that severely limit housing density or prohibit multifamily housing altogether [are statistically correlated](#) with racial segregation and may violate federal and state anti-discrimination laws. Those policies are difficult to change if the burden of a legal challenge falls entirely on those who have been adversely affected.

School funding: [Analysis for MHP by the Public Policy Center at UMass Dartmouth](#) found that cities and towns with declining public school enrollment and unused school capacity are the least likely to allow new housing. Unfortunately, that practice is encouraged by the state's education funding formula, which does not allow any proportional reduction in state aid when enrollment declines. Some public school systems are also put at a fiscal disadvantage when they experience rapid enrollment growth, particularly non-foundation-aid communities that already spend above the minimum levels required by the state education reform act. A proposed revision to make the [Chapter 70](#) school aid formula growth neutral was developed by the Executive Office for Administration and Finance in 2000 and never implemented.

## **Where else are these policies in effect?**

There is a significant national movement toward allowing modest-sized ADUs to be developed as of right, including state laws in California, Florida, Maine, New Hampshire, Oregon, Rhode Island and Vermont. There is also a growing movement to reduce or eliminate minimum parking requirements, especially in proximity to public transit.



While it is not uncommon elsewhere in the U.S. for septic systems to be regulated at the local level, it is typically in accordance with state or regional standards. Massachusetts allows individual cities and towns to invent their own wastewater disposal standards irrespective of any scientific justification.

Mandatory review of local zoning by state attorneys general is unusual and non-binding advisory opinions appear to be more typical in other states. The 1966 Home Rule Amendment to state constitution gave Massachusetts cities much more leeway on zoning than exists in most other states, but that discretion is subject to any limitations adopted by the state legislature.

Most other states pay a larger share of the cost of local public education. While Massachusetts has some of the highest educational attainment in the country, the percentage of local public education costs paid by the state ranks 8<sup>th</sup> lowest in the country. That makes cities and towns hypersensitive to the perceived fiscal impacts of new development, particularly in comparison to other states, even though data analysis has consistently shown those fiscal concerns to be exaggerated or nonexistent.

### **What do we stand to lose if not implemented?**

The only alternative to eliminating local regulatory barriers to new housing development is to rely simply on financial incentives for cities and towns to do so. That approach does not have a strong track record. The state's Smart Growth Zoning laws (M.G.L. Chapters 40R and 40S) have been in effect for nearly two decades and at a cost of more than \$35 million it has had no significant effect on overall housing production in the Commonwealth. While the Housing Choice and MBTA multifamily zoning laws enacted two years ago have the potential to further increase housing production, those impacts won't be felt immediately and don't appear sufficient to create a housing ecosystem that meets all our resident's needs.



## 2 Align infrastructure financing and regulation to support new housing.

### Action steps:

- Provide a “middle tier” of state wastewater regulation to encourage multifamily housing development with limited on-site wastewater treatment and monitoring at a smaller scale than needed to support the cost of full-scale private wastewater treatment plants
- Provide a predictable, formulaic source of financial support for sewer connections and shared wastewater systems to enable higher density housing in MBTA zoning districts and smart growth locations (e.g., town and village centers) in all non-MBTA communities
- Authorize local development impact fees as practiced in most other states and as recommended by the Patrick Administration’s Zoning Reform Task Force in 2008

### Why are these actions needed?

Current state policy disincentivizes cities and towns from allowing and encouraging housing growth and providing the local infrastructure needed to support that growth. Municipalities and property owners often must bear the entire cost of collecting and treating wastewater in high-priority housing locations – particularly in smaller communities outside the Massachusetts Water Resources Authority service area that are unsewered or only partially sewerred.

Regulation: Title 5 of the Massachusetts environmental code allows conventional, locally-regulated septic systems for developments generating less than 10,000 gallons of wastewater per day in locations not served by public sewers. That’s the equivalent of 90 bedrooms or less. Larger developments in those areas require on-site wastewater treatment with daily monitoring and are regulated by the state Department of Environmental Protection (DEP). Those systems are typically not economically feasible except for large-scale developments with more than 200 bedrooms. This [gap in feasibility](#) means that the zoning density required by the MBTA zoning law often cannot be achieved in practice except in locations served by existing public sewers. A “middle tier” of wastewater regulation would require DEP approval for wastewater systems processing 10,000 to 20,000 gallons per day (serving 91 to 181 bedrooms) with additional monitoring beyond what is required for smaller Title 5 systems but without the more costly daily inspection requirements applied to large wastewater treatment systems.

***Funding:*** Most of the cost of infrastructure needed to support new housing growth is borne by private developers. State support in recent years has mostly been limited to discretionary grants like MassWorks rather than transparent and predictable financing programs. That limits the potential for new housing growth because infrastructure costs are largely unknown when potential housing development sites are acquired. A predictable cost-sharing program that supports both publicly- and privately-owned infrastructure would unlock the potential of these high-priority housing locations.

***Impact fees:*** Developers often must negotiate to make cash payments or pay directly for certain municipal costs in exchange for special permits or other discretionary local approvals to build new housing. In some cases, those costs may be directly related to the impacts of the project, and in other cases they bear little relation (like paying for the cost of a new fire truck). That process can be arbitrary and inequitable, and it makes housing development both more expensive and less predictable. A far more reasonable approach is to establish a schedule of impact fees, tied to a local capital plan, that charges new developers a proportionate share of the cost of supporting local infrastructure.

## **Where else are these policies in effect?**

Title 5 originally allowed on-site septic systems in Massachusetts with a flow of 15,000 gallons per day (or up to 135 bedrooms) and that was reduced to 10,000 gallons (or 90 bedrooms) in the early 1980s.

Substantial federal and state funding for local sewer and wastewater treatment systems was the norm in the 1970s after enactment of the federal Clean Water Act. New Hampshire, for example, continues to share the cost of engineering and constructing wastewater infrastructure with its cities and towns on a formula basis.

Development impact fees, by which housing developers pay a predetermined share of the cost of the local infrastructure to support their developments, are explicitly authorized by law in 29 states but not in Massachusetts.

## **What do we stand to lose if not implemented?**

State revenue applied to infrastructure and local aid could instead be used to supplement existing state discretionary grant programs such as MassWorks. While that would stimulate more housing development it would not make the development process any more predictable.



### 3 Integrate and better inform state development policies.

#### Action steps:

- Restore an Office of State Planning
- Coordinate development policies and regulatory approvals across secretariats
- Collect and track local data on housing permits and production

#### Why are these actions needed?

Increased housing production requires coordination of policy across multiple state agencies. Most states have an interagency planning office responsible for data collection, analysis, mapping, and policy development related to economic growth, housing, transportation and environmental protection. During the 1940s and 1950s, the Massachusetts State Planning Board was instrumental in guiding the growth of our modern Commonwealth by aligning new development with highways, mass transit, and infrastructure such as public water and sewer. Massachusetts has not had an Office of State Planning since 1979.

There are many technical experts within state government on issues relating to planning and growth, but they are scattered across at least five cabinet-level departments and dozens of agencies. Most critical policy decisions about growth in Massachusetts cut across those agency lines. A revived Office of State Planning would frame policy questions to allow more informed decisions, would strengthen the state's relationship to existing regional planning agencies, and would be responsible for the technical analysis to develop and update state-level housing goals and economic growth projections.

Despite the importance of housing production to the Massachusetts economy, there is no complete or consistent data collection on how much new housing is proposed, in what locations, and what actions cities and towns have taken to approve, deny or modify those proposed developments. Local building permit data collected by the U.S. Census Bureau can be erroneous due to incorrect or inadequate reporting from municipalities, and lacks record-level data on the location, unit counts, density or other basic characteristics of new housing being proposed. The only comprehensive publicly-available data on the location and characteristics of new housing is captured by local assessors after new housing is developed and occupied, and that data is now incorporated into MHP's Residency data set. However, this data set also has limitations, with accuracy dependent on how thoroughly, timely, and accurately local assessors input and categorize new developments.

MAPC has attempted to fill this gap with the [MassBuilds](#) map and database, which shows past, present and future real estate development projects in 101 cities and towns in metro Boston. Since regional planning agencies such as MAPC have no authority to institute a reporting requirement, participation in MassBuilds is voluntary and relies on MAPC staff to verify that the crowdsourced information is current, accurate and complete. An Office of State Planning with authority to require this and other information from municipalities is necessary to develop and maintain a comprehensive data set like this across the state.

In order to have a baseline for state housing goals and policy, we need consistent and reliable reporting on local permitting, as is required in other states. While that reporting would ideally take place in real time and be integrated with permit tracking software used by most cities and towns, it would still be extremely valuable to start with robust annual reporting.

The legislature should mandate that the new Office of State Planning work with the Massachusetts Municipal Association, the Massachusetts Association of Planning Directors and other municipal organizations to develop a reasonable template for annual reporting. It should capture most forms of local development approvals (e.g., special permits, site plan approval) and identify the type, location, unit count, density and other characteristics of proposed new housing. While this data is already captured locally and the process of data reporting should not be unduly burdensome, it should be required as a condition of unrestricted local aid. Since housing production is a major driver of state revenue, this expectation is completely reasonable.

## **Where else are these policies in effect?**

The most successful state planning offices often seem to be incorporated into state management and budget departments. Among the best examples are the Delaware Office of State Planning Coordination, the California Office of Planning and Research and the New Jersey Office for Planning Advocacy.

Even without a formal planning office, previous state administrations in Massachusetts have advanced several different mechanisms to coordinate state agencies in support of housing development. Those successful models include a Development Cabinet (Dukakis), Office of Commonwealth Development (Romney) and Permit Regulatory Office (Patrick).

## **What do we stand to lose if not implemented?**

Without a statewide planning office, growth policy will continue to be piecemeal, will lack grounding in sound data and analysis, and will be driven by the priorities of individual state agencies. While strong interagency coordination (such as the combined cabinet-level oversight of housing, transportation and environmental protection that existed between 2003 and 2006) may also have a positive impact, it will have limited effectiveness if it is not also supported by a strong technical staff, adequate funding, and authority to set planning targets for municipalities.



## 4 Create a transit backbone for future housing and job growth.

### Action steps:

- Mandate development of a transit expansion and improvement plan for the MBTA and for the state’s regional transit authorities that is sufficient to support the state’s housing production and climate reduction goals through 2050
- Set completion deadlines and progress benchmarks for each element of that plan, with particular emphasis on utilization of existing rights-of-way and implementation of Regional Rail with frequent, bidirectional, electrified service on the existing commuter rail network
- Authorize regional ballot initiatives to raise funds for specific transit improvements
- Work with affected cities and towns to plan and zone for growth in anticipation of expanded service, as was done as part of the recent Green Line extension to Medford
- Develop value-capture mechanisms where development enabled by expanded rail service helps defray the capital cost

### Why are these actions needed?

Metro Boston has a “hub and spokes” transit system that was developed more than a century ago and oriented toward bringing passengers in and out of downtown Boston. Job growth and commuting patterns have changed since then and will change even further with the flexibility of remote work. A more modern transit network – combined with “last mile” options that minimize auto use – will give people more flexibility on where they live and work and enable the growth of new housing and job clusters outside the Boston-Cambridge core.

### Where else are these policies in effect?

In other parts of the country there is strong public support for transit expansion and improvement. According to the [Center for Transportation Excellence](#), 87 out of 101 proposed ballot measures across the country to generate revenue for public transportation projects were approved by voters between 2020 and 2022, totaling more than \$14 billion in funding. Metro areas that have approved recent transit expansion include Denver, Los Angeles, St. Louis and Charlotte.

## **What do we stand to lose if not implemented?**

If our transportation system does not modernize and respond to changing needs, transit ridership will decline, congestion and auto-dependence will increase, housing sprawl will be accelerated, and it may be difficult or impossible to meet the state's carbon reduction goals.



## 5 Modernize construction practices to reduce the cost of new housing.

### Action steps:

- Modify the state’s Qualified Allocation Plan (QAP) for the allocation of tax credits and other housing subsidies to prioritize funding awards to lower cost developments within each housing category
- Create a business pipeline for off-site construction by further amending the state QAP to dedicate a minimum share of state funding awards to developments that fully utilize modular construction
- Revisit state regulatory and funding constraints that impede lower cost housing delivery methods, including both off-site construction and LEAN design/build, a process that aligns cost-saving incentives between owners, contractors and architects
- Identify and demonstrate best practices for the financing of off-site construction

### Why are these actions needed?

New housing is only feasible if developers can make enough in rent or sales proceeds to make a reasonable rate of return above their cost. With higher construction costs there are fewer potential buyers or renters who can afford new housing at that price point, and there is no economic rationale for developers to build any more. Data from [RS Means](#), a national construction data tracking service, shows that multifamily housing construction costs in Massachusetts are 20 percent above the national average, which limits the potential for private housing development to meet demand.

Excessive development costs are also a concern for the state’s affordable housing delivery system, since public resources are limited, unmet needs for affordable housing are immense, and money saved through lower costs can be used to produce additional housing.

Construction financing for conventional on-site housing construction is typically secured by materials stored on site, and that is complicated by a factory environment where inventory will typically be supporting multiple developments with different construction lenders. While panelized construction (off-site construction of certain structural components) is a common practice in Massachusetts, full modular construction (with complete factory-built modules delivered and installed on site) is not. The success of off-site housing construction based in Massachusetts will depend on how well local construction lenders adapt to the practice and incorporate best practices developed in other states.

## **Where else are these policies in effect?**

California is a national leader in building partnerships with the private sector to expand the capacity for energy-efficient, off-site construction. A recent multifamily development in San Francisco was completed 30 percent faster and at a 25 percent lower per-unit construction cost than comparable developments by combining off-site construction with alternative construction financing. The [Turner Center at UC Berkeley estimates](#) a potential for up to 20 percent construction cost savings for off-site compared to conventional stick-built multifamily construction.

Several states, including Washington, Maine and New Mexico, give priority in their allocation of federal Low Income Housing Tax Credits to proposed developments that demonstrate cost savings in comparison to other projects of similar type and location.

## **What do we stand to lose if not implemented?**

Without achieving reductions in construction costs there will be a significantly larger gap between the supply and demand for housing in the Commonwealth, more pressure on tax credits and other housing development subsidy programs to fill that gap, and less production of affordable housing overall.





## 6 Reduce or eliminate groundless appeals of new housing

### Action steps:

- Require that any appeal of a local decision to approve new housing units (whether made by a planning board, zoning board of appeals or other special permit granting authority pursuant to Chapters 40A) be presented to a newly created three-member Permit Appeal Review Council whose members are appointed by the Secretary of Housing and Livable Communities, the Secretary of Energy and Environmental Affairs, and the Massachusetts Association of Regional Planning Agencies
- Require the Review Council, in consultation with the Real Estate Bar Association, to develop threshold criteria for determining in each case whether the appellant may have suffered a particularized harm and whether the permit granting authority may have exceeded its reasonable discretion
- If the Council finds that the appeal fails to meet those threshold criteria, require the appellant to post bond and assume responsibility for the prevailing party's costs and legal fees

### Why are these actions needed?

Land use appeals without underlying merit are frequently used as a tactic to delay and obstruct housing development. These appeals are sometimes elevated to the Massachusetts Supreme Judicial Court (SJC), and the onerous appeals process has been known to delay worthwhile housing development projects for a decade or longer. In some cases, developers have withdrawn permit applications because they cannot afford the cost and delay of fighting appeals. In other cases, settlement of groundless abutter appeals has caused developers to needlessly downsize worthy, community-supported projects that had been fully approved under local zoning, such as the redevelopment of the [Boys and Girls Club site in Somerville's Union Square](#).

Chapter 358 of the Acts of 2020, better known as Housing Choice Legislation, included a series of revisions to MGL Chapter 40A (Zoning Act). Among these was a revision to Section 17 to include a bond provision to help curb frivolous appeals. The language allows courts, at their discretion, to require plaintiffs appealing a special permit, variance or site plan to post a cash bond of up to \$50,000. While this additional bond requirement was an important step, the current law leaves almost all discretion to the judge, who must find 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.” Given this highly subjective threshold, the impact of the changes implemented in 2020 has been minimal.

The SJC also ruled in a recent case that bond requirements may only be imposed if an appeal is “so devoid of merit as to support an inference of bad faith or malice.” This is an almost impossible standard to meet as abutter appeals may seem plausible, even if they lack merit and have little or no likelihood of success.

Our proposed policy would instead require an objective technical review process to replace the “bad faith or malice” test.

### **Where else are these policies in effect?**

The Massachusetts Medical Malpractice Tribunal system has successfully utilized a similar approach to weed out frivolous medical malpractice suits in Massachusetts since it was established by the Legislature in 1976 (M.G.L. Chapter 231, Section 60B).

### **What do we stand to lose if not implemented?**

The status quo has proven to be costly and problematic. There may be merit to alternative local dispute resolution methods that have been proposed in state zoning reform legislation, but those methods will only be effective when residents are trying to address specific concerns in good faith and are not simply seeking to delay or obstruct development. In addition, recent changes through the Housing Choice Legislation have shown they did not go far enough to prevent frivolous suits and need to be revised further to be effective.

## 7 Provide fairer and better access to affordable housing units.

### Action steps:

- Provide state capital support matched by additional private contributions to develop a universal online application system for affordable housing to be managed by [Housing Navigator Massachusetts, Inc.](#) (or by another qualified nonprofit), that is subject to rigorous public oversight and supported by owner-paid annual fees and unit listing fees
- Require that all state-subsidized or state-certified affordable housing units be listed online and have applications managed through the new online system

### Why are these actions needed?

Data collected by Housing Navigator shows there are more than 2,300 subsidized, privately owned properties in Massachusetts, including an estimated 217,000 rental units that are restricted to occupancy by low- and moderate-income households. Those properties accept separate written rental applications from each prospective tenant. There is often no easy way to apply for these affordable units online, there is no common application form, and there is no common listing of units that are available for rent, open lotteries for affordable units or opportunities to be added to waiting lists. That antiquated paper-based system is nothing like how people find and lease market-rate units online. It makes the process of applying for affordable housing needlessly burdensome and makes access to subsidized housing inequitable relative to market rate housing.

### Where else is this kind of system in effect?

A universal online application system called [NYC Housing Connect](#) was launched in 2013 and substantially upgraded in 2020 and has successfully provided access to apply every subsidized housing unit in New York City. The site was initially focused on lotteries for newly developed affordable units and is now also handling applications for affordable units that became available through turnover. A similar system called [DAHLIA](#) provides access to all affordable units in San Francisco.

[Housing Navigator](#) is a nonprofit launched in 2019 with seed funding from MassHousing, MHP and private donors that now has recurring operating support from the Executive Office of Housing and Livable Communities. Housing Navigator is already a successful online platform that currently lists about 92 percent of the affordable rental units in Massachusetts and



supports more than 15,000 monthly users. Because the listing of units in Navigator is only required for developers of new affordable housing and is merely encouraged for other property owners (who control the vast majority of affordable housing units in the Commonwealth), it has been a labor-intensive process to compile and maintain a complete inventory for public access.

### **What do we stand to lose if not implemented?**

Without a universal online application for affordable rental housing, access will continue to be spotty and inequitable. There is already a profit motivation for owners of market-rate rental housing to use online services like apartments.com, Zillow, etc. but no comparable incentive for owners of affordable rental housing because of the complexity of income-restricted units. Maintaining a system like NYC Housing Connect requires both mandatory participation by property owners and a dedicated source of operating revenue. It is ultimately in an owner's best interest to share the cost of a statewide system because it would likely be far more cost-effective than the current cost of advertising and marketing vacant units.



## 8

# Become a national innovator in closing the gap between incomes and housing costs.

### Action steps:

- Fund a comparative long-term demonstration to compare the benefits, relative efficacy and market impacts of two alternative approaches to support individual and families who are extremely burdened by housing costs: *housing-based* supports (rental assistance vouchers) and *income-based* supports (e.g., guaranteed basic income or expansion of the state Earned Income Tax Credit)
- Structure the demonstration as a controlled, randomized trial with program design and evaluation managed by a team of Massachusetts colleges and universities

### Why are these actions needed?

Affordable housing development subsidies and rental assistance subsidies reach only a fraction of the more than 200,000 households in Massachusetts who are extremely cost-burdened (i.e., who pay more than 50 percent of their monthly income for housing costs). Even with additional state support for affordable housing development and the optimistic projection of increased market-rate housing supply, the Commonwealth will not even be close to closing that affordability gap. While a proposal was recently made to provide universal rental assistance vouchers to everyone in Massachusetts who qualifies, there are some concerns about how that would work in practice and how pursuing that strategy without complementary measures might impact market rents. There is also strong evidence during the pandemic that broader based income supports such as Pandemic Unemployment Assistance [were effective in giving families and individuals flexibility](#) to meet all of their economic needs, and not just rent.

Massachusetts has always been a leader in developing and investigating new ways to meet the nation's critical housing needs. In the early 1970s the Housing Allowance Project in Springfield was one of 13 demonstration sites across the U.S. that led to the creation of the federal Section 8 rental assistance program.

## Where else are these policies in effect?

Other states provide various income supports for low-income workers and families, but none currently provides a guaranteed basic income or a state-funded rental assistance comparable to the Massachusetts Rental Voucher Program. Several small pilot programs have recently been launched in Massachusetts to evaluate unrestricted cash assistance programs, including the [Chelsea Eats](#) and [Rise Up Cambridge](#) programs, and local programs have also been launched in California, Colorado, Florida, Georgia, Illinois, Louisiana, New Jersey and New York.

## What do we stand to lose if not implemented?

While Massachusetts typically outpaces other states in providing support to individuals and families in need, there is still a vast unmet need. We can only make the best use of additional resources if we are willing to critically evaluate the effectiveness of the state's approach.

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With housing in Massachusetts at a crisis point, this is a time for fresh thinking and bold action. MHP looks forward to working with you to vet these ideas, refine them, and bring them to fruition. It's time for Massachusetts to play a national leadership role on these issues once again.

\* \* \*

MHP was founded in 1985 as a statewide, nonprofit quasi-public organization.

MHP works with communities to create innovative policy and financing solutions that provide affordable homes and better lives for the people of Massachusetts.

In addition to policy leadership, our organization has a long history of promoting affordable housing with private capital. MHP finances affordable housing through a state law that requires companies that acquire Massachusetts banks to make loan funds available to MHP for the creation and preservation of affordable housing.

MHP helped create the SoftSecond Loan Program to address racial disparities in mortgage lending. Now known as ONE Mortgage, MHP works with over 40 participating lenders to help more low- and moderate-income households purchase their first home.

\* \* \*

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Massachusetts Housing Partnership

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