

MANDATORY MIXED-USE DISTRICTS AND SECTION 3A

In August 2023, the 3A Guidelines were revised to include a path for communities to offset some of their required unit capacity by having a mandatory mixed-use district that meets certain standards, as listed in the new Section 5.c.

What is a mandatory mixed-use district?

A mandatory mixed-use district, referred to as a “mixed use development zoning district” in the 3A Guidelines, is a zoning district where multiple residential units are allowed as of right if, but only if, combined with non-residential uses, including, without limitation, commercial, institutional, industrial or other uses.

Is a mandatory mixed-use district a 3A compliant district?

No, a mandatory mixed-use district is not a 3A compliant district. Section 3A of the Massachusetts Zoning Act (“Chapter 40A”) requires compliant districts to allow multi-family housing as of right. Mixed-use development does not qualify as multi-family housing because of the non-residential uses. However, a mandatory mixed-use district can affect the reasonable size requirement by offsetting a portion of the required multi-family unit capacity.

How is the unit capacity offset calculated?

A community that wants to offset its required unit capacity with a mandatory mixed-use district must calculate an estimate of unit capacity of that district. This calculation is similar to how unit capacity is calculated for 3A compliant districts. The unit capacity of the mandatory mixed-use district can be subtracted from the required unit capacity to offset up to 25% of the required multi-family unit capacity.

For example, a community's required unit capacity is 100 units. The community has a mandatory mixed-use district that meets the standards in Section 5.c. Using the compliance model, the community calculates that the unit capacity of the mandatory-mixed use district is 25 units.

The community is able to offset its minimum unit capacity by up to 25 units, which is 25% of their requirement. To achieve compliance, the 3A compliant multi-family zoning district must show a unit capacity of 75 units. Together, the mandatory mixed-use and the multi-family districts demonstrate a unit capacity of 100 units.

STANDARDS FOR MANDATORY MIXED-USE DISTRICTS

In order for a mandatory mixed-use district to be eligible to offset the required unit capacity, the district must meet the following standards:

- (i) *the mixed-use development zoning district is in an eligible location where existing village-style or downtown development is essential to preserve pedestrian access to amenities;*
- (ii) *there are no age restrictions or limits on unit size, number of bedrooms, bedroom size or number of occupants and the residential units permitted are suitable for families with children;*
- (iii) *mixed-used development in the district is allowed “as of right” as that phrase has been interpreted by EOHLC (for example, in section 4(c) with respect to affordability requirements);*
- (iv) *the requirement for non-residential uses is limited to the ground floor of buildings, and in no case represents a requirement that more than thirty-three percent of the floor area of a building, lot, or project must be for non-residential uses;*
- (v) *the requirement for non-residential uses does not preclude a minimum of three residential dwelling units per lot;*
- (vi) *the requirement for non-residential uses allows a broad mix of non-residential uses as-of-right in keeping with the nature of the area; and*
- (vii) *there are no minimum parking requirements associated with the non-residential uses allowed as of right.*

Mandatory Mixed-Use District Location – Additional Requirements

A community must submit a short online application that the mixed-use development zoning district meets the requirements of subparagraph (i). This request must be submitted at least 90 days prior to the vote of the MBTA community's legislative body to guarantee a response in time. EOHLC staff will work closely with communities under tighter deadlines to expedite this review.

The district location must be where existing village-style or downtown development is essential to preserve pedestrian access to amenities. In addition, the location must meet the definition of “eligible location” per MGL c. 40A section 1A:

“areas that by virtue of their infrastructure, transportation access, existing underutilized facilities or location make highly suitable locations for residential or mixed-use smart growth zoning districts or starter home zoning districts, including without limitation: (i) areas near transit stations, including rapid transit, commuter rail and bus and ferry terminals; or (ii) areas of concentrated development, including town and city centers, other existing commercial districts in cities and towns and existing rural village districts.”