



The Greater Boston Housing Report Card 2019
**Supply, Demand and the Challenge
of Local Control**



Best Practices

For the purposes of this report, “best practices” refer to local land use policies and practices that are thought to lead to increased housing production, more diverse housing stock, and more affordable housing. Understanding the context of housing production and land use regulation in Massachusetts is important before delving into an exploration of best practices at the local level.

In this chapter, we explore the use of best practices in Massachusetts, changes since the mid-2000s, and recommendations for increasing housing production through the strategic use of best practices in the future.

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Accessory Dwelling Unit Bylaws

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Mixed-Development

Community Preservation Act

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Background and Context

Understanding the context of housing production and land use regulation in Massachusetts is important before delving into an exploration of best practices at the local level.

In Massachusetts, we have historically given disproportionate power to small cities and towns to determine housing development and land use regulation, making the Commonwealth different from most other states in a number of ways.

Massachusetts has unique governing features that drive land use policy.

- Massachusetts is a “home rule” state with most land use control vested at the municipal level. Unlike other states we have no mandated training for volunteers on local boards that regulate development.
- There is no state planning office, mandated master planning, or comprehensive planning at the state level. Many other states have offices that focus on long-range planning, data collection, and research—such as California’s Office of Planning and Research.
- There are two primary state zoning mechanisms designed to help produce more housing at the local level: Chapter 40B, which provides an exemption from local regulation for certain affordable housing developments, and Chapter 40R, which provides incentives for development in transit-oriented and other smart locations.
- A substantial majority of communities in the Commonwealth have a town meeting form of government, at which approval of zoning and certain other matters requires a supermajority two-thirds vote.
- Unlike in other states, county governments are weak or nonexistent in Massachusetts and do not enforce land use regulation or adopt regional plans. Massachusetts does have 13 regional planning agencies (RPAs) that play a leadership role but are not empowered to regulate land use or enforce regional land use plans.
- Massachusetts has excellent technical assistance providers focused on housing, economic development, and the environment. One goal of the Governor’s Housing Choice Initiative was to integrate more collaboration between technical assistance providers through quarterly meetings and the creation of a shareable database to coordinate technical assistance efforts.¹

Analysis of Best Practices

Best practices reviewed and included in this section are:

- Multifamily permitting mechanisms
- Accessory dwelling unit (ADU) bylaws
- Inclusionary zoning bylaws
- Mixed-use development districts
- Adoption of the state Community Preservation Act (CPA)
- Creation of a local affordable housing trust (AHT)

Zoning for age-restricted housing is also included in this data analysis, but for purposes of this report is not considered a best practice because use of these restrictions and their motivations vary so widely among communities. In some places, zoning for age-restricted housing may be a reasonable response to a specific market need. In other communities, zoning for age-restricted housing may be used to prevent development based on perceptions about the race or income of potential occupants or to avoid the costs of providing additional public education.

Methodology included historical and new data review plus original surveys and interviews.

This analysis of best practices is based on data collected from several sources. Historical information was obtained from the Housing Regulation Database created by the Pioneer Institute and the Rappaport Institute in 2005.² Updated best practices data as of 2017/2018 were compiled from research by local housing expert Amy Dain, our supplementary online survey of 49 communities in the Greater Boston region, a review of local bylaws and ordinances by the research team, and other data compiled by MHP.

Based on the data available, we selected four municipalities for follow-up interviews to learn more about on-the-ground challenges, solutions, and policies used to produce more housing in the Greater Boston region. We strove to provide geographic diversity as well as to represent some of the Metropolitan Planning Council's (MAPC) community types:³

- Maturing New England Town: Andover
- Major Regional Urban Center: Brockton
- Sub-Regional Urban Center: Methuen
- Mature Suburban Town: Natick

Our interview protocol focused on questions related to:

- Current housing stock and upcoming housing needs
- Challenges to providing new housing
- Solutions to housing production impediments
- The link between housing policy and production at the local level

Most communities have zoning on the books that allows multifamily housing in at least some locations.

In 2005, 11 communities in the Greater Boston region had zoning that did not allow multifamily housing.⁴ By 2017/2018 that number was reduced to three: West Bridgewater, Westford, and Nahant.⁵

Several communities that did not allow multifamily housing in 2005, such as Sudbury, Norwell, and Medway, now permit the development of multifamily housing, and no longer limit housing development to single-family homes.

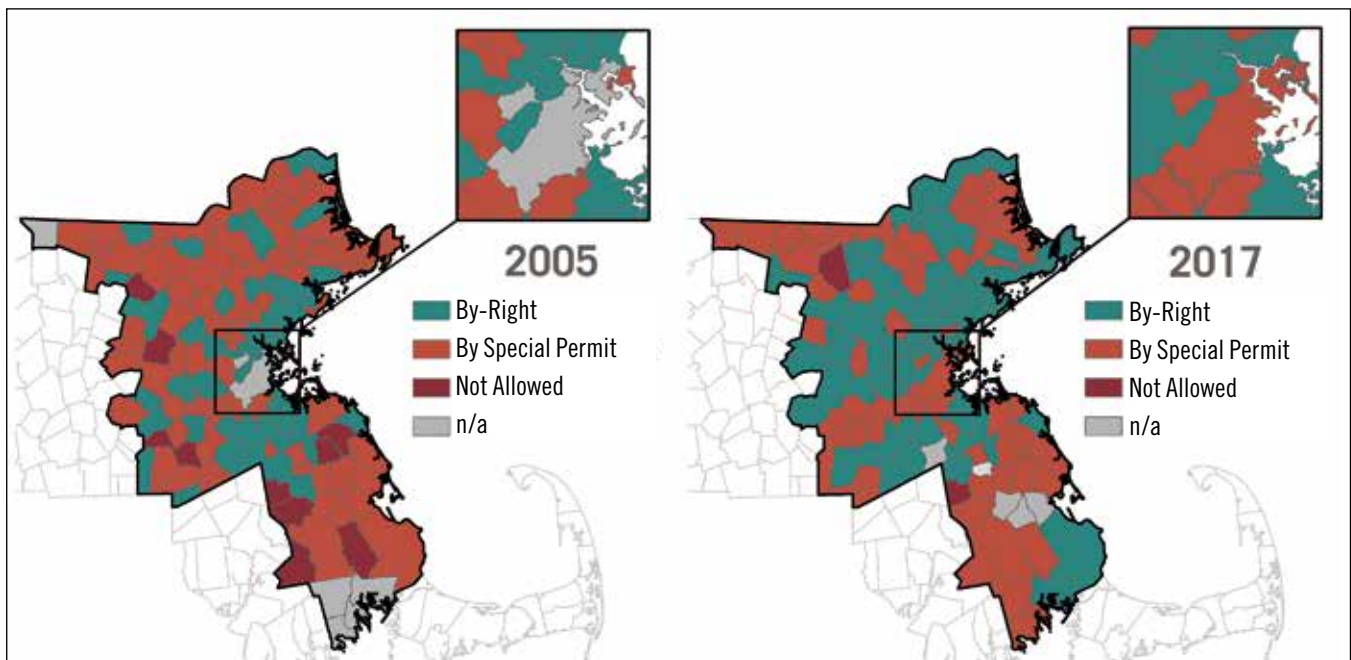
Of the 132 communities that did allow multifamily housing in 2017/2018, 58 percent allowed it by-right in at least some circumstances, on the books. “By-right” permitting is when a development is allowed when it meets local zoning requirements without the need for a vote of approval by the planning board or another discretionary local approval.

If the zoning district applicable to a site does not permit the desired use, or the proposed use varies from the dimensional requirements, then zoning relief is needed. Zoning relief may take the form of a variance or comprehensive permit issued by the zoning board of appeals, a change in zoning approved by the legislative body (a town meeting or a city or town council), or a discretionary special permit if allowed by local zoning.⁶

Even though most cities and towns in Greater Boston now allow by-right permitting for multifamily housing in certain districts, as shown in Map 2.1 below, most multifamily housing in the region is approved via special permits or comprehensive permits issued by local zoning boards pursuant to Chapter 40B.

MAP 2.1

Where Multifamily Housing Is Allowed



Source: Dain 2005 & 2019 MHP-UMDI Analysis

Potential for development through multifamily zoning has increased.

Municipalities in the region were surveyed to determine whether any significant amendments had been made to multifamily zoning since 2004.

Of the 147 cities and towns in the region, 89 had amended their multifamily zoning since 2004. Of those that amended, 63 municipalities changed their zoning to potentially allow more multifamily units to be built. Only five amended their zoning to decrease multifamily housing potential. One community changed its multifamily zoning without changing the number of multifamily housing units that could be built.

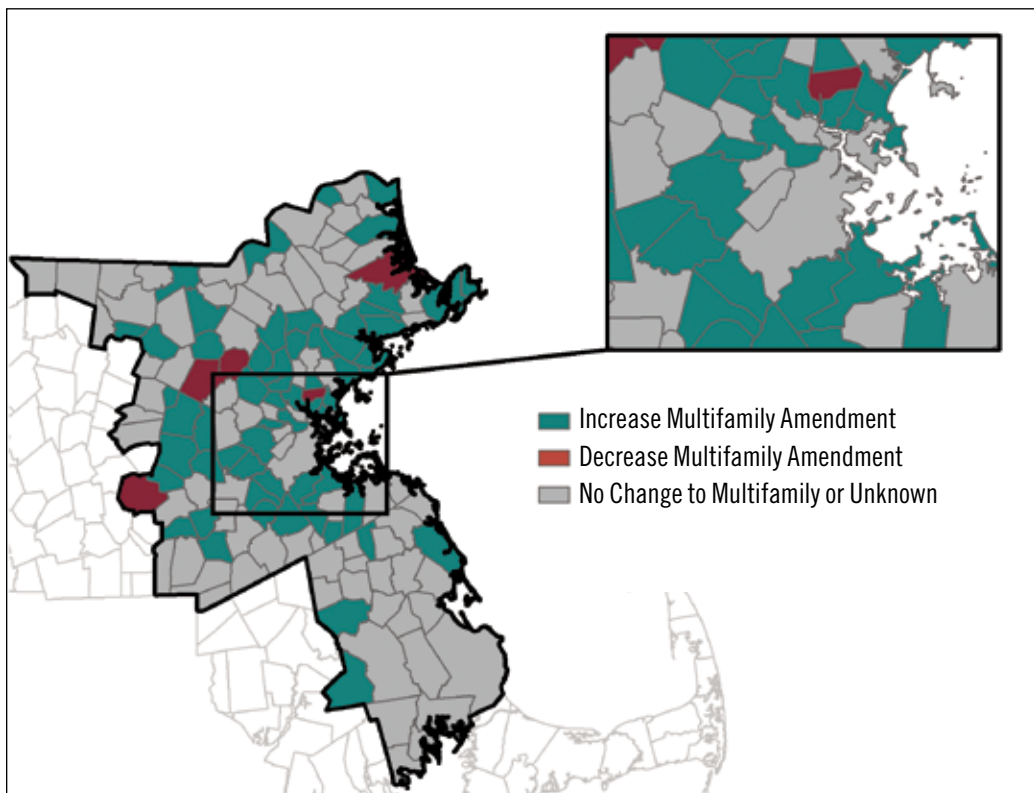
The data show that 43 percent of the municipalities in the region have responded in a positive way since the mid-2000s to the need for additional multifamily housing, though this additional zoning potential does not appear to be of sufficient magnitude to meet unmet multifamily demand.

“Natick has the unique opportunity [with] two commuter rail stations and proximity to major routes to be a leader in [suburban multifamily housing production].”

—Jamie Errickson, Natick

MAP 2.2

Multifamily Zoning Amendments Since 2004



Source: Dain 2005 & 2019 MHP-UMDI Analysis

Many communities impose age restrictions on new multifamily development.

Since 2005 a number of municipalities in Greater Boston have adopted zoning bylaws or ordinances that impose an age restriction on new multifamily housing developments. In 2005, 47 communities had age restrictions that limited new multifamily housing to developments for residents aged 55 or older. In 2017/2018, that number had jumped to 73 communities.

Age restrictions, by definition, exclude other populations in need of housing, such as families with children. That has the potential to exacerbate existing mismatches between housing supply and housing demand. Communities typically see more public support for age-restricted housing than for housing that is not restricted and available to families.

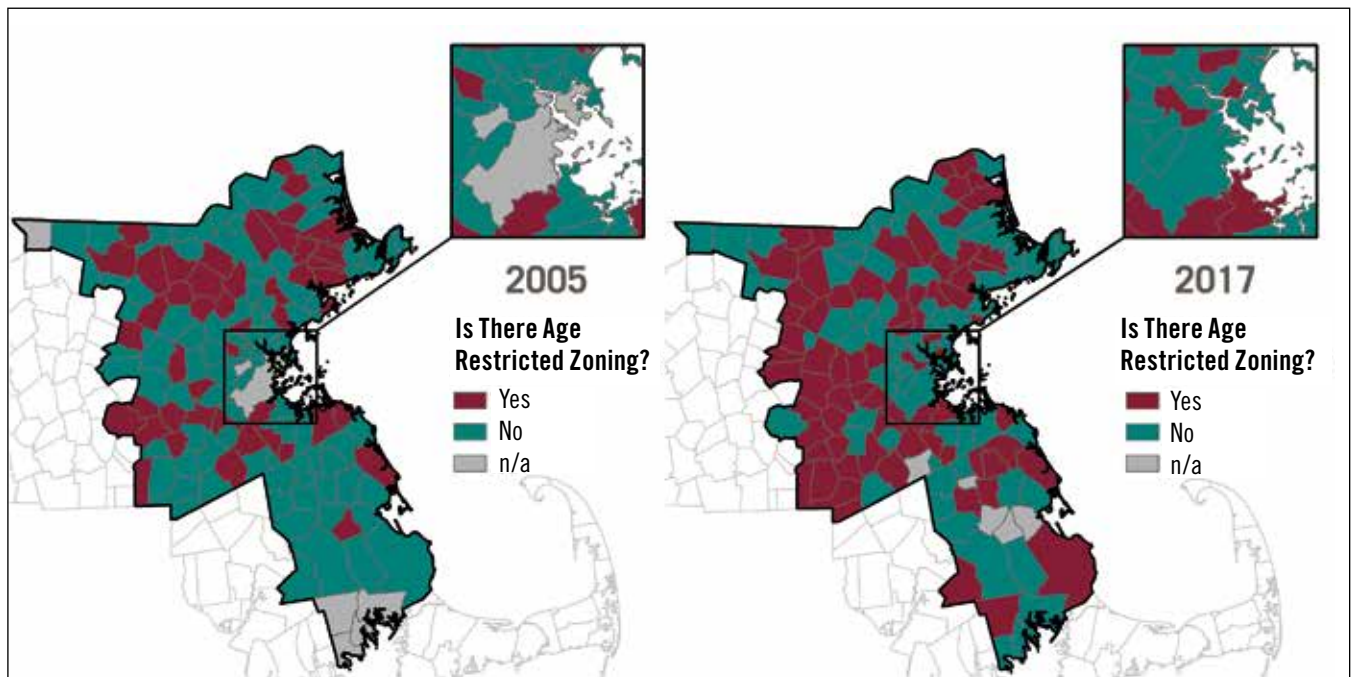
Concepts like “universal design” and “zero-step living,” which emphasize one-story living and the ability to walk to amenities, may be more effective in meeting housing needs at various age levels than conventional housing that is simply age-restricted.

“There’s strong demand for rental and multifamily housing, especially among young professionals, recent graduates, or empty nesters, and we need that—there’s not enough [multifamily housing], and that drives up rents.”

—Rob May, Brockton

MAP 2.3

Where Zoning Includes Age-Restricted Provisions



Source: Dain 2005 & 2019 MHP-UMDI Analysis

Zoning to allow accessory dwelling units (ADUs) has increased.

In 2005, accessory dwelling units were permitted in 86 cities and towns in the Greater Boston region. By 2018, that number had increased to 108 communities,⁷ more than two-thirds of all municipalities in Greater Boston.

ADUs provide supplementary zoning that can be integrated into existing single-family neighborhoods to provide what is typically a lower priced housing alternative to conventional housing development. Residents of ADUs can be elderly relatives of the home's owners (these units are sometimes called "in-law apartments" or "granny flats") or adult children interested in saving money by living at home but still wanting separate living space. ADU zoning is typically crafted to make new units appear consistent with the character of existing neighborhoods.

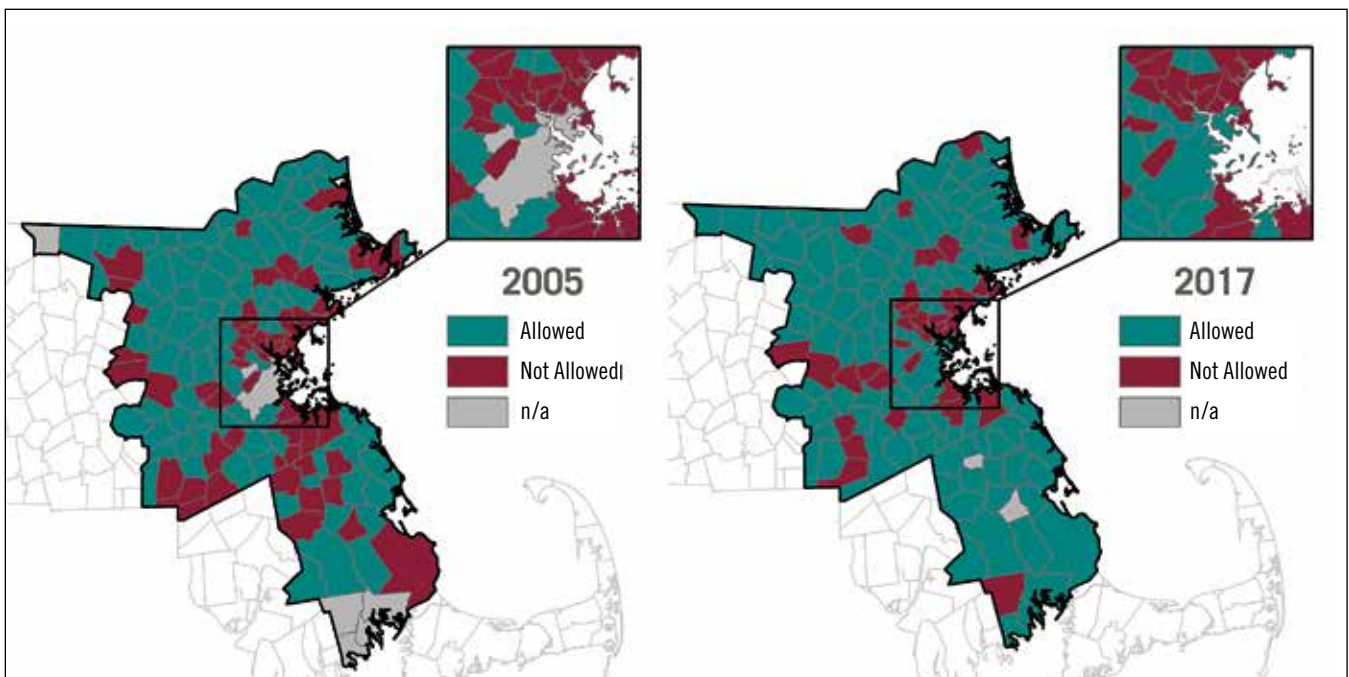
Additional information about the benefits and examples of ADUs in Massachusetts can be found in EEA's Smart Growth/Smart Energy Toolkit⁸ and in the 2018 joint study by the Pioneer Institute and Massachusetts Smart Growth Alliance. Of the 108 communities allowing ADUs, those that have permitted the highest number of units to date include Methuen (250 units), Tewksbury (150 units), Marshfield (150 units), Ipswich (101 units), and Tyngsborough (100 units).⁹

"Land availability and environmental constraints are the main housing production challenges."

—Bill Buckley, Methuen

MAP 2.4

Where Accessory Dwelling Units (ADUs) Are Allowed



Source: Dain 2005 & 2019 MHP-UMDI Analysis

Zoning for mixed-use development has doubled.

One of the more dramatic changes in Boston area land use regulation between 2005 and 2018 is how many municipalities now allow mixed-use development. As of 2017/2018, 121 municipalities allowed mixed-use zoning (by various mechanisms) compared with only 69 municipalities in 2005.

This change likely reflects increasing interest in “smart growth” development at the state and local level, a desire to increase the commercial tax base, and possibly changing preferences of residents. It is an especially attractive approach for cities and towns with traditional New England town and neighborhood centers and for communities with underutilized commercial buildings

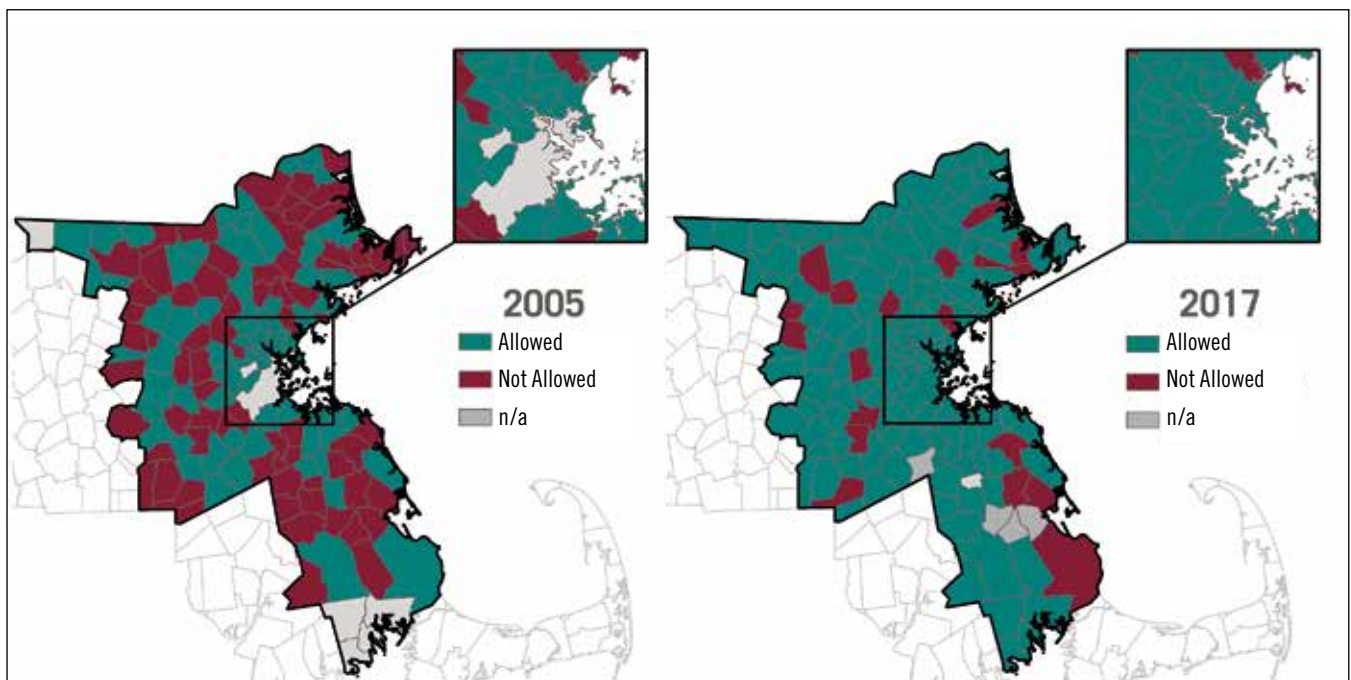
such as former mill buildings and empty shopping centers. More municipalities, and residents, are encouraging walkable and transit-oriented development within existing town centers and/or the creation of new town centers.

“One project downtown that used to be mostly retail was sold to new building owners, who realized that they could add 14 units of new housing using the special permit process.”

—Lisa Schwarz, Andover

MAP 2.5

Where Mixed-Use Development Is Allowed



Source: Dain 2005 & 2019 MHP-UMDI Analysis

Inclusionary zoning has changed little in Greater Boston, but has seen more adoption across the state.

Inclusionary zoning bylaws or ordinances require developers to include a certain percentage of affordable housing units in developments that would otherwise be all market rate. To help offset the cost of providing these units, inclusionary zoning typically offers a “density bonus” or other incentives.

In 2005, 77 Greater Boston communities allowed inclusionary zoning—either optional or mandatory—and that number had only increased to 80 communities as of 2017/2018.

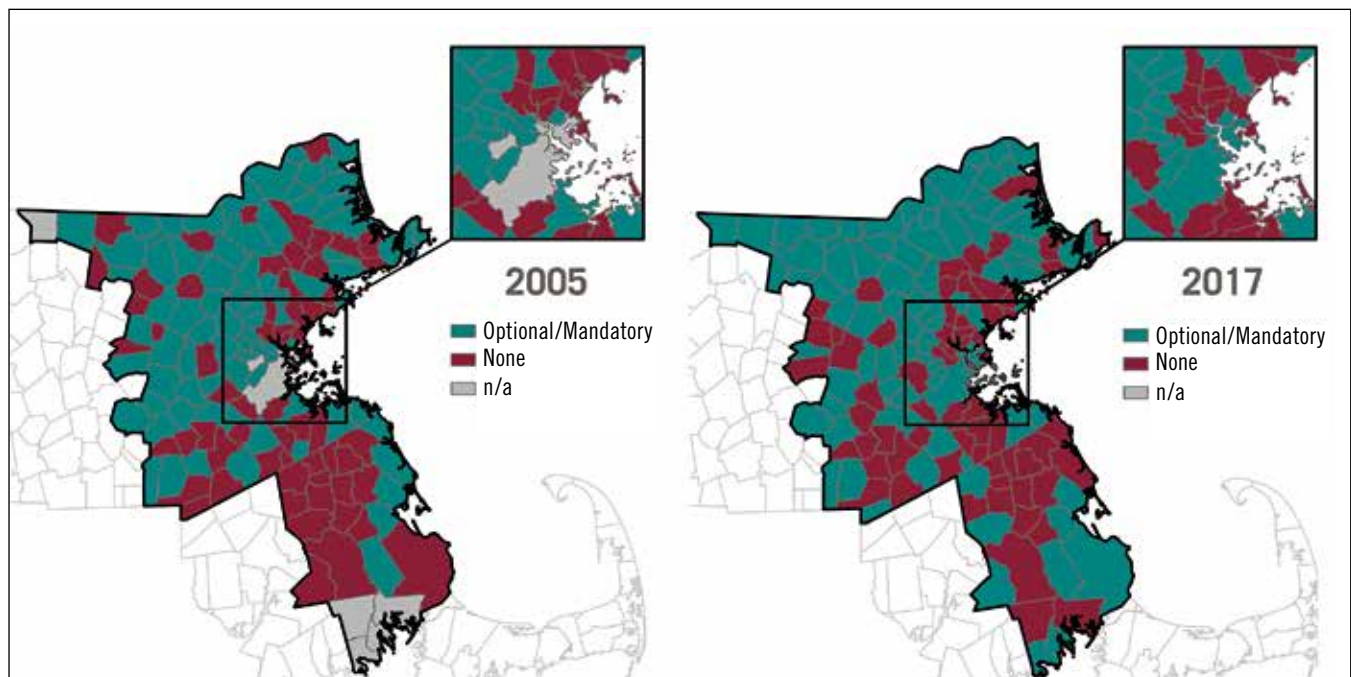
Across the Commonwealth as a whole, however, inclusionary zoning has become more popular. The number of Massachusetts communities with inclusionary zoning bylaws increased from 118 cities and towns in 1999¹⁰ to more than 190 in 2018, according to initial data compiled by MHP.

Many inner core communities (including Boston, Cambridge, and Somerville) have struggled in recent years to determine what percentage of below-market rate housing units is achievable without making development economically infeasible. There is a balancing act between requiring too much affordability, which can deter developments in weaker markets, and failing to achieve the higher levels of affordability that hotter markets can support. Economic feasibility can also be enhanced by allowing greater density for developments with affordable units than zoning would otherwise allow.

Additional data about inclusionary zoning policies in Massachusetts will be available in 2020 through MHP’s work with the Grounded Solutions Network, a national nonprofit organization coordinating inclusionary zoning policy efforts from across the country.¹¹

MAP 2.6

Communities with Inclusionary Zoning Bylaws or Ordinances



Source: Dain 2005 & 2019 MHP-UMDI Analysis

Two-thirds of municipalities have adopted CPA; nearly half have created affordable housing trust funds.

The Community Preservation Act (CPA) offers municipalities flexibility to adopt a property tax surcharge to fund open space, historic preservation, affordable housing, and outdoor recreational spaces. Affordable housing trusts (AHTs) are municipal entities focused on creating and preserving affordable housing, generally described as housing for households earning up to 100 percent of the area median income (AMI). The adoption of one, or both, of these practices often demonstrates a municipality’s commitment to funding and producing affordable housing.

A local housing trust allows municipalities to collect funds for affordable housing, isolate these funds from

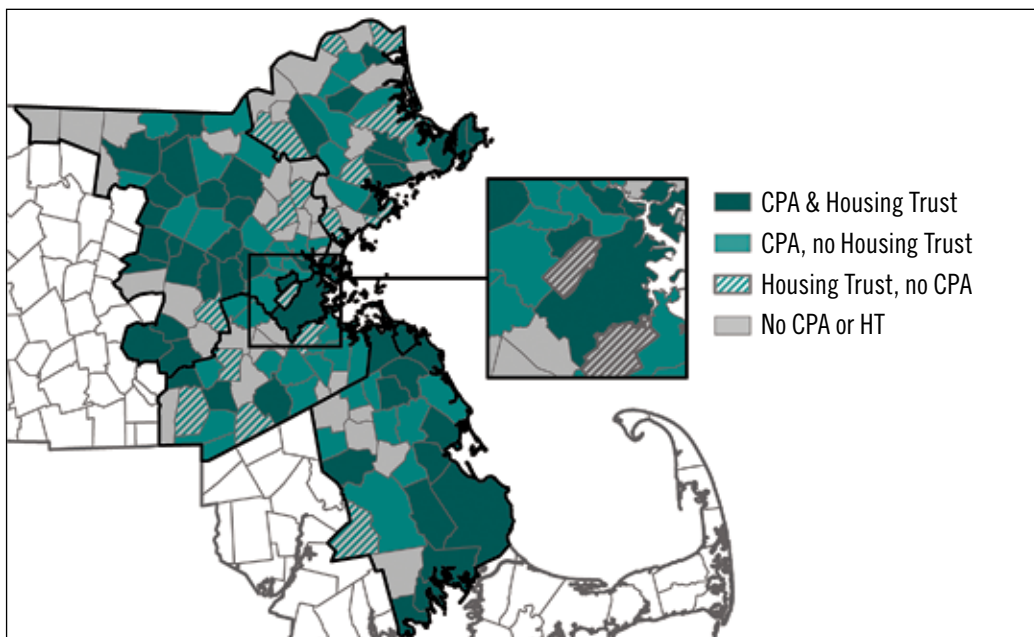
the general municipal budget into a trust fund, and use these funds for local initiatives to create and preserve affordable housing.¹²

Affordable housing trusts also help promote affordable housing town-wide, and AHT board members often spread the word locally (e.g., in local groups and faith-based organizations) that affordable housing can be good for their community.

As of 2018, 91 cities and towns in the Greater Boston region have adopted CPA and 69 have created local affordable housing trusts.

MAP 2.7

Communities with CPA or Housing Trust Funds



Source: MHP and Community Preservation Coalition