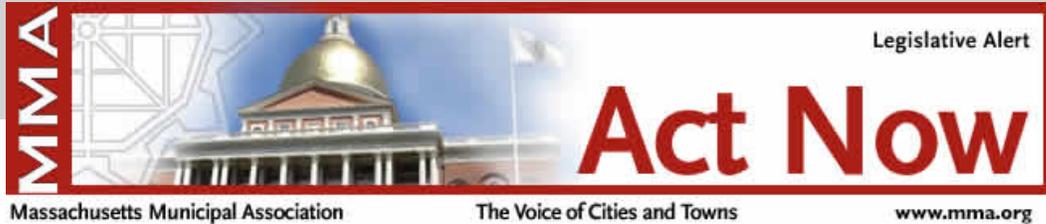


From: [Massachusetts Municipal Association](#)
To: [Town Manager's Office](#)
Subject: Senate to Vote on Major Housing and Zoning Bill
Date: Thursday, June 02, 2016 4:40:21 PM

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Thursday, June 2, 2016

SENATE LEADERS ADVANCE BILL TO MAKE MAJOR CHANGES IN HOUSING AND ZONING LAWS

SENATORS TO VOTE ON THE BILL ON THURSDAY, JUNE 9

S. 2311 WOULD GRANT DEVELOPERS “BY-RIGHT” BUILDING RIGHTS WITH REDUCED LOCAL REVIEW, ADD HOUSING MANDATES ON COMMUNITIES, AND MAKE SWEEPING CHANGES IN ZONING LAWS

ASK YOUR SENATORS TO EXPLAIN HOW S. 2311 WOULD IMPACT YOUR COMMUNITY BEFORE THEY VOTE!

Earlier today, Senate leaders released major legislation to make sweeping changes in the state’s housing and zoning laws, a proposal that would significantly impact development and zoning in every community.

S. 2311, An Act Promoting Housing and Sustainable Development, will be voted on by the full Senate on Thursday, June 9.

Senate leaders have taken previous legislation to update the state’s zoning and planning laws, and greatly expanded it by adding provisions that would override local authority in several areas, primarily on housing matters. Communities would be required to adopt “by-right” multi-family housing districts and allow accessory apartments “by-right” in residential districts, for example.

[Please click here to download a copy of S. 2311](#)

Please call your Senators today to let them know that this issue is important to your community, and ask them to tell you what is in the legislation **BEFORE** they vote.

They need to understand and explain how the bill would the impact your community.

As we noted in an earlier Action Alert, the MMA supports efforts to give cities and towns

real tools to improve local planning and development, and real authority to meet local affordable housing needs and goals. But the for-profit development industry has been pushing hard to preempt local decision-making authority, calling for provisions to override local zoning by mandating “as-of-right” authority for developers, even though this proposed preemption of local zoning would not address the cost of housing, or be linked to the development of more affordable housing.

KEY PROVISIONS OF S. 2311 INCLUDE:

Mandated "By-Right" Multi-Family Housing Districts – S. 2311 would mandate every city and town to establish "by-right" zoning districts for multi-family housing, removing any special permit or local approval process except normal site plan review, with NO provisions that these housing units meet the affordability needs of the community, and prohibiting communities from setting density provisions less than 8 units per acre in rural communities and 15 units per acre in all other communities. The MMA is greatly concerned that this will **increase** the cost of housing in cities and towns and make it harder to meet affordable housing targets, because developers will almost always pursue projects for luxury and high-end developments that yield the highest profits.

Mandated "By-Right" Accessory Apartments – S. 2311 would mandate every city and town to approve accessory apartments in all residential districts, granting homeowners "by-right" ability to add additions, separate buildings or property renovations, as long as the accessory apartment is no larger than half of the entire structure or 900 square feet, and meets building code standards, although cities and towns could cap accessory apartments to no more than 5 percent of the total non-seasonal housing units in the community.

Mandated "Open Space Residential Developments" – Every city and town would be required to approve "by-right" residential development projects with greater density, if those projects are designed to preserve open space in or adjacent to the development. These are "compact" or "cluster" developments that are designed to allow for a portion of the land to remain undeveloped.

Watered-Down Inclusionary Zoning – The MMA has been a champion of legislation to clearly authorize cities and towns to adopt inclusionary zoning bylaws and ordinances to require developers to include affordable housing as an important component of large projects. This is the only clear way that cities and towns can ensure that new developments help to expand the stock of affordable housing. S. 2311 does contain an inclusionary zoning provision, but developers have succeeded in watering down the legislation by adding language that would only allow inclusionary zoning in exchange for municipal concessions, such as allowing greater density, even if those concessions are not economically necessary for the project to advance. Communities that have already implemented inclusionary zoning ordinances would be forced to weaken their local policies to conform with S. 2311, so that these localities could only use inclusionary zoning when they make additional concessions to developers. Further, inclusionary zoning could NOT be applied to any developments that are submitted under the "by-right" multi-family districts mandated in the bill. The MMA will be asking Senators to remove any conditions or concessions on inclusionary zoning.

There are a Number of Proposals in S. 2311 that are Intended to Help Improve the Zoning Process – The MMA and local officials have been working on zoning legislation for several years to address several problems at the local level, and S. 2311 includes several of these, including:

- Communities could charge development impact fees, to be used only for studies to review

the specific project or for infrastructure improvements, but not for personnel-related costs, and all unspent money, plus interest, would need to be returned to the developer within 6 years;

- In order to better connect planning and zoning, communities would be required to develop a comprehensive master plan, and communities would be given the option to reduce the 2/3 majority legislative vote required to make zoning changes down to a simple majority or a percentage in between;
- Site plan review would be codified in statute, with a statutory deadline of 120 days for local review;
- The bill would address concerns over the "approval not required" issue by authorizing communities to adopt a minor subdivision zoning bylaw to provide for local review of subdivisions of 6 units or less. Permitting of minor subdivisions on existing rights-of-way would be required within 65 days, and approval of minor subdivisions on new rights-of-way would be required within 95 days.

The MMA is continuing to review the 46-page bill. If you have any questions about S. 2311, please contact MMA Legislative Analyst David Lakeman at 617-426-7272 or dlakeman@mma.org.

Please call your Senators today and ask that they consult with you BEFORE this far-reaching legislation is debated on Beacon Hill.

Thank You!

Massachusetts Municipal Association

One Winthrop Square, Boston, MA 02110
(617) 426-7272

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