

LOCAL

Middleboro defies state, shoots down mandate for multi-family housing. Consequences?



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MIDDLEBORO — The response of “No” couldn’t have been shouted any louder from the quorum of Middleboro residents proclaiming they don’t want to be forced to comply with a state mandate that, local officials said, will increase housing production to an unsustainable level for the town.

Middleboro residents voted down an article at the special Town Meeting on Monday, Oct. 7 that, if passed, would have created a new 50-plus acre zoning district intended for an increase of several thousand more multi-family housing units.

“Once compliant, we can never un-ring that bell. Sometimes you have to fight the fight that needs fighting. I hope I never have to live in the city of Middleboro, because I love the town of Middleboro,” said Select Board Chair Mark Germain at the meeting.

What is the MBTA Communities Act?

The MBTA Communities Act, which was signed into law by former Gov. Charlie Baker in 2021, mandates that all communities in the state with MBTA transit service must establish at least one overlay zoning district specifically for multi-family housing.

Every municipality with direct or adjacent transit service provided by MBTA has to vote, or already has voted, on this mandate.

Middleboro's proposed district would have been on West Grove Street, within a half mile radius of the new MBTA station for South Coast Rail.

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Would town's population have soared?

Local officials told residents the consequences of accepting this mandate would be a drastic increase in population — 18.5% over a few years – and the resultant millions of dollars in costs for all areas of the town’s operations, including schools, utilities and public safety.

Select Board member Brian Giovanoni, like numerous officials, said this is an “unfunded mandate” from the state. He also said there’s no guarantee the state won’t “move the goalpost” with its requirements sometime down the line.

“I’m voting no on this bylaw. I don’t want to change the feel of Middleboro,” Giovanoni said.

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No control over housing

Another concern expressed at the meeting is all new multi-family housing developments would be “by-right” —meaning very few applications could be denied, and no special permits, variances, or other approvals would be required.

Town Planner Leann Bradley said the “one-size-fits-all” approach the state is taking with this law will result in the town's essentially “chasing our tail” trying to regulate new developments it will have little enforcement powers over.

Select Board member Teresa Farley said the town already exceeds the state’s 40B affordable housing minimum requirement — with 12.6% of the town’s current housing stock qualifying as affordable, far exceeding the 10% minimum required by the state.

Will Middleboro be 'punished' for saying no?

The state’s Executive Office of Housing and Livable Communities has told officials in Middleboro that non-compliance with the MBTA Communities Act can result in legal action by the attorney general, as well as financial consequences, such as not being eligible for state grants.

“When we don’t comply with the law, we get punished,” said Rich Oakley, former School Committee member, who was concerned about the numerous non-profits and projects in town funded through state grants.

“There will be ramifications down the line,” concurred Nathan Demers, former Select Board member.

Will school and road repair money be cut?

Documents given to residents at Town Meeting stated that penalties for non-compliance do not involve state-allocated local aid, such as Chapter 70 school aid and Chapter 90 aid for roadways, and do not affect eligibility for federal grants.

However, the town has received close to \$2 millions in state grants over the last four years, and those funds run the risk of being cut off.

Finance Committee member Matt Phillips said the state's actions are "tantamount to extortion," and the position many town officials are taking isn't based on "a NIMBY position," but is instead based on "the financial mess the town will find itself in."

What's next

Right now, Middleboro is paying attention to the outcome of a lawsuit between the town of Milton and the Attorney General's Office.

Back in February, the AG's office filed suit against Milton for rejecting the MBTA Communities Act zoning bylaw.

The case is currently in front of the Massachusetts Supreme Judicial Court.

On Sept. 9, the Middleboro Select Board voted unanimously to approve submitting an amicus brief expressing support for the town of Milton in its legal battle with the attorney general.

Affected MBTA communities have until Dec. 31, 2024, to vote to comply with the zoning law.

Other communities that have voted down the zoning change at town meetings include the towns of Hanson, Norwell, Hopkinton and Marshfield.

"It's time to tell the state we're not playing," said resident Diane Fay, adding that whatever retribution that may come, "let the chips fall where they may."