



City of Methuen, Massachusetts

OFFICE OF THE CITY COUNCIL

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November 18, 2024

Diana DiZoglio
State Auditor
Jana DiNatale
Director of Local Mandates
Office of the State Auditor
Massachusetts State House
Room 230
Boston, MA 02133

VIA EMAIL TO Auditor@MassAuditor.gov

RE: Request for Local Mandate Opinion

Dear Auditor DiZoglio and Director DiNatale:

In accordance with Massachusetts General Laws Chapter 29, Section 27C, the Methuen City Council hereby respectfully requests that the Division of Local Mandates of the Office of the State Auditor furnish a written opinion to the Council on whether the MBTA Communities Act (MGL c. 40A, Section 3A, hereinafter the "Act") imposes an unfunded mandate on the City by requiring the City to enact a zoning ordinance creating a reasonably-sized district in which multifamily residential use is allowed as of right.

As a threshold matter, the City of Methuen is one of 177 "MBTA Communities" so designated because of the communities' respective proximity to public transportation hubs. The Act compels these communities, including Methuen, to create a reasonably-sized zoning district in conformity with the Act's terms. Since Methuen is an "abutting" MBTA Community, Methuen's deadline to enact a zoning ordinance compliant with the Act is December 31, 2024.

The Act's compulsory nature gives the Council considerable pause regarding the costs to be incurred by the City following the as-of-right development of multifamily housing in Methuen.

Indeed, the Council is reasonably concerned that compliance with the Act compels the City to incur unfunded costs arising from incremental increases in the student population in the City's public school district following future multifamily development(s), created in conformity with the Act, that are populated by these additional students.

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Similarly, the Council is reasonably concerned that emergency/first responders will expend greater time and resources addressing emergency services attendant to the development of multifamily dwellings developed in accordance with the Act.

Thus, when multifamily residential development follows the enactment of a local zoning ordinance compliant with the Act, the City will be forced to incur unfunded costs that the City would not otherwise incur but for the City's compelled compliance with the Act.

Given your office's indispensable duty to ensure the Commonwealth's fiscal responsibility, and the Council's statutory duty as Methuen's appropriating authority, the Council is confident that you and your team appreciate the magnitude of this request. Similarly, while M.G.L. c. 29, § 27C, provides a sixty-day window in which to furnish an unfunded mandate opinion, the Council would appreciate receiving your team's opinion prior to the end of the calendar year if possible.

Should your office require additional information in aid of your opinion, please contact Methuen's City Solicitor, Kenneth J. Rossetti, in writing at krossetti@ci.methuen.ma.us.

Thank you in advance for your time and your consideration.

Respectfully Submitted,

Joel Faretra, City Council Chair

Neily Soto, City Council Vice-Chair

Joyce Campagnone, Central District

Nicholas DiZoglio, Councilor at Large

RECUSED FROM DELIBERATION

Jana Zanni Pesce, Councilor at Large

Allison Saffie, West District

Ronald Marsan, East District

Patricia Valley, West District

RESOLUTION AUTHORIZING THE EXECUTION AND SUBMISSION OF THE ATTACHED REQUEST FOR AN UNFUNDED MANDATE RULING, BY THE DIVISION OF LOCAL MANDATES OF THE OFFICE OF THE STATE AUDITOR, REGARDING THE MBTA COMMUNITIES ACT, MASSACHUSETTS GENERAL LAWS CHAPTER 40A, SECTION 3A.

Requested by the Councilor Pesce

WHEREAS, the City of Methuen is one of 177 Commonwealth municipalities deemed to be an “MBTA Community” based on the City’s proximity to public transportation hubs; and

WHEREAS, the MBTA Communities Act, under Massachusetts General Laws Chapter 40A, Section 3A (“Act”), requires the City to enact, by December 31, 2024, a zoning ordinance that creates a reasonably-sized zoning district in which multi-family residential use is permitted as of right; and

WHEREAS, the Act’s mandatory language raises a reasonable question as to whether the Act imposes an unfunded mandate on the City, in contravention of Massachusetts General Laws Chapter 29, Section 27C, given the reasonable prospects of (i) an increase in the public school student population within the City’s public school district following the development of multifamily residential uses compliant with the Act, and (ii) an increase in deployments and expenditures of emergency/first responder services after these multifamily residential complexes, compliant with the Act, are developed; and

WHEREAS, Massachusetts General Laws Chapter 29, Section 27C, allows the City Council to file a written request with the Division of Local Mandates (“DLM”) of the Office of the State Auditor for a written opinion on whether a state law imposes an unfunded mandate on the City; and

WHEREAS, the Methuen City Council is accordingly authorized to ask the DLM for a written opinion on whether the Act imposes an unfunded mandate on the City, such that the City is either discharged from complying with the Act, or authorized to rescind any ordinance passed to comply with the Act; and

WHEREAS, given the legal authority set forth above for the City Council to seek such an opinion from the DLM, and the prudence in seeking such an opinion, the Methuen City Council hereby approves, with the assent of the Mayor, the execution and submission of the letter to the OSA that accompanies this Resolution.

NOW, THEREFORE, the Methuen City Council hereby approves the execution and submission of the appended letter seeking an opinion from the DLM regarding whether the Act imposes an unfunded mandate on the City. This Resolution shall take effect immediately upon its enactment; and a copy of the approved Resolution shall be forwarded to the Office of the Mayor, the Chief Administrative and Financial Officer, the Director of the Economic and Community Development Department, the City Clerk, and the City Solicitor.