MURPHY HESSE TOOMEY & LEHANE LLP
Attorneys at Law

MEMORANDUM

To: **Milton Planning Board**

From: **Peter L. Mello, Esq.**

Re: **Question Concerning Two-Year Ban under G.L. c. 40A, § 5**

Date: **June 12, 2025**

You have inquired whether the so-called "two-year ban" provisions of G.L. c. 40A, § 5 apply to foreclose Milton Town Meeting's consideration of a proposed zoning bylaw included as Article 6 (hereinafter, "Article 6") of the warrant for the Special Town Meeting scheduled for June 16, 2025 (the "STM"). For the reasons summarized below, in my opinion Article 6 is not subject to the two-year ban and should be presented for consideration at the STM.

I. Salient Factual Background

As you know, Article 6 is designed to address requirements set forth in G.L. c. 40A, § 3A and its associated regulations, 760 CMR 72.00, et seq., and is presented for Town Meeting's consideration within two-years of the ballot election at which Milton voters overturned Town Meeting's adoption of a prior zoning article relating to Section 3A, namely Article 1 (the "2023 Article") of the December, 2023 Special Town Meeting. In a memorandum to the Select Board dated January 9, 2024, a copy of which I attach as **Exhibit A**, I opined that the then-prospective negative ballot vote would constitute "unfavorable action" under G.L. c. 40A, § 5 ("No proposed zoning ordinance or by-law which has been unfavorably acted upon by a city council or town meeting shall be considered by the city council or town meeting within two years after the date of such unfavorable action unless the adoption of such proposed ordinance or by-law is recommended in the final report of the planning board."), and that "any new proposed amendment would require careful vetting to ensure that it sufficiently differs from" the 2023 Article.

As part of this review, I have evaluated a memorandum from Town Administrator Nicholas Milano dated June 4, 2025 (the "TA Memo," a copy of which I attach as **Exhibit B**). Mr. Milano prepared this memo to facilitate a comparison between the 2023 Article and Article 6 and the memo identifies the similarities and differences. In addition, I transmitted a copy of the TA Memo to Margaret Hurley, Senior Counsel for Housing and Municipal Law within the Attorney General's Office, along with copies of Article 6 and Town Meetings vote on the 2023 Article, and inquired whether the AGO's Municipal Law Unit would regard Article 6 as subject to the two-year ban. On June 10, 2025, Attorney Hurley responded that, based on the TA Memo, she believes there are sufficient differences between the two warrant articles such that the two-year ban would not apply.

II. Analysis

The Massachusetts Appeals Court has recited "that proposed ordinances or bylaws are the same for purposes of G. L. c. 40A, § 5, sixth par. [and thus subject to the two-year ban], if they share the same fundamental or essential character, with little substantive difference." Penn v. Town of Barnstable, 96 Mass. App. Ct. 205, 211 (2019). In Penn, the Court elaborated that "[w]hile no reported decision has addressed what it means for proposals to be "of the same character" for purposes of G. L. c. 40A, § 5, sixth par., we are guided by cases decided in two analogous contexts," including in particular: (1) the "several cases [that] have considered whether new notice must be posted, and another hearing held, before a planning board or municipal legislative body can vote to recommend or adopt an amendment that is different from the one delineated in the original notice," Id. at 210; and (2) case law in which the Supreme Judicial Court has "considered the meaning of the provision in art. 48 of the Amendments to the Massachusetts Constitution prohibiting the certification of initiative petitions that are 'substantially the same as any measure which has been qualified for submission or submitted to the people at either of the two preceding biennial state elections.'" Id. at 211.

In a footnote the Court also cited various cases decided prior to the Legislature's adoption of the modern Zoning Act in 1975, in which courts addressed the question of whether a proposed post-planning board hearing amendment to a town meeting warrant article fell permissibly within the scope of the underlying zoning article. Id. at 212, fn. 12 ("See Johnson, 354 Mass. at 752, 242 N.E.2d 420 (proposed zoning bylaw authorizing golf clubs and tennis courts not fundamentally changed by provisions omitting tennis courts and prescribing minimum size for golf clubs); Sullivan, 346 Mass. at 784, 196 N.E.2d 185 (extending length of proposed zoning district was not "fundamental" change); Doliner, 343 Mass. at 13, 175 N.E.2d 925 (changing zoning for some small areas on map "did not change the substantial character of the [proposed bylaw]"); Dunn, 318 Mass. at 218-219, 61 N.E.2d 243 (similar). Cf. Fish, 322 Mass. at 223, 77 N.E.2d 231 ("identity of the original propos[al]" to repeal zoning bylaw was "utterly changed" by adoption of amendments "reducing the area requirements in two kinds of districts and transferring certain land from one district to another").

Based upon these cases and principles, the Penn Court concluded that the bylaws at issue in that case were "the same for purposes of" the two-year ban because "the only differences between the two items were that item no. 2016-166 clarified that the HPOD does not include fully or partially enclosed parking structures, clarified that lot owners could not create more parking spaces by discontinuing other uses on their parcels, and required that lot owners file parking plans with the town." Penn, supra, 96 Mass. App. Ct. at 211-212 ("These were amendments that merely facilitated enforcement of item no. 2016-54. They did not change the fundamental and essential character of the item -- to allow for as-of-right operation of commercial parking lots through creation of the HPOD.")

In my opinion, as the TA Memo reflects and Attorney Hurley[1] concluded, Article 6 contains several material differences that exceed the scope of those at issue in Penn and the cases cited therein, including in the following respects:

- The 2023 Article 1 total zoned capacity was 2,586 units and the 2025 Citizen's Petition reduced that total by 119 units to 2,467. The 2023 net new unit total was 1,964 and the 2025 net new was reduced by 458 units to 1,506 units.

- The 2025 Citizen's Petition has 4 subdistricts that were not included in the 2023 Article 1: Randolph Ave East, Randolph West, Fairmount Station, and Paper Mill.

- In the 2025 Citizen's Petition, there is a shift of 814 units of zoned capacity out of two subdistricts in East Milton (which were not in transit area) to four new subdistricts on Randolph Ave., Truman Parkway, and in the RC zoning district near Fairmount.

  - As a result, 67% of the total zoned capacity that is allowed to be outside of the transit area per the regulations are now located in new districts that were not part of 2023 Article 1.

- The new Paper Mill and Fairmount Station subdistricts take advantage of the proximity to the commuter rail, which was not a factor or strategy in the 2023 zoning.

- Both the 2023 Article 1 and the 2025 Citizen's Petition include a subdistrict along the Eliot Street ("Eliot Street Corridor"), within ½ mile of various Mattapan Trolley stations.

  - In the 2025 Citizen's Petition, the minimum lot size was reduced from 7,500 sf to 6,000 sf.

  - In the 2023 Article 1, half of the parcels in the Eliot Street Corridor were ineligible due to the minimum lot size requirement.

  - As a result, the lower lot size requirement in the 2025 Citizen's Petition added 84 more eligible parcels, making 72% eligible. This calculation does not factor in the boundary changes.

[1] Attorney Hurley's opinion in this regard is especially noteworthy to the extent that it suggests that, in connection with any review under G.L. c. 40, § 32, the Municipal Law Unit of the Attorney General's Office would be unlikely to find the two-year ban applicable to Article 6.

- The boundaries of the Eliot Street Corridor were modified by removing two sections and adding one, shifting the impacts of increased density.

- The boundaries of the Milton Station East and Milton Station West subdistricts were modified. This allowed for the higher density change to the Milton Station East district without jeopardizing demolition of a historic structure.

See Exhibit B (TA Memo), p. 2. In my view, consistent with the analytical methodology that guided the Appeals Court in Penn, these changes indisputably would require a new Planning Board public hearing under Section 5.

Nor does the fact that the Articles each share the same subject matter or seek to address Section 3A requirements for multi-family housing suffice alone to render Article 6 subject to the two-year ban. See, e.g., Bogertman v. Att'y Gen., 474 Mass. 607, 622 (2016) ("The two measures overlap only insofar as, at the highest level of generality, they both concern slots parlors. We do not think that is enough to establish that question 3 and petition 15–34 are substantially the same, where they are otherwise so different in scope and subject matter."). A contrary interpretation would, as a necessary corollary and an absurd result, require application of the two-year ban to any zoning bylaw proposing to allow a particular use, in any Town zoning district, if within the preceding two years a predecessor zoning bylaw had proposed to allow the same use elsewhere. In my opinion, Penn and the other aforementioned cases belie such a construction and support the conclusion that the two-year ban is inapplicable to Article 6.

Moreover, in my opinion, because the Supreme Judicial Court's decision in Att'y Gen. v. Town of Milton, 495 Mass. 183 (2025), establishes that "it is clear that the Legislature intended to require MBTA communities to comply with the act," and that "the Attorney General is empowered to enforce § 3A" by seeking "equitable relief" to compel a municipality's compliance at any time, Section 3A's mandate reasonably might be construed to conflict irreconcilably with Section 5's two-year ban. Town of Milton, supra, 495 Mass. at 190 & 192–93, fn. 15. A contrary interpretation would allow for the possibility that the two-year ban might preclude an otherwise willing municipality from achieving its desired compliance, or thwart the Attorney General from securing the equitable enforcement relief to which the SJC has determined she is entitled. Id. This tension is especially pronounced given regulatory provisions that limit geographically the areas in which municipalities are required to concentrate the required zones, thereby constraining the development of sufficiently different proposed bylaws. See, e.g., 760 CMR 72.08(1)(b) ("[I]n an MBTA community that has a total of 500 acres of Transit station area within its boundaries, a Multi-family zoning district will comply with M.G.L. c. 40A, § 3A's location requirement if at least 50% of the district's minimum land area is located within the Transit station area, and at least 50% of the district's minimum Multi-family unit capacity is located within the Transit station area."). It is well-settled that "the Legislature is presumed to be aware of existing statutes when it amends a statute or enacts a new one," and "where two statutes conflict, the later statute governs." Grady v. Comm'r of Correction, 83 Mass. App. Ct. 126, 131–32 (2013) (internal quotations and citations omitted). Accordingly, in my opinion, while no

case has decided this question in this context, in view of the SJC's decision in Town of Milton it is conceivable that a court could consider this statutory conflict as a relevant factor in its analysis.

I hope that you have found this information helpful. Please do not hesitate to contact me with any questions regarding this matter. Thank you.

EXHIBIT A

MURPHY HESSE TOOMEY & LEHANE LLP
Attorneys at Law

Peter Mello
pmello@mhtl.com

January 9, 2024

VIA EMAIL ONLY

Town of Milton Select Board
Attn: Michael Zullas, Chair
525 Canton Avenue
Milton, MA 02186

RE: Application of Two-Year Ban Under G.L. c. 40A, § 5 With Respect to Ballot Vote to be Held on February 13, 2024 Pursuant to Section 7 of the Milton Charter

Dear Mr. Zullas:

As you know, after Milton Town Meeting voted on December 11, 2023 (the "December 11th Vote") to approve an amended version of Article 1 (hereinafter "Article 1" or the "MBTA Bylaw") of the Warrant for the Special Town Meeting commenced on December 4, 2023, the Select Board received a petition under Section 7 of the Milton Town Charter "asking that the question or questions involved in such vote be submitted to the voters of the town at large." See Milton Town Charter, Section 7. Following the Town Clerk's certification of the requisite number of supporting signatures, at its meeting on December 28, 2023 the Select Board voted pursuant to Section 7 to call a Special Town Meeting "for the sole purpose of presenting to the voters at large the question or questions" presented in Article 1 (the "Ballot Vote"). Id. In addition, at such December 28th meeting the Select Board asked that I provide an opinion addressing whether a negative Ballot Vote would constitute "unfavorable" action under G.L. c. 40A, §5, so as to preclude Town Meeting from considering the MBTA Bylaw in its present form for two years absent Planning Board approval. For the reasons explained below, in my opinion it *would*.

G.L. c. 40A, § 5 provides, in pertinent part, that:

> No proposed zoning ordinance or by-law which has been unfavorably acted upon by a city council or town meeting shall be considered by the city council or town meeting within two years after the date of such unfavorable action unless the adoption of such proposed ordinance or by-law is recommended in the final report of the planning board.

Id. The Supreme Judicial Court has observed that "[t]he purpose of the two-year bar is to give some measure of finality to unfavorable action taken by a municipal legislative body so that 'members of the public shall be able to ascertain the legislative status of a proposed change at all times, and to rely on unfavorable action ... as a complete defeat of the proposal.'" Penn vs. Town of Barnstable, 96 Mass. App. Ct. 205, 210 (2019), quoting Kitty v. Springfield, 343 Mass. 321, 326 (1961). While I have located no reported decision that addresses explicitly whether a negative ballot vote constitutes unfavorable action under G.L. c. 40A, § 5, in my opinion a court is more likely to determine that it *does* than reach a contrary conclusion. For example, as goes without saying, because it would defeat the MBTA Bylaw and prevent it from becoming effective, a negative Ballot Vote would effectuate a final "unfavorable" outcome for Article 1. Nor in my view is a court likely to interpret Section 5 to apply the two-year bar exclusively in instances in which the final unfavorable action on the underlying zoning article results from a town meeting vote, as opposed to a subsequent vote of registered voters pursuant to a local charter referendum process, especially as no meaningful or logical policy basis exists to support such a construction, and conversely the concept of according disparate treatment in this context to ballot and town meeting votes, respectively, seemingly would belie the precedence that the Ballot Vote will enjoy over the December 11th Vote. Moreover, even assuming for purposes of argument that the Legislature intended to limit the application of Section 5 exclusively to "town meeting" action, in my opinion such a condition is satisfied in the instant matter insofar as pursuant to Section 7, the Ballot Vote is conducted as part of a "Special Town Meeting." See Milton Charter, Section 7. Accordingly, in my opinion, a negative Ballot Vote would render the MBTA Bylaw subject to Section 5's two-year bar.

While in my view a negative Ballot Vote would invoke the application of Section 5's two-year bar on reconsideration, because the Planning Board's report on Article 1 recommended its rejection, it remains possible that the MBTA Bylaw would be construed to be per se ineligible for reconsideration within two years, even if it is recommended for approval by the Planning Board in a future Planning Board report. In particular, in Penn the SJC posed without resolving the question whether, when as in this matter a planning board has recommended disapproval of a zoning amendment upon its first presentation, such planning board subsequently may approve the amendment so as to render it eligible for renewed consideration within two years. See Penn, supra, 96 Mass. App. Ct. at 210, fn. 9 ("[A]s applied to this case, the judge concluded that, because the planning board voted against recommending adoption of item no. 2016-54, the two-year bar applied even though the planning board later voted in favor of item no. 2016-166. In its reply brief, the town suggests that the judge erred and that the relevant final report is the favorable vote that the planning board recorded on item no. 2016-166. The plaintiffs, for their part, appear to agree with the town's reading of the "unless" clause, but argue that the town council "considered" item no. 2016-166 before the planning board's vote on that item. We do not reach these issues, neither of which has been adequately briefed."). Accordingly, while in my opinion such a ruling would contravene Section 5's terms, spirit and intent, it is conceivable that a court could determine that the MBTA Bylaw would be barred from reconsideration for two

years even assuming that the Planning Board were willing to recommend its approval within such a window.

Further, if by virtue of a negative Ballot Vote the MBTA Bylaw becomes subject to Section 5's two-year bar, and the Planning Board lacks authority or willingness to approve its reconsideration within such timeframe, no further zoning amendment attempting to comply with the MBTA Communities Act would be eligible for consideration unless it differs sufficiently from the MBTA Bylaw to satisfy the test set forth in Penn. Id. at 211 ("[W]e conclude that proposed ordinances or bylaws are the same for purposes of G. L. c. 40A, § 5, sixth par., if they share the same fundamental or essential character, with little substantive difference."). Relatively scant case law exists to precisely define this standard. See, e.g., Id. at 211-212 ("While no reported decision has addressed what it means for proposals to be 'of the same character' for purposes of G. L. c. 40A, § 5, sixth par. . . applying this standard to the facts, we have little trouble concluding that item no. 2016-166 was the same as item no. 2016-54. As discussed, the only differences between the two items were that item no. 2016-166 clarified that the HPOD does not include fully or partially enclosed parking structures, clarified that lot owners could not create more parking spaces by discontinuing other uses on their parcels, and required that lot owners file parking plans with the town. These were amendments that merely facilitated enforcement of item no. 2016-54. They did not change the fundamental and essential character of the item -- to allow for as-of-right operation of commercial parking lots through creation of the HPOD.")[1]. Accordingly, in my opinion, any new proposed amendment would require careful vetting to ensure that it sufficiently differs from Article 1.

I hope that you have found this information helpful. As always, please do not hesitate to contact me with any questions regarding this matter.

Very truly yours,

Peter L. Mello (CKS)

Peter L. Mello

cc: Nick Milano, Town Administrator

[1] See also Id. at 211, fn. 12 ("See Johnson, 354 Mass. at 752 (proposed zoning bylaw authorizing golf clubs and tennis courts not fundamentally changed by provisions omitting tennis courts and prescribing minimum size for golf clubs); Sullivan, 346 Mass. at 784, 196 N.E.2d 185 (extending length of proposed zoning district was not 'fundamental' change); Doliner, 343 Mass. at 13, 175 N.E.2d 925 (changing zoning for some small areas on map 'did not change the substantial character of the [proposed bylaw]'); Dunn, 318 Mass. at 218-219, 61 N.E.2d 243 (similar). Cf. Fish, 322 Mass. at 223, 77 N.E.2d 231 ('identity of the original propos[al]' to repeal zoning bylaw was 'utterly changed' by adoption of amendments 'reducing the area requirements in two kinds of districts and transferring certain land from one district to another'").

EXHIBIT B

To: Peter Mello, Town Counsel
From: Nicholas Milano, Town Administrator
Date: June 4, 2025
Re: Comparison of MBTA Communities Zoning Articles: Article 1 from the 2023 December Special Town Meeting compared against the 2025 Citizen's Petition

Introduction

At the December 2023 Special Town Meeting, Town Meeting voted to approve Article 1, a zoning bylaw amendment to establish a new multi-family overlay district to comply with the MBTA Communities Act. After the referendum procedure in the Milton Town Charter was exercised by petitioners, Article 1 was placed before voters for a ballot question vote on February 14, 2024 which resulted in a "No" vote, meaning Article 1 was not approved.

Ahead of the June 16, 2025 Special Town Meeting, a citizen's petition was submitted for the warrant and was certified as having more than the requisite 100 signatures. The citizen's petition is a zoning bylaw amendment to comply with the MBTA Communities Act and is based on various district options that have been studied by the Planning Board since the February 2024 vote. As a result, Town Meeting will be asked to consider approval of a zoning article with similarities to a previously disproved zoning article.

Based on your memo, dated January 9, 2024, if the Planning Board does not recommend approval of the Citizen's Petition, the article will need to be reviewed closely to determine if it differs sufficiently from the 2023 warrant article (which will be referred to as "2023 Article 1") in order to comply with M.G.L Chapter 40A, Section 5 which states: "No proposed zoning ordinance or by-law which has been unfavorably acted upon by a city council or town meeting shall be considered by the city council or town meeting within two years after the date of such unfavorable action unless the adoption of such proposed ordinance or by-law is recommended in the final report of the planning board."

Since the Planning Board submitted a separate article related to the MBTA Communities Act, it is my expectation that the Planning Board will vote to support that article. As a result, a similar analysis of the Planning Board's MBTA Communities article is not required at this time.

The following is an overall summary of how the MBTA Communities Act and its regulations (760 CMR 72) are applicable to Milton and a summary of the changes between 2023 Article 1 and the 2025 Citizen's Petition.

MBTA Communities Act and 760 CMR 72

In accordance with the MBTA Communities Act and 760 CMR 72, the Town is classified as a "Rapid Transit Community" and must create a multifamily district with a zoned unit capacity of 25% of the Town's housing units, which is 2,461 housing units.

50% of the unit capacity and 50% of the land area of the new multi-family district must be located with half-mile of transit stations. The Town may require mixed use in the multi-family district, but only 25% of the unit capacity can be required to be mixed use. In addition, 50% of the district

land area must be contiguous. As a result, while there are differences between 2023 Article 1 and the 2025 Citizen's Petition, the Town must retain some core components in order to develop a multifamily district that is compliant with the MBTA Communities Act and the regulations.

2023 Article 1 compared to the 2025 Citizen's Petition

The below identifies some of the differences between the two zoning bylaw amendments:

- The 2023 Article 1 total zoned capacity was 2,586 units and the 2025 Citizen's Petition reduced that total by 119 units to 2,467. The 2023 net new unit total was 1,964 and the 2025 net new was reduced by 458 units to 1,506 units. (The zoned capacity figures were provided by Utile and the net new calculations were provided by Cheryl Tougias.)
- The 2025 Citizen's Petition has 4 subdistricts that were not included in the 2023 Article 1: Randolph Ave East, Randolph West, Fairmount Station, and Paper Mill.
- In the 2025 Citizen's Petition, there is a shift of 814 units of zoned capacity out of two subdistricts in East Milton (which were not in transit area) to four new subdistricts on Randolph Ave., Truman Parkway, and in the RC zoning district near Fairmount.
    - As a result, 67% of the total zoned capacity that is allowed to be outside of the transit area per the regulations are now located in new districts that were not part of 2023 Article 1.
- The new Paper Mill and Fairmount Station subdistricts take advantage of the proximity to the commuter rail, which was not a factor or strategy in the 2023 zoning.
- Both the 2023 Article 1 and the 2025 Citizen's Petition include a subdistrict along the Eliot Street ("Eliot Street Corridor"), within ½ mile of various Mattapan Trolley stations.
    - In the 2025 Citizen's Petition, the minimum lot size was reduced from 7,500 sf to 6,000 sf.
    - In the 2023 Article 1, half of the parcels in the Eliot Street Corridor were ineligible due to the minimum lot size requirement.
    - As a result, the lower lot size requirement in the 2025 Citizen's Petition added 84 more eligible parcels, making 72% eligible. This calculation does not factor in the boundary changes.
    - The boundaries of the Eliot Street Corridor were modified by removing two sections and adding one, shifting the impacts of increased density.
- The boundaries of the Milton Station East and Milton Station West subdistricts were modified. This allowed for the higher density change to the Milton Station East district without jeopardizing demolition of a historic structure.

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- The total zoned capacity in the transit area in all the districts from Milton Station to Mattapan Station shifted from 1,462 units in 2023 to 1,526, or 57% of the total zoned capacity in 2023 to 62% of the total zoned capacity in the citizen's petition.

Subdistrict Review

The following is a more detailed review of the subdistricts in the 2023 Article 1 as compared to the 2025 Citizen's Petition.

Granite Ave North

- District included in both 2023 Article 1 and 2025 Citizen's Petition
- HLC indicated it acceptable at less than 5 acres due to unique site conditions of highway and waterway
- District parameters are different in 2025 Citizen's Petition:

Parameter	2023 Article 1	2025 Citizen's Petition
District Capacity	171	251
Units per Acre	45	66
Floor Area Ratio	1.1	1.55
Max Parking Spaces per Unit	1.5	None
Max Building Height	6	6
Minimum Open Space Percentage	40%	30%

Granite Ave South

- District **not included** in the 2025 Citizen's Petition

Mattapan Station

- District included in both 2023 Article 1 and 2025 Citizen's Petition
- District geography/parcels is the same in both 2023 Article 1 and the 2025 Citizen's Petition
- District parameters are the same in both the 2023 Article 1 and 2025 Citizen's Petition

Parameter	2023 Article 1	2025 Citizen's Petition
District Capacity	183	183
Units per Acre	45	45
Floor Area Ratio	1.1	1.1
Max Parking Spaces per Unit	1	1
Max Building Height	6	6
Minimum Open Space Percentage	40%	40%

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Milton Station East (MMU)

- District included in both 2023 Article 1 and 2025 Citizen's Petition
- One parcel (1 Eliot Street) was removed from Milton Station East in the 2025 Citizen's Petition and moved into Milton Station West (MMU)
- Slight changes in district parameters

Parameter	2023 Article 1	2025 Citizen's Petition
District Capacity	325	265
Units per Acre	40	44
Floor Area Ratio	1.0	1.0
Max Parking Spaces per Unit	1	1
Max Building Height	6	6
Minimum Open Space Percentage	40%	40%

Milton Station Bridge

- District included in both 2023 Article 1 and 2025 Citizen's Petition
- District geography the same in both 2023 Article 1 and the 2025 Citizen's Petition
- Slight changes in district parameters

Parameter	2023 Article 1	2025 Citizen's Petition
District Capacity	185	191
Units per Acre	40	45
Floor Area Ratio	1.0	0.95
Max Parking Spaces per Unit	1	1
Max Building Height	4.5	4.5
Minimum Open Space Percentage	40%	40%

Milton Station West (MMU)

- District included in both 2023 Article 1 and 2025 Citizen's Petition
- One additional parcel in the 2025 Citizen's Petition (1 Eliot Street which was moved from Milton Station East)
- Slight changes in district parameters

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Parameter	2023 Article 1	2025 Citizen's Petition
District Capacity	114	153
Units per Acre	40	31
Floor Area Ratio	1.0	0.75
Max Parking Spaces per Unit	1	1
Max Building Height	4.5	4.5
Minimum Open Space Percentage	40%	40%

East Milton Square

- Large East Milton Square District (20.6 acres) was included in the 2023 Article 1
- 2025 Citizen's Petition is a single, approx. 1 acre MMU (Mandatory Mixed Use) district. Can be less than 5 acres since it is a MMU district.
- District parameters are different in 2025 Citizen's Petition:

Parameter	2023 Article 1	2025 Citizen's Petition
District Capacity	423	139
Units per Acre	30	120
Floor Area Ratio	None	2.75
Max Parking Spaces per Unit	1	None
Max Building Height	2.5	4.5
Minimum Open Space Percentage	40%	10%

Eliot Street Corridor

- 2023 Article 1 and 2025 Citizen's Petition have similar overall geographic limits
  - One large area south of Eliot Street removed from 2023 to 2025
  - One large area near Mattapan Station removed from 2023 to 2025
  - One area near Central Ave added in the 2025 Citizen's Petition that was not included in 2023 Article 1
- 50% of the required unit capacity and land area must be located within ½ mile of transit, which this entire district is. Land area for the 50% must be contiguous.
- District parameters are different in 2025 Citizen's Petition:

Parameter	2023 Article 1	2025 Citizen's Petition
District Capacity	480	555
Units per Acre	N/A	N/A
Max Units per Lot	3	3

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Floor Area Ratio		
7,500 square feet	0.70	N/A
10,000 square feet	0.52	N/A
15,000 square feet	0.35	N/A
6,000 – 7,999 square feet	N/A	0.5
8,000-9,999 square feet	N/A	0.38
10,000-11,999 square feet	N/A	0.3
12,000-13,999 square feet	N/A	0.25
14,000 square feet or more	N/A	0.21
Max Parking Spaces per Unit	1	1
Max Building Height	2.5	2.5
Minimum Open Space Percentage	40%	40%

Blue Hills Pkwy Corridor

- 2023 Article 1 and 2025 Citizen's Petition have the same geography / parcels
- The FAR parameters in the petition are as below, but the compliance model summary provided by Utile does not indicate those same gradations. This should be discussed with Utile to see if it impacts the compliance model outputs.
- District parameters are slightly different in 2025 Citizen's Petition:

Parameter	**2023 Article 1**	**2025 Citizen's Petition**
District Capacity	175	179
Units per Acre	30	30
Max Units per Lot	N/A	3
Floor Area Ratio		
7,500 square feet	0.70	N/A
6,000-7,999 square feet	N/A	0.5
8,000-9,999 square feet	N/A	0.38
10,000-11,999 square feet	N/A	0.3
12,000-13,999 square feet	N/A	0.25
14,000 square feet or more	N/A	0.21
Max Parking Spaces per Unit	1	1
Max Building Height	2.5	2.5
Minimum Open Space Percentage	40%	40%

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Paper Mill District

- New district in the 2025 Citizen's Petition that was not included in 2023 Article 1

Fairmount Station District

- New district in the 2025 Citizen's Petition that was not included in 2023 Article 1

Randolph Ave West

- New district in the 2025 Citizen's Petition that was not included in 2023 Article 1

Randolph Ave East

- New district in the 2025 Citizen's Petition that was not included in 2023 Article 1

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