

Zoning, Transit-Oriented Development, & the Bass River Overlay District

Frequently Asked Questions 1

GENERAL ZONING INFORMATION

Q: What is zoning?

A: Zoning refers to laws or ordinances that regulate land use (such as housing or commercial or industrial buildings) in different areas. A Zoning Ordinance says where in a community certain land uses can go, and also provide requirements for things like lot size; building height, size, and setbacks; parking; signs; landscaping; and accessory uses like sheds, garages, and pools. Zoning typically occurs by creating districts where certain uses are allowed and certain uses are not. A community might have many different zoning districts to regulate where single-family housing, multifamily housing, commercial development, industrial development, and mixed-use development can occur.

Zoning comes in two parts: (1) the text, which describes what is permitted in certain districts and under what circumstances, and (2) the map, which shows which properties fall in different districts and where different uses are allowed.

Q: What does Beverly's zoning look like?

A: Beverly has eighteen (18) zoning districts and five (5) overlay districts. Of the regular zoning districts, nine (9) are residential districts that allow primarily residential housing, but have different density, lot size, and dimensional requirements. Beverly also has specific districts related to the Beverly Hospital, the Harbor area, and waterfront.

An overlay district is a zoning district that is applied to one or more existing district, establishing additional requirements or allowed uses for the properties in the overlay district, in addition to those of an underlying zoning district. For example, the Fish Flake Hill Local Historic District covers about 55 properties and, in addition to the regulations of underlying (regular) zoning districts, creates additional requirements for properties in the district. Specifically, the Fish Flake Hill Local Historic District requires that changes to buildings that are visible from the street or sidewalk must receive approval by the Historic Districts Commission.

Another example of an overlay district in Beverly is the IR (Restricted Industrial, Research and Office) Overlay District. The regular IR District allows primarily industrial, research and development, and office uses. The IR Overlay District, which originally covered a few properties

and now applies to only one property on Brimbal Avenue, allows the additional use of mixed-use commercial development.

Q: Where can I find Beverly's zoning?

A: Beverly's Zoning Ordinance, as all zoning, comes in two parts: the text, and the map.

The text, which describes all the zoning districts, can be found online [here](#), as well as online from the [Planning Department's webpage](#). A physical copy is available at Beverly City Hall.

The map, which shows which properties fall within which zoning districts, can be found online through Beverly's interactive Geographic Information System [\(GIS\) webpage](#). A physical copy is available at Beverly City Hall.

Q: How do zoning changes happen?

A: Zoning changes over time to accommodate the needs of the community and allow more appropriate uses for the land. Zoning changes require a public process, and should be in line with a community's Master Plan or Comprehensive Plan. All zoning changes require a public review process, with a specific set of steps, as outlined in [Massachusetts General Laws, Chapter 40A, Section 5](#). Below is a summary of the steps, as they apply to Beverly:

1. The zoning change (typically called an "ordinance") is written and the proposed location for the zoning change is established. This step is often led by a Planning Department at the direction of the Mayor, although other entities may initiate the process. Community engagement or education may occur during this phase of the process, although it is not required by state law.
2. The proposed zoning change is submitted to the Planning Board and City Council. The Planning Board and City Council schedule a public hearing (either jointly or separately) to review the proposed change and hear from members of the public. A public hearing requires time for members of the community to speak about the proposed zoning change and ask questions.
3. Once the public hearing(s) is closed, the Planning Board must vote on a recommendation to City Council on the proposed zoning change.
4. The City Council must vote whether to adopt, reject, or amend and adopt the proposed zoning change. If the City Council votes to adopt the proposed zoning change, it becomes a law on the date of the vote. If the City Council votes to reject the proposed zoning change, it does not become a law and, unless the zoning change has been substantially amended, it cannot be considered again until two years have passed.

Q: Can zoning say exactly what must happen in a certain area?

A: No, zoning can only give reasonable options, which should be in alignment with a community Master Plan, for what may happen in a certain area. Property owners still retain control of their private properties, and can sell or develop their property.

Q: After zoning is passed, can developers automatically build whatever is allowed per the new zoning?

A: No. Once zoning is passed, projects must still go through a public review process. For new mixed-use, multifamily, commercial, or industrial development, Site Plan Review is required. Site Plan Review applications must be submitted to the Planning Board, who will then schedule a public hearing to review proposed projects and allow the public to make comments and ask questions. The Site Plan Review process also requires projects to be reviewed by the Parking & Traffic Commission (P&TC) and the Design Review Board (DRB). The P&TC and the DRB make recommendations to the Planning Board, who will take those recommendations into consideration before making a decision.

For projects that are close to or within wetland resource areas (including the Bass River), Conservation Commission review and approval is also required. Depending on the location of a project, other state reviews may also apply, such as DEP (MA Department of Environmental Protection) review, Chapter 91 (waterfront access review), etc.

Q: What is transit-oriented development (TOD)?

A: Transit-oriented development (TOD) is growth that prioritizes putting housing, businesses and services, and recreational uses within walking distance of public transit. It encourages the creation or expansion of “live/work/play” areas where uses are focused around transit stations, reducing the need for cars and single-occupancy vehicles. Communities often prioritize transit-oriented development instead of more suburban development that destroys green open space and requires cars to allow residents to move from place to place.

BASS RIVER OVERLAY DISTRICT

GENERAL AND LOCATION

Q: What is currently allowed in the Bass River Area?

A: The Bass River Area is currently zoned IG (General Industrial). Among other uses, the zoning permits manufacturing, business and offices, contractors’ or craftsmen’s workshops, and maker space by right, with several other uses allowed by Special Permit. The maximum building height in the IG District is 60 feet. The full list of permitted uses and building and area requirements can be found in the Beverly Zoning Ordinance, [here](#).

Q: What does the Bass River Overlay District propose?

A: The Bass River Overlay District proposes the transit-oriented redevelopment of several parcels between the Downtown Depot and the Bass River, south of Innocenti Park and north of the National Grid sites. Neither the park nor the National Grid properties will be included in the

district. The goal is to create opportunities for mixed-use development that will open public access to the water and knit together the Bass River with downtown Beverly, while increasing critically needed housing in a walkable, transit-oriented area. The District will permit housing and commercial development in an area where such uses are not currently permitted, and will enhance opportunities to make the area more climate-resilient and engaging to the public.

Q: What is the history behind the Bass River Overlay District?

A: The goal to create zoning that would allow the redevelopment of the Bass River Overlay District area began in 2002, when the community identified the Bass River area as a priority for mixed-use redevelopment in its 2002 Master Plan. Due to the Great Recession and the prioritization of other Master Plan actions, several years passed before further action was taken. However, the area was again highlighted as an opportunity for transit-oriented development in MAPC's 2011 North Shore Priority Development and Priority Preservation Plan, and in 2013 planning efforts began with a District Vision and Action Plan funded by a grant from the Barr Foundation. The [Bass River District Vision and Action Plan](#) was completed in 2014, and envisioned an active, mixed-use neighborhood with improvements to the streetscape and connections to the water and downtown. The Bass River area was again emphasized in the City's 2014 Harbor Plan and 2017 Housing Plan as a priority area for much needed redevelopment and transit-oriented housing, and cited as a top priority in the 2020 Master Plan. The City is now tasked with carrying out the priority actions of the 2020 Master Plan, including the rezoning of the Bass River Overlay District.

Q: Why not just rezone the Bowl-O-Mat parcel?

A: Rezoning just the Bowl-O-Mat parcel would constitute spot zoning, which is illegal. Spot zoning occurs when just one parcel or a small area is singled out to allow more flexible development than the surrounding area, particularly when planning documents (such as master plans or area plans) call for either completely different zoning or the rezoning of a larger area. Because the City's Master Plan (and many other planning documents) call for the rezoning of a larger area, rezoning just one or two parcels is inappropriate.

Q: What happens if the zoning is approved and only one or two properties are redeveloped?

A: Redevelopment after zoning can often take several years. As with the development that has occurred on Rantoul Street, sometimes one property may be redeveloped, and then a few years will pass before other properties are redeveloped. The goal of rezoning the Bass River area is to affect a district-wide transformation. However, the zoning and Design Standards will also ensure that, if only one or two parcels are redeveloped initially, they will be attractive and viable sites in and of themselves.

DENSITY, USE, AND HOUSING

Q: What level of density – or how many residential units – will be allowed? How many residential units are currently in the city?

A: The maximum number of possible units has not yet been determined, as density will depend on the properties included in the district and will be regulated through dimensional requirements such as height, building footprint (how much area a single building can cover), setbacks, and required open space. The City is still considering how dimensional requirements will apply to the Bass River Overlay District, and is using the current process, including public engagement, to determine how best to apply these requirements. Additionally, parking must be provided onsite; therefore, the ability to provide parking will also limit density.

At the time of the 2020 Census, there were 17,887 residential units in Beverly.

Q: What will be the maximum height of the buildings?

A: The Bass River Overlay District would include multiple properties, and different properties may have different height requirements depending on their locations. Buildings may be permitted to be between three (3) and five (5) stories.

Q: What types of housing will be allowed?

A: The Bass River Overlay District zoning would allow multifamily housing. Although the City considered permitting townhouses, the ability to develop townhouses would be limited due to development costs and flood proofing and resilience needs. Multifamily housing is the only viable type of residential development for the Bass River Area.

Q: How much affordable housing will come from this rezoning?

A: It depends on what is proposed and developed if the Bass River Overlay District is approved. Although the District could allow a certain number of total housing units, the actual number of housing units may be smaller. Beverly's Inclusionary Housing Ordinance currently requires at least 12% of new units to be affordable. However, the City is considering increasing the percentage of units that must be affordable with new development.

Q: Can the City require whether the housing units will be rental (apartments) or ownership (condominium) units?

A: No, cities are not allowed to require housing units to be rental versus ownership units. The Zoning Enabling Act authorizes cities and towns to regulate uses through zoning. Residential is a "Use"; apartment or condo are not "Uses;" they are types of ownership. Whether a residential unit is ownership or rental has no bearing on how the property is used.

Q: Will commercial space be mandatory in each building?

A: Not necessarily, but we are trying to establish an appropriate amount. While the zoning is not final, one of the stated goals has been to allow flexible mixed-use, including commercial and

office space, at a level that is reasonable for the district and that will encourage public use of the area. We also recognize that we don't want to cause competition with or drain on our existing downtown commercial spaces. Commercial space is desired in the Bass River area, but the City is still considering how to address activated space in the district to ensure economic viability and resilience against climate impacts.

Q: Is elimination of the “payment-in-lieu of” onsite affordable housing being considered by the City, and what actions would that require?

A: No, the City has not discussed eliminating the “Fee in Lieu” for affordable housing payment. The Fee in Lieu only applies for ownership properties and cannot be used on rentals. This payment has been used twice in the City's history: at the subdivision at Pond View Lane and at Elliott Landing, the condos at the Cummings Center. While the Congress Street project paid a fee, it was a result of their approval in 2007 which pre-dated the Inclusionary Housing Ordinance. The City has heard that there is limited appetite for the “Off-site Credit” provision, which is different from the fee in lieu, and will propose removing that.

Q: Will there be requirements to include some 2-3 bedroom units, or is that left to a developer's discretion?

A: The City of Beverly's zoning has typically been silent on unit sizes (square feet or number of bedrooms). The City could evaluate the pros and cons of unit size requirements. In regards to housing, it is often best to let the market decide. There is a tension with larger units as they are perceived to create greater impacts on the school district and parking. Most of the downtown apartments that have been built recently have a small percentage of 2- or 3-bedroom units, with the majority of units as 1-bedrooms or studios.

Q: How will the Bass River Overlay District help our housing crisis?

A: The Bass River Overlay District is one of many strategies Beverly will need to help solve our housing crisis. Beverly's 2017 [Community Housing Plan](#) recognizes a crisis regarding all housing types, and identifies a need for both rental and ownership units, at all levels of affordability (although particularly deeply affordable units). The Housing Plan described adopting rezoning for the Bass River Area as a priority action to create more needed multifamily housing in mixed-use and transit-oriented areas. The Housing Plan notes that the size of households has decreased significantly since 1990, and anticipates the number of “child-free” or “child-delayed” households, from both young adults and empty nesters, to continue to increase. While the Bass River Overlay District alone will not solve Beverly's housing needs, it will fill a critical gap, particularly with regard to young adults and empty nesters.

- Fast facts about Beverly's population trends, demonstrating the need for additional housing:
 - We're gaining seniors (65+) and young adults (18 to 24 years of age). The Metropolitan Area Planning Council (MAPC) estimates that seniors will make up 22.8% of Beverly's population by 2030. In 2010 seniors made up 14.6% of the

population. Between 2000 and 2014, there was a 46% increase in the number of residents aged 18 to 24, mainly due to increasing college enrollments.

- We're trending toward smaller households. The average household size decreased from 2.48 to 2.35 persons between 1990 and 2014.
- We are gaining households at a much higher rate than population growth. MAPC estimates that the number of households will increase by another 12.4% between 2010 and 2030, more than double the projected 5.8% population increase.
- Beverly has seen significantly less development in the last 30 years. Between 1960 and 1990, 4,814 housing units were built in Beverly. Between 1990 and 2020, 1,927 housing units were built.

SCHOOLS AND FACILITIES

Q: What school will these children be going to?

A: According to our school districting, elementary school-aged children will attend **Cove Elementary**. Middle school-aged students will attend Beverly Middle School, and high school-aged students will attend Beverly High School.

Q: How will the proposed zoning impact our schools and their capacity levels?

A: Of the nine (9) multi-family residential projects opened in Downtown Beverly since 2017 (nearly 450 units total), there are twelve (12) students currently enrolled in the Beverly Public School District (Pre-K through Grade 12). Therefore, the ratio of students living in newly constructed TOD-style multi-family development is approximately 1 student for every 33 units (or 0.03 students per unit). This is similar to data analysis we conducted in 2017.

OPEN SPACE, RESILIENCY, AND ENVIRONMENTAL

Q: Will the developers be required to provide public open space?

A: We can include in the zoning a provision that a minimum percentage of the area of any parcel would be redeveloped as open space. We also anticipate that the proposed zoning will require an open space buffer area on the Bass River (which may be counted toward that site percentage) that will be at least 50 feet wide to support resiliency needs. This rezoning will facilitate a significant amount of new, publicly accessible open space adjacent to the Bass River. While the space may not be considered a public park, the City expects it to be publically accessible and welcoming.

Q: Will development be tied into existing recreational spaces like Innocenti Park and the McPherson Youth Center?

A: There would be a goal of at least connecting open spaces. One of the primary objectives of this rezoning is to allow for the increase in open space and public access to the waterfront. In the event of redevelopment of any of these parcels, publicly accessible open space will be required because of the state's Chapter 91 regulations (Waterways). The City hopes to encourage and require a high quality public space rather than the bare minimum. We can use the Design Standards and Design Guidelines to proscribe community values and preferences, including connectivity between open spaces. However, applications would have to be reviewed individually.

Q: What is Chapter 91, the Massachusetts Public Waterfront Act?

A: Chapter 91 regulates activities on both coastal and inland waterways, including construction, dredging and filling in tidelands, great ponds and certain rivers and streams. Through Chapter 91, the Commonwealth seeks to preserve and protect the rights of the public, and to guarantee that private uses of tidelands and waterways serve a proper public purpose.

Additional information on Chapter 91 can be found at

<https://www.google.com/url?q=https://www.mass.gov/guides/chapter-91-the-massachusetts-public-waterfront-act&sa=D&source=docs&ust=1649712557723468&usg=AOvVaw2WnbifaEEvol-sKhz9FiC5>

Q: Beverly has no public boat ramp for larger boats that functions at all tides. Will the City create more public boating and recreational access to water that people expect in a coastal community?

A: All the land in the proposed Bass River Overlay District, including the existing boat ramp, is private, including the existing boat ramp that is informally used by the public. The City conducted an extensive Harbor and Waterfront planning process in 2019; that plan is available on the Planning Department website. Creating new boat ramps for larger craft was not identified as a recommendation in that plan. However, the plan did suggest looking at some existing ramps to improve functionality, and identifying some new access areas particularly for smaller craft and pedestrian access to the waterfront. There are more recommendations related to creating additional slips and mooring access. A boat ramp, marina, or other similar water-dependent use would be allowed under the underlying or overlay zoning. Though this would be privately-owned, public access would be required pursuant to Chapter 91 regulations.

Q: Will green building standards be required in Design Standards going forward, whether new construction or renovating/repurposing existing buildings?

A: The proposed overlay district would include a Resiliency Checklist that developers would be required to complete with Site Plan Review applications. The Checklist would demonstrate what the City wants to see addressed in new development and would require information on green

building standards that will be used, as well as information regarding how developers will ensure their buildings and sites are resilient to climate impacts such as storm events.

The City is continuing to explore what can be required as a part of zoning and what will be required as part of the anticipated new State Building Code. Local governments are allowed to implement Zoning Laws by Chapter 40A, called the Zoning Enabling Act. Pursuant to the Enabling Act, no zoning ordinance or by-law shall regulate or restrict the use of materials, or methods of construction of structures regulated by the state building code. Therefore, the City cannot require green building practices through zoning.

The State is currently developing a net-zero Building Code that municipalities may choose to adopt as a "specialized stretch" code. Adopting this code would require new buildings and major renovations to have additional green standards and a net-zero emissions impact. The City of Beverly expects to adopt this Building Code when it is completed in late 2022/early 2023. Beverly is one of the 299 municipalities that has already adopted the stretch building code that enabled us to be designated a Green Community by the state. This stretch code will be updated on the same timeline as the net zero code and will automatically apply to Beverly. The proposed code requires significantly improved building performance for residential and commercial buildings.

Q: Will the new zoning and residential density exacerbate existing conditions like heat island effect and stormwater runoff and flooding?

A: No, it will actually help mitigate these impacts! The City's Master Plan prioritizes redevelopment in areas that are already developed, rather than in areas where tree removal would be required. This is an environmentally friendly development policy. The Bass River area specifically is already entirely paved and built up. Heat island impacts occur where there are extensive impervious surfaces (such as parking lots, roads, or buildings) without green space, trees, and landscaping. New development is expected to improve this condition, by adding natural and open areas, requiring tree planting, etc. In fact, as new development would require open space, street trees, additional landscaping, and consideration of green building requirements (such as roof-top renewables or green roof practices), new development in this location would mitigate the heat island effect.

Stormwater must be addressed on-site by new development under existing federal, state, and local regulation. The Engineering Department reviews all projects for stormwater management. Due to the strict requirements the state and Engineering Department employ, new development in this location would improve stormwater management.

We expect that any future developers or existing property owners will need to propose measures to protect their own property from future flooding. For the City, the Climate Action Planning process has identified the need to establish a strong plan for resiliency along the banks and we are working on that as well. We expect this to include necessary infrastructure work in the 50+ foot buffer area we have discussed.

Q: How are coastal resiliency, future storm surge, and sea level rise being addressed?

A: The City is continuing to use the most up-to-date climate data (including, but not limited to, 2070 projections for sea level rise) to develop a Climate Resiliency Checklist, which we anticipate incorporating into the zoning as part of the application process to ensure that new development will address and prepare for climate impacts. Not only will an open space buffer area be required adjacent to the River (which will double as public open space and a mix of green infrastructure and hardscape to manage storm events), but buildings will be required to be resilient as well, with floodable ground-floor uses where flood impacts are expected long-term.

Q: Of all of these properties, how many are contaminated? How will contamination be addressed?

A: A few properties in the area have known contamination, including 2 Margin Street (the Beverly Car Wash) and 44 River Street (National Grid). Under state law developers would be required to address and correct contamination prior to approval of any redevelopment proposal. Contamination may be addressed and corrected by removal or capping, or some combination, depending on state requirements.

Q: Will developers be required to improve or install new seawalls to improve resilience?

A: The improvement or installation of seawalls would need to be reviewed and permitted on a case-by-case basis, both by the Beverly Conservation Commission and the state. Review by both entities will be required for any project that is proposed within 200 feet of the river or within the floodplain, which is known as "Land Subject to Coastal Storm Flowage" in this area. Developers could consider improvement or installation of seawalls or other coastal engineering structures based on site evaluation and the Beverly Conservation Commission and state would ensure compliance with environmental regulations.

Q: Because of the proximity to the river and potential impacts of high tides and flooding, would developers be allowed to use fill to raise the sites or increase buildable area?

A: Developers may be permitted to use fill to raise respective sites and improve site resilience to flooding and storm events. However, using fill on these sites would require environmental review by the state and the Beverly Conservation Commission. Fill would not be used to increase buildable area; it would only be used to make existing buildable areas more resilient to flooding and storm impacts. Under the state environmental regulations, a project that is proposed within 200 feet of the river or within the floodplain must meet certain performance standards.