



## **Boston-Worcester-Lawrence-Lowell-Brockton, MA-NH NECMA**

*Regulatory Order/Family:* Traditional/Exclusion with Restriction (Massachusetts portion)  
Traditional/Extreme Exclusion (New Hampshire portion)

### *Summary*

As Metropolitan Boston spreads out into rural and exurban towns, its new growth is occurring predominantly in areas with a history of low-density zoning. In the past, most cities have accommodated high-density housing, and some have pioneered very progressive affordable housing policies as well. This legacy, however, does not hold true of the region's towns, most of which limit or bar high-density development. Nearly three-fifths of the land area is taken up by jurisdictions whose zoning by-laws or ordinances would bar the construction of a moderate-density apartment development anywhere in their boundaries.

Growth management is weak in the region, with modest adoption of infrastructure-related measures in the cities and very little use of such measures in the towns. To the extent that cities use fees and APFOs while towns do not, cities may potentially become relatively unattractive to residential developers. This only fuels growth into towns where it can occur on established country roadways, using septic systems and wells that require little or no public capital investment but which require the continuation of low density. This legacy has recently been reinforced in some towns and even a few cities by the imposition of annual caps on building permit issuance: metropolitan Boston ranks third behind Denver and Las Vegas in the use of such measures. The mixture of local land use regulations is considered a primary factor in that region's affordable housing crisis.<sup>1</sup>

### *Governance Framework and Growth Trends*

#### The Boston-

Worcester-Lawrence-Lowell-Brockton NECMA comprises 35 cities and 192 towns in Massachusetts and another 6 cities and 75 towns in New Hampshire. Its population of just over 6 million in 2000 was up only 5.5 percent (370,000) in the 1990s and 14 percent (720,000) between 1980 and 2000. Massachusetts accounts for 5.3 million residents, New Hampshire for 770,000. With 590,000 residents, Boston is the largest city in the region with the cities of Worcester, Manchester (NH), Lowell, and Cambridge also exceeding 100,000 residents. Twelve other cities and four towns have over 50,000 residents. Small jurisdictions dominate the landscape, with 143 towns under 10,000 accounting for 48 percent of the metropolitan land area but only 12 percent of its population; another 120 middle-sized (10,000–50,000) towns and 22 cities complete the jurisdictional setting. Together, jurisdictions under 50,000 residents occupy over 90 percent of the NECMA's land area and account for 61 percent of its 2000 population.

Metropolitan Boston sprawled dramatically between 1982 and 1997, adding nearly 50 percent to its urbanized land base—435,000 new acres—while its population grew by only 10 percent. Its density declined from 6.0 persons to 4.4 persons per urban acre, causing a drop in its density rank from 10th

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<sup>1</sup> Charles C. Euchner and Elizabeth G. Frieze, "Getting Home: Overcoming Barriers to Housing in Greater Boston" (Boston: Pioneer Institute for Public Policy Research, 2003.)



to 14th densest among the 50 largest metropolitan areas. The federal government owns very little land in the region, but a combination of state and local ownership add up so that only about 88 percent of the land is privately owned. Scattered wetlands pose a significant constraint to development on much of the privately owned undeveloped land. Furthermore, the low-density development pattern of suburban and exurban areas has been carried out on septic systems and wells, leaving many of the region's residents dependent upon groundwater that is threatened by dense development.

### *Regulatory Environment*

We received responses from 26 cities and 96 towns, accounting for 55 percent of the population and 40 percent of the land area. Towns under 10,000 were sampled to allow more appropriate estimation of land use regulations in the smallest jurisdictions.

All the jurisdictions in the NECMA have zoning, according to our estimates.<sup>2</sup> About seven (20 percent) of the 35 cities in Massachusetts and one or two of the six in New Hampshire have low-density-only zoning. Half the Massachusetts cities and three or four of the New Hampshire cities have zoning categories that allow over 15 dwellings per acre. Eighteen percent of the Massachusetts cities and two or three (estimated 43 percent) of the New Hampshire cities would bar our hypothetical apartment development. Hence even metropolitan Boston's cities—which account for a fairly small share of the land area—are selective about accommodating high-density housing. In the towns, low-density and exclusionary zoning predominates. About 72 percent of the towns on the Massachusetts side, and 53 percent would not permit our hypothetical apartment development. New Hampshire's towns are even more restrictive; 89 percent have low-density-only zoning, and 82 percent would not permit the prototype apartments. Adding it all up, jurisdictions with low-density-only zoning account for 40 percent of the residents and 70 percent of the land area, and those that would bar apartments account for 31 percent of the population and 57 percent of the land area.

Comprehensive planning is anemic in the Massachusetts jurisdictions, in part because state law places the zoning ordinance above the plan in the case of conflicts between the two. Only about three quarters of the cities and towns in Massachusetts reported having a comprehensive plan, whereas all the New Hampshire jurisdictions have plans.

Local growth management and growth control measures are common but not the rule in the region. About a quarter of the cities in Massachusetts and four of the six New Hampshire cities use impact fees, and three of the New Hampshire cities have APFOs. Infrastructure measures are much less common in the towns; only 10 percent of the Massachusetts towns and a third of those in New Hampshire use fees, and APFOs are practically unknown in the towns. About 10 percent of the Massachusetts cities and two New Hampshire cities are estimated to have a containment system of some kind, though the respondents to these questions may simply be reflecting their cities' inability to annex into neighboring jurisdictions. Five percent and 10 percent of the towns in Massachusetts and New Hampshire respectively have containment programs of some kind. About 20 percent of the

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<sup>2</sup> Quincy reported not having a zoning ordinance, but an Internet search indicated that Quincy does have a Zoning Board. This suggests that the city's response may have been a consequence of the survey's wording ("does your jurisdiction have a zoning ordinance?"), since Massachusetts law provides for local by-laws and not ordinances.



cities in each state have a building permit cap, as do 23 percent and 14 percent of the towns in Massachusetts and New Hampshire, respectively. This rate of permit cap adoption ranks metropolitan Boston third, behind only Denver and Las Vegas.

Over 60 percent of the cities in the metro area (equally in Massachusetts and New Hampshire) use incentive measures to promote affordable housing. About half of Massachusetts towns, but only 15 percent of New Hampshire towns, have an affordable housing incentive program.