

Summary of Draft Guidelines for MBTA Communities

Prepared by Citizens' Housing and Planning Association

The zoning reforms Governor Baker enacted as a part of the [Economic Development Bill](#) in January 2021 year created a requirement that MBTA communities have at least one zoning district of reasonable size in which multi-family housing is permitted as of right and meets other criteria, including:

- Minimum gross density of 15 units per acre
- No age restrictions
- Suitable for families with children
- Not more than 1/2 mile from a commuter rail station, subway station, ferry terminal or bus station, if applicable

On December 15, 2021, the Department of Housing and Community Development (DHCD) issued [draft guidelines to implement and comply with this new requirement for MBTA communities](#).

Below is a summary of the draft guidelines, as interpreted by CHAPA. As we learn more from DHCD about the guidelines, this document will be updated. Please visit the DHCD's webpage on the draft guidelines for more detailed information.

Permitting Multifamily Housing as of Right

To comply with the law's requirement that the new zoning districts allow multifamily housing "as of right," the draft guidelines prohibit the zoning from requiring any discretionary permit or approval to construct or occupy that housing.

The draft guidelines allow site plan review so long as this review is not used to deny a project allowed as of right or to impose conditions making a proposed project infeasible or impractical.

Definition of Multifamily Housing

The draft guidelines define "multifamily housing" as a building with:

- Three or more residential units; or
- Two or more buildings on the same lot with more than one residential unit in each building.

Determining "Reasonable Size"

To determine what is a "reasonable size" for a district, DHCD will take into consideration both the area of the district and the district's multifamily unit capacity. The draft guidelines require a district to:

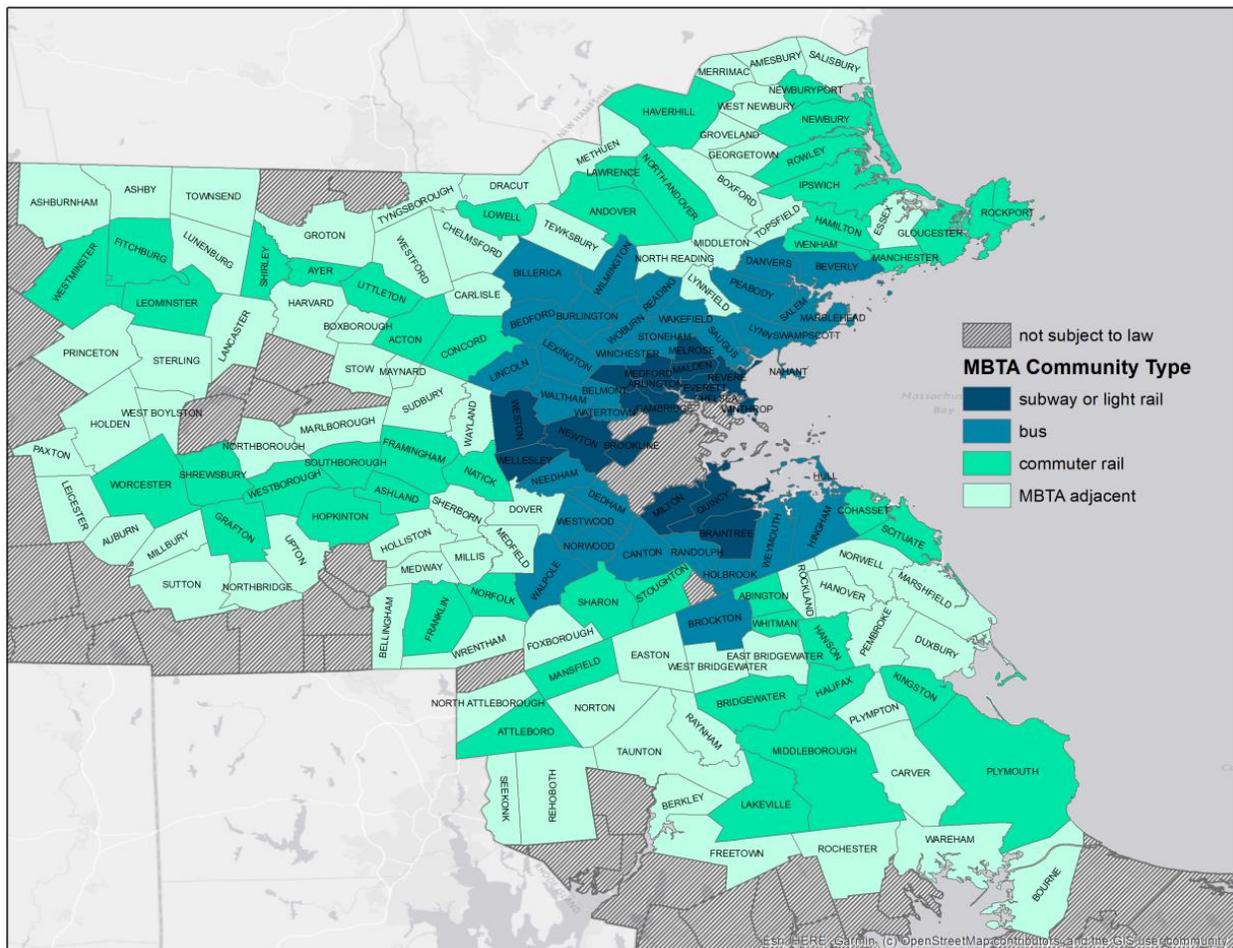
- Be at least 50 contiguous acres; and
- Have a unit capacity to meet or exceed certain unit requirements based on the municipality's assigned category of MBTA community.

The draft guidelines allow an overlay district to achieve compliance with this requirement, so long as the overlay is not a collection of small, non-contiguous parcels and at least one portion of the overlay is at least 25 contiguous acres.

Categories of MBTA Communities

The draft guidelines separate the 175 MBTA communities into four categories based on the level of public-transit service in that city or town:

| Type of Community | Definition |
|-------------------------|---|
| Rapid Transit Community | Community with a subway station within its border or within a 1/2 mile of its border even if there is one or more commuter rail stations or MBTA bus lines in that community |
| Bus Service Community | Community with a bus station or MBTA bus stop within its border or within 1/2 mile of its border AND no subway station or commuter rail station in or within 1/2 mile of its border |
| Commuter Rail Community | Community with a commuter rail station within its border or within a 1/2 mile of its border AND no subway station in or within a 1/2 mile of its border |
| Adjacent Community | Community with no transit station within its border or within 1/2 mile of its border |



Zoning Capacity Requirements for Multifamily Districts

The draft guidelines set specific unit counts for a district's multifamily zoning capacity—or the number of units of multifamily housing that can be developed as of right within the district.

A community's unit count is calculated based on its category of transit service, with a greater obligation for communities with higher levels of transit service.

| Type of Community | Minimum multifamily units as % of total housing stock requirement |
|-------------------------|---|
| Rapid Transit Community | 25% |
| Bus Service Community | 20% |
| Commuter Rail Community | 15% |
| Adjacent Community | 10% |

The draft guidelines assign a unit capacity of 750 to MBTA communities that would otherwise have a capacity lower than 750 units based on the percentage of total housing in that community.

See this [chart for multifamily unit capacity for each MBTA community](#).

The zoning district should take into consideration the amount of developable land and other limitations and requirements of state and municipal zoning ordinances or bylaws, wastewater infrastructure, the state environmental code, and other known limitations. The guidelines direct communities to adjust the zoning districts accordingly to achieve the set zoning capacity, which may include changes to a district's boundaries or applicable dimensional requirements.

The draft guidelines note that the multifamily zoning capacity is not a mandate or requirement to build any specified number of housing units.

Examples of each category of community:

| Type of Community | Community | Multifamily % Required | Total Housing Stock | District's Required Zoning Capacity |
|--------------------------|------------------|-------------------------------|----------------------------|--|
| Rapid Transit Community | Wellesley | 25% | 9,282 | 2,321 |
| Bus Service Community | Swampscott | 20% | 6,326 | 1,272 |
| Commuter Rail Community | Natick | 15% | 15,680 | 2,352 |
| Adjacent Community | Easton | 10% | 9,132 | 913 |

15 Units Per Acre Minimum Density

The law requires that a multifamily district have a minimum gross density of 15 units per acre. To comply with this requirement, the draft guidelines clarify that the zoning legally and practically allows for a district-wide gross density of 15 units per acre.

The draft guidelines allow MBTA communities to establish sub-districts with different density requirements within the multifamily districts, provided that the gross density for the district as a whole is not less than 15 units per acre.

Housing Suitable for Families with Children

In order to comply with the law, the draft guidelines prohibit zoning districts from being age-restricted to those 55+. The zoning must also be suitable for families with children. To achieve this, the draft guidelines prohibit any legal restrictions on the:

- The number of bedrooms
- Size of bedrooms
- Number of occupants

Location of Districts

The law requires districts to be within 1/2 miles of a transit station, if applicable. The draft guideline allows the distance to be measured from the boundary of any parcel of land of that transit station, such as an access roadway or parking lot.

For communities with some land within a 1/2 mile of a station, the draft guidelines require that a substantial portion—or at least half—of the multifamily district be located within that distance.

For communities with no land within a 1/2 mile of a station, the multifamily district should, if feasible, be located in an area with reasonable access to a transit station or in an area near an existing downtown or village center.

Compliance of a Community with the MBTA Multifamily Requirement

DHCD will make determinations of compliance upon request from an MBTA community.

Full Compliance: An MBTA community may receive a determination of full compliance when a multifamily district meets all the requirements of the law. For communities seeking a determination of full compliance, a community must provide DHCD with certain information on the multifamily zoning district that the community has already enacted or amended.

Interim Compliance: A community may receive a determination of interim compliance for a limited amount of time to allow the community to plan for and pass a multifamily district to achieve full compliance.

For communities seeking a determination of interim compliance, a community must take certain affirmative steps towards creating a compliant multifamily zoning district. These steps include sending certain notice to DHCD, creating an action plan, implementing the action plan, and adopting a zoning amendment.

The draft guidelines set forth the process and required information for MBTA communities to submit to DHCD in order to request determinations of compliance.

Timeframe for Compliance Submissions

To remain in interim compliance in 2022, sets deadlines for certain steps for MBTA communities.

By May 2, 2022, a community must:

- Include a presentation on the draft guidelines at a meeting of the Select Board, City Council, or Town Council;
- Complete and submit a [Community Information Form](#); and
- Submit updated parcel maps to DHCD.

By December 31, 2022, a community must either:

- Submit a request for a determination of full compliance; or
- Notify DHCD that there is no existing/compliant multifamily zoning district and submit a proposed action plan by certain deadlines.

Deadlines to submit action plans and adopt zoning changes differ based on the category of MBTA community:

| Type of Community | Action Plan Approval Deadline | Multifamily Zoning District Adoption Deadline |
|--------------------------|--------------------------------------|--|
| Rapid Transit Community | March 1, 2023 | December 31, 2023 |
| Bus Service Community | March 1, 2023 | December 31, 2023 |
| Commuter Rail Community | July 1, 2023 | December 31, 2024 |
| Adjacent Community | July 1, 2023 | December 31, 2024 |

A community must submit a request for determination of compliance to DHCD within 90 days of adopting the zoning amendment.

A determination of full compliance shall be valid for 10 years and can be renewed upon approval by DHCD.

Effect of Non-Compliance

Failure to comply with the multifamily zoning requirements would make a community ineligible for funds from:

- Housing Choice Grants;
- Local Capital Fund Projects; and
- MassWorks Infrastructure Program

DHCD may, in its discretion, take non-compliance into consideration when making other discretionary grant awards.

Public Comment Period

The public comment period to solicit feedback on the draft guidelines is open until **March 31st, 2022**. [Submit Written Comments](#).

Informational Webinar

DHCD will host a virtual webinar on the draft guidance on **January 12, 2022 at 1 PM** Via Zoom. [Register here](#).

Technical Assistance

Massachusetts Housing Partnership will be providing [technical assistance](#) to communities as they work to comply with the MBTA multifamily zoning requirements.