

Final Compliance Guidelines for MBTA Communities

Updated August 15, 2022



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Overview of Changes from Draft Guidelines

REVISED COMMUNITY CATEGORIES

MBTA Communities are now categorized as rapid transit, commuter rail, adjacent, or adjacent small town. The “bus service” category has been eliminated.

SMALL & RURAL TOWNS WITH NO TRANSIT STATIONS

Final guidelines eliminate the minimum land area requirement & reduce the multi-family unit capacity requirement for communities with a population of less than 7,000 or less than 500 residents per square mile.

CHANGES TO REASONABLE SIZE CRITERIA

The guidelines establish “circuit breakers” that prevent multi-family unit capacity from exceeding 25% of a community’s existing housing stock, or the minimum land from exceeding 1.5% of its total developable land area.

Overview of Changes from Draft Guidelines

TAILORED DISTRICT LOCATION REQUIREMENTS

The portion of a multi-family district that must be located within 1/2 mile of a transit station now varies based on the developable station area in each community. Those with more developable station area must have more of their districts within 1/2 mile of a transit stations. Those with <100 developable acres within 1/2 mile of transit may choose any appropriate location.

MULTIFAMILY UNIT CAPACITY TOOL

To help communities calculate multifamily unit capacity, DHCD built a compliance model tool which will provide a GIS land map for each municipality & calculate a district's multi-family unit capacity & gross density based on inputs provided by each community.

MISC.

Final guidelines also include refinements and adjustments in other key areas, such as affordability, local site plan review, and other technical matters, including updated definitions.

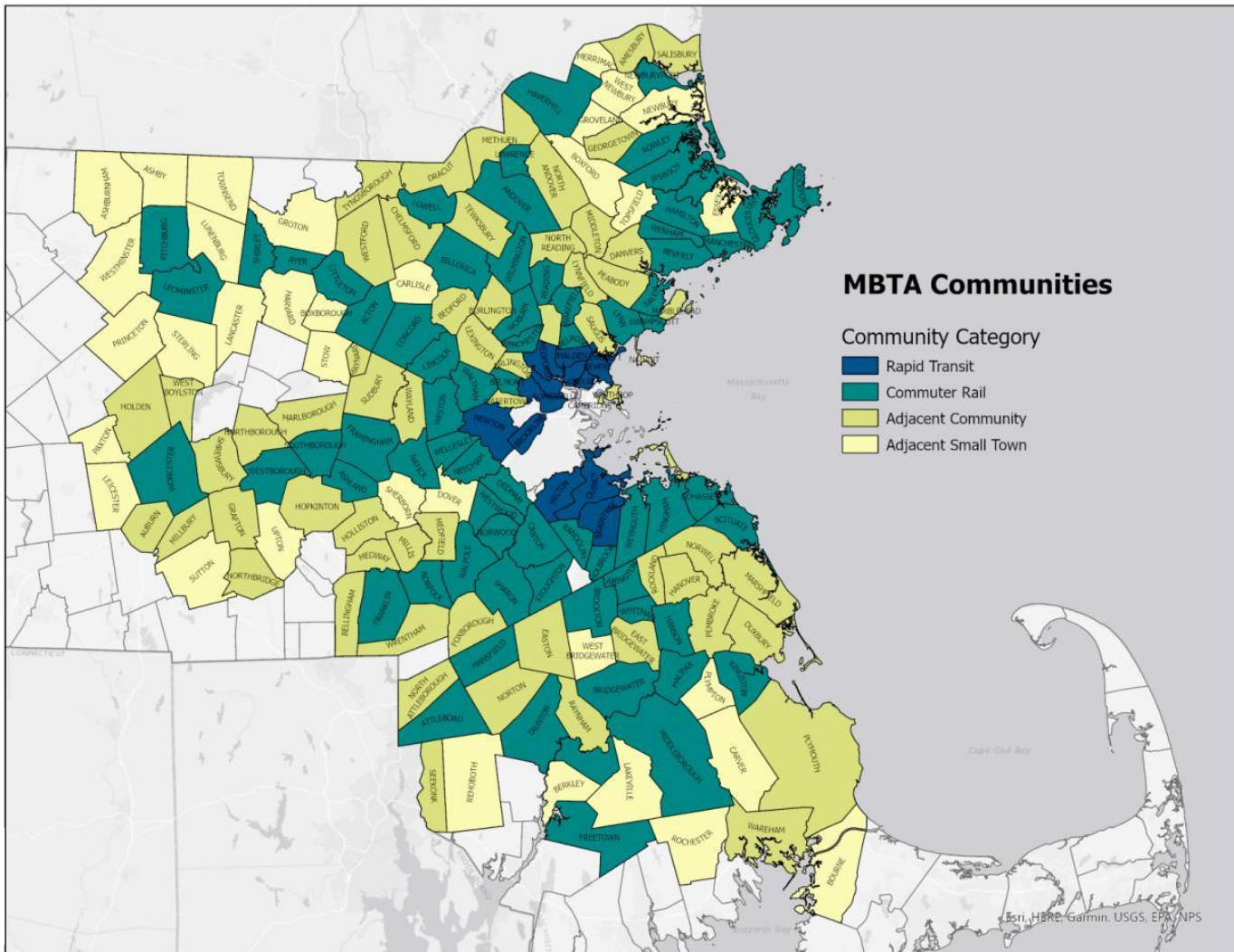
Statutory Requirements

M.G.L. CHAPTER 40A, SECTION 3A

- Zoning must allow multifamily housing “as of right”
- Zones must be of “reasonable size”
- Minimum gross density of 15 units per acre
- No age restrictions
- Suitable for families with children
- Not more than ½ mile from a commuter rail station, subway station, ferry terminal or bus station, if applicable

Categories of MBTA Communities

Category	Definition
Rapid Transit Community	Community with at least 100 acres of developable station area associated with subway stations or Silver Line bus rapid transit stations
Commuter Rail Community	Community that (i) does not meet criteria for rapid transit community and (ii) has at least 100 acres of developable station area associated with commuter rail stations
Adjacent Community	Community with (i) less than 100 acres of developable station area and (ii) is not an adjacent small town
Adjacent Small Town	Community with (i) less than 100 acres of developable station area and (ii) either has a population density less than 500 persons per square mile or a population less than 7,000



Ben, HERE, Garmin, USGS, EPA, NPS



What does “as of right” mean?

MULTIFAMILY ALLOWED WITHOUT THE NEED FOR A SPECIAL PERMIT, VARIANCE, ZONING AMENDMENT, WAIVER, OR OTHER DISCRETIONARY APPROVAL

- **Site plan review** is allowed but should not unreasonably delay nor impose conditions that make it infeasible or impractical to proceed with a project otherwise allowed as of right
- Zoning may not impose requirements on multifamily housing that are not applicable to other uses. The following examples would be prohibited:
 - Requiring multifamily housing to meet higher energy efficiency standards
 - Requiring a third party certification not required for other uses in the district
 - Requiring that multifamily must be combined with commercial uses

“As of Right” & Affordability Requirements

- DHCD will consider an affordability requirement (i.e., inclusionary zoning) to be consistent with “as of right” zoning if:
 - i. Affordable units are eligible to be on the Subsidized Housing Inventory;
 - ii. The zoning requires not more than 10% of units to be affordable; and
 - iii. Income eligibility for the units is not less than 80% AMI
- The % of units required to be affordable may be **up to 20%** if:
 - i. The affordability requirement was in place before Section 3A was passed and the affordability requirement has not made multifamily housing production infeasible; or
 - ii. The multifamily zoning district requires DHCD review and approval as a smart growth district under Chapter 40R or another zoning incentive program

Determining Reasonable Size

DHCD WILL TAKE INTO CONSIDERATION BOTH THE **LAND AREA** AND THE **MULTIFAMILY UNIT CAPACITY** OF THE MULTIFAMILY ZONING DISTRICTS IN DETERMINING REASONABLE SIZE

[COMMUNITY CATEGORY DESIGNATIONS AND CAPACITY CALCULATIONS](#)

Determining Reasonable Size

MINIMUM LAND AREA

Category	Minimum Land Area
Rapid Transit Community	50 acres or 1.5% of the developable land in the community, <i>whichever is less</i>
Commuter Rail Community	
Adjacent Community	
Adjacent Small Town	No minimum land area but must meet applicable minimum multifamily unit capacity and minimum gross density requirements

Determining Reasonable Size

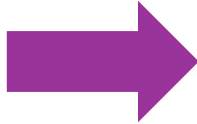
MINIMUM MULTIFAMILY UNIT CAPACITY

Category	% of Total Housing Units
Rapid Transit Community	25%
Commuter Rail Community	15%
Adjacent Community	10%
Adjacent Small Town	5%

Determining Reasonable Size

PROCESS FOR DETERMINING MINIMUM MULTIFAMILY UNIT CAPACITY FOR EACH MBTA COMMUNITY

STEP 1



[# of Total Housing Units in Community]
x
[Applicable % for MBTA Community Category]

STEP 2



When there is an applicable minimum land area:
[Minimum Land Area]
x
[Minimum Gross Density Requirement of 15 units/acre]

STEP 3



Use the greater of the numbers from steps 1 and 2. However, in no case does the minimum multifamily unit capacity exceed 25% of total housing units in the community

Location of Districts

DHCD WILL REQUIRE MORE OR LESS OF THE MULTIFAMILY ZONING DISTRICT TO BE LOCATED WITHIN TRANSIT STATION AREAS DEPENDING ON HOW MUCH TOTAL DEVELOPABLE STATION AREA IS IN THAT COMMUNITY

Total Developable Station Area within Community (acres)	Portion of Zoning District that Must Be Within a Transit Station Area
0-100	0%
101-250	20%
251-400	40%
401-600	50%
601-800	75%
801+	90%

A COMMUNITY WITH MORE THAN ONE TRANSIT STATION MAY LOCATE THE MULTIFAMILY ZONING DISTRICT IN ANY OF THE TRANSIT STATION AREAS

Location of Districts

WHEN AN MBTA COMMUNITY HAS **LESS THAN 100 ACRES** OF DEVELOPABLE STATION AREA, THE COMMUNITY MAY LOCATE THE MULTIFAMILY ZONING DISTRICT **ANYWHERE** WITHIN ITS BOUNDARIES

THESE MBTA COMMUNITIES ARE STILL ENCOURAGED TO LOCATE THE MULTIFAMILY ZONING DISTRICT IN AN AREA WITH REASONABLE ACCESS TO A TRANSIT STATION OR NEAR A DOWNTOWN OR VILLAGE CENTER, NEAR A BUS STOP OR LINE, OR IN A LOCATION WITH EXISTING UNDER-UTILIZED FACILITIES THAT CAN BE REDEVELOPED INTO NEW MULTIFAMILY HOUSING.

Suitability for Families with Children

- No age restrictions on units
- No legal restrictions on:
 - Size of units
 - Number of bedrooms
 - Size of bedroom
 - Number of occupants



Determinations of Compliance

- Failure to comply with the multifamily zoning requirements would make a community ineligible for funds from:
 - MassWorks Infrastructure Program
 - Housing Choice Grants
 - Local Capital Fund Projects
- Determinations of compliance may also inform funding decisions by EOHEd, DHCD, the MBTA, and other state agencies which consider local housing policies when evaluating applications for other discretionary grant programs

Determinations of Compliance

DHCD WILL RECOGNIZE BOTH **INTERIM COMPLIANCE** – WHEN A COMMUNITY IS TAKING ACTIVE STEPS TO ENACT A MULTIFAMILY ZONING DISTRICT – AND **DISTRICT COMPLIANCE** – ACHIEVED WHEN DHCD DETERMINES THAT A COMMUNITY HAS A COMPLIANT MULTIFAMILY ZONING DISTRICT

Community Category	Deadline to Submit Action Plan	Deadline to Submit District Compliance Application
Rapid Transit Community	January 31, 2023	December 31, 2023
Commuter Rail Community	January 31, 2023	December 31, 2024
Adjacent Community	January 31, 2023	December 31, 2024
Adjacent Small Town	January 31, 2023	December 31, 2025

Determinations of Compliance

DHCD will work to respond to inquiries about whether a proposed multifamily zoning district complies with all requirements before a vote by the community to create a district.

Inquiries should be submitted to DHCD at least **90 days** before the vote on the proposed district.

After DHCD receives a request for a determination of district compliance, DHCD will notify the community within 30 days if additional information is needed to process the request.

DHCD will issue a written determination and will include the reasons why a district may have failed to comply with all requirements.

Compliance Model

MBTA COMMUNITIES CAN USE DHCD'S MODEL TO CREATE A REASONABLE ESTIMATE OF **MULTIFAMILY UNIT CAPACITY** AND **GROSS DENSITY** OF EACH ZONING DISTRICT

1

Step One

Download the compliance model (an Excel workbook), instructions, and Land Database GIS file from DHCD's mass.gov website

2

Step Two

Each municipality will answer questions in a "Checklist" format answering questions and using information from the proposed zoning district (such as height, lot coverage, and other dimensional metrics).

3

Step Three

Using a GIS map provided by DHCD, the community will draw zoning district boundaries so that individual lot level data can be exported into the workbook.

4

Step Four

The compliance model's formulas then generate an estimate of: unit capacity on each lot in the district(s); unit capacity for the district(s) as a whole; total land area for the district(s) and resulting gross density. Municipalities then review the resulting lot level data for accuracy.

5

Step Five

Finally, the workbook results are compared to the requirements for the applying municipality as part of the district compliance determination process. The municipality submits the completed workbook as part of its application to DHCD when the results show a district and zoning is compliant with the requirements in Appendix 1.

Technical Assistance

- Technical Assistance is available from many sources, including the Community One Stop for Growth and from Energy and Environmental Affairs Land Use Grants
- Massachusetts Housing Partnership will also offer:
 - Early Action Technical Assistance Mini-Round
 - Technical Assistance for MBTA Communities
 - Online Workshop Series for MBTA Communities
- Regional Planning Agencies can also offer assistance and have District Local Technical Assistance available

For more information, visit:

www.mass.gov/mbtacommunities