

# **Section 3A Multifamily Zoning Mandate for MBTA Communities**

**Guidance and MAPC Assistance  
During Interim Compliance Period  
Spring 2022**

# Agenda

1. Review Section 3A of MGL Chapter 40A
2. Cover draft guidance key definitions
3. Answer FAQs
4. Share MAPC recommendations
5. Highlight next steps

# Statute

*Economic Development Bond Bill (Chapter 358 of the Acts of 2020)  
signed January 2021*

Amends Chapter 40A (the Zoning Act), Section 3A to require:

- All MBTA communities to adopt at least 1 zoning district of **reasonable size**
  - With a minimum gross density of **15 units per acre**
  - And located not more than **0.5 miles** from a commuter rail station, subway station, ferry terminal or bus station.
- Where **multi-family housing is permitted as of right**, without age restrictions and suitable for families with children.

# Key definitions in draft guidance

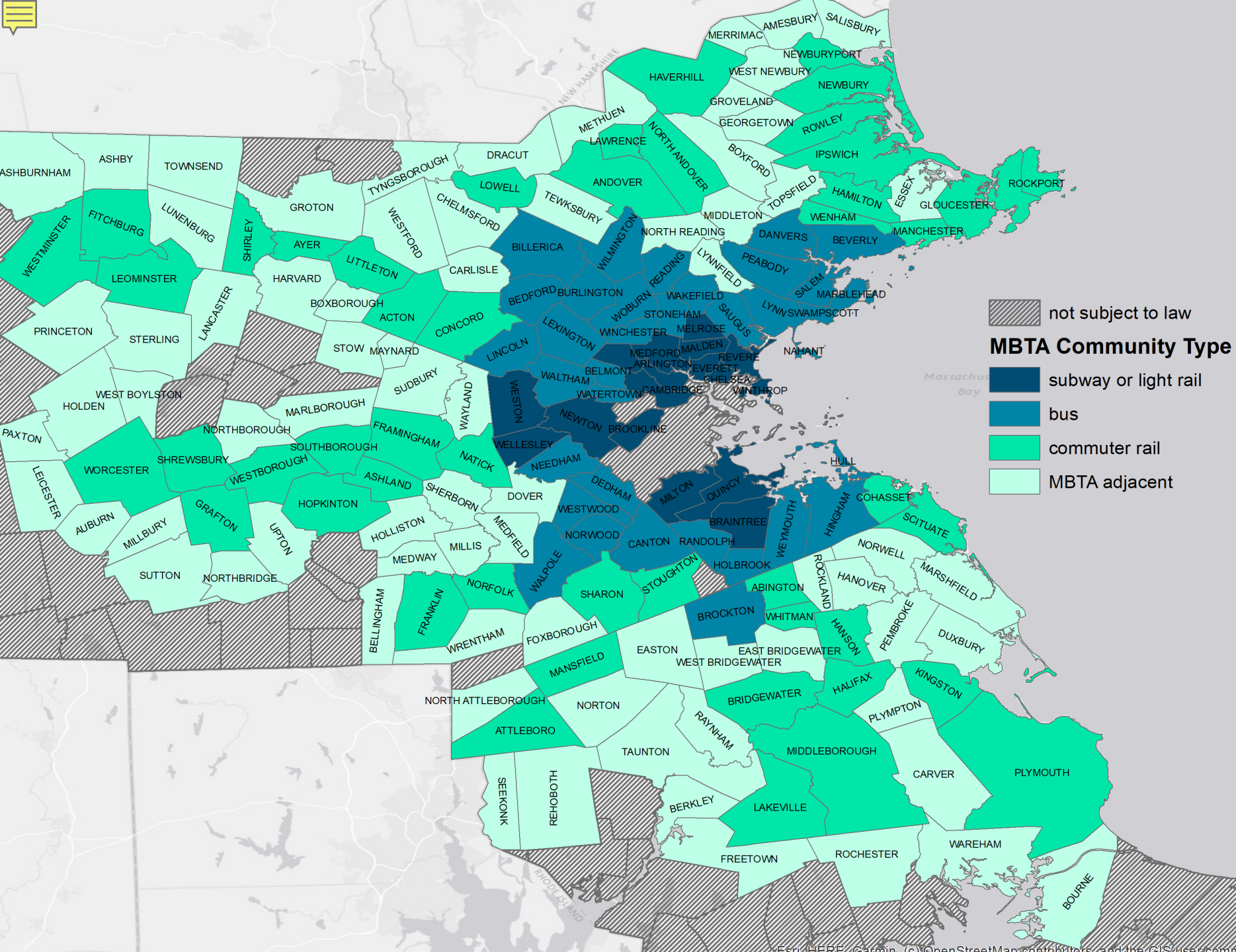
*Draft guidance issued December 15, 2021*






## Reasonable size :

- Minimum land area of **50 acres**
- **Gross density** of 15 units per acre

## Gross density:

- Measured district-wide; subdistricts with different densities are allowed
- Area calculation **includes public rights-of-way and land used by recreational, civic, commercial and other nonresidential uses**



 not subject to law  
**MBTA Community Type**  
 subway or light rail  
 bus  
 commuter rail  
 MBTA adjacent

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# Key definitions in draft guidance

Multifamily housing: a building with 3 + residential units or 2+ buildings on the same lot with more than 1 residential unit each

Minimum unit capacity:

- Percent of total housing stock,\* based on the type of transit service
- Minimum capacity ("floor") is 750 units (15 units x 50 acres)

| Transit Service | Multifamily housing capacity % of total housing stock |
|-----------------|---|
| Subway          | 25%   |
| Bus             | 20%   |
| Commuter Rail   | 15%   |
| Adjacent        | 10%   |

\* 2020 Census housing unit count

# Compliance

- Section 3A is a zoning **mandate**
- Failure to comply results in ineligibility for:
  - Housing Choice Initiative grants
  - MassWorks infrastructure program
  - Local Capital Projects fund
- Statute makes clear that the state can choose to increase funding constraints:

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

# FAQ answers



## Do existing units count towards capacity?

- The state cares about *whether the* zoning district complies with requirements, not what has been built there to date
- Localities can legalize multifamily areas that aren't currently allowed by zoning

## Where do we locate the districts?



- Communities with more than one transit station can choose 1 around which to locate zoning district
- At least ½ of the land in the district must be within ½ mile of transit
- In communities with no “developable land” within ½ mile of a transit station, the district should have “reasonable access” to a transit station

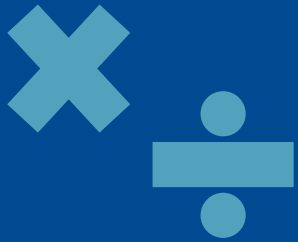


# FAQ answers



## What local control do we have over the zoning?

- Density can vary across the district
- Overlay districts are allowed
- Multifamily uses may be subject to site plan review and design review



## How do we calculate unit capacity?

- Gross density: inclusive of public rights of way and other **undevelopable land**
- Unit capacity: based on **developable land** - excludes land under water, wetlands, areas lacking adequate water or wastewater infrastructure or capacity, publicly owned land dedicated to existing public uses, or privately owned land encumbered by a use restriction that prohibits residential use.



# FAQ answers



## What do we know about the final guidance?

- To be issued soon after public comment period ends on March 31
- Statute requirements will remain the same:
  - 15 units / acre
  - District location
  - Multifamily housing by right

**Anticipate select key questions and concerns may be addressed**

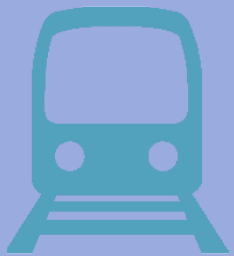


# MAPC key recommendations



## Equity

- Give extra weight to deed-restricted affordable housing when calculating unit capacity
- Facilitate family-size housing by requiring transparent assumptions about unit size and bedroom mix when calculating unit capacity



## Transit orientation

- Require more land area within ½ mile of transit station
- Allow unit capacity to be split between stations
- Reduce district area in rural communities to prevent sprawl



# MAPC key recommendations



## Minimum unit capacity

- Allow municipalities to gradually meet the minimum unit capacity through a phased approach
- Lower the minimum unit capacity



## Standardization

- Use open and standardized information about existing conditions to determine capacity, area, and transit proximity
- Publish a standard process for calculating unit capacity (like 2020 guidelines for the 40B General Minimum Land Area)

# Next steps for MBTA communities

- **By May 2:**
  - Hold a briefing for City Council, Town Council, or Select Board on the Draft Compliance Guidance
  - Submit the MBTA Community Information Form
- Consider applying for **Technical Assistance and funding** available through:
  - Massachusetts Housing Partnership (MHP)
  - FY23 Community One Stop
  - MBTA communities prioritized through
    - FY23 EOEEA Land Use Planning Grant program
    - Regional Planning Agencies - District Local Technical Assistance (DLTA)

*Information and links to all available technical assistance resources will be posted on the Housing Toolbox (<https://www.housingtoolbox.org/>)*

# Timeline for MBTA communities

- Summer 2022 ● *Anticipate final guidance will be published*
- December 31, 2022 ● **Every MBTA Community:** submit an Action Plan or Request for Compliance Determination to DHCD
- March 31, 2023 ● **Subway and Bus Communities:** DHCD determines plan approval / compliance
- July 31, 2023 ● **Rail or Adjacent Communities:** DHCD determines plan approval / compliance
- December 31, 2023 ● **Subway and Bus Communities:** adopt zoning amendment
- December 31, 2024 ● **Rail and Adjacent Communities:** adopt zoning amendment

# MAPC technical assistance



MAPC can help your community with Section 3A compliance and implementation!

We want to hear from you: Consider applying to our Technical Assistance Program. We're currently accepting proposals and make awards on a rolling basis.

# Resources

## MAPC resources:

<https://www.mapc.org/resource-library/mbta-multifamily-zoning/>

## State website:

<https://www.mass.gov/info-details/multi-family-zoning-requirement-for-mbta-communities>

## DHCD FAQ:

<https://www.mass.gov/info-details/mbta-communities-frequently-asked-questions>

## MHP resources:

<https://www.mhp.net/community/complete-neighborhoods-initiative>







# Thank You!

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# Opportunities with Section 3A



Advance housing choice and opportunity in the region and help meet housing need



Redress the racial inequity and disparate impacts of longstanding housing practices that have excluded people from many communities in the Commonwealth



Support our transit system by ensuring sufficient ridership



Advance climate goals by creating new housing in walkable neighborhoods closer to transit