



Town of Walpole
Commonwealth of Massachusetts
Office of Community & Economic Development

JAMES A. JOHNSON
Town Administrator

Patrick Deschenes
*Community & Economic
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Memo

To: Select Board

Jim Johnson, Town Administrator

From: Patrick Deschenes, Director of Community & Economic Development

Date: 1/10/2023

Subject: MBTA Zoning - Update

Since my last meeting with this Board regarding the Multi-Family Zoning Requirement for MBTA Communities, the Department of Housing and Community Development has issued final guidelines as of August 10, 2022. Changes reflected within the final guidelines include:

- **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. Walpole has been designated as a commuter rail community.
- **Significant Adjustments for Small and Rural Towns with No Transit Stations:** The final guidelines eliminate the minimum land area requirement and 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. This does not impact Walpole.
- **Changes to the 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. This does not impact Walpole.
- **Tailored District Location Requirements:** The portion of a multi-family zoning district that must be located within a half mile of a transit station now varies based on the amount of developable station area within each MBTA community. Communities with more developable station area land will be required to have more of their multi-family districts within a half mile of transit stations. A community with less than 100 developable acres within a half mile of a station will be free to choose any appropriate location.
- **Multi-family Unit Capacity Tool:** To help communities calculate multi-family unit capacity in a consistent, transparent, and data-driven way, we built a compliance model workbook tool. The compliance model will provide a GIS land map for each municipality

and calculate a zoning district's multi-family unit capacity and gross density based on inputs provided by each community. This tool was released on November 22, 2022.

- **Affordable Requirements:** There has also been slight changes to the provision of any affordable requirements with the MBTA Zoning. Any affordability requirement included within the zoning is optional. DHCD will consider an affordability requirement to be consistent with as of right zoning as long as the zoning requires not more than 10 percent of the units in a project to be affordable units, and the cap on the income of families or individuals who are eligible to occupy the affordable units is not less than 80 percent of area median income. DHCD further revised affordability language within the final guidelines to address certain situations where an affordability requirement will also be deemed in compliance with the law. Those revisions are:
 1. Modify the definition of “affordable unit” to eliminate the requirement that affordable units be eligible for listing on the Subsidized Housing Inventory. This modification gives communities the option to require a percentage of “workforce housing” units occupied by households earning more than 80% of area median income (AMI).
 2. Allow communities to set income limits for affordable units below 80% AMI, provided that a community demonstrates that a reasonable variety of multi-family housing types can be feasibly developed at the proposed affordability levels.
 3. Allow a community to require that more than 10% of the units in a project be affordable units (but not more than 20%), provided that the community demonstrates that a reasonable variety of multi-family housing types can be feasibly developed at the higher percentage. The demonstration of economic feasibility is now required for all inclusionary zoning requirements above the permitted 10% threshold, including those that pre-date the Guidelines.
 4. Create an exception to the 20% cap on affordable units. The new exception applies only to previously approved and adopted 40R “smart growth” zoning districts. A community may amend an existing 40R district to comply with the Guidelines and retain an existing 25% affordable unit requirement.

Next Steps:

- **Action Plan:** In order to receive interim compliance for the 2023 calendar year we must submit an Action Plan through DHCD's application portal no later than **January 31, 2023**. I have reviewed the application and am ready to submit before the deadline.
- **District Compliance Deadline:** Being that Walpole is a designated Commuter Rail community, our deadline to meet compliance is **December 31, 2024**.
- **Technical Assistance:** In November of 2022 I applied for Technical Assistance through MHP's MBTA Technical Assistance Program for assistance with identifying district boundaries, developing proposed use and density requirements, estimating potential unit capacity and gross density using DHCD's compliance Model, and drafting zoning amendments. On December 13, 2022 I was informed from that Walpole had received the grant and would be working with the Barrett Consulting Group as our designated

consultant. The timeline of this technical assistance grant is to be through June of 2023. I have met with the Barrett Consulting Group for an initial discussion on December 21, 2022 and I am working with them on finalize a scope of work.

MBTA Community Designation and Capacity Calculations

Community	Category	2020 Housing Units	Minimum multi-family unit capacity*	Minimum land area**	Developable Station Area***	Percentage of district to be located in Station Area
Walpole	Commuter Rail	10,042	1,506	50 Acres	638 Acres	75%

* Minimum multi-family unit capacity for most communities will be based on the 2020 housing stock and the applicable percentage for that municipality's community type. In some cases, the minimum unit capacity is derived from an extrapolation of the required minimum land area multiplied by the statutory minimum gross density of 15 dwelling units per acre. In cases where the required unit capacity from these two methods would exceed 25% of the community's housing stock, the required unit capacity has instead been capped at that 25% level.

** Minimum land area is 50 acres for all communities in the rapid transit, commuter rail and adjacent community types. There is no minimum land area requirement for adjacent small towns. Where 50 acres exceeds 1.5% of the developable land area in a town, a cap has been instituted that sets minimum land area to 1.5% of developable land area in the town.

*** Developable station area is derived by taking the area of a half-mile circle around an MBTA commuter rail station, rapid transit station, or ferry terminal and removing any areas comprised of excluded land.

For more information please visit: <https://www.mass.gov/info-details/multi-family-zoning-requirement-for-mbta-communities>