



Multi-Family Zoning Requirements for MBTA Communities

As Required by M.G.L c. 40A, Section 3A

Background

- As part of the Economic Development Bill from January 2021, Section 3A was added to M.G.L.c.40A (also known as the Zoning Act)
- This new section of Chapter 40A requires that all MBTA communities provide for at least 1 zoning district of reasonable size in which multi-family housing is permitted as of right, and meets the following criteria:
 - Minimum gross density of 15 units per acre;
 - Not more than ½ mile from a commuter rail station, subway station, ferry terminal or bus station, if applicable;
 - No age restrictions; and
 - Suitable for families with children.

Background (Cont.)

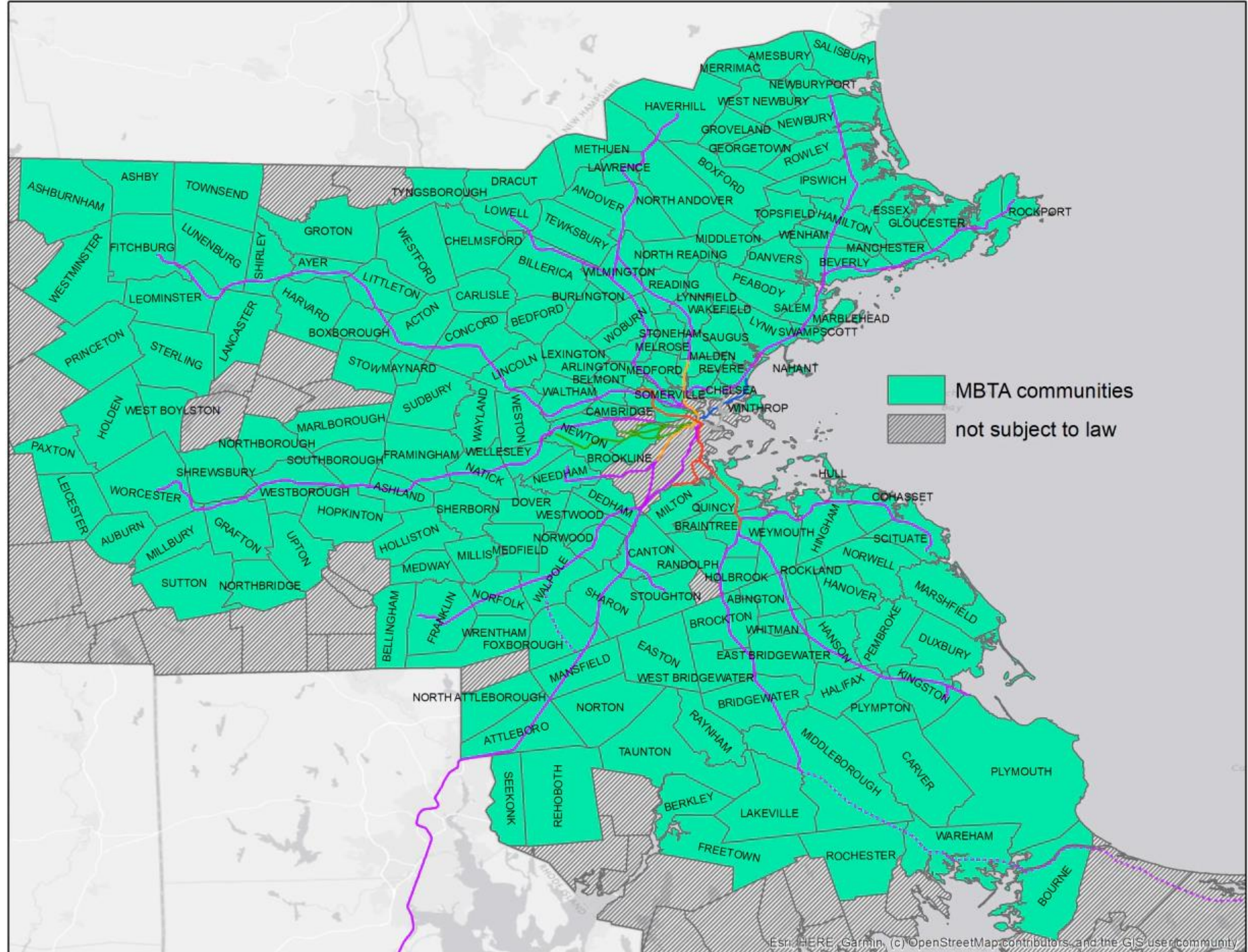
- M.G.L. c 40a. Section 3A also states the following:
 - Any MBTA community that fails to comply with this section shall not be eligible for funding from the Housing Choice Initiative, Local Capital Projects Fund, and the MassWorks infrastructure program.
 - The Executive Office of Housing and Economic Development, in consultation with the Massachusetts Bay Transportation Authority and the Massachusetts Department of Transportation, shall circulate **guidelines** to determine if an MBTA community is in compliance.

What is an MBTA Community

MBTA community” is defined by reference to M.G.L. c. 161A, sec. 1:

- one of the “14 cities and towns” that initially hosted MBTA service;
- one of the “51 cities and towns” that also host MBTA service but joined later;
- other “served communities” that abut a city or town that hosts MBTA service; or
- a municipality that has been added to the MBTA under G.L. c. 161A, sec. 6 or in accordance with any special law relative to the area constituting the authority.

In total, **175 MBTA communities** are subject to the new requirements of Section 3A of the Zoning Act.



The Guidelines

- On December 15, 2021 DHCD issued their initial draft guidelines with the intention of providing communities an opportunity to review and provide feedback until March 31, 2022.
- Final guidelines are to be determined by the summer of 2022
- Current draft guidelines can be found on the website for the Massachusetts Executive Office of Housing and Economic Development or by going to the following link: <https://www.mass.gov/info-details/multi-family-zoning-requirement-for-mbta-communities>
- **There is no requirement to construct a particular number of units, or any units at all. This new law requires multi-family by-right zoning, it is not a housing production mandate**

General Principles of Compliance

- Multi-family use as of right
- A zoning district of “reasonable size”
- Minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the State environmental code
- Minimum multi-family unit capacity (based on a municipality’s service type and 2020 housing stock)
- Housing shall be without age restrictions and shall be suitable for families with children
- Location(s) of a multifamily district

Multi-Family Housing “As of Right”

- The use should be allowed in the chosen district without the need to obtain a Special Permit.
- Site Plan Review is still required.
- Mixed-use is allowed so long as it is deemed to comply with the other provisions of Section 3A and its guidelines.

Determining “Reasonable Size”

- Zoning Districts must comprise at least **50 acres of land**
 - Figure is based on approximately one-tenth of the land area within 0.5 miles of a transit station
- Zoning Districts can be either an applicable existing zoning districts or a zoning overlay district
- Some municipalities may seek to establish an overlay zoning district in multiple locations (depending on infrastructure or location to public transit). However, at least one portion of the proposed district must include no less than 25 acres of contiguous parcels. No portion of the district that is less than 5 contiguous acres of land will count towards the minimum size requirement.

Minimum Gross Density

- The required minimum gross density required for all applicable communities is 15 dwelling units per acre, subject to any further limitations imposed by relevant aspects of state environmental code
- Gross density is defined as a density measurement that includes all land, including land occupied by public rights-of-way, recreational, civic, commercial and other nonresidential uses
- The minimum gross density requirement must also factor in a municipality's minimum multi-family unit capacity...

Minimum Multi-Family Unit Capacity

- This is the number of units that a municipality must show they can potentially build by-right within the zoning for the applicable zoning district
- This number varies based on municipality's designated service type and total dwelling units within the community (2020 Census figures)

Service Type/Category	Minimum % of Total Housing Stock	Number of Communities
Subway or light rail communities	25%	17
MBTA bus communities	20%	35
Commuter rail communities	15%	48
Adjacent communities (no MBTA transit service)	10%	75

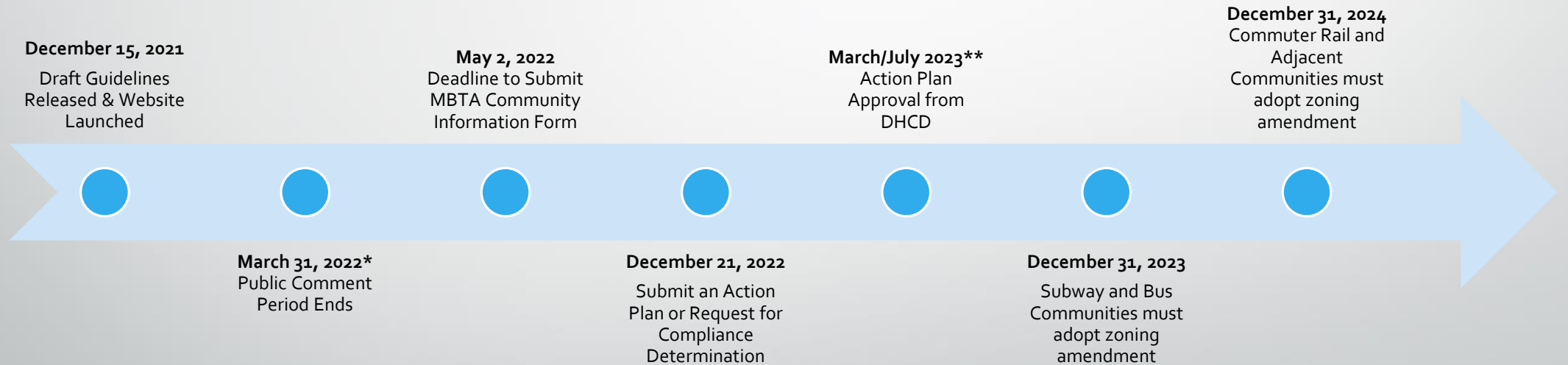
Housing suitable for families with children

- Proposed units should not have age restrictions
- Shall not place a limit on unit size, number of bedrooms, number of occupants, etc.

Location of Districts

- Shall be located **not more than 0.5 miles** from a commuter rail station, subway station, ferry terminal, or bus stations, if applicable
- MBTA Communities with some land area within 0.5 miles of a transit station
 - Require at least ½ of the land area of the multi-family zoning district to be located within the required distance, with exception only in unusual cases
- MBTA Communities with no land area within 0.5 miles of a transit station
 - The multi-family district should be located in an area with reasonable access to a transit station based on existing street patterns, pedestrian connections, and bicycle lanes, or in an area that otherwise is consistent with the Commonwealth's sustainable development principles (e.g., near an existing downtown, village center, or an area of concentrated development)

MBTA Compliance Timeline



*Final Guidelines will be issued in summer of 2022

**As outlined in the draft guidelines, subway communities and bus service communities must obtain DHCD approval of an action plan by no later than March 31, 2023. Commuter rail communities and adjacent communities must obtain DHCD approval of a timeline and action plan by no later than July 1, 2023.

What is next for Walpole?

- Submit Community Information Form to comply for 2022 (Due 5/2/22)
 - Complete the online information form verifying that the Town has discussed the draft guidelines
 - Hold a meeting with the Select Board discussing the Draft Compliance Guidance
- Seek Determination of Compliance for existing zoning (Due 12/31/22)
 - Will need to wait for guidelines to be finalized
 - Determination of compliance is handled on a case-by-case basis