

MBTA Community Multi-Family Housing



40 Grove Street Suite 190
Wellesley, MA 02482
www.miyares-harrington.com

General Laws Chapter 40A, Section 3A

(a)(1) An MBTA community shall have a zoning ordinance or by-law that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right; provided, however, that such multi-family housing shall be without age restrictions and shall be suitable for families with children. For the purposes of this section, a district of reasonable size shall:

(i) have a 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 established pursuant to section 13 of chapter 21A; and

(ii) be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.

General Laws Chapter 40A, Section 3A cont'd

(b) An MBTA community that fails to comply with this section shall not be eligible for funds from:

(i) the Housing Choice Initiative as described by the governor in a message to the general court dated December 11, 2017;

(ii) the Local Capital Projects Fund established in section 2EEEE of chapter 29; or

(iii) the MassWorks infrastructure program established in section 63 of chapter 23A.

(c) The department of housing and community development, in consultation with the Massachusetts Bay Transportation Authority and the Massachusetts Department of Transportation, shall promulgate guidelines to determine if an MBTA community is in compliance with this section.

WHAT IS REQUIRED?

- “As of right”, development that may proceed under a zoning ordinance or by-law without the need for a special permit, variance, zoning amendment, waiver or other discretionary zoning approval.
- “Multi-family housing”, a building with 3 or more residential dwelling units or 2 or more buildings on the same lot with more than 1 residential dwelling unit in each building.
- “Housing suitable for families” means housing comprised of residential dwelling units that are not age-restricted housing, and for which there are no legal restriction on the number of bedrooms, the size of bedrooms, or the number of occupants.

LOCATION OF MULTI-FAMILY ZONING DISTRICT

- “Adjacent community” means an MBTA community with no transit station within its border or within 0.5 mile of its border.
- When an MBTA community has no land area within 0.5 mile of a transit station, the multi-family district should, if feasible, 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—for example, near an existing downtown or village center, near an RTA bus stop or line, or in a location with existing under-utilized facilities that can be redeveloped into new multi-family housing.

SIZE OF MULTI-FAMILY ZONING DISTRICT

- “Reasonable size” means not less than 50 contiguous acres of land with a unit capacity equal to or greater than the unit capacity specified in section [the Guidelines]. **Contrary to the definition, at least 25 acres must be contiguous.**
- “Unit capacity” means an estimate of the total number of multi-family housing units that can be developed as of right within the multi-family district...
- Zoning District unit capacity for “adjacent communities” must at least equal 10% of community housing stock. **Must account for zoning, restrictions, wetlands etc. This could result in more than 50 acres required.**
- District-wide gross density of 15 units per acre. At least 750 units for a 50-acre district.

SUMMARY

G.L. c. 40A, §3A and the Draft Guidelines require the adoption of a zoning district with the following characteristics:

- At least 50 acres, minimum of 25 contiguous acres
- Multi-family, non-age restricted allowed as of right
- Minimum gross density of 15 units/acre = a least 750 units
- Also, unit capacity equal to at least 10% of housing stock—if less than 750, gross density requirement still applies
- Location with access to a transit station, downtown, village center etc. Increased flexibility for adjacent communities.

TIMELINE

- By May 2, 2022:
 - Presentation of Draft Guidelines to Select Board
 - Submit community information form
 - Submit updated MassGIS parcel maps if necessary
- By December 31, 2022:
 - Notify DHCD if no compliant district currently exists
 - Submit a proposed action plan for study, development, and adoption of multi-family zoning
- By July 1, 2023, adjacent communities must have an approved action plan
- By December 31, 2024, adjacent communities must adopt a compliant zoning district bylaw

FINAL GUIDELINES

- DHCD has received comments on the Draft Guidelines
- Commenters have highlighted the difficulty of compliance for adjacent communities and communities without public sewer, and the risk that some communities will forego grant funds rather than attempting to comply
- The Draft Guidelines are not final and may be revised

Q&A