

MBTA Communities Draft Multifamily Guidelines

A Discussion with the Boxborough Select Board & Planning Board
MARCH 14, 2022

Agenda

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4. Potential Questions and Comments for State and MAPC
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Background

- Economic Bond Bill (*House No. 5250, An Act Enabling Partnerships for Growth*) passed Mass Legislature in December 2020 and signed by Governor Baker in January 2021.
- Bill included a range of housing provisions including lowering threshold for Town Meeting vote for certain zoning provisions.
- Section 18 of the Bill reads addresses the requirement of MBTA communities to have an as-of-right multifamily zoning district of “reasonable size” with a minimum density of 15 units per acre. The language of the sections reads as follows:

1312 Section 3A. (a)(1) An MBTA community shall have a zoning ordinance or by-law that provides
1313 for at least 1 district of reasonable size in which multi-family housing is permitted as of right;
1314 provided, however, that such multi-family housing shall be without age restrictions and shall be
1315 suitable for families with children. For the purposes of this section, a district of reasonable size
1316 shall: (i) have a minimum gross density of 15 units per acre, subject to any further limitations
1317 imposed by section 40 of chapter 131 and title 5 of the state environmental code established
1318 pursuant to section 13 of chapter 21A; and (ii) be located not more than 0.5 miles from a
1319 commuter rail station, subway station, ferry terminal or bus station, if applicable.

1320 (b) An MBTA community that fails to comply with this section shall not be eligible for funds
1321 from: (i) the Housing Choice Initiative as described by the governor in a message to the general
1322 court dated December 11, 2017; (ii) the Local Capital Projects Fund established in section
1323 2EEEE of chapter 29; or (iii) the MassWorks infrastructure program established in section 63 of
1324 chapter 23A.

1325 (c) The department, in consultation with the Massachusetts Bay Transportation Authority and the
1326 Massachusetts Department of Transportation, shall promulgate guidelines to determine if an
1327 MBTA community is in compliance with this section.

Summary of Draft Guidelines

- Guidelines released on December 15, 2021
- Department of Housing and Community Development (DHCD) Webinar on January 12, 2022 providing information on Guidelines
- DHCD also provided a [web page](#) for the program which includes:
 - FAQ
 - Webinar Slides

Draft Guidelines Summary

1. Must establish a district of a “reasonable” size (at least 50 acres of land).
2. May have sub-districts with differing densities as long as the overall district meets the minimum requirement.
3. Must allow at least 15 units/acre (minimum gross density).
4. Must be without any age restrictions.
5. Must be legally and practically allowed.
6. Should be in areas that have safe and convenient access to transit by bicycles and pedestrians.

Draft Guidelines Summary

7. Must allow for at least 10% of units as share of total housing stock but also must allow at least 750 units (50 acres x 15 units/acre). The 750 unit minimum for Boxborough was confirmed. I expect that we can determine how lack of current water and sewer infrastructure might impact this number.
8. Communities must estimate the unit capacity for each district. The minimum required capacity must be attainable in the district(s). The state and Massachusetts Housing Partnership (MHP) will be developing tools that communities can use to make these calculations on a per lot basis.

Draft Guidelines Summary

9. When an MBTA community has no land area within 0.5 mile of a transit station (Boxborough), 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.
10. DHCD must make a "Determination of Compliance" for each applicable community, which may be interim, allowing Boxborough to establish the requisite bylaws and mapped area(s).
11. Interim compliance requires:
 - a. Creation of an Action Plan
 - b. Implementation of Action Plan
 - c. Adoption of Zoning Amendment
 - d. Request Determination of Full Compliance

Draft Guidelines Summary

13. Effect of Non-Compliance – The MBTA community will not be eligible for funds from the following grant programs:
 - a. the Housing Choice Initiative;
 - b. the Local Capital Projects Fund; or
 - c. the MassWorks infrastructure program.
14. To remain in compliance while DHCD is collecting public comment on the Draft Guidelines, an MBTA community must:
 - Submit the MBTA Community Information Form by 5:00 p.m. on May 2, 2022.
 - Hold a briefing of your City Council, Town Council or Select Board on the Draft Compliance Guidance no later than May 2, 2022 and attest to that on the MBTA Community Information Form.

Anticipated Impact on Boxborough

- Current Guidelines require a minimum of 750 units for Boxborough based on 15 units/acre minimum and minimum 50 acre district size. The density factor is codified while the district size is a part of the draft Guidelines.
- Since it should be in areas that have safe and convenient access to transit by bicycles and pedestrians, there is not an obvious location in Boxborough for this District.

Potential Questions and Comments for State and MAPC

1. Boxborough lacks water and sewer infrastructure. The state should clarify how the lack of this infrastructure will impact these requirements.
2. Boxborough does not have area that is currently suitable for dense multifamily zoning. Therefore, Boxborough might assert that the MassWorks infrastructure program is critical for building the multimodal connections that are vital for transit oriented development.
3. Boxborough believes that regardless of the ultimate total units required for Boxborough, that such development will have a significant impact on Boxborough's services and infrastructure. As such, Boxborough may ask the state to implement an Impact Fee Law to allow communities to reasonably impose impact fees for developments of a specific threshold size (e.g., Chapter F, Cape Cod Commission).

Potential Questions and Comments for State and MAPC

4. As a rural community, Boxborough does not have the administrative capacity to handle large projects. Therefore, Boxborough may like to have the ability to introduce a phasing provision or limit on the number of building permits in order to reasonably be able to absorb a certain number of units annually.
5. A one size fits all 750 minimum units is not a fair provision and will have a disparate impact on differently sized communities. Boxborough is a small, rural community and the 750 is a significant amount of existing housing stock and could fundamentally change the community. Boxborough might propose that an alternative methodology for the number of units. This should be formula driven based on specific criteria such as total housing stock. It should be focused on a percentage of total housing units divided by the codified minimum density of 15 units/acre.

Potential Questions and Comments for State and MAPC

6. If the minimum number of units triggers the need for new school facilities, the state should be prepared to assist local communities in this program by providing funding for those new or expanded facilities similar to how MGL 40S provides school funds.

Important Dates

Please see below the set of important dates related to the new MBTA multifamily zoning district guidelines. We should add them to our calendars.

- **March 31, 2022** – Deadline for submitting comments on Draft Guidelines.
 - Draft Letter should be prepared ahead of the Select Board's March 21 Public Meeting.
- Before **May 2, 2022** – The Select Board must hold a briefing on the Draft Compliance Guidance.
- **May 2, 2022 @ 5:00 pm** – The MBTA Community Information Form must be submitted.
- **July 1, 2023** – Deadline for obtaining DHCD approval of a timeline and action plan.
- **December 31, 2024** – Deadline for adopting an appropriate zoning amendment that complies with guidelines.

Available Resources for Boxborough

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There are a range of technical resources available to assist MBTA communities to respond to the guidelines. These include:

1. Mass Housing Partnership – MHP has a Housing Toolbox on their website but is also offering personalized technical assistance to six (6) communities on a first come-first served basis with an application due in May.
2. One Stop for Growth Grant Program
3. Executive Office of Energy and Environmental Affairs (EEA) Planning Technical Assistance Grant Program
4. District Local Technical Assistance (DLTA) Grant Program

Questions & Comments?