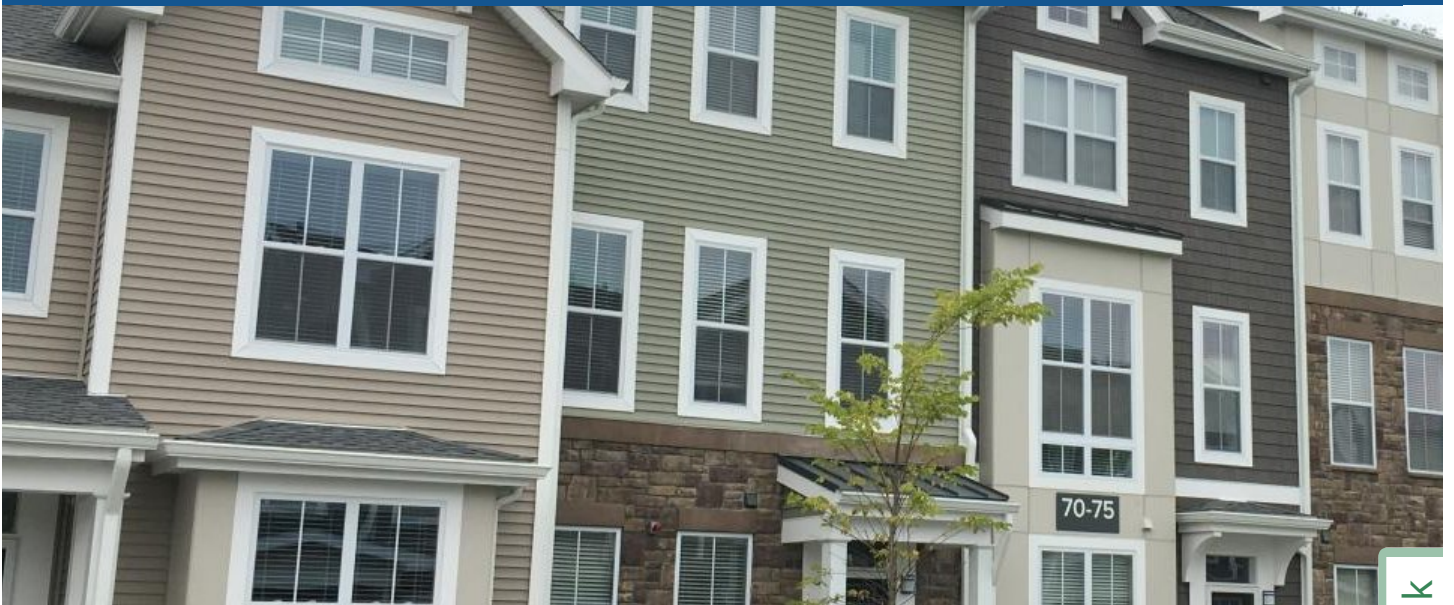




Multi-Family Zoning Requirement for MBTA Communities

This page includes Compliance Guidelines on new Section 3A of MGL c. 40A and related materials.



This new law requires that an MBTA community shall have at least one zoning district of reasonable size in which multi-family housing is permitted as of right and meets other criteria set forth in the statute:

- Minimum gross density of 15 units per acre

- Located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable
- No age restrictions and suitable for families with children

On December 15, 2021, the Department of Housing and Community Development (now the Executive Office of Housing and Livable Communities - EOHLC) issued draft guidelines on how to comply with the law. After the release of the draft guidelines, the Baker-Polito Administration held a public comment period until March 31, 2022. During the public comment period, there were over 24 engagement sessions and DHCD received nearly 400 comments through an online portal. The public comment process served to inform the revised guidelines.

On August 10, 2022, DHCD (now EOHLC) issued the final guidelines to determine if an MBTA community is in compliance with Section 3A. [Read the letter](#) sent to each MBTA Community from Secretary Mike Kennealy and Undersecretary Jennifer Maddox. We encourage you to visit this page often as it will be updated from time to time.

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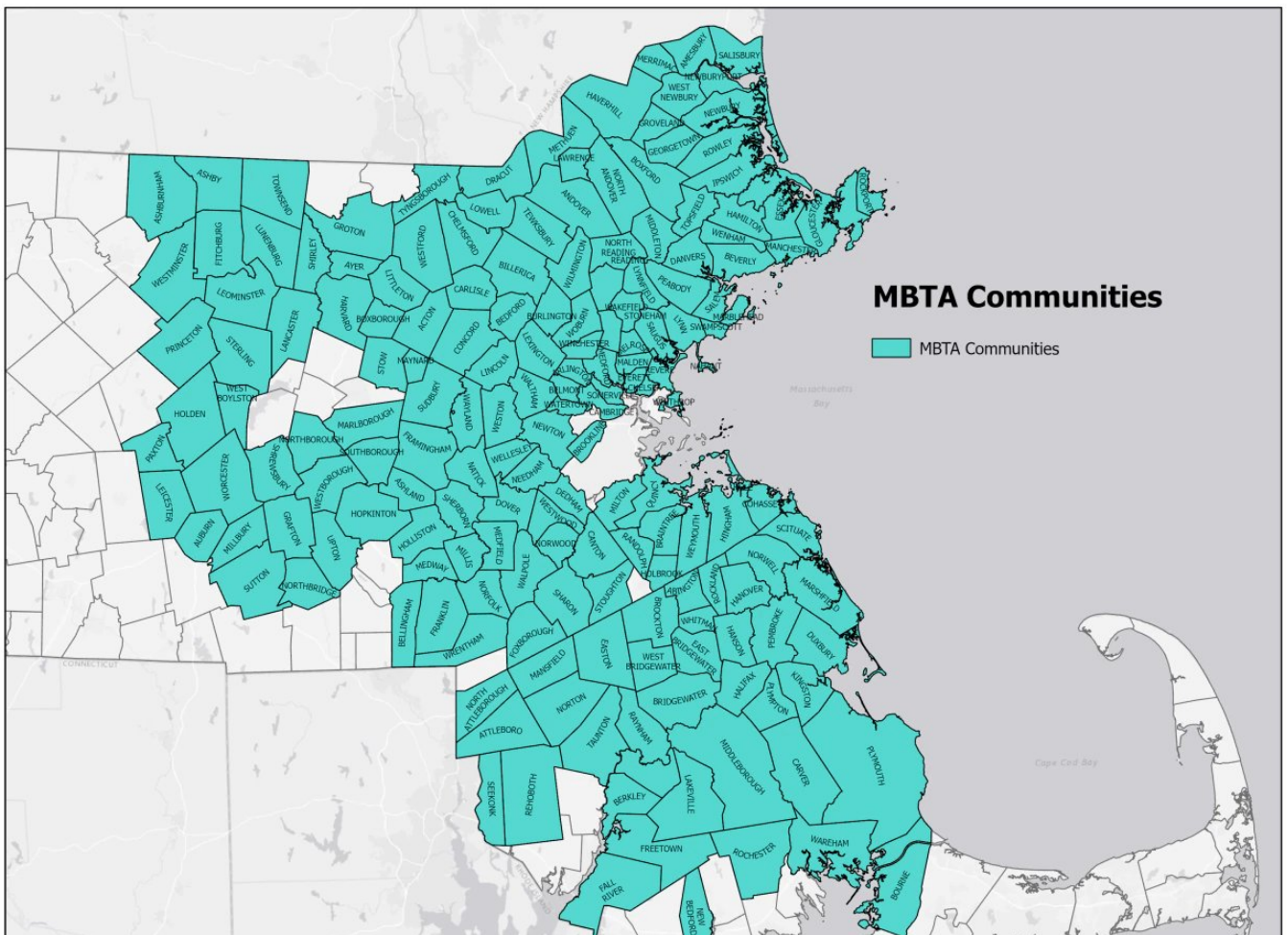
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What is an "MBTA Community"?

"MBTA community" is defined by reference to Section 1 of MGL c. 161A:

- 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, 177 MBTA communities are subject to the new requirements of Section 3A of the Zoning Act. While served by the MBTA, Boston is exempted from the Zoning Act, including section 3A. This is illustrated in the map below.



Why is multi-family zoning near transit and in neighboring communities important?

Massachusetts is in a housing crisis.

- Massachusetts has among the highest, and fastest growing, home prices and rents of any state in the nation.
- Rising costs have dramatically increased financial pressures on low- and middle-income families, forcing them to sacrifice other priorities in order to pay housing costs. High housing costs are a primary driver of homelessness.
- These high costs are a disadvantage as we compete economically against peer states. The risk of future job growth moving outside Massachusetts is rising due to the high costs of living.

How does creating zoning for multi-family housing help the housing crisis?

The lack of zoning for multi-family housing is a barrier for new housing development in Massachusetts. By allowing multifamily housing near transit, we can create new housing in walkable neighborhoods closer to transit. This is not just good housing policy, it is good climate and transportation policy, too. The result of transit-oriented development is:

- More housing closer to the places that we go every day, such as local shops, jobs, schools, restaurants, parks, etc.
- Better access to work, services, and other destinations by increasing mobility and utilization of public transit
- Reduced reliance on single occupancy vehicles, which helps in our larger

What is the law?

The requirement is codified as Section 3A of MGL c. 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.

(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, 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.

Attorney General Advisory

On March 15, 2023, Massachusetts' Attorney General Andrea Campbell issued an Advisory concerning the enforcement of the requirements imposed on cities and towns by Chapter 40A, Section 3A.

The law requires that an MBTA community shall have at least one zoning district of reasonable size in which multi-family housing is permitted as of right, and that meets other criteria set forth in the statute. Failure to comply with the law results in a loss of eligibility for the community, for certain funding programs.

The Attorney General's Advisory states "All MBTA Communities must comply with the Law." The Advisory further states that "MBTA Communities cannot avoid their obligations under the Law by foregoing this funding."

In addition, the Advisory cautions that "Communities that fail to comply with the Law may be subject to civil enforcement action" and, "Communities that fail to comply with the Law's requirements also risk liability under federal and state fair housing laws. The Law requires that MBTA Communities "shall have" a compliant zoning district and does not provide any mechanism by which a town or city may opt out of this requirement."

The Attorney General's press release and the text of the Advisory are available here:

[AG Campbell Advisory
Press Release →](#)

[Read the Attorney
General's advisory
about the enforcement
of MBTA Communities
zoning law →](#)

Section 3A Guidelines

Below you will find a link to the guidelines for determining compliance with Section 3A of MGL c. 40A and summary of revisions made on 08/17/2023.

[Guidelines \(PDF\) →](#)

[Guidelines \(HTML\) →](#)

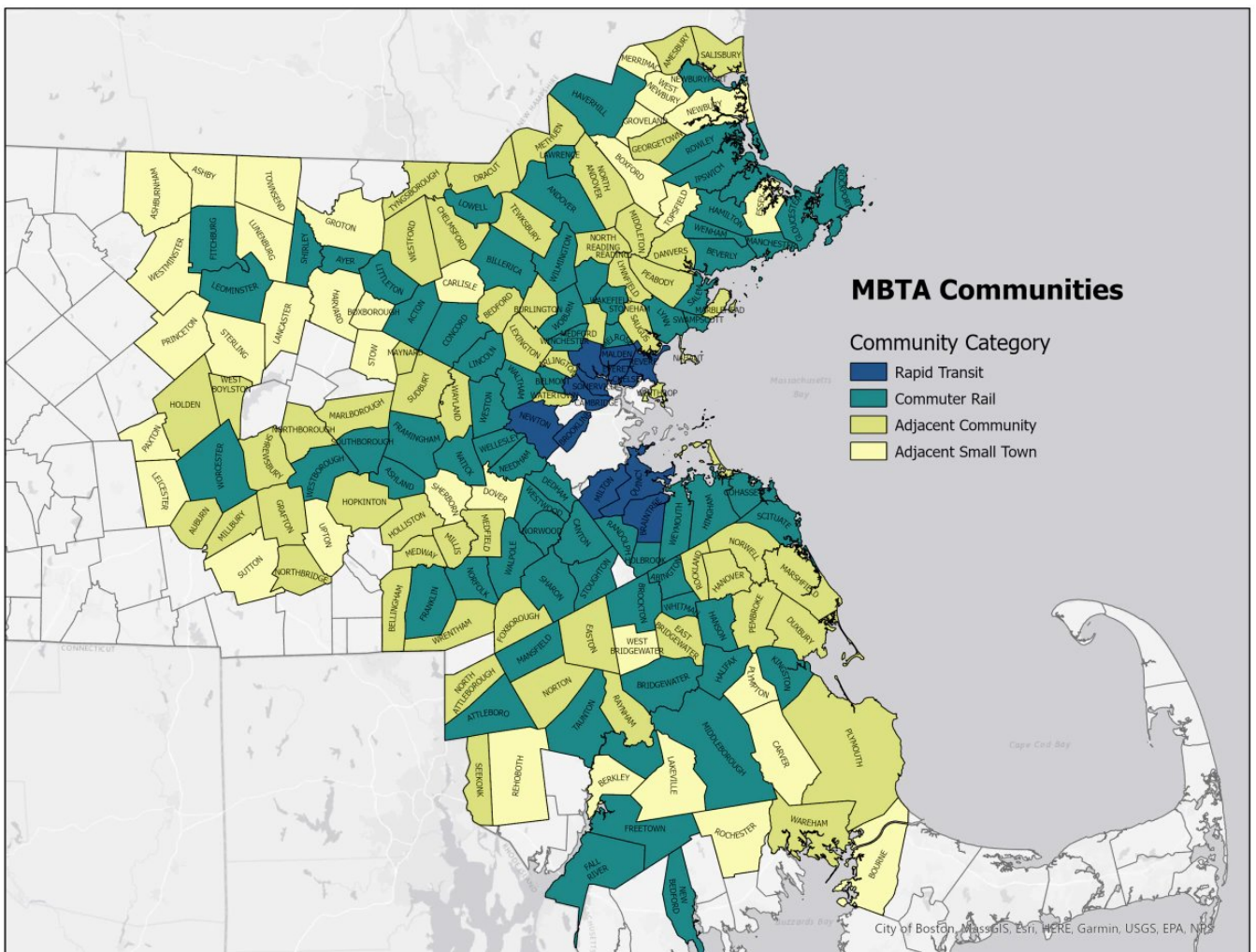
[Guidelines with Redlines 08/17/23 \(PDF\) →](#)

[Summary of 08/17/23 Revisions \(PDF\) →](#)

[Summary of 08/17/23 Revisions \(HTML\) →](#)

MBTA Community Categories

All communities served by the MBTA must zone to allow for multifamily housing as of right, with a greater obligation for communities with better access to transit stations.

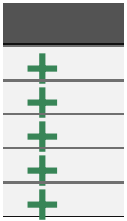


Appendix 1 MBTA Community Categories and Requirements

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* 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.

Additional Resources



MBTA Communities - Community Category Designations and Capacity Calculations (English, XLSX 35.4 KB)

Compliance Model

The compliance model is the primary tool for measuring a zoning district for compliance with Section 3A of M.G.L. Chapter 40A. There are several zoning requirements in Section 3A related to district size and location, multi-family unit capacity, gross density, and other benchmarks. The compliance model ensures a standard way of evaluating and estimating multi-family zoning districts on these metrics across all MBTA communities.

The compliance model was developed to create *reasonable estimates* that can be used to verify compliance with Section 3A. It is not intended to be as

rigorous as a full, detailed build out analysis. Therefore, while the outputs from the model provide good estimates relative to the compliance metrics, they do not provide absolute measures of development potential. The development of the model was completed with the input and assistance of consultants and other experts and key stakeholders.

There is technical assistance available for municipalities seeking support as they use the model. Additional resources, guides, and examples will be posted to this page as they become available.

[Compliance Model & Components →](#)

[Compliance Model User Guide & Methodology Documents →](#)

Complying with Section 3A Guidelines

The Guidelines establish timelines for municipalities to adopt compliant zoning districts. MBTA communities that are noncompliant with Section 3A are ineligible for funding from certain funding sources provided by the Commonwealth. There are two forms of compliance, district (or “full compliance”) and interim compliance.

District Compliance

District Compliance is achieved when an MBTA community adopts a multi-family zoning district that meets all the requirements of the compliance guidelines and is certified by the Executive Office of Housing and Livable Communities (EOHLC). The deadline to submit a compliance application to EOHLC varies by community category as shown in the table below.

Community Category	Deadline
Rapid transit community	12/31/2023
Commuter rail community	12/31/2024
Adjacent community	12/31/2024
Adjacent small town	12/31/2025

The District Compliance Application must be submitted online at the link below. Instructions for completing the form are provided by separate document below. Please read the instructions and the form in their entirety before completing the District Compliance Application.

[**Submit a District Compliance Application →**](#)

[**District Compliance Form \(PDF\) →**](#)

[**Instructions to Complete District Compliance Application Form →**](#)

MBTA Communities seeking assurance that proposed zoning will meet Section 3A requirements before bringing that zoning to a local legislative session may submit a pre-adoption review application. Please be advised that pre-adoption review applications must be submitted at least 90 days prior to a local legislative session to allow for a timely EOHLC review.



[Submit a Pre-Adoption Review Application →](#)

[Instructions to Complete Pre-Adoption Application Form →](#)

Interim Compliance – Action Plan

An MBTA community that does not have zoning in place that complies with Section 3A must take active steps towards achieving compliance in order to remain eligible for certain annual funding rounds. The Guidelines allow communities to create and complete an online Action Plan form that outlines the municipality's process for adopting compliant zoning. When the Executive Office of Housing and Livable Communities (EOHLC) approves the Action Plan, then the community will achieve "interim compliance" and will retain eligibility for the funding sources that require compliance with Section 3A.

- To remain eligible for the calendar year 2023 round of [MassWorks](#) and [Housing Choice](#) grants, as well as the [Local Capital Projects Fund](#), an MBTA community must submit an Action Plan no later than January 31, 2023.
- No MBTA community may remain in interim compliance after its district compliance deadline has passed.
- A copy of the Action Plan form and access to the online Action Plan form are available below

[Submit an Action Plan →](#)

[Action Plan Form \(PDF\) →](#)

Action Plan Submission Statuses

The status of MBTA communities' Action Plan submissions is available in the link below. An MBTA community may have an Action Plan that has been submitted and approved, submitted and under review, or not submitted. This list will be updated as additional Action Plans are approved or submitted.

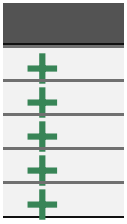
Please note, submitting an Action Plan is not the same as achieving Interim

Compliance which occurs when EOHLIC makes such an affirmative determination.

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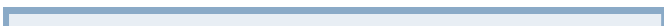
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[Submitted Section 3A
Action Plans →](#)

Resources

As we create and present webinars, slide decks, tutorials, sample tools, guides and other materials to assist MBTA Communities understand and comply with Section 3A, we will provide communities with those resources in the page below.

[Resources for MBTA
Communities →](#)

Contact

EOHLC Section 3A Team



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