

Advocates Applaud Final Transit-Oriented Zoning Rules

By [James Sanna](#) | Banker & Tradesman Staff | Aug 11, 2022 | [Reprints](#) | [Print](#)



Several Boston suburbs and dozens of small towns will see the size of their required multifamily zoning districts shrink under the final regulations implementing the state's MBTA Communities zoning reform.

But advocates say the compromise – made in the face of stiff pushback from some suburbs, including those with only limited MBTA bus service – is still valuable progress in the effort to close the state's huge housing shortage.

“This is the biggest change to zoning in more than 40 years and will make it possible to create the homes people need, support local businesses, reduce the need to drive, and help stabilize rents and home prices that have been rising faster than people's incomes,” CHAPA Executive Director Rachel Heller said in an email.

“This is significant progress. We can't build what's not allowed. Zoning will allow for homes we need,” she added.

The Baker administration [released its final guidance for the zoning reform Wednesday evening](#) after taking public feedback on draft regulations released in May. Administration officials hailed the final regulations as

opening an important door to creating mixed-income communities, walkable neighborhoods, and increase public transit use.

“The multifamily zoning requirement is all about setting the table for more transit-oriented housing in the years and decades ahead—which is not just good housing policy, but good climate and transportation policy, too,” Housing and Economic Development Secretary Mike Kennealy said in a statement. “The Executive Office of Housing and Economic Development and the Department of Housing and Community Development, working closely with the Massachusetts Housing Partnership, communities, and stakeholders, took a thoughtful approach to developing compliance criteria for MBTA communities in accordance with the new law. Cities and towns are necessary partners if the Commonwealth is to confront our housing crisis, and through our guidelines and technical assistance, we can help communities achieve the goal of the multifamily zoning requirement to unlock new, transit-oriented housing units in Massachusetts.”

The biggest change from the draft to the final involve reclassifying communities that were near an MBTA station, like Arlington, but didn't have one in their town, from one that had the same requirements as a town or city with an MBTA station in its borders to the status of “adjacent communities,” which comes with lower housing production requirements. A separate category for communities with bus service but no subway or only limited commuter rail service was also eliminated, with many of the same towns and cities reclassified as “commuter rail communities” or “adjacent communities.”

The changes, in all, lead to a 60,588-unit decrease in the number of homes the 175 communities covered by the law will need to zone for.

Jesse Kanson-Benanav, executive director of Abundant Housing-MA, called the reduction in required zoning capacity in wealthy communities like Wellesley “disappointing” but said the MBTA Communities law remained “an important milestone.”

“Now is time to shift our focus to implementation of this critical law. The success of this law and the guidelines will depend on widespread compliance across the 175 MBTA communities,” he said in an email.

While Kanson-Benanav and other housing advocates have suggested the state has strong, latent powers to enforce the rezoning, the MTBA Communities law itself used only a limited set of sticks. Towns that refuse to comply will lose access to MassWorks and Housing Choice infrastructure grants, as well as the Local Capital Projects Fund.

These funds typically give out small awards in the low millions of dollars for projects like road construction and officials in some rich suburbs like Newton have raised the possibility of forgoing such projects if it means being able to continue tightly restricting housing development in their communities.

Under the final regulations, communities served by the MBTA's Green, Red, Orange and Blue lines will have until Dec. 31 of next year to craft zoning districts near their MBTA stations that can support 83,545 units in multifamily buildings as-of-right, meaning a developer won't have to apply for a special permit or a zoning change to build there.

Communities served by the commuter rail and MBTA-adjacent towns will have until Dec. 31, 2024 to zone for 136,217 multifamily units and 58,493 multifamily units, respectively.

A new category of “adjacent small towns” – largely exurbs – will have until Dec. 31, 2025 to zone for 5,242 multifamily units.

“In the most extreme case, Plympton's required zoned capacity was cut from 750 to 53 units. That's a little low – but it's something Plympton town meeting might actually pass, and it could boost the town's housing

stock by 5 percent,” researcher Salim Furth, who has spent significant time studying Massachusetts’ housing problems, said in an email.

Existing multifamily buildings can count towards the 283,496 units these new zoning districts will allow.

The state Department of Housing and Community Development is offering municipalities technical assistance to craft these new zoning districts via the nonprofit Massachusetts Housing Partnership.

“This new law is an opportunity for communities to think differently and plan better,” MHP Executive Director Clark Ziegler said in a statement. “To that end, MHP will be providing resources, training and direct technical assistance designed to help local officials understand the law and use it to plan for new housing that will relieve pressure on rents and home prices, reduce traffic and help meet the Commonwealth’s climate goals.”

DHCD has also set up a process by which towns may pre-qualify their zoning plans before taking them to Town Meeting, letting them potentially avoid a rancorous process that doesn’t result in a legally-compliant zoning plan.

Other big changes in the regulations include permitting towns to add affordability requirements to new developments, up to 10 percent of a project’s total unit count and with income requirements set no lower than 80 percent of area median income, limiting the subsidies developers will have to seek to build new homes. However, the regulations allow communities to appeal for special dispensation from DHCD to set more stringent requirements if they can demonstrate that such rules won’t make developments infeasible.

The regulations also clarify that mixed-use projects can be allowed as-of-right under a new multifamily zoning district so long as multifamily zoning is still allowed separately as-of-right, and ban towns from setting more stringent environmental requirements in multifamily districts than might be required elsewhere in the town.

“Overall, they did a great job. I’m really impressed,” Furth said. “They addressed the areas that needed clarification and they finessed the areas where the draft requirements didn’t seem to fit.”

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