



# MBTA Communities Draft Multifamily Guidelines

A Discussion with the Harvard Select Board

MARCH 15, 2022

# Agenda

1. Background
2. Summary of Draft Guidelines
3. Anticipated Impact on Harvard
4. Potential Questions and Comments for State and MRPC
5. Important Dates
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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
- DHCD Webinar on January 12, 2022 providing information on Guidelines
- DHCD also provided a [web page](#) for the program which includes:
  - FAQ
  - Webinar Slides
- The Planning Board has discussed the Guidelines on two separate occasions and the following summary and other discussion feedback follows over the next few 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 Harvard 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 MHP will be developing tools that communities can use to make these calculations on a per lot basis.
9. Districts may be established that already include existing multifamily units. Therefore, Foxglove, Bowers Brook, and Harvard Green can be included in such a district and count toward both units and density if we wish.

# Draft Guidelines Summary

10. When an MBTA community has no land area within 0.5 mile of a transit station (Harvard), 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.
11. DHCD must make a "Determination of Compliance" for each applicable community, which may be interim, allowing Harvard to establish the requisite bylaws and mapped area(s).
12. 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 Harvard

- Current Guidelines require a minimum of 750 units for Harvard 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.
- Existing units, including those at Foxglove, Bowers Brook, and Harvard Green could be included in such a district and count toward both units and density, but only if they all meet the law and guidelines.
- Since it should be in areas that have safe and convenient access to transit by bicycles and pedestrians, it makes sense that the upper Ayer Road corridor is the most closely aligned area.
- The Planning Board feels an urgency to act based on the potential for failure at Town Meeting on first try and the two-year reintroduction rule.

# Potential Questions and Comments for State and MRPC

1. Harvard lacks water and sewer infrastructure in areas that would be suitable for multifamily. The state should clarify how the lack of this infrastructure will impact these requirements.
2. Harvard has one area potentially suitable for multifamily but it is the town's only commercial district. Therefore, Harvard would assert that these Guidelines should be able to be met in a mixed-use schema. Harvard would also want to be able to use MGL Chapters 40R and 40S in such a scenario.
3. Harvard believes that regardless of the ultimate total units required for Harvard, that such development will have a significant impact on Harvard's services and infrastructure. As such, Harvard would like 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 MRPC

4. Question: It is understood that over age 62 restricted housing cannot count in the totals, but what about over 55 units?
5. As a rural community, Harvard does not have the administrative capacity to handle large projects. Therefore, Harvard would 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.
6. A one size fits all 750 minimum units is not a fair provision and will have a disparate impact on differently sized communities. Harvard is a small, rural community and the 750 is 1/3 of existing housing stock and could fundamentally change the community. Harvard proposes that an alternative methodology for the number of units similar to that previously proposed by MAPC. 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 MRPC

7. 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.
- 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 Harvard

## Available Resources for Harvard

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 – This grant program, where we previously applied for Ayer Road but were declined, will now be prioritized for MBTA communities. We could revise our previous application to include these requirements and resubmit.
3. EEA Planning Technical Assistance Grant Program – This is the FY 2023 cycle of the grant we received for Ayer Road (\$45,000) this year. I understand that EEA will prioritize 2023 applications for MBTA communities.
4. DLTA Grant Program – As Stacia has already reported, MRPC is prioritizing DLTA grant applications for MBTA community projects.

# Questions & Comments?