



Commonwealth of Massachusetts
**EXECUTIVE OFFICE OF
HOUSING & ECONOMIC DEVELOPMENT**
ONE ASHBURTON PLACE, ROOM 2101
BOSTON, MA 02108
www.mass.gov/eohed

CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

MIKE KENNEALY
SECRETARY

TELEPHONE
(617) 788-3610

FACSIMILE
(617) 788-3605

December 15, 2021

Dear Local Officials in MBTA Communities:

On January 14, 2021, Governor Baker signed an omnibus economic development package into law, which is now known as Chapter 358 of the Acts of 2020. Notably, this bill included the *Housing Choice* zoning reforms to better enable municipalities to adopt certain zoning measures that promote housing by a simple majority vote. It took a multi-year effort to get this much needed reform across the finish line. It is rooted in a simple principle: where there is majority consensus in communities around increasing housing production, a minority of voters should not be able to block zoning reform. We continue to be encouraged by local leadership around the Commonwealth of Massachusetts that are leveraging this tool to approve housing supportive zoning and development.

The same bill also included a new multi-family zoning requirement for MBTA communities. When the Governor signed this provision, he made clear that the Administration intends to take a thoughtful approach in developing compliance criteria in accordance with the new law. Today, we present draft guidelines and other relevant documents to the 175 MBTA communities affected by this new law. You are receiving this communication because you represent one of those communities.

New Section 3A of Massachusetts General Laws Chapter 40A provides the following:

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.

The Department of Housing and Community Development (DHCD) issued preliminary guidance on January 29, 2021, which provided that all MBTA communities will be deemed to be in compliance until more specific guidelines are developed and made available to affected MBTA communities. Since then, the Executive Office of Housing and Economic Development (EOHED) and DHCD engaged in discussions with stakeholders to inform the compliance guidelines the law requires us to issue. This included an interagency work group consisting of staff from EOHED, DHCD, MassDOT, MassHousing, Mass Housing Partnership (MHP), and MassDevelopment. EOHED and DHCD also worked closely with MHP's Center for Housing Data to incorporate data analysis that informed the compliance framework. We are pleased to be able to share with you today DHCD's draft guidelines for public comment and review.

Consistent with how this Administration has approached other issues, the draft guidelines do not take a one size fits all approach. Because of the diversity of MBTA communities, a multi-family district that is reasonable in one city or town may not be reasonable in another city or town. The draft guidelines propose that a zoning district of "reasonable size" will be determined by the type of public transit service in each community.

It is important to remember that this law is all about **zoning**—the rules that establish what can be built, and where—and not the permitting of individual projects or the production of actual housing units. Over time, the zoning changes adopted at the local level as a result of this law will enhance landowners' opportunities to develop multifamily housing that will serve the needs of communities. The immediate impact of this law, and the implementing guidelines, is to establish a clear set of rules with which municipalities must comply to preserve eligibility for certain types of state funding.

We recognize that this new requirement will require adjustments for your community, and we are ready to provide answers to your questions. Through a suite of technical assistance resources, our offices and MHP are eager to be a partner with you as you work through this process.

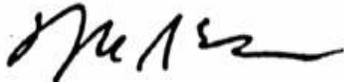
Please know, final guidelines will be issued once DHCD has an opportunity to solicit, deliberate on, and respond to comments from MBTA communities and other interested stakeholders. The draft guidelines may be modified as appropriate based on this additional public input. We intend to spend the next few months focused on this aspect of the work. We want to provide detailed information to all of you on what we have proposed today and we want to get your thoughts and reactions.

We think this can be another tool in our larger effort to confront the state's housing crisis. This new requirement will complement existing efforts to encourage transit-oriented housing development. By allowing multifamily housing near transit, we can create new housing in walkable neighborhoods closer to transit, which is not just good housing policy, it is good climate and transportation policy, too. It is important that Massachusetts continue to leverage housing best practices to meet the state's housing needs and this new requirement does that by setting the table for more housing near transit centers.

We want to call out a near term assignment for any MBTA community that wishes to participate in two grant programs that are part of the upcoming 2022 Community One Stop for Growth. It is no coincidence that we are releasing this on the same day as we open the Expression of Interest (EOI) for prospective One Stop applicants that want to discuss priority projects with us ahead of the next cycle. By way of background, the law provides that a noncompliant MBTA community will not be eligible for funds from the following grant programs: (i) the Housing Choice Initiative; (ii) the Local Capital Projects Fund; or (iii) the MassWorks Infrastructure Program. In order to be eligible for the upcoming grant cycle, MBTA communities must complete the "MBTA Community Information Form" by May 2, 2022. Communities that satisfactorily complete this straightforward online form will be deemed compliant for 2022 while we work on ironing out final compliance criteria guidelines.

We encourage you to visit mass.gov/mbtacommunities for the draft guidelines and all relevant information and updates, including the technical assistance referenced above.

Sincerely,



Mike Kennealy
EOHED Secretary



Jennifer D. Maddox
DHCD Undersecretary