



TOWN OF LEXINGTON
Land Use, Health and Development Department

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MEMO TO: Planning Board, Town Manager

FROM: Carol Kowalski

DATE: August 16, 2022

Re: Final MBTA Communities Multi-family Housing Guidelines for Compliance

Cc: A. McCabe

This memorandum provides an update and summary on how the Final Guidelines for complying with the MBTA Multi-Family Zoning apply to Lexington. On August 10, 2022, the Department of Housing & Community Development released the final guidelines on compliance with the new law. Section 3A specifically requires that each MBTA Community have a district of reasonable size in which multi-family housing is allowed by-right at a minimum density of 15 units per acre. The law does not require the production of new multi-family housing units within the district zoned for such development. Site Plan Review is allowed for multi-family uses allowed by-right.

The general principles of Section 3A are that MBTA communities benefit from having transit assets within their boundaries and, therefore, should:

- Contribute to the production of new housing stock;
- Provide opportunity for multi-family housing development around MBTA facilities;
- Adopt multi-family housing districts that will lead to development of multi-family housing projects of a scale, density and character that are consistent with a community's long-term planning goals.

Based on the final guidelines, Lexington is considered an "adjacent" community, and our minimum multi-family capacity must allow 1,231 units in Lexington's multi-family by-right zoning district¹. Also, a minimum of 50 acres must be zoned for multi-family by right to comply with the new law, and at least half of that must be contiguous lots. Lexington would need a Multi-family zoning district of approximately 82 acres (1,231 units x 15 units per acre), assuming the minimum density.

The deadline for Lexington, as an adjacent community, to adopt the new zoning district and submit a compliance application to the Department of Housing & Community Development is December 31, 2024. A compliance Action Plan must be submitted by January 31, 2023.

<https://www.mass.gov/doc/action-plan-for-mbta-communities/download>

Inclusionary Zoning/Requiring affordable housing:

The final guidelines allow us to require affordable units in the Multi-family district but only if 1) they are eligible for inclusion on DHCD's Subsidized Housing Inventory, and 2) not more than 10% of the homes are required to be affordable, and 3) the cap on income for eligible families or individuals is not less than 80% of Area Median Income. An exception allows up to 20% of the units to be affordable if the district pre-dates Section 3A, and does not make the project

infeasible, or if the district is subject to DHCD approval as a 40R Smart Growth District.

Higher standards than other uses are prohibited

No requirements that are greater than those applied uniformly on all zoning uses can be applied to the Multi-family zoning district. The guidelines prohibit third-party certification requirements (e.g. LEED), higher energy efficiency standards than other uses, and any requirement that multi-family be combined with other uses on the same lot or project.

Mixed Use

Mixed-use may be allowed as of right as long as multi-family is allowed separately as of right.

Water and Wastewater infrastructure:

If municipal water and sewer are provided, but capacity is limited, the final guidelines state: “For purposes of the unit capacity analysis, it is assumed that housing developers will design projects that work within existing water and wastewater constraints, and that developers, the municipality, or the Commonwealth will provide funding for infrastructure upgrades as needed for individual projects.”

Wetlands and Title V (septic regulations)

Compliance with Title V and state wetlands protection law is still required in the Multi-family district, even if a project results in less density than the 15 units per acre allowed in the zoning district.

Suitable for families

No age restrictions, bedroom caps, size limits, or limits on number of occupants or minimum age of occupants are allowed.

Locating a compliant district

Page 12 of the final guidelines discusses locating the district in a manner to achieve compliance. For an Adjacent Community such as Lexington, the district can go anywhere that provides safe, convenient access to mobility and “reasonable access to a transit station based on existing street patterns, pedestrian connections, and bicycle lanes, or in an area that qualifies as an “eligible location” as defined in Chapter 40A—for example, near an existing downtown or village center, near a regional transit authority bus stop or line, or in a location with existing under-utilized facilities that can be redeveloped into new multi-family housing.” (pp 12-13).

The guidelines note that the district should not go in wetlands, habitat for rare or threatened species, areas subject to flooding, or farmland/agricultural soils.

DHCD will present a webinar on the final guidelines on Thursday, September 8. Register in advance for this webinar:

https://us06web.zoom.us/webinar/register/WN_KBSNAXLuR9yrnmkIDPFx-g

The Planning Director and I are prepared to support the Planning Board in its work toward compliance with Section 3A. Please let the Planning Director or me know if you have questions.

ⁱ There are two ways minimum required unit capacity is calculated, in our case first by multiplying our total housing units by .10 resulting in 1,231 units. Second, we multiply 50 units per acre times the required density of 15 units per acre = 750. The larger of the two numbers is our minimum unit capacity, as long as that number is no more than 25% of our total year-round units (12,310 x .25 = 3,077.5)