

Form Name:	Pre-Adoption Review Application for MBTA Communities
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Pre-Adoption Review Application for MBTA Communities Under Section 3A of the Zoning Act

Description Area

Please read the Section 3A Compliance Guidelines and the Instructions before starting to complete this form. Find these documents at mass.gov/mbtacomunities. This application may be submitted by an MBTA community seeking an opinion from DHCD as to whether a proposed zoning district complies with Section 3A of the Zoning Act and with the Compliance Guidelines for Multi-family Zoning Districts issued by DHCD August 10, 2022, as amended and/or revised (Compliance Guidelines). This application may be submitted by a municipal official undertaking Section 3A compliance activities. A red asterisk (*) next to a question on this form indicates that a response is required. Users will not be able to submit the form unless all required answers are completed. If upon submitting, the form returns to the questions section, there is an asterisked question that was not answered. Other documentation required to be submitted with this form includes: A completed Compliance Model Excel workbook file demonstrating the district's "zoning metrics", including land area, estimated unit capacity, gross density, geographic contiguity, and, if applicable, the percentage of district land area and unit capacity (relative to the community's minimum requirements) that is within transit station areas; A complete copy of the municipal zoning ordinance or bylaw and zoning map; A zip folder containing GIS shapefile(s) for the zoning district(s) designated for compliance. If Inclusionary Zoning (IZ) is applicable in the district designated for compliance, the pre-adoption review may include a determination as to whether an economic feasibility analysis (EFA) is required. If an EFA has already been completed, DHCD will review the EFA as well.

Section 1. Community Information

1.1 Municipality

West Newbury

Description Area

Information about the community's specific zoning requirements under Section 3A and the Compliance Guidelines:

1.2 Community Category

Adjacent Small Town

1.2a Minimum multi-family unit capacity 87

1.2b Minimum Land Area in acres 0

1.2c Percent of district to be located in Transit Station Areas (express as a percentage, e.g. "50" for fifty percent) 0

1.3 Information about the contact person for this application

Susan Brown

1.3a Job Title/Description

Town Planner

1.3b Email Address

townplanner@wnewbury.org

1.3c Phone Number

(978) 363-1100 ext. 125

1.4 Information about the municipal CEO

Angus Jennings

1.4a Municipal mailing address of CEO

381 Main Street
West Newbury, MA 01985

1.4b Email address of municipal CEO

townmanager@wnewbury.org

Section 2. Compliance Documentation

Description Area

Responses to the following questions should match the information from the Compliance Model Excel workbook which must also be uploaded. Please note: the total capacity for file uploads in this application is 25MB. If your files are too large for uploading, please provide links where DHCD can download the files. If you need assistance with this process, contact nathan.carlucci@mass.gov or emma.snellings@mass.gov

District 1:

Description Area

Section 3A requires MBTA communities to have a zoning "district" of reasonable size that allows multi-family housing as of right. To demonstrate compliance with the law, MBTA communities may submit a "district" that differs from boundaries adopted at the municipal level. For example, the "district" designated for compliance with Section 3A might consist of a portion of a municipal zoning district or might contain all of, or portions of, multiple municipal zoning districts. Furthermore, a single zoning district might have multiple subdistricts with distinct zoning rules. The Compliance Model requires communities to input a separate "district" for each distinct set of zoning rules, whether they are derived from districts or subdistricts. This does not mean that separate entries are required where one district or subdistrict appears in multiple distinct geographies on a zoning map. The districts used on this application must match the districts used in the Compliance Model workbook. If the MBTA community used only one district in the Compliance Model, enter that information for "District One". If the MBTA community used multiple districts in the Compliance Model, enter the first district for "District One". This application will accept up to six distinct districts/subdistricts. If more than six are necessary, please contact MBTA communities' staff. Once each separate district/subdistrict information has been entered, there is a separate section for the cumulative data of all districts.

District 1: 2.1 Brief narrative description of the district, including its name and location

The proposed zoning has 4 subdistricts on two parcels (each parcel has two contiguous subdistricts). This subdistrict is called the "Main Street 1 (Dunn), Neighborhood Subdistrict." It is located in the town center in the interior of the "Dunn Property," a former commercial greenhouse property. The subdistrict allows multifamily as of right at 15 units per acre.

This subdistrict provides sufficient unit capacity to meet all of West Newbury's MBTA Communities compliance requirements. I.E. it allows for more than the required 87 units at 15 units per acre.

The only difference between the two Main Street 1 subdistricts is that the Mixed-Use subdistrict allows mixed-use, while the Neighborhood subdistrict does not.

Description Area

Inputs for the quantitative "zoning metrics" fields below can be found in the Compliance Model workbook Summary Tab

District 1: 2.2 Land area in acres

6.80

District 1: 2.3 Estimated unit capacity

102

District 1: 2.4 Gross density in units per acre

15.00

District 1: 2.7 Is there a second district or subdistrict? Yes

District 2:

District 2: 2.1 Brief narrative description of the district, including its name and location

The proposed zoning has 4 subdistricts on two parcels (each parcel has two contiguous subdistricts). This subdistrict is called the "Main Street 1 (Dunn), Mixed-Use Subdistrict." It is located in the town center at the front of the "Dunn Property," a former commercial greenhouse property.

The subdistrict allows multifamily as of right at 15 units per acre. Together with the adjacent Main Street 1, Mixed-Use Subdistrict, which is on the same parcel, this subdistrict provides sufficient unit capacity to meet all of West Newbury's MBTA Communities compliance requirements. I.E. it allows for more than the required 87 units at 15 units per acre.

The only difference between the two Main Street 1 subdistricts is that the Mixed-Use subdistrict allows mixed-use, while the Neighborhood subdistrict does not.

The Compliance Model estimates the gross density of this subdistrict at 14.9 units per acre. That appears to be due to a rounding error in the Compliance Model. We think the error is because the district is slightly larger than 1 acre (1.008217 acres). It appears that the Compliance Model rounds that off to 1 acre when calculating the allowed number of units but then divides the results by the actual acreage.

Regardless of how the Compliance Models does rounding, the proposed zoning allows 15 units/acre and specifically calls for the calculation of the allowed number of units to be rounded up to a whole number (see Section 8.4.5.3 of the proposed zoning). In this case that means the proposed bylaw allows 16 units on the 1.008217 acres in this district. That equals 15.8 units per acre.

District 2: 2.2 Land area in acres 1.00

District 2: 2.3 Estimated unit capacity 15

District 2: 2.4 Gross density in units per acre 14.90

District 2: 2.7 Is there a third district or subdistrict? Yes

District 3:

District 3: 2.1 Brief narrative description of the district, including its name and location	<p>The proposed zoning has 4 subdistricts on two parcels (each parcel has two contiguous subdistricts). This subdistrict is called the "Main Street 2 (Knapp), Neighborhood Subdistrict." It is located to the west of the town center in the interior of the "Knapp Property," a former commercial greenhouse property.</p> <p>The subdistrict allows multifamily as of right at 15 units per acre. This subdistrict provides sufficient unit capacity to meet all of West Newbury's MBTA Communities compliance requirements--it allows for more than the required 87 units at 15 units per acre.</p> <p>The only difference between the two Main Street 2 Districts is that the Mixed-Use subdistrict allows mixed-use, while the Neighborhood subdistrict does not.</p> <p>The zoning requirements of the Main Street 1 subdistricts and those for the Main Street 2 subdistricts. The only reason we entered these as different subdistricts is because they are in different locations.</p>
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District 3: 2.2 Land area in acres	7.30
District 3: 2.3 Estimated unit capacity	109
District 3: 2.4 Gross density in units per acre	17.20
District 3: 2.7 Is there a fourth district or subdistrict?	Yes

District 4:

District 4: 2.1. Brief narrative description of the district, including its name and location	<p>The proposed zoning has 4 subdistricts on two parcels (each parcel has two contiguous subdistricts). This subdistrict is called the "Main Street 2 (Knapp), Mixed-Use Subdistrict." It is located west of the town center on the front of the "Knapp Property," a former commercial greenhouse property.</p> <p>The subdistrict allows multifamily as of right at 15 units per acre. Together with the adjacent Main Street 2, Neighborhood Subdistrict, which is on the same parcel, this subdistrict provides sufficient unit capacity to meet all of West Newbury's MBTA Communities compliance requirements. I.E. it allows for more than the required 87 units at 15 units per acre.</p> <p>The only difference between the two Main Street 2 subdistricts is that the Mixed-Use subdistrict allows mixed-use, while the Neighborhood subdistrict does not.</p>
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District 4: 2.2 Land area in acres	1.70
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District 4: 2.3 Estimated unit capacity 25

District 4: 2.4 Gross density in units per acre 15.00

District 4: 2.7 Is there a fifth district or subdistrict? No

Cumulative Zoning Metrics

Description Area This section appears for MBTA communities that are using more than one municipal zoning district or subdistrict to demonstrate compliance with Section 3A. Find this information in the "Totals" column of the "Comparison Table of Requirements and Modeled Results" on the Summary Tab of the Compliance Model workbook.

2.8 Cumulative Land Area in acres 16.70

2.9 Cumulative Unit Capacity 251

2.10 Overall gross density in units per acre 15.90

2.15 Is at least 50% of the district land area comprised of one contiguous geography? Yes

2.16 Are any district geographies smaller than 5 acres included in the land area calculation? No

Section 3: Compliance Model Uploads

Description Area Please note: the maximum file size for the total of all uploads in this application is 25MB. If files are too large for uploading, please provide links where DHCD can download the files. Further instructions for uploading shapefiles are available in the District Compliance Application Instructions. If you need assistance with this process, contact nathan.carlucci@mass.gov or emma.snellings@mass.gov

3.1 Did this community complete the Compliance Model and achieve numerical zoning standards that satisfy the requirements of Section 3A and the Compliance Guidelines? Yes

3.1a Completed Compliance Model Excel workbook <https://www.formstack.com/admin/download/file/15718395835>

3.1b If needed, please provide a link to the Excel Workbook if it is too large to be uploaded <https://dodson.egnyte.com/fl/4xnUaUQpjp>

3.1c Zip folder containing GIS shapefile components for the designated zoning district(s) <https://www.formstack.com/admin/download/file/15718395837>

3.1d If needed, Please provide a link to the GIS shapefile(s) for the designated zoning district(s) <https://dodson.egnyte.com/fl/4xnUaUQpjp>

3.2 Were any modifications made to the calculations of the Compliance Model workbook, or to the parcel configurations or excluded land classifications provided by DHCD in the land maps? Yes

3.2a What kinds of modifications were made? Parcel configurations

Description Area Communities may find that modifications are necessary for the data contained in the Compliance Model to accurately reflect on-the-ground realities. For example, parcel configurations may have changed, or publicly owned land may have been disposed for private housing development. The Compliance Model workbook component allows users to override some of this data to better reflect those realities. If the community made any adjustments to that data, please submit a list of the adjustments that were made, and, if applicable, provide any evidence justifying the override (e.g., copy of a disposition agreement, a recorded plan of land, a recorded deed, etc).

3.2b Please attach a document explaining the modifications <https://www.formstack.com/admin/download/file/15718395841>

Section 4: Zoning Uploads

Description Area

In the following section please provide a copy of the complete municipal zoning ordinance or bylaw, the proposed zoning amendments, the zoning map and a map showing the proposed districts. Please ensure that all uploads are in PDF format with searchable text and all map imagery is sufficient resolution for a user to zoom in and clearly read all labels and texts. If the community's official zoning map is in color, the upload must be in full color as well. Please note that the district compliance application requires certification by the city or town clerk that the uploaded zoning is complete and up to date. Please note: the total capacity for file uploads in this application is 25MB. If your files are too large for uploading, please provide links where DHCD can download the files. If you need assistance with this process, contact nathan.carlucci@mass.gov or emma.snellings@mass.gov

4.1 Please upload the complete existing zoning text <https://www.formstack.com/admin/download/file/15718395842>

4.1b Please upload any proposed amendments to the zoning text <https://www.formstack.com/admin/download/file/15718395843>

4.2 Please upload the official zoning map <https://www.formstack.com/admin/download/file/15718395844>

4.2b. Please upload the zoning map with any proposed amendments for compliance <https://www.formstack.com/admin/download/file/15718395845>

4.3 Is the municipality a town or a city? Town

4.3a When does the Town plan to adopt or amend the zoning by-law at Town Meeting in order to comply with Section 3A? Apr 29, 2024

Description Area

Section 9 of the Compliance Guidelines requires towns to submit evidence that a new or amended by-law was adopted and was submitted to Attorney General's Office by submission of "Form 7" prior to submitting an application for District Compliance.

Section 5: Inclusionary Zoning/Affordability Requirements

5.1 Is multi-family housing development in this district subject to affordability requirements? Yes

5.2 Through which mechanism are affordable units required? (check all that apply) Inclusionary zoning bylaw or ordinance that applies to the whole municipality
Inclusionary zoning bylaw or ordinance that is specific to the district designated for compliance with Section 3A, and is NOT connected to any DHCD zoning incentive program such as c. 40R

Description Area	DHCD pre-adoption review of affordability requirements, and, if applicable, an economic feasibility analysis, is recommended, but not required. If a pre-adoption review application is submitted without the affordability provisions or an economic feasibility analysis, there is a risk that some requirement of the inclusionary zoning may later cause a pre-approved zoning district to not be certified as compliant when the MBTA community applies for district compliance.
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Local Inclusionary Zoning

5.3 What is the threshold of units in a project to trigger affordability requirements?	The existing inclusionary zoning provisions apply to any project with 3 or more units or 3 or more lots in a subdivision. That applies in the multi-family overlay district with the modification that for the multi-family overlay the required number of units is rounded down to the next whole number. Therefore, the functional trigger for IZ is 10 units. Section 6.1 of the current Zoning Bylaw and Section 8.4.9 of the Proposed Zoning. .
5.4 What is the cap on the income of families or individuals to occupy the affordable units, expressed as a percentage of Area Median Income? (For example, 80% of AMI, 60% of AM	80% of AMI
5.5 What is the threshold of units in a project to trigger affordability requirements? Please describe how rounding and fractional units are handled.	<p>When calculating the number of units of Affordable Housing required within a development project, a fractional unit shall be rounded down to the next whole number. (See Section 8.4.9.2 of the proposed zoning).</p> <p>Functionally, this means that inclusionary zoning requirements do not kick in unless a project has 10 or more units.</p>
5.6. How does the threshold apply?	To the number of units added to a lot/to a project, and pre-existing units do not count towards the unit threshold
5.7. Please describe any zoning or developer incentives	N/A
5.8 May a financial payment be provided in lieu of providing on-site affordable units?	No
5.9 May offsite affordable units be provided as an alternative form of compliance?	Yes

5.9a Please describe how offsite affordable units are handled

Text from the current zoning bylaw: "With the approval of the Planning Board, the inclusionary housing requirement may be met through the provision of all required Affordable Housing Units on an alternative site or multiple sites suitable for housing use. Affordable off-site housing units may be either new construction or located in a rehabilitated existing structure. In determining compliance with this By-law, affordable off-site units that are newly created and are not replacing existing, legal housing units shall be counted in the total number of housing units created by a proposed development. Unless otherwise approved, Affordable Housing Units provided under this subsection shall comply in all respects, other than on-site location, with the requirements of this By-law."

5.10 Please provide any other description of town/city wide inclusionary zoning requirements not captured in the preceding questions.

1. The proposed overlay allows the Planning Board to waive any inclusionary zoning requirements when the applicant demonstrates they are not financially feasible.
2. Please clarify if an economic feasibility analysis is required. Our understanding from the Compliance Guidelines is that an economic feasibility analysis is not required "as long as the zoning requires not more than 10 percent of the units in a project to be affordable units, and the cap on the income... is not less than 80 percent of area median income." The proposed zoning meets these conditions so our understanding is that a feasibility analysis is not required. Please confirm.

Description Area

If a municipality wants units that are developed as of right in accordance with inclusionary zoning requirements to be listed on its Chapter 40B Subsidized Housing Inventory, then it must submit an application to DHCD to review the units as "Local Action Units" (LAU) for compliance with "Local Initiative Program" (LIP) requirements. Learn more about this at: Local Initiative Program | Mass.gov
(<https://www.mass.gov/service-details/local-initiative-program>)

5.11 Has the appropriate municipal staff reviewed the guidelines for the Local Initiative Program/Local Action Unit (LIP/LAU) and do they understand the process for getting Inclusionary Zoning units onto the Subsidized Housing Inventory?

Yes

Section 6: Zoning Data

6.1 Please describe the zoning (or non-zoning) changes that are proposed. Select all that apply

A new zoning district
Amendments to the applicability of other zoning or non-zoning requirements in the district (e.g. parking, site plan review, inclusionary zoning, mixed use, moratoriums, etc)
Other: The proposed zoning is an overlay district that establishes new dimensional and use standards, modifies any underlying conflicting provisions that would preclude multi-family at 15 units per acre, and establishes design standards. We have thoroughly reviewed the existing zoning and Planning Board regulations for any conflicting provisions and addressed them within the proposed bylaw.

6.2 How does the new district differ from the previous or underlying base zoning district(s)? Select all that apply

Allows multi-family housing as of right, vs by special permit
Allows multi-family housing as of right, vs prohibiting it
Allows more dwelling units per lot under use regulations
Allows more dwelling units per lot by direct dimensional regulations (i.e. units per lot area, etc)
Allows more dwelling units per lot by indirect dimensional regulations (i.e. setbacks, FAR, etc)
Other: Eliminates other barriers to multi-family development. For example, the underlying zoning prohibited 3-4 units based on certain soil conditions that are common in the town.

6.5 What kinds of applicability need to change? Select all that apply

Minimum parking requirements
Site plan review
Other: The proposed overlay changes various provisions of the underlying zoning from special permit to site plan review in order to ensure multi-family is as of right.

6.6 Will the changes be voted on using a Simple Majority voting threshold under c. 40A Section 5?

Yes

6.8 Please describe any other changes that were made previously made to comply with Section 3A

Note: Please contact Dillon Sussman at Dodson & Flinker (dillon@dodsonflinker.com, 413-628-4496x 102) with any questions about Compliance Modeling, the proposed zoning, etc. He is the town's consultant for this effort. Thanks!
