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# MBTA COMMUNITIES

TOWN OF BURLINGTON  
2022

MEAD, TALERMAN & COSTA

# AGENDA

Introduction &  
Purpose

Timeline

Why is Burlington  
an MBTA  
Community

Summary of the  
Guidelines

What are the  
requirements for  
the Town?

Effect of non-  
compliance

# Introduction & Purpose

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Section 18 of chapter 358 of the Acts of 2020 added a new section 3A to chapter 40A of the General Laws (the Zoning Act) applicable to MBTA communities.

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Requires that an MBTA community shall have at least one zoning district of reasonable size in which multi-family housing is permitted as of right and meets other criteria set forth in the statute.

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Minimum gross density of 15 units per acre; not more than a ½ mile from a commuter rail station, subway station, ferry terminal or bus station, if applicable.

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Purpose: To encourage MBTA communities to adopt zoning districts where multi-family zoning is permitted as of right.

# Timeline

The public comment period to solicit feedback on the draft guidelines is open until March 31st, 2022.

An MBTA Community must take the following actions by 5 p.m. on **May 2, 2022**:

Include a presentation of the Draft Guidelines in a meeting of the Select Board;

Complete and submit the MBTA Community Information Form, found here: [www.mass.gov/forms/mbta-community-information-form](http://www.mass.gov/forms/mbta-community-information-form); and

Submit updated GIS parcel maps to MassGIS if the most recent updated parcel maps were submitted prior to January 1, 2020. DHCD will contact each of the 14 MBTA communities that need to submit updated GIS parcel maps.

MassGIS staff Craig Austin [craig.austin@mass.gov](mailto:craig.austin@mass.gov)

# Timeline

By **December 31, 2022**, a community must either:

Submit a request for a determination of full compliance; or

Notify DHCD that there is no existing/compliant multifamily zoning district and submit a proposed action plan by certain deadlines, below.

For bus service community:

Action plan approval deadline: March 1, 2023

Multifamily zoning district adoption deadline: December 31, 2023

A community must submit a request for determination of compliance to DHCD within 90 days of adopting the zoning amendment.

## Burlington as an MBTA Community

“Bus service community” means an MBTA community with a bus station within its borders or within 0.5 miles of its border, or an MBTA bus stop within its borders, and no subway station or commuter rail station within its border, or within 0.5 mile of its border.

Municipality	MBTA Community Type	2020 Housing Units (Census PL-94)	Minimum multifamily district unit capacity requirement
Burlington	bus	10,431	2,086

## M.G.L. c. 40, section 3A

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.

*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*

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**Reasonable size** is a relative rather than absolute determination, meaning reasonable for that municipality.

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DHCD will take into consideration both the area of the district and the district's multi-family unit capacity (# of units of multi-family housing that can be developed as of right within the district).

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Multi-family districts should not be a single development site, but must comprise of at least 50 acres of land – or approximately one-tenth of the land area within 0.5 mile of a transit station.

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For an overlay district to comply, at least one portion of the overlay must include at least 25 contiguous acres of land, and no portion that is less than 5 contiguous acres will count toward the minimum size requirement.

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Multi-family districts should be in areas that have safe and convenient access to transit stations for pedestrians and bicyclists, to the maximum extent feasible.

# Minimum Unit Capacity

- *Minimum multi-family unit capacity:* Must provide an accurate assessment of the number of multi-family housing units that **can be developed as of right** within the district, referred to as the district's unit capacity, and that capacity must be equal to or greater than a specified percentage of the total number of housing units within the community, depending on the type of transit service in the community.
- Minimum unit capacity = # of housing units in that community based on the 2020 census multiplied by .25, .20, .15 or .10, depending on the type of service in the community.
- Estimate how many units could be constructed on each developable parcel within the district
- Consider height and lot coverage limitations, maximum floor area ratio, set back requirements, parking space requirements, and any other restrictions or limitations applicable to the district
- For Burlington:  $10,431 \times .20 = 2086$  units
- If the estimate is less than the minimum unit capacity, then the MBTA community must change the boundaries of the district or change dimensional regulations or other restrictions of the bylaws to allow for the development of a greater number of multi-family units as of right.
- Unit capacity is not a mandate to construct a specified number of housing units or a target, it is only a requirement that the community has a district capable of supporting such development.

# “As of Right”

“As of right” means without the need to obtain any discretionary permit or approval.

Site plan review may be required for multi-family uses allowed as of right to ensure public safety and convenience, regulated vehicular access and circulation on a site, architectural design of a building, and screening of adjacent properties.

Conditions cannot make a project infeasible or impractical.

***Such multi-family housing shall be without age restrictions and shall be suitable for families with children.***

- DHCD will deem a multi-family district to comply with these requirements as long as the zoning does not require multi-family uses to include units with age restrictions and does not place any limits or restrictions on the size of the units, number of bedrooms, size of bedrooms or number of occupants.

***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;***

- The district itself must have a minimum gross density of 15 units per acre, not just the individual parcels (measurement of gross density includes land occupied by public rights-of-way and any recreational, civic, commercial, and other nonresidential uses).
- The municipality may establish sub-districts within a multi-family district to comply with this requirement, with different density requirements and limitations for each sub-district, provided that the gross density for the district as a whole meets the statutory requirement.
- The following must be factored into the calculation
  - Limitations on development resulting from inadequate water or wastewater infrastructure, and, in areas not served by public sewer, any applicable limitations under Title 5 of the state environmental code or local septic regulations;
  - known title restrictions on use of land; or
  - known physical limitations caused by the presence of waterbodies or wetlands

***and (ii) be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.***

- The distance from a transit station may be measured from the boundary of any parcel of land owned by a public entity and used for purposes related to the transit station, such as an access roadway or parking lot.
- For a community that has a transit station within its boundaries, or some land area within .5 miles of a transit station located in another MBTA community, at least one half of the land area of the district should be located within .5 miles of the transit station. Areas that are farther than .5 mile must be easily accessible to the station based on existing street patterns and pedestrian connections.
- Exception: where none of the land area within .5 miles of transit station is appropriate for development of multi-family housing, so long as it is easily accessible.
- Example: land comprises wetlands or land publicly owned for recreation or conservation purposes.
- For MBTA communities with no land area within .5 miles of a transit station, the 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 is consistent with the Commonwealth's sustainable development principles (near an existing downtown or village center, bus stop, or a location with under-utilized facilities that can be redeveloped into new multi-family housing.**

# Requirements for Burlington

- Submit comments on the guidelines, if any, by March 31, 2022.
- Present draft guidelines to Select Board, complete and submit the MBTA Community Information Form, and submit updated GIS parcels, if necessary, by May 2, 2022.
- Submit a determination of full compliance by December 31, 2022.
- Submit proposed action plan by March 1, 2023.
- Adopt multi-family zoning district by December 31, 2023.
- Submit a determination of compliance to DHCD within 90 days of adoption of zoning.

# Effect of Non-Compliance

- Failure to comply with the multifamily zoning requirements would make a community ineligible for funds from:
  - Housing Choice Grants;
  - Local Capital Fund Projects; and
  - MassWorks Infrastructure Program
- DHCD may, in its discretion, take non-compliance into consideration when making other discretionary grant awards, and indicated that penalties may be more severe in the future.

# Town of Burlington

Existing & Permitted Housing at 15 units/Acre or more

**“By Right” = NO**

Complex Name	Street(s)	# of Units	Size (Acres)	Units/Acre	Map and Parcel	Year Built	Style	Type	By Right Today	Allowed in Zoning District	
Hallmark Gardens	Jefferson Ave. Washington Ave. Terrace Hall Ave.	154	5.66	27.21	33-55-1z	1968	Condominium	Sale	NO	YES	
Tower Hill Apts.	Birchcrest St. Ward St.	65	3.54	18.36	36-31-0	1970	Garden Style	BHA	NO	NO	
Lord Baron Apts.	Middlesex Turnpike	380	17.2	22.09	33-35-A+B	1972	Garden Style	Rental	NO	YES	
Beacon Village	Beacon St.	420	22.77	18.45	37-52-0	1975	Garden Style Townhouse	Sale/ Rental	NO	YES	
Birchcrest Apts.	Birchcrest St.	40	1.8	22.22	30-7-0	1980	Garden Style	BHA	NO	NO	
Long Meadow Place	Burlington Mall Road	110	4.96	22.18	47-12-0	1998	Assisted Living	Rental	NO	YES	
Heritage at Stoneridge	Littles Brook Court / Mountain Rd.	180	11.01	16.35	42-99-0	2005	Luxury Garden Style	Rental	NO	YES	
Sunrise Assisted Living	24 Burlington Mall Road	79	4.5	17.56	41-129-0	2005	Assisted Living	Rental	NO	NO	
Grandview Senior Housing	Center St. Sleeper Drive	42	2	21.00	30-35-12	2006	Condo	Sale	NO	YES	
141 Cambridge Street	141 Cambridge Street	8	0.5	16.00	29-142-0	2008	Condo	Sale	NO	NO	
The Tremont	32 Second Avenue	180	5.71	31.52	45-27-0	2013	Apartments	Rental	NO	YES	
The Huntington	20 Second Avenue	120	2.37	50.63	45-23-0	2015	Apartments	Rental	NO	YES	
The Reserve at Burlington	20 Corporate Drive	271	7.27	37.28	36-2-2	2017	Apartments	Rental	NO	NO (40B)	
Lifetime Living	174 Middlesex Turnpike	170	5.32	31.95	39-11-0	2021	Apartments	Rental	NO	YES	
				Total Units 1,200	TOTAL ACRES 45.44	Average Density 23.52					

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## Age Restricted Housing (27.81 Acres)

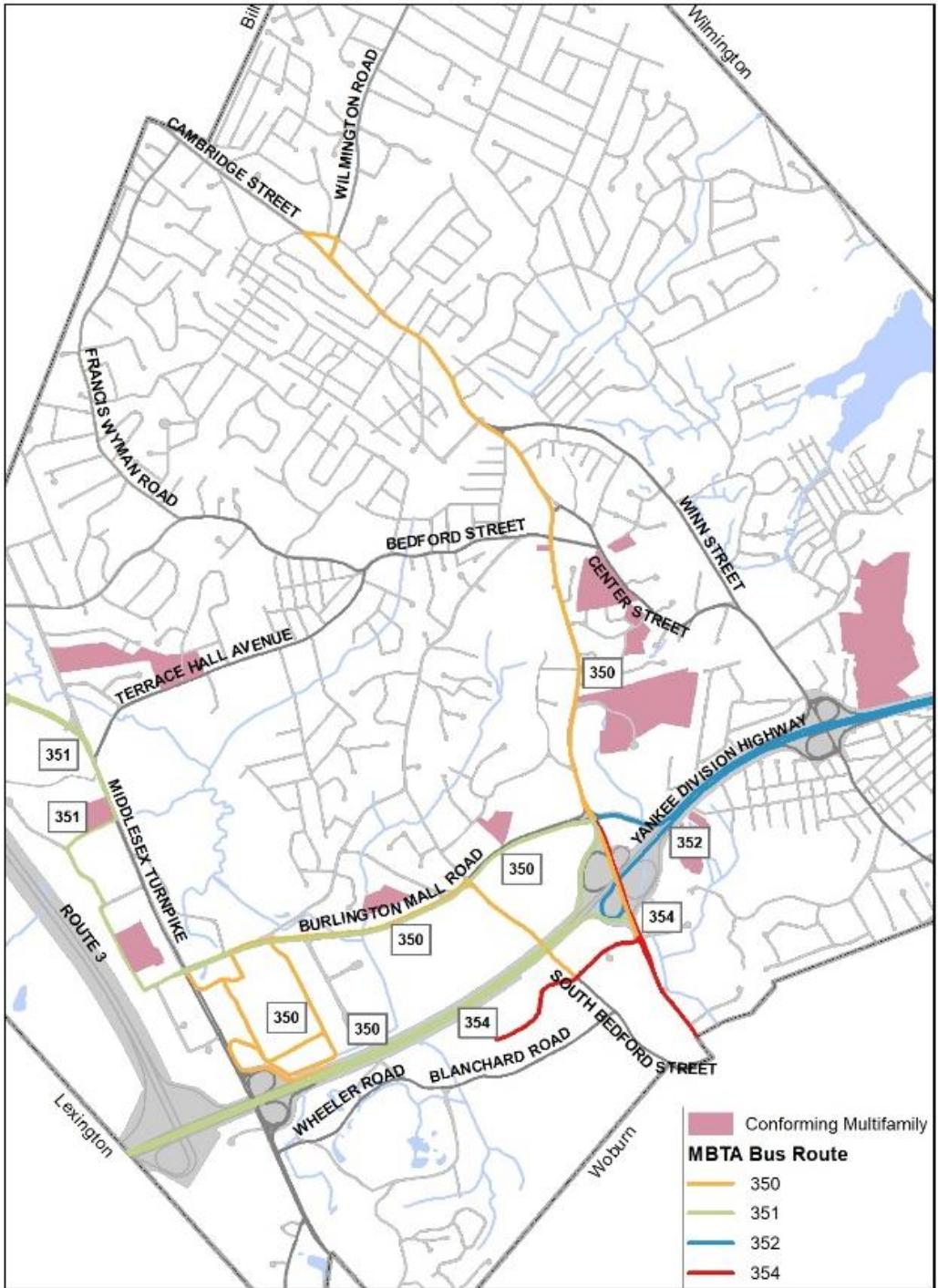
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**Town of Burlington**

Existing &amp; Permitted Housing at 15 units/Acre or more

**Minimum District Size (5 Acres)**

Complex Name	Street(s)	# of Units	Size (Acres)	Units/Acre	Map and Parcel	Year Built	Style	Type	By Right	Allowed in Today	Allowed Zoning District
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	<b>Total Units</b>		<b>TOTAL ACRES</b>	<b>Average Density</b>							
	929		32.18	25.15							

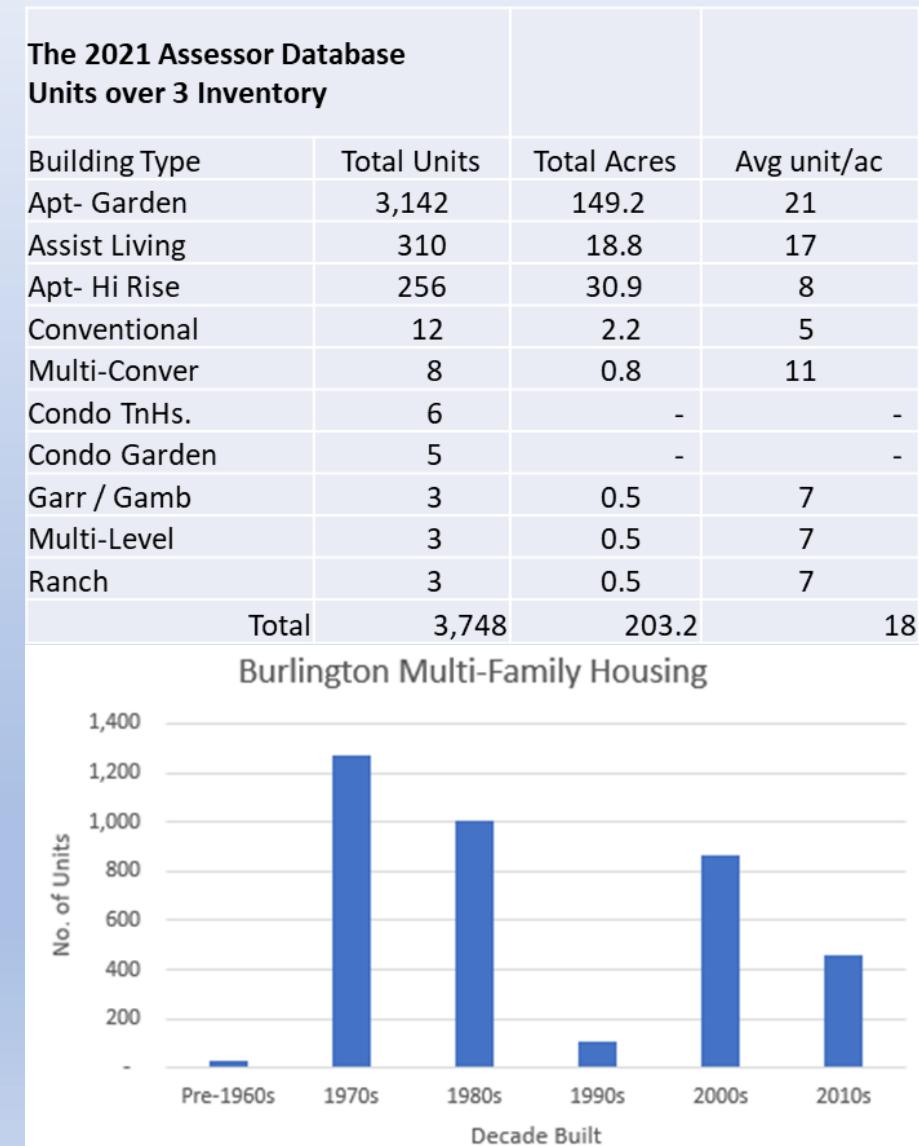


# Bus Routes & Existing Housing Locations

- MBTA Bus Routes
  - 350, 351, 352, 354
- *“Minimum gross density of 15 units/acre; not more than a 1/2 mile from a commuter rail station, subway station, ferry terminal or bus station, if applicable”.*
- Burlington does not have a “Bus Station” so we cannot draw the circle.
- Existing Housing that meets density requirements in mauve.

# What does this mean for Burlington?

- Burlington has done a good job of creating Multifamily.
- Burlington **DOES** meets the target percentage for multi-family housing (defined as 3+ units) for a MBTA bus community (20%).
  - 3,748 multifamily units out of a total 11,444 units (33%).
- Burlington **DOES NOT** meet other requirements in the guidelines such as a reasonable size district that allows MF by right.
- Beacon Village is the closest to a 25 acre district at 22.7Acres.
- Burlington has MBTA Bus Routes but no “Bus Station” – do we presume it’s a ½ mile Corridor?



# Timeline

The public comment period to solicit feedback on the draft guidelines is open until March 31st, 2022.

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Multifamily zoning district adoption deadline: December 31, 2023

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# Where do we go from here?

- Comments to DHCD on DRAFT Guidelines due by March 31, 2022.
  - “Reasonable Size” – Burlington’s Housing stock is a dumbbell (single family - 200+ complexes). The Burlington Master Plan identifies a need to diversify the housing stock with smaller scale infill housing in walkable areas of town. The 5 acre minimum and 25 acre single district discourages smaller scale, less impact opportunities in walkable areas.
  - Clarify the  $\frac{1}{2}$  mile requirement when a community does not have a defined point.
  - Infrastructure needs including stormwater and environmental conditions should be taken into account.
  - “Determination of Developable Land” – This requirement requires engineering, site planning and environmental review of all parcels in a proposed district. This imposes a significant burden on communities.

# Where do we go from here?

- We will need to review existing multi-family projects to determine:
  - If we want to modify zoning to allow that the project is “By Right”.
  - Remove an age restriction
  - Determine if “family housing” is allowed in those areas.
- We will need to evaluate new areas for housing “by right” in Burlington without age restriction and suitable for families with children.
- The Determination of Developable land must be completed by: March 1, 2023
- Revised Zoning must be in place by: December 31, 2023