

MBTA Communities Multifamily Zoning



Chapter 40A x 40B x 40R x MBTA

Chapter 40A — The Zoning Act (1975 – replaced 1954 Zoning Enabling Act)

- Provides a set of statewide standards that govern municipalities' promulgation and enforcement of zoning regulations

Chapter 40B — The Comprehensive Permit Act (1969)

- Enables local ZBAs to approve affordable housing developments under flexible rules if at least 20-25% of the units have long-term affordability restrictions

Chapter 40R — The Smart Growth Zoning Overlay District Act (2004)

- Seeks to substantially increase the supply of housing and decrease its cost, by increasing the amount of land zoned for dense housing

Chapter 40A Section 3A — Multi-family zoning as-of-right in MBTA communities (2020)

- Seeks to increase the supply of housing by requiring compliant districts that allow multifamily housing as of right

MGL Chapter 40A Section 3A

- Part of the Massachusetts Zoning Act (not a separate law like 40B and 40R)
- Requires **MBTA Communities** to zone for multifamily housing **as of right**
- Required **zoned capacity** is based on
 - Level of MBTA service or proximity to MBTA
 - Size of community (existing housing units and population)
- Focus is on **allowing** multifamily housing development – does not **require** development
- Existing by-right zoned capacity (such as in Chapter 40R Smart Growth districts) can be used to satisfy goal

“As Of Right”

- “The construction and occupancy of multi-family housing is allowed ... without the need for a special permit, variance, zoning amendment, waiver, or other **discretionary** approval.”
- Community may establish site development **standards** – e.g., lot area and setbacks; building height and massing; parking and circulation; grading and landscaping; etc.
- Community may require **site plan review** and **design standards**
- Only refers to **zoning** – any regulatory provisions under other statutes continue to apply (wetlands protection, floodplain protection, Title 5, historic districts, etc.)

District Requirements

- Must allow at least 15 dwelling units per gross acre
 - “Gross density” means a units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial, and other nonresidential uses.
- May include more than one district, but any district must be at least 5 contiguous acres

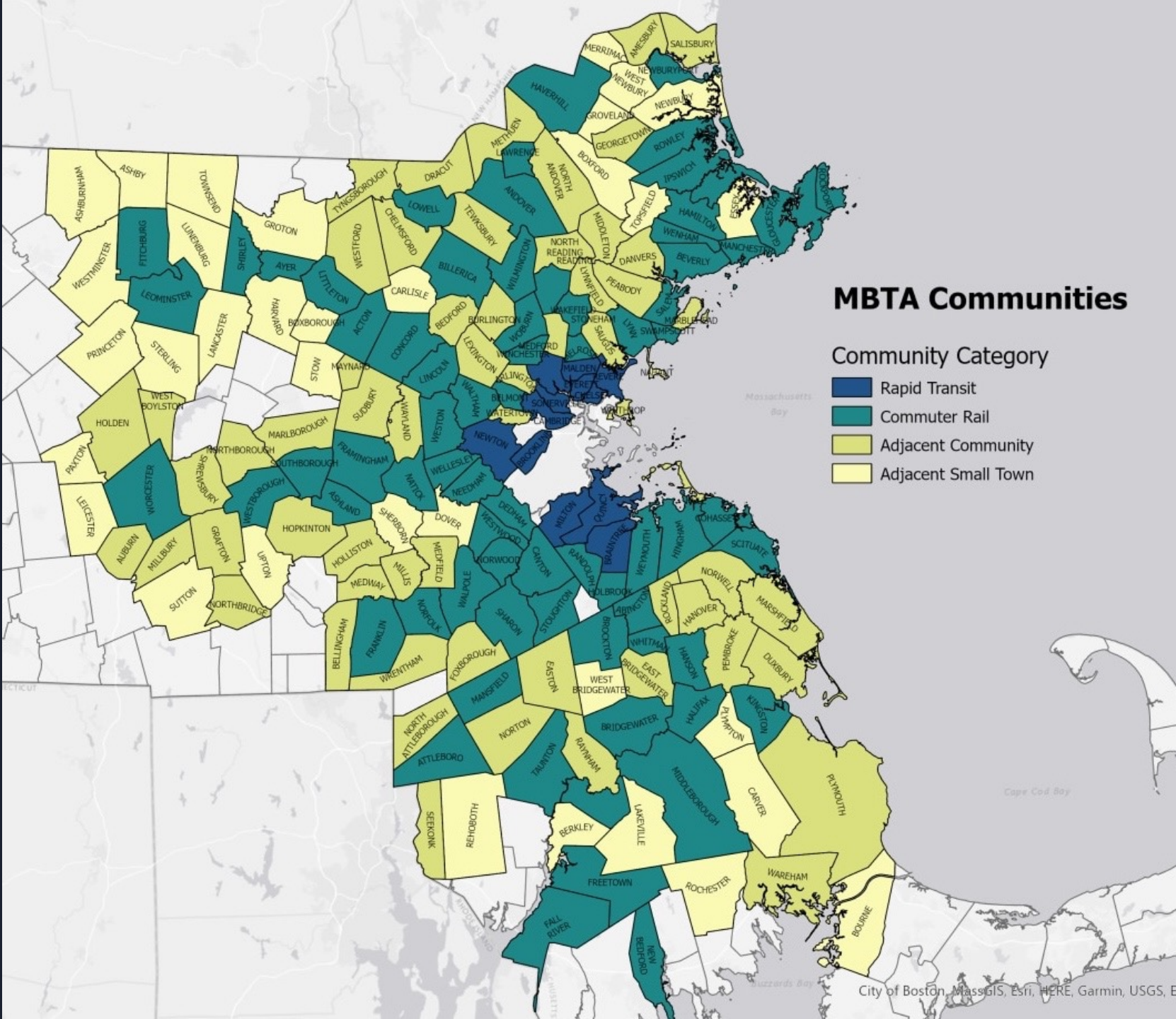
“Developable Land”

- Land on which multi-family housing can be permitted and constructed
- Consists of (i) all privately-owned land except lots or portions of lots that meet the definition of **excluded land**, and (ii) developable public land

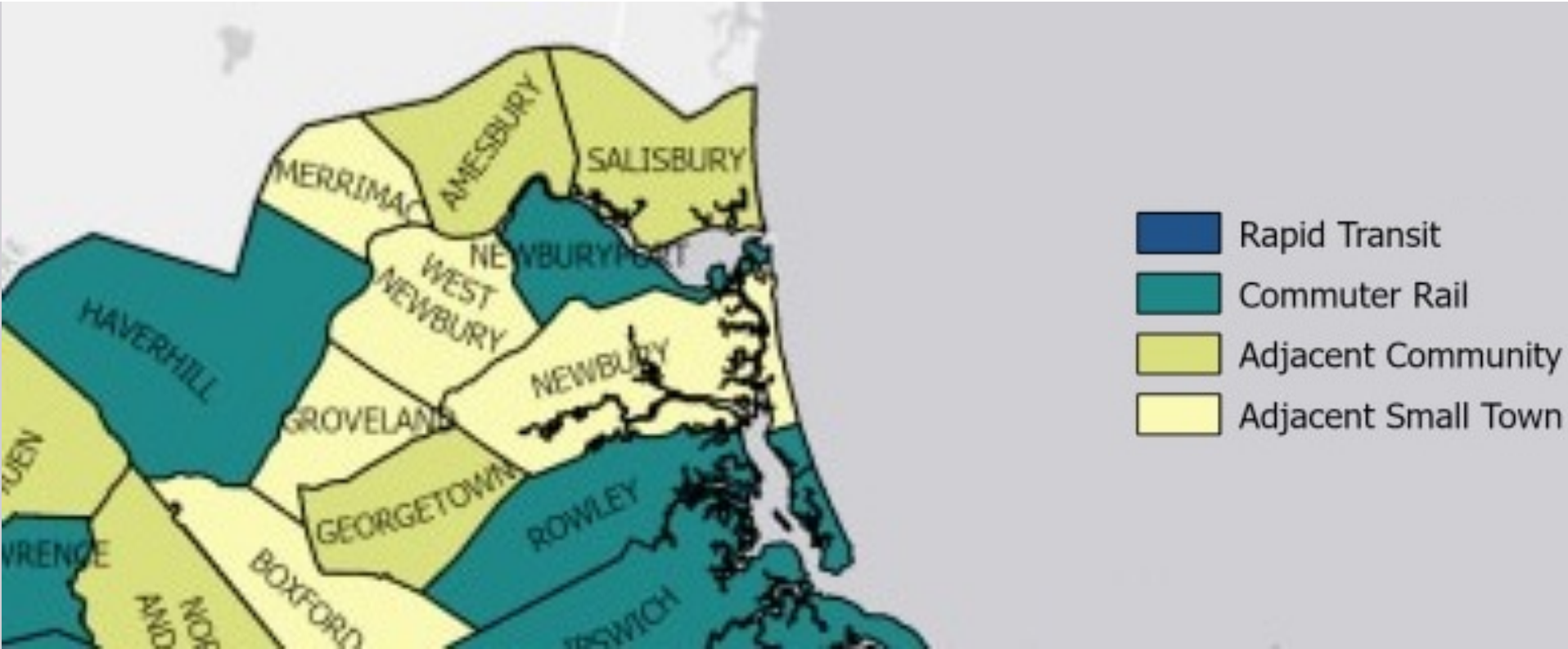
“Excluded Land”

- Rivers, streams, lakes, ponds and other surface waterbodies
- Wetland resource areas
- Buffer zones around wetlands and waterbodies equivalent to the minimum setback required by title 5 of the state environmental code
- Protected open space and recreational land that is legally protected in perpetuity, or that is likely to remain undeveloped due to use (for example, cemeteries)
- Public rights-of-way and private rights-of-way
- Privately-owned land on which development is prohibited to protect private or public water supplies, including, but not limited to, Zone I wellhead protection areas and Zone A surface water supply protection areas
- Privately-owned land used for educational or institutional uses such as a hospital, prison, electric, water, wastewater or other utility, museum, or private school, college or university

MBTA Communities



Community Categories



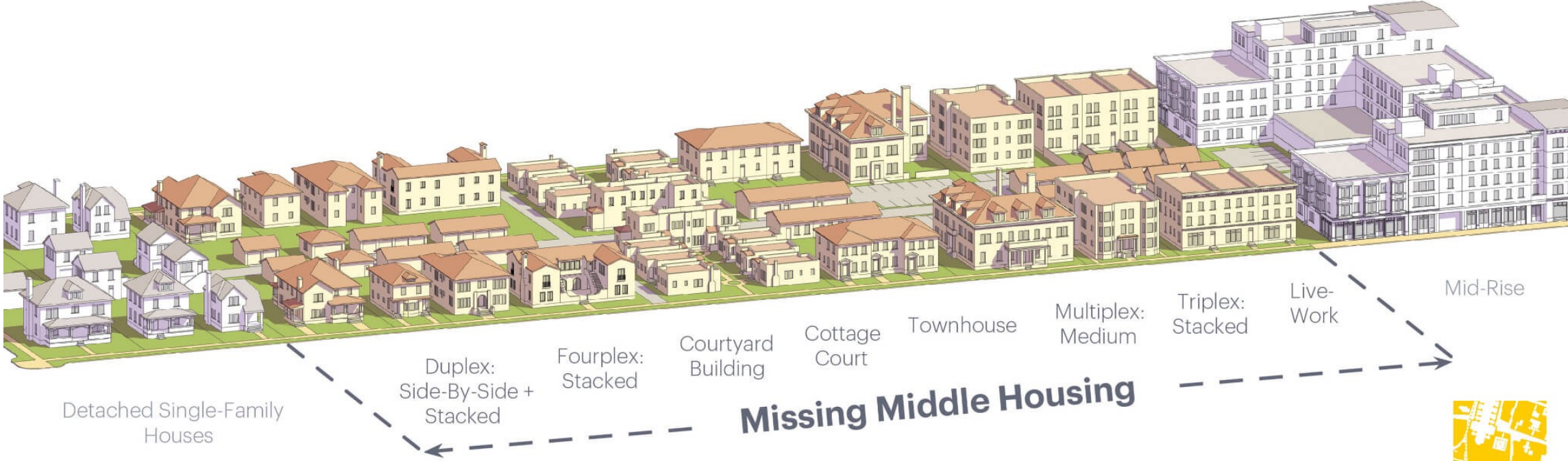
Compliance Deadlines

Community Category	Deadline
Commuter rail community <ul style="list-style-type: none">• Newburyport	12/31/2024
Adjacent community <ul style="list-style-type: none">• Amesbury• Salisbury	12/31/2024
Adjacent small town <ul style="list-style-type: none">• Newbury• West Newbury	12/31/2025

Capacity Requirements

Community	Community category	2020 Housing Units	Minimum multi-family unit capacity	Minimum land area	Developable station area	% of district to be located in station area
Newburyport	Commuter Rail community	8,615	1,292 (15%)	35	213	20%
Amesbury	Adjacent community	7,889	789 (10%)	50	-	0%
Salisbury	Adjacent community	5,305	750 (min.)	50	-	0%
Newbury	Adjacent small town	3,072	154 (5%)	-	69	0%
West Newbury	Adjacent small town	1,740	87 (5%)	-	-	0%
			3,072			

Envisioning Density – Housing Types



Envisioning Density



Envisioning Density

15-29 Munroe St, Newburyport

20 units/acre



8 dwelling units / 0.4 acre

River's Edge Condominiums

15.5 units/acre



65 dwelling units / 4.2 acres

Foundry Square – 129 Merrimac St

15.8 units/acre



20 dwelling units / 1.26 acre



Manchester by the Sea

15 units/acre (approx.)



Credit: Amy Dain

Sudbury, MA

15 units/acre (approx.)



Credit: Amy Dain

Boston Way, Newburyport

38 units/acre (approx.)



