

State stiffens penalties for towns that snub new MBTA housing law

New rules would deny more state grants to towns that don't comply with the MBTA Communities law, while enabling more mixed-use development in town centers.

By **Andrew Brinker** Globe Staff, Updated August 17, 2023, 1 hour ago



Coolidge Corner in Brookline could see an overhaul amid proposed zoning rules mandated by the state's new MBTA Communities Law, which requires new denser zoning in cities and towns served by the MBTA. DAVID L. RYAN/GLOBE STAFF

State housing officials on Thursday again updated guidelines of an ambitious new law that mandates cities and towns zone for multifamily housing near transit stops, granting communities one big compromise, while also adding to the arsenal of penalties for cities and towns that don't comply.

The new rules say that [towns that avoid rezoning under the new law](#) may be ineligible for another 13 state grant programs, up from the original two, which together provide tens of millions of dollars to communities for a wide array of local planning and development programs. That's on top of two major programs — MassWorks and Housing Choice — that were already part of the law, and the threat of legal action, which was realized for the first time two weeks ago when a housing group [sued the Town of Holden](#).

“If you say no, there's now [15] different programs that a community might lose access to that impact all sorts of other things that the community might be trying to get done,” Housing Secretary Ed Augustus said in an interview Thursday.

The new guidance marks the state's latest effort to compel municipalities to go along with MBTA Communities, Massachusetts' most consequential housing law in more than 50 years, which requires 177 communities across Eastern Massachusetts that are served by the MBTA to pass new zoning that set aside areas for denser housing. Advocates say it could unlock space for more than 100,000 new units. But since the outset, officials in some towns have [toyed with the idea of ignoring the law](#), and absorbing any financial penalty.

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At the same time, the updated guidelines also grant communities a key compromise, by making it easier to mandate some mixed-use development in their commercial centers, which they couldn't do under the previous guidelines.

Inner-ring suburbs with significant commercial districts — such as Newton and Brookline — have been complaining for months that the original guidance only allowed communities to incentivize first-floor commercial use in their zoning districts, not mandate it, a stipulation they feared could harm small businesses.

Opposition groups in those communities have frequently used those mixed-use restrictions to argue against rezoning altogether. The issue has been a huge flashpoint in Brookline, for example, where town planners had [proposed to rezone the town's main business district](#) along Harvard Street. Opponents feared the law would drive out local businesses, and were so adamant that town officials backed away from the plan.



Newton is planning a big rezoning effort around its village centers as part of its approach to the MBTA Communities multifamily housing law. Should the plan pass the city council, the city's 13 village centers would allow for several stories of multifamily housing by-right, at least in part undoing pieces of Newton's decades-old zoning code. JONATHAN WIGGS/GLOBE STAFF

Now the new state rules will allow up to a quarter of the units they zone for to be located in mixed-use districts, but the state will have to approve those proposals before they are voted on by local officials.

“This is a change that was really needed,” said Greg Reibman, president of the Charles River Chamber of Commerce, a group that represents businesses in Newton, Needham, Watertown, and Wellesley. “We desperately need new housing, but we also want that housing to be near our commercial centers so we can have vibrant, walkable neighborhoods.”

The guidance is also strict: While cities and towns can now count some potential housing in mixed-use zones towards their unit goals, they can't craft zoning that

would limit the feasibility of that new housing. For example, towns won't be allowed to dictate smaller apartments in those zones — a strategy often used to prevent bigger apartments suitable for families — or to implement minimum parking requirements, which often drive up the price of new development.

Community leaders welcomed the tweak as a victory, but one that may complicate the planning process as some rush toward an impending end-of-the-year deadline. The 12 communities with access to the MBTA's main rapid transit lines are deep into the planning process, and may now have to recalculate their efforts based on the new rules.

“We had, essentially, already solved the puzzle in Newton by expanding our efforts so that we could rezone the village centers and still have the housing we need to meet the law,” said Deborah Crossley, a city councilor who chairs Newton's zoning board.

Ultimately, she said, the change is good, and Newton had been advocating for it because communities want apartments and business in the same area.

But, “this may hurt us logically and politically. Because we may have to consider recalculating at this late hour, and then still sell the new zoning to the public.”

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