

Article IV REGULATIONS OF OVERLAY DISTRICT

§97-4.G. MBTA Communities Multi-Family Overlay District (MCMOD)

DRAFT 1-18-24

A. Purpose

The purpose of the MBTA Communities Multi-Family Overlay District (MCMOD) is to allow multi-family housing as of right in accordance with Section 3A of the Zoning Act (Massachusetts General Laws Chapter 40A).

B. Establishment and Applicability

This MCMOD is an overlay district having a land area of approximately 50.1 acres in size that is superimposed over the underlying zoning district (s) and is shown on the Zoning Map.

1. **Applicability of MCMOD.** An applicant may develop multi-family housing located within the MCMOD in accordance with the provisions of this Section 97-4.G.
2. **Underlying Zoning.** The MCMOD is an overlay district superimposed on all underlying zoning districts. The regulations for uses, dimensions, and all other provisions of the Zoning Bylaw governing the respective underlying zoning district(s) shall remain in full force, except for uses allowed as of right in the MCMOD. Uses that are not identified in this § 97-4.G. are governed by the requirements of the underlying zoning district(s). Within the boundaries of the MCMOD, a developer may elect either to develop a Project in accordance with the requirements of this Section 97-4.G., or to develop in accordance with requirements of the regulations for uses, dimensions, and all other provisions of the Zoning Bylaw governing the underlying zoning district.
3. **Relationship of MCMOD to Other Zoning Provisions.** Notwithstanding any other provision of this bylaw to the contrary, including any other provision which requires a special permit for development on land (property) which is included in this Overlay District, no development undertaken pursuant to this Section 97-4.G. shall require a permit other than the Site Plan Review as set for in Section H.
4. **Sub-districts.** The MCMOD contains the following sub-districts, all of which are shown on the MCMOD Boundary Map:
 - a. Newbury North – Sub-District A (North-A), which is generally comprised of certain parcels along the intersection of U.S. Route 1, Middle Road, and Hanover Street
 - b. Newbury North – Sub-District B (North-B), which is generally comprised of certain parcels along Hanover Street
 - c. Newbury South – Sub-District A (South-A), which is generally comprised of a certain parcel along Kent Way
 - d. Newbury South – Sub-District B (South-B), which is generally comprised of a certain parcel along Central Street

C. Definitions.

For purposes of this Section -- the following definitions shall apply.

1. **Affordable Housing Restriction.** A use or deed restriction acceptable in form and substance to Massachusetts Executive Office of Housing and Livable Communities (HLC) and the Town that imposes restrictions on Affordable Housing Units to make such units affordable to Income Eligible Households which meets the requirements of HLC’s Local Initiative Program (LIP) or any successor program established by HLC for purposes of Subsidized Housing Inventory (SHI) eligibility; and causes the Affordable Housing Units to be eligible for inclusion on the SHI. An Affordable Housing Restriction shall run with the land in perpetuity or for the maximum period of time allowed by law, and be enforceable under the provisions of Chapter 184, §§ 26, 31, and 32 of the Massachusetts General Laws.
2. **Affordable Housing Unit.** A housing unit in a development subject to this bylaw that is required to be sold or rented to, as applicable, and occupied by an Income Eligible Household.
3. **Applicant.** A person, business, or organization that applies for a building permit, Site Plan Review, or Special Permit.
4. **Area Median Income (AMI).** The area median household income as determined by the U.S. Department of Housing and Urban Development (HUD), adjusted for household size, for the metropolitan area that includes the Town.
5. **As of right.** Development that may proceed under the Zoning in place at time of application without the need for a special permit, variance, zoning amendment, waiver, or other discretionary zoning approval.
6. **Building coverage.** The maximum area of the lot that can be attributed to the footprint of the buildings (principal and accessory) on that lot. Building Coverage does not include surface parking.
7. **HLC.** The Massachusetts Executive Office of Housing and Livable Communities, or any successor agency.
8. **Income Eligible Household.** A household of one or more persons whose annual income does not exceed 80% of AMI and meets the applicable requirements established by HLC’s LIP.
9. **Local Initiative Program (LIP).** A program administered by HLC pursuant to 760 CMR 56.00 to develop and implement local housing initiatives that produce low- and moderate-income housing, with or without a comprehensive permit issued pursuant to Chapter 40B, §§ 20 through 23 of the Massachusetts General Laws.
10. **Lot.** An area of land with definite boundaries that is used or available for use as the site of a building or buildings.
11. **MBTA.** Massachusetts Bay Transportation Authority.
12. **Dwelling, Multi-Family.** A building designed for, or containing, three (3) or more dwelling units.
13. **Open space.** Contiguous undeveloped land within a parcel boundary
14. **Parking, surface.** One or more parking spaces without a built structure above the space. A solar panel designed to be installed above a surface parking space does not count as a built structure for the purposes of this definition.
15. **Permit Granting Authority.** The Permit Granting Authority (PGA) shall include the Planning Board for the issuance of permits.
16. **Residential dwelling unit.** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

- 17. **Section 3A.** Section 3A of the Massachusetts General Laws Chapter 40A, the Zoning Act.
- 18. **Site plan review authority.** The Planning Board shall have authority over site plan review
- 19. **Subsidized Housing Inventory (SHI).** The list compiled by HLC containing the count of eligible low- or moderate-income housing by a city or town pursuant to 760 CMR 56.00, Chapter 40B of the Massachusetts General Laws, and applicable HLC guidelines.
- 20. **Sub-district.** An area within the MCMOD that is geographically smaller than the MCMOD district and differentiated from the rest of the district by use, dimensional standards, or development standards.

D. Permitted Uses

- 1. **Uses Permitted As of Right.** The following uses are permitted as of right within the MCMOD:
 - a. Multi-family housing.
 - b. Commercial Uses as allowed by the underlying zoning, as part of a mixed-use development

E. Dimensional Standards

- 1. **Table of Dimensional Standards.** Notwithstanding anything to the contrary in this Zoning, the dimensional requirements applicable in the MCMOD for all subdistricts are as follows:

Standard	Subdistricts North-A and South-A	Subdistricts North-B and South-B
Lot Size (square feet)		
Minimum	40,000	40,000
Height ¹		
Stories (Maximum)	3	2.5
Feet (Maximum)	40	35
Lot Coverage ²		
Minimum Open Space	40%	50%
Maximum Building Coverage	50%	40%
Setbacks (feet)		
Front yard setback	50	50
Rear yard setback	25	60
Side yard setback 1	25	60
Side yard setback 2	25	60
Parking		
Minimum # of parking spaces per unit	1 per one bedroom or studio 2 per two bedroom or greater	1 per one bedroom or studio 2 per two bedroom or greater

¹ Exceptions. Limitations of height shall not apply to flagpoles, chimneys, radio and television antennae, windmills, silos, water tanks, public utility structures, solar panels, and similar non-inhabitable structures.

² Multi -Building Lots. In the MCMOD, lots may have more than one principal building.

F. Affordability Requirement

1. Applicability
 - a. Any proposed multi-family residential or mixed-use development containing ten (10) or more rental or ownership dwelling units on any parcel or contiguous parcel(s) comprising a proposed site within the MCMOD shall be subject to the requirements of this section.
2. Mandatory Provision of Affordable Units
 - a. As a condition of approval for a development subject to this section, a project shall contribute at least 10% of the total housing units in the development subject to this bylaw as Affordable Housing Units constructed or rehabilitated on the locus subject to the development under this Section 97-4.F.
 - b. For purposes of this article, any calculation of required Affordable Housing Units that results in the fractional or decimal equivalent of one-half (0.50) or above shall be increased to the next highest whole number. Nothing in this bylaw shall preclude a developer from providing additional affordable units, or greater affordability, or both, than the minimum requirements.
 - c. As a condition for the approval of a project, all Affordable Housing Units shall be subject to an Affordable Housing Restriction. The approval shall not take effect until the Affordable Housing Restriction is approved by Town Counsel and HLC; the Restriction is recorded at the South Essex Registry of Deeds; and a copy provided to the Planning Board and the Building Commissioner.
 - d. Affordable Housing Units shall be sold or rented, as applicable, to Income Eligible Households at sales prices or rents that are affordable to Income Eligible Households pursuant to an Affordable Housing Restriction.

G. Site Plan Review

1. **Applicability.** Site Plan Review is required for all multi-family or mixed use projects in the MCMOD. An application for Site Plan Review shall be reviewed by the Permit Granting Authority.
2. **Requirements.** As part of any application for Site Plan Review for a project within the MCMOD, the Applicant must adhere to Article IX, Section 97-9 of this Zoning Bylaw.
 - a. As part of Site Plan Review, applicants shall, in addition to the submission requirements set forth in Section A of the Planning Board’s “Site Plan Review Submission Requirements and Procedures,” submit application materials detailing their adherence with the Design Guidelines outlined in Section I of this Section 97-4.G.

H. General Design Standards and Guidelines

1. Intent
 - a. Any project undergoing the Site Plan Approval process for the MCMOD (“Project”) shall be subject to the design standards set forth in this section.

- b. In addition, this section contains non-binding design guidelines identifying the Town’s goals and aspirations for the MCMOD that are intended to provide guidance to a Project’s planning and design.
 - c. These design standards and guidelines are intended to ensure that the physical character of projects in the MCMOD will comply with the following guiding principles:
 - i. Building styles and materials reflect the vernacular styles of traditionally settled areas of Newbury and other similar communities in the region;
 - ii. Materials used for streets, paths, landscape features, etc. also reflect those found locally;
 - iii. Design features encourage pedestrian travel to and from and within the site and provide a safe and aesthetically attractive pedestrian environment;
 - iv. Existing natural resources, native vegetation, and the natural topography of the site are preserved and integrated into the site design to the greatest extent practical.
 - v. Housing development meets the State’s climate resiliency goals and current guidance for water and energy resource efficient design.
2. Applicability
- a. These design guidelines shall apply to any proposed multifamily or mixed-use development in the MCMOD.
3. Open Space and Landscaping
- b. Projects should be sited to maximize opportunities for creating usable, attractive, well-integrated Open Space.
 - c. Acceptable activities within the minimum required Open Space include natural areas (including wetlands and surface waters), wildlife and native plant habitat, landscape plantings, agricultural activities, low-impact design stormwater management, non-motorized trails, and other low-impact activities. Open Space shall not contain habitable structures.
 - d. Open Space shall be planned as a single contiguous area and, to the extent practicable, configured contiguously with any abutting conservation open areas.
 - e. Open Space intended for public use should have direct access from one or more streets, pedestrian ways, sidewalks, and/or other public access.
 - f. Landscape design shall strive to provide greenery so that streets and access drives are lined with shade trees, large paved areas are visually divided and screened, and buffers are provided within and around the Project.
 - g. Landscaping shall incorporate drought tolerant landscape design using native species.
4. Building and Structure Placement
- a. Consideration shall be taken in the placement of buildings and structures in the overlay district to:
 - i. Provide for a Landscaped Buffer of Buildings and Structures to residential Districts adjacent to the Overlay District. Such buffering may include, but is

not limited to: Landscaping, screening materials, natural barriers, fencing, and related measures;

- ii. Orient buildings to any adjacent usable open space, with access to the building onto or accessible to the usable open space
- iii. Orient structures to provide pedestrian entrances to any adjoining sidewalks
- iv. Locate trash collection and dumpster locations in appropriate locations, screened to avoid adverse impacts on neighboring properties to the Overlay District.
- v. In cases where there are multiple structures on a site, lower buildings should be closest to the street frontage and taller buildings shall be in the interior of the parcels to minimize visual impact of the development from the street.

5. Building Massing, Articulation, and Architecture

- a. Architecture should demonstrate the cohesive planning of the development and present a clearly identifiable design feature throughout. It is not intended that buildings be totally uniform in appearance or that designers and developers be restricted in their creativity. The following considerations shall be made in the design and massing of buildings:

- i. For multi-family buildings of three building design shall maintain a distinction between upper and lower floors. Primary building entrances shall be accentuated. Design features can include covered porches, porticos, and other pronounced architectural forms.
- ii. Buildings shall have pitched roofs
- iii. Mechanical equipment at grade, attached to, or on the rooftops shall be screened from view or made an integral part of the overall design of the building.
- iv. All service, loading and trash collection areas shall be screened by a combination of walls of masonry, wood and planting.
- v. Side entrances shall be generally consistent with the primary façade's architectural style.
- vi. Rear entrances shall be free of obstruction and well maintained.
- vii. Accessory buildings shall be in the same style as the primary building.
- viii. To reduce a building's perceived mass, buildings are encouraged to be divided into smaller scale horizontal and vertical components, through use of changes in plane and changes in color, material, and texture.
- ix. Utility and service enclosures should be designed to be compatible with the architecture of the adjacent building.

- b. Building Materials

- i. Materials such as brick, stone, wood clapboard, as well as asphalt shingles and cementitious siding such as Hardi-plank are preferred, particularly where visible from the pedestrian scale.
- ii. Manufactured materials such as vinyl and plastic synthetic siding should be avoided.

6. Pedestrian Amenities and Connections

- a. Sidewalks shall be a minimum of 5 feet in width, and shall be constructed of concrete, brick, precast pavers, or stone
- b. Off-street walking trails may be constructed of crushed stone, stone dust, or wood.
- c. All elements of the pedestrian network shall be accessible to the physically disabled in accordance with the Americans with Disabilities Act and the Massachusetts Architectural Access Board (AAB) or other applicable regulations
- d. Pedestrian access shall be provided to link buildings with open spaces, parking areas, recreation facilities, and sidewalks on adjacent properties wherever practical.
- e. Site planning shall include consideration of future access to bike paths, parks, playgrounds, residential neighborhoods, other businesses, and transportation facilities.

7. Resource Efficiency

- a. Adequate provisions shall be made to the maximum extent practicable for resource-efficient materials and energy- and water-efficient systems and design, including:
 - i. appropriate building orientation,
 - ii. drought-tolerant landscape design,
 - iii. use of solar or other energy collection apparatuses,
 - iv. electric vehicle charging stations,
 - v. LED and dark sky compliant light fixtures, and
 - vi. minimization of water demand throughout site design.